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THURSDAY, FEBRUARY 26, 1976

highlights

PART I:

RED CROSS MONTH
Presidential proclamation 8331

SAVE YOUR VISION WEEK
Presidential proclamation 8333

YELLOWFIN TUNA
Commerce/NOAA regulates Atlantic tuna fisheries; effective 2–29–76 8349

FRESH WATER FISH
HEW/FDA statement of policy regarding contamination 8409

BIKEWAY DEMONSTRATION PROGRAM
DOT/FHA issues interim rules on administration; comments by 3–30–76 8344

ROOM AIR CONDITIONERS
FTC terminates proceeding on labeling and advertising regarding energy efficiency 8398

MOTOR VEHICLE SAFETY
DOT/NHTSA amends air brake standard for agricultural commodity trailers; effective 2–26–76 8347

SPACE PROGRAMS
NASA coordinates facilities planning and projects with regional, State and local authorities; effective 2–27–76; comments by 3–29–76 8339

PRIVACY ACT OF 1974
DOD/AF proposes to exempt additional systems of records 8390
U.S. Water Resources Council further implements the Act 8343

MEETINGS—
DOD: Armed Forces Epidemiological Board, 3–12–76 8400
DOT/FAA: Radio Technical Commission for Aeronautics, 3–24 and 3–25–76 8412
Radio Technical Commission for Aeronautics Executive Committee, 3–19–76 8411
EPA: National Air Quality Criteria Advisory Committee, 3–19–76 8415
HEW: Health Insurance Benefits Advisory Council, 3–18 and 3–19–76 8411
FDA: Panel on Review of Oral Cavity Drug Products, 3–10 and 3–11–76 8407
NIH: Artificial Kidney-Chronic Uremia Advisory Committee, 3–29–76 8411
Comprehensive Sickle Cell Centers Ad Hoc Review Committee, 3–22–76 8411
Sickle Cell Disease Advisory Committee, 4–1 and 4–2–76 8411

CONTINUED INSIDE

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Public safety radio services; nationwide police emergency communications channel 3869; 1–27–76

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
	CSC			CSC
	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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OE: Advisory Council on Women's Educational Programs, 3–16–76 8404
National Advisory Council on Extension and Continuing Education, 3–24 through 3–26–76 8405
Interior/BLM: Prineville District Multiple Use Advisory Board, 3–25–76 8401
National Foundation on the Arts and Humanities: Expansion Arts Advisory Panel, 3–18 and 3–19–76 8434
NSF: Food and Nutrition Subgroups, 3–16–76 8434
Astronomy Advisory Panel, 3–15 and 3–16–76 8434
NRC: Reactor Safeguards Advisory Committee, 3–12–76 8439
State: Shipping Coordinating Committee, 3–17–76 8400
SEC: National Market Advisory Board, 3–15 and 3–16–76 8452
VA: Station Committee on Educational Allowances, 3–3–76 8454

PART II:

RAIL SERVICE
ICC establishes a first year subsidy payment; effective 3–26–76 8467

contents

THE PRESIDENT

Proclamations

Red Cross Month 8331
Save Your Vision Week 8333

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:
New England 8356
New Orleans 8367
New York-New Jersey 8367
Northern Louisiana 8379
Navel oranges grown in Arizona and parts of California 8355

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules

Areas of venue; marketing quotas and acreage allotment 8355

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration; Federal Crop Insurance Corporation; Forest Service.

Rules

Committee management; establishment and renewal of advisory commitees 8354
Authority delegations:
Board of Contract Appeals 8354

AIR FORCE DEPARTMENT

Proposed Rules

Privacy Act of 1974; system of records; additional exemption 8390

AMERICAN INDIAN POLICY REVIEW COMMISSION

Notices

Proceedings and task force reports; seminars 8412

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Expansion Arts Advisory Panel 8434

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Canadian Pacific Air Lines, LTD 8412
International Air Transport Association 8413

COMMERCE DEPARTMENT

See also Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

Notices

Authority delegation:
Domestic and International Business Administration; correction 8404

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY

Rules

Community development and block grants:
Housing assistance plans; correction 8345

CONSUMER PRODUCT SAFETY COMMISSION

Notices

Bottle and jar cutting kits, petition for banning, denial 8414

DEFENSE DEPARTMENT

See also Air Force Department.

Notices

Meeting:
Armed Forces Epidemiological Board 8400

DEFENSE SUPPLY AGENCY

Notices

Authority delegation:
Small Business Emergency Relief Act 8414

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
National Institutes of Health 8403
University of Tennessee and University of Washington 8404

EDUCATION OFFICE

Notices

Applications and proposals, closing dates:
Emergency School Aid Act 8405
Meetings:
Advisory Council on Women's Educational Programs 8404
National Advisory Council on Extension and Continuing Education 8405

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Uranium hexafluoride; charges, enriching services, specifications, and packaging (2 documents) 8414, 8415

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollution, hazardous, National emission standards:
Commonwealth of Virginia; authority delegation 8346
Air pollution, standards of performance for new stationary sources:
Commonwealth of Virginia; authority delegation 8346
Primary copper, zinc, and lead smelters; correction 8346
Noise emission standards:
Portable air compressors; correction 8347

Proposed Rules

Air pollution control, new motor vehicles and engines:
Revised light duty truck regulations for 1978 and later model years; correction 8394

Notices

Air pollution; standards of performance for new stationary sources:
Virginia; authority delegation .. 8416
Meeting:
National Air Quality Criteria Advisory Committee 8415
Pesticide chemicals, etc.; petitions:
Shell Chemical Co. et al 8415
Pesticides, specific exemption and experimental use permits:
Interior Department; sodium cyanide in M-44 device 8415
Tennessee Valley Authority; 2,4-D to control Eurasian watermilfoil 8416

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notices

Higher education staff information; extension of deadline for filing report 8417

FARMERS HOME ADMINISTRATION

Notices

Loans, business and industrial; interest rates 8403

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Beech 8336
General Electric 8336
Societe National Industrielle Aerospatiale 8337
Control zones and transition areas (5 documents) 8337, 8338
Standard instrument approach procedures 8338

Proposed Rules

Airworthiness directives:
McDonnell Douglas, et al 8390
Control zones and transition areas (8 documents) 8391, 8393
VOR Federal Airways 8390

Notices

Meeting:
Radio Technical Commission for Aeronautics (2 documents) 8411, 8412

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Amateur radio service:
Portable and mobile operation of stations; extension of time for comments 8394

Notices

Hearings, etc.:
Miami County Broadcasting Company, Inc. and Q Communications Corporation 8418
Westinghouse Communications Services, Inc., et al 8418

FEDERAL CROP INSURANCE CORPORATION

Rules

Crop insurance; designated countries in certain states:
Kansas 8355
Louisiana 8355

FEDERAL ENERGY ADMINISTRATION

Rules

State energy conservation plans:
Report guidelines 8335

Notices

Applications, etc.:
Newton, Russell B., Jr 8422

FEDERAL HIGHWAY ADMINISTRATION

Rules

Engineering and traffic operations:
Bikeway demonstration program; interim guidelines for administration of 8344

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc.:
Farrell Lines Incorporated and Pacific Far East Line, Inc 8423
Med-Gulf Conference 8423
North Atlantic Mediterranean Freight Conference 8423
Complaints filed:
Joy Manufacturing Co. and Lykes Bros Steamship Co., Inc 8423

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Barton, Roy G., Jr 8425
Central Telephone & Utilities Corp 8427
Idaho Power Co 8425
New England Power Pool Agreement 8424
Northern Natural Gas Co 8424
P.S. & G., Inc 8425
Skelly Oil Co. et al 8424
United Gas Pipe Line Co. et al .. 8426
Meeting:
Transmission, Distribution & Storage—Technical Advisory Task Force—Rate Design (2 documents) 8424

FEDERAL RESERVE SYSTEM

Proposed Rules

Securities and member state banks 8394

Notices

Federal Open Market Committee:
Authorization for Foreign currency operations 8430
Applications, etc.:
Columbia Holding Corp 8430
Federal Reserve Bank of New York and United Counties Trust Co 8431
First Banc Group Inc 8430
Peoples Credit Co 8430
Republic of Texas Corp 8431

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
A. Soloff & Son, Inc., et al 8342
Argonaut Investment, Inc., et al 8340
Fred Meyer, Inc 8340
Practice and procedures:
Administrative Law Judge: disqualification of 8339

Proposed Rules

Air conditioners, room; labeling and advertising; termination of regulations 8398
Funeral industry practices; correction 8398

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Crab Orchard National Wildlife Refuge, Ill 8349

Notices

Endangered species permits; applications:
Cade, Tom J 8402

FOOD AND DRUG ADMINISTRATION

Notices

Meetings:
Panel on Review of Oral Cavity Drug Products, 3-10 and 3-11-76 8407
Panel on Review of Bacterial Vaccines and Toxoids 8409
Memoranda of understanding:
Maryland Department of Agriculture 8406
Ministry of Agriculture of Denmark 8406
Recall procedures, interim; availability 8408
Fish, Freshwater, PCB's in; policy, statement of 8409

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Selway-Bitterroot Wilderness; fire management 8403

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; National Institutes of Health.

Notices

Meeting:
Health Insurance Benefits Advisory Council ... 8411

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Community Planning and Development, Office of Assistant Secretary.

INDIAN AFFAIRS BUREAU

Notices

Authority delegation:
Albuquerque area, Superintendents ... 8401
Judgment funds; plan for use and distribution:
Angoon Tribe of Alaska ... 8400

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Certain Electronic and audio related equipment ... 8432
Footwear; report to the President ... 8432
Slide fasteners and parts ... 8433

INTERSTATE COMMERCE COMMISSION

Rules

Car service orders:
Illinois Central Gulf Railroad Co.; corrected ... 8347
Motor common carriers:
Use of vehicle load manifest ... 8348
Practice and procedures:
Determining rail service continuation subsidies; standards for ... 8467

Notices

Fourth section applications for relief ... 8456
Hearing assignments ... 8454
Motor carrier, broker, water carrier, and freight forwarder applications ... 8456
Motor carriers:
Transfer proceedings (2 documents) ... 8455
Operating rights; extensions of time ... 8454
Railroad freight rates and charges:
Distribution and manipulation of rail rolling stock; grain shipments for export ... 8456

JUSTICE DEPARTMENT

Rules

Authority delegations:
Director of the Bureau of Prisons ... 8346

LABOR DEPARTMENT

See Equal Employment Opportunity Commission; Pension Benefit Guaranty Corporation.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
Wyoming ... 8402
Meetings:
Prineville District Multiple Use Advisory Board ... 8401

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules

Administrative authority and policy:
Coordination of NASA facilities planning and projects; interim regulations ... 8339

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Agricultural commodity trailers ... 8347

Proposed Rules

Highway safety program standards; advanced notice of revision; correction ... 8394

Notices

Motor vehicle safety standards; temporary exemption petitions:
General Motors Corp ... 8412

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Artificial Kidney - Chronic Uremia Advisory Committee ... 8411
Comprehensive Sickle Cell Centers ad hoc Review Committee ... 8411
Sickle Cell Disease Advisory Committee ... 8411

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Tuna, Yellowfin; conservation regulations ... 8349

NATIONAL PARK SERVICE

Notices

Environmental statements; availability, etc.:
Mount Rainier National Park, Washington ... 8403

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Advisory Group on Contributions of Technology to Economic Strength ... 8434
Advisory Panel for Astronomy ... 8434
Advisory Panel for Genetic Biology; correction ... 8434

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc ... 8435

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Babcock and Wilcox Co ... 8440
Carolina Power and Light Co ... 8436
Commonwealth Edison Co ... 8436
Duke Power Co ... 8436
Iowa Electric Light and Power Co ... 8440
Jersey Central Power and Light Co (2 documents) ... 8437, 8440
Metropolitan Edison Co. (2 documents) ... 8441
Niagara Mohawk Power Co. (2 documents) ... 8437, 8441
Omaha Public Power District ... 8442
Philadelphia Electric Co. et al ... 8442
Portland General Electric Co ... 8442
Vermont Yankee Nuclear Power Corp ... 8438
Westinghouse Electric Corp ... 8443
Meetings:
Reactor Safeguards Advisory Committee ... 8439
Regulatory guides: issuance and availability ... 8437

PENSION BENEFIT GUARANTY CORPORATION

Rules

Limitations on guaranteed benefits; correction ... 8346

SECURITIES AND EXCHANGE COMMISSION

Rules

Investment company Act:
Rescission of exemptive rule; ANCSA Corp ... 8342

Proposed Rules

Investment Company Act:
ANCSA Corp.; withdrawal of proposed regulation ... 8398

Notices

Hearings, etc.:
Alabama Power Co ... 8444
Canadian Javelin, Ltd ... 8451
Connett, Thomas E ... 8444
Continental Vending Machine Corp ... 8451
Equity Funding Corp. of America ... 8451
Unified Funds, Inc ... 8452
Fidelity Daily Income Trust et al ... 8445
Harvest Fuels, Inc ... 8447
Southern Co. et al ... 8449
Southwestern Resources, Inc. (3 documents) ... 8449–8451
Meetings:
National Market Advisory Board ... 8452
Self regulatory organizations, proposed rule changes:

American Stock Exchange 8443
Chicago Board Options Exchange, Inc 8453
Cincinnati Stock Exchange 8451
New York Stock Exchange, Inc 8447
Pacific Clearing Corp 8452

SMALL BUSINESS ADMINISTRATION
Notices
Disaster areas:
Nebraska 8453

STATE DEPARTMENT
Notices
Meetings:
Shipping Coordinating Committee 8400

TRADE NEGOTIATIONS, OFFICE OF THE SPECIAL REPRESENTATIVE
Notices
Trade policy Staff Committee; solicitation of public views 8453

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT
Notices
Antidumping:
Automobile body dies from Japan 8400
Notes, Treasury:
Series Q–1977 8400

VETERANS ADMINISTRATION
Notices
Meetings:
Station Committee on Educational Allowances 8454

WATER RESOURCES COUNCIL
Rules
Privacy Act 1974 8343

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
PROCLAMATIONS:
4418 8331
4419 8333

7 CFR
24 8354
25 8354
401 (2 documents) 8355
711 8355
907 8355
1001 8356
1002 8367
1094 8367
1096 8379

10 CFR
420 8335

12 CFR
PROPOSED RULES:
206 8394

14 CFR
39 (3 documents) 8336, 8337
71 (5 documents) 8337, 8338
97 8338
1204 8339
PROPOSED RULES:
39 8390
71 (9 documents) 8390–8393

16 CFR
3 8339
13 (3 documents) 8340, 8341
PROPOSED RULES:
445 8398
453 8398

17 CFR
270 8342
PROPOSED RULES:
270 8398

18 CFR
701 8343

23 CFR
663 8344
PROPOSED RULES:
1204 8394

24 CFR
570 8345

28 CFR
0 8346

29 CFR
2609 8346

32 CFR
PROPOSED RULES:
806b 8390

40 CFR
60 (2 documents) 8346
61 8346
204 8347
PROPOSED RULES:
86 8394

47 CFR
PROPOSED RULES:
97 8394

49 CFR
571 8347
1033 8347
1056 8348
1125 8467

50 CFR
33 8349
285 8349

CUMULATIVE LIST OF PARTS AFFECTED DURING FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

1 CFR

Ch. I 4809

PROPOSED RULES:

415 6076

3 CFR

PROCLAMATIONS:

2362 (Amended by Proc 4415) 7481
2363 (Amended by Proc 4415) 7481
2714 (See Proc 4417) 7741
4415 7481
4416 7739
4417 7741
4418 8331
4419 8333

EXECUTIVE ORDERS:

9066 (See Proc 4417) 7741
11460 (See EO 11905) 7701
11491 (Amended by EO 11901) 4807
11616 (See EO 11901) 4807
11636 (See EO 11901) 4807
11652 (See EO 11905) 7701
11808 (Amended by EO 11903) 4879
11838 (See EO 11901) 4807
11901 4807
11902 4877
11903 4879
11904 5625
11905 7701

MEMORANDUMS:

April 16, 1975 6233
June 5, 1975 6235

4 CFR

331 4809

PROPOSED RULES:

402 5134

5 CFR

213 ..... 4881, 5103, 5394, 5803, 6749, 7743, 8027

PROPOSED RULES:

713 8079

7 CFR

24 8354
25 8354
102 7751
215 7752
220 7752
226 7751
271 ..... 7751, 8027
301 7753
354 5804
401 ..... 4812, 5104, 5105, 7383, 8355
410 5106
622 7935
711 8355
722 6262
724 4881
905 ..... 6262, 7754
907 ..... 4886, 5288, 5289, 5627, 6262, 7481, 7935, 8355
910 ..... 6749, 7754
911 7383

7 CFR—Continued

928 5383
944 7384
980 6750
1001 8356
1002 8367
1094 8367
1096 8379
1421 6059
1423 6059
1424 7384
1427 7755
1801 6263
1821 7483
1822 7484–7487
1823 ..... 5109, 7488
1831 7491
1832 7492
1845 7494
1861 7494
1871 5383
1872 7494

PROPOSED RULES:

26 ..... 6265, 7415
51 4832
220 7138
225 7772
230 5826
651 7415
724 7137
910 5402
917 7950
989 ..... 6268, 7956
1124 8189
1131 7768
1434 ..... 4832, 6074
1701 ..... 5402, 8060
1807 8190
1823 5129

8 CFR

100 5110
103 5110
214 5110
238 5110
336 5110

PROPOSED RULES:

108 8188
204 5401

9 CFR

73 ..... 5383, 7743; 8028
78 4886
91 4888
94 7109
101 6751
113 6751
304 4889
308 4889
381 ..... 4889, 6752

PROPOSED RULES:

91 4942

10 CFR

9 5289
35 7949
50 6256

10 CFR—Continued

71 5627
73 5627
209 6752
210 4931
211 7386
212 ..... 4931, 5111, 7495
420 8335
871 6259

PROPOSED RULES:

210 7122
211 ..... 7122, 7125
212 7122

12 CFR

22 6259
211 7496
213 7496
225 7496
226 ..... 5098, 6061
304 5385
335 4889
523 6062
545 6062
556 ..... 6063, 7497
563 7497
612 7085
614 7085
615 7085
701 5628
760 7387

PROPOSED RULES:

206 8394
225 ..... 5134, 7121
228 7110
335 8072
545 6283
563 7520

13 CFR

121 ..... 5123, 5809
302 7085
305 5385
581 7499

PROPOSED RULES:

102 8190
120 6288
121 5837

14 CFR

27 5290
29 5290
39 ..... 5091, 5271, 5385, 5628, 7086–7088, 7500, 7936–7938, 8336, 8337
71 ..... 4812–4814, 5091, 5271, 5385, 5386, 5629, 6064, 6237, 7088, 7939, 8337, 8338
73 ..... 4812, 6064, 7089
75 4814
93 5386
97 ..... 5092, 7501, 7502, 8338
244 8028
288 4898
373 7743
378 7744
1204 8339

14 CFR—Continued

PROPOSED RULES:

36 ..... 5641, 7961
39 ..... 7116, 7519, 7961, 8390
71 ..... 6270, 7117, 7962, 8390–8393
73 ..... 7117, 7516
75 5406
91 ..... 6270, 7517
93 7518
133 7517
207 7417
208 7417
212 7417
214 7417
217 7417
241 7417
249 7417
371 7417
389 7417

15 CFR

7 8163
369 7089

PROPOSED RULES:

803 8060
908 8064

16 CFR

1 4814
3 8339
4 4814
13 ..... 4815, 5124, 5271, 5272, 6064, 6719, 6720, 6724, 7388, 7744–7747, 7939, 8340, 8341
433 4817
701 4814
702 4814
1030 8018
1500 6238
1509 6238
1512 5386
1615 8032

PROPOSED RULES:

423 5641
433 ..... 4833, 5305, 7121
443 7789
445 8398
453 ..... 7787, 8398
1201 ..... 6178, 8071

17 CFR

200 7940
211 ..... 4817, 7940
240 ..... 5274, 8036
241 5277
249 5274
270 8342

PROPOSED RULES:

32 7774
210 ..... 4833, 7121
240 ..... 4834, 5135, 5299, 8075
249 ..... 4834, 7121
250 6776
270 ..... 8078, 8398
274 8078

18 CFR

PROPOSED RULES:

3 7787
35 8074

18 CFR—Continued

101 8074
104 8074
154 ..... 7787, 8074
201 8074
204 8074
260 7787
701 8343

19 CFR

6 ..... 5386, 6242
18 5629
153 7389

PROPOSED RULES:

177 5826
201 7431

20 CFR

404 5630
410 ..... 4899, 7091
601 7092
602 7092
603 7092
604 7092
617 5631
618 7092
620 7092
625 6756
650 6756

PROPOSED RULES:

404 7415
405 7785
410 5405
416 ..... 6074, 7415

21 CFR

1 ..... 5632, 6907
4 6907
8 ..... 4900, 5823, 6774
9 ..... 5823, 6774
26 6248
17 ..... 6242, 8039
102 5632
121 ..... 5094, 6775, 7092, 8282
123 5631
201 6907
207 6912
310 7747
314 6912
328 6912
429 6912
460 7093
510 ..... 5093, 8299
520 ..... 5632, 6249
522 ..... 4818, 5387, 6064, 6065
540 5093
558 ..... 5093, 5632, 6065, 8282
561 6065
610 6912
801 6896
809 6903
1308 7747

PROPOSED RULES:

1 7514
8 5833
17 6269
102 ..... 5833, 6269
128e 6456
191 5833
201 ..... 6878, 7514
207 6878
210 6878

21 CFR—Continued

PROPOSED RULES—Continued

211 6878
229 6878
701 7514
1020 7957
1303 8078

22 CFR

203 6066
601 8168
602 8168
603 8168

PROPOSED RULES:

1101 5292

23 CFR

260 6249
1 6249
640 6914
658 7095
663 8344

PROPOSED RULES:

1204 8394

24 CFR

204 6446
570 ..... 4818, 6726, 7503, 8345
885 8313
888 ..... 8053, 8054
899 8056
1914 ..... 4819–4820, 5089, 6249, 7759
1915 ..... 4901, 5090, 6726, 7760, 8177
1916 ..... 4823, 4824, 6739, 6740, 7406
1917 ..... 4914, 6067, 6740–6748, 7406, 7407
1920 ..... 4825, 4826, 4915–4917

PROPOSED RULES:

58 ..... 6204, 7515
570 6202
888 6460
1710 6076
1917 7515

25 CFR

11 5280
41 5387
221 8057
271 5098
273 5098
274 5098
275 5098
276 5099
277 5099

PROPOSED RULES:

11 7413
60 5129
104 5129
221 5291

26 CFR

Ch. I 7943
1 ..... 5099, 5100, 6757, 7095
3 5810
11 5633
33 6759
301 6068

26 CFR—Continued

PROPOSED RULES:

1 ..... 4829, 6073
31 6776

27 CFR

194 ..... 5103, 6068

PROPOSED RULES:

4 8188

28 CFR

0 ..... 5634, 7748, 8346
4a 5387

PROPOSED RULES:

57 5291

29 CFR

4 5388
1601 7098
2509 7749
2609 ..... 6194, 8346

PROPOSED RULES:

1910 ..... 4943, 5837
1952 4944

30 CFR

PROPOSED RULES:

225 6264

31 CFR

12 6760
223 5634

32 CFR

216 5821
242 5389
1481 5095
2000 6068

PROPOSED RULES:

806b 8390

32A CFR

Ch. XV 6765

33 CFR

1 7506
82 5280
117 ..... 6259, 7945–7947
127 ..... 5634, 6260
204 ..... 4918, 6070
209 5391
213 7099
214 7506
266 7099

PROPOSED RULES:

1 7516
117 7516
204 6074
207 5129
277 6172
401 6287

35 CFR

253 8169

36 CFR

60 5902

PROPOSED RULES:

7 ..... 7110, 7950
221 7773

37 CFR

PROPOSED RULES:

1 7513

38 CFR

PROPOSED RULES:

1 5303
3 5303
21 7790

39 CFR

Ch. I 6250, 6252
257 6765
955 ..... 7099, 7408

40 CFR

52 ..... 7508, 7509, 8057, 8058
60 ..... 7749, 8346
61 ..... 7750, 8346
62 ..... 5280, 6765
141 5281
180 8059
204 8347
243 6766
430 7662

PROPOSED RULES:

52 ..... 7962, 8071, 8072
86 ..... 6279, 7962, 8394
124 ..... 6281, 7963
125 ..... 6281, 7963
180 ..... 4832, 5291
430 7685

41 CFR

1–7 4918
1–16 4918
Ch. 7 4918
Ch. 9 7509
8–10 5097
14–1 ..... 5281, 5283
14–3 5281
14–63 5283
101–17 7943
101–18 7943
101–20 ..... 6772, 7944
101–26 ..... 5097, 6772
101–32 8169
101–45 5097
105–61 7750
114–25 4927
114–39 5283
114–60 4927

PROPOSED RULES:

51 7519
51–7 7519

42 CFR

51 8039
52b 7390
67 5226
101 7878

43 CFR

Subtitle A 6253
2 7393

PROPOSED RULES:

28 7950
3500 4831
3520 ..... 4831, 7110

PUBLIC LAND ORDERS:

5568 4927
5569 4927
5570 8039
5571 8040

45 CFR

50 8171
103 ..... 5392, 8040
133 5393
160f 6420
177 4927
201 7103
205 7393
228 5634
233 5284
304 7105
660 8172
1005 7750
1070 6255

PROPOSED RULES:

117 7111
204 8065
205 ..... 7116, 8066
220 ..... 7116, 8066
232 ..... 7116, 8066
233 ..... 8066, 8070
234 8066
235 8066
236 8066
249 5131
282 5132
283 5403

46 CFR

Ch. I 4826
146 7947
531 ..... 4927, 6070
536 4928
546 4928

PROPOSED RULES:

32 ..... 5291, 7961
151 ..... 5291, 7961
536 5292

47 CFR

0 7750
1 7394
2 ..... 5394, 8044
15 7394
68 8044
73 ..... 5635, 7105, 7399
78 ..... 4826, 6071
81 6260
83 6260
91 4827
97 6261

PROPOSED RULES:

61 7427
73 ..... 5406, 5834, 7118, 7428–7430, 7786
76 5407
87 4833
97 8394

49 CFR

107 7509
390 8175
571 ..... 5284, 6774, 7510, 8347
1000 6071
1023 5395
1033 ..... 4929, 5823, 8175, 8347
1056 8348
1125 8467
1207 ..... 4930, 8176
1300 ..... 7107, 8050

49 CFR—Continued

1305 ..... 7107, 8050
1307 ..... 7107, 8052
1308 ..... 7109, 8053

PROPOSED RULES:

395 6275
840 5298
1036 6078
1124 7521
1125 7793

50 CFR

18 5395
21 8053
28 ..... 5284, 5640
33 ..... 4828, 5284, 5288, 8177, 8349
216 7510
240 5399
285 8349

PROPOSED RULES:

81 6264
280 4942

FEDERAL REGISTER PAGES AND DATES—FEBRUARY

Pages	*Date*	*Pages*	*Date*
4807–4875	2	6719–7083	13
4877–5087	3	7085–7381	17
5089–5270	4	7383–7479	18
5271–5381	5	7481–7738	19
5383–5624	6	7739–7933	20
5625–5802	9	7935–8025	23
5803–6057	10	8027–8162	24
6059–6232	11	8163–8330	25
6233–6718	12	8331–8469	26

presidential documents

Title 3—The President

PROCLAMATION 4418

Red Cross Month, 1976

By the President of the United States of America

A Proclamation

For nearly half of our Nation's two hundred years, the American Red Cross has reflected the concerns of the American people by dedicating itself to the ease and prevention of human suffering. In war and in peace, this Good Neighbor has ministered to the anguish of those who are tragically affected by circumstances beyond their control. It has undertaken to prevent distress and has striven to preserve health and safety. The Red Cross always has been a dependable source of assistance to the Federal Government and other organizations and agencies seeking ways to serve our people.

In this, our Bicentennial Year, we salute the American Red Cross for its history of compassionate concern and its continuing pioneer spirit that brings vigor to the unending quest for better ways in which to meet human needs.

In 1976, the American Red Cross is at the forefront of voluntary citizen action. The services of over one million volunteers have made possible the changes, innovations and adaptations necessary to improve its effectiveness. While many traditional facets of its assistance continue to fulfill a basic requirement, the Red Cross has broadened its efforts beyond direct service to ease suffering. Today, it actively seeks to help eradicate causes of recurrent, but preventable, health, safety and disaster problems.

March is traditionally Red Cross Month. In that time period, more than 1,600 Red Cross chapters will campaign for funds. Other chapters, in partnership with United Way, will be seeking volunteers for their various programs and services. I know that all Americans will show the Red Cross that they too are Good Neighbors.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, and Honorary Chairman of the American National Red Cross, do hereby designate March, 1976, as Red Cross Month. I urge all Americans to give their generous support to the work of their local Red Cross chapters.

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

Gerald R. Ford

[FR Doc.76-5718 Filed 2-25-76;11:33 am]

PROCLAMATION 4419

Save Your Vision Week, 1976

By the President of the United States of America

A Proclamation

Try to imagine a world without sunsets, without the smiles of friends, without the comfort of books, or without any of the simple sights we take for granted but which make our lives so much richer. Such a world will become a reality for the fifty thousand Americans who will become blind this year alone. Over a million other Americans will also suffer some form of visual impairment. Yet all too often it is only when these problems occur that we realize how important vision is to almost every aspect of our daily existence.

Americans have access to the most advanced facilities for the care of vision available in the world. This has been made possible through sustained research by dedicated professionals, supported in large measure by private organizations as well as the Federal Government, through the National Eye Institute. Nevertheless, whether out of vanity or unfamiliarity with the elementary principles of proper vision care, millions of Americans continue to neglect their eyesight.

To remind all Americans of the importance of good vision to themselves and the Nation, and to encourage them to learn and practice the fundamentals of eye safety—including the need for regular professional examination—the Congress, by joint resolution (36 U.S.C. 196a), has requested the President to issue annually a proclamation designating the first week in March as Save Your Vision Week.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate the week beginning March 7, 1976, as Save Your Vision Week. I urge all Americans to mark this occasion by learning and practicing the safety measures appropriate for good eyesight. I call upon optometrists, ophthalmologists, and opticians, the communications media, and educators to join in public activities and programs to improve and protect the vision of Americans of all ages.

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

Gerald R. Ford

[FR Doc.76-5719 Filed 2-25-76;11:34 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 420—STATE ENERGY CONSERVATION PLANS

State Energy Conservation Feasibility Report Guidelines

On January 27, 1976, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking (41 FR 4298, January 29, 1976) to establish Part 420, Chapter II of Title 10, Code of Federal Regulations, to implement a program for State energy conservation plans. This proposal was issued pursuant to Part C of Title III (42 U.S.C. 6321–6326) of the Energy Policy and Conservation Act (Act), Pub. L. 94–163. As a first step in such implementation, FEA proposed guidelines for the preparation of State energy conservation feasibility reports, pursuant to section 362(a) of the Act (42 U.S.C. 6322(a)).

Comments on the proposed regulations were invited from interested persons by February 11, 1976, and a public hearing was scheduled for the same date. In response to the notice, 13 comments were received by FEA. The public hearing was cancelled due to the lack of sufficient public interest in presenting oral views. The final regulations promulgated here contain revisions to the proposed regulations which reflect FEA's consideration of the comments as well as other information available to FEA.

Some of the comments requested further guidance on recordkeeping than was provided in proposed § 420.2. Accordingly, § 420.2 has been amended to provide expressly that recordkeeping shall be in accordance with Federal uniform administrative requirements for grants-in-aid to State governments, as set forth in Federal Management Circular 74–7 (34 CFR Part 256), and any further requirements which FEA might in the future establish to assist the States in applying Federal Management Circular 74–7 to the program for State energy conservation plans.

Proposed § 420.22(b)(2) provided that a request for an extension of time for the submission of a State energy conservation feasibility report should be made within 80 days after the effective date of the regulation. One comment received by FEA pointed out that there may be difficulties experienced by the States in meeting this deadline and suggested that the period of time be extended to 120 days. FEA believes that 120 days is excessive and that 3 months, coinciding with the statutory date for submission of the report itself, is sufficient time to allow a State to determine if an extension is needed. Accordingly, the final version of § 420.22(b)(2) provides for a 3 month period within which a request for an extension shall be made.

The proposed regulations made reference in § 420.24 to the allocation of up to $5 million, subject to the appropriation of funds, in order to assist the States in the development of State energy conservation plans. Reference to this amount has been deleted in the final regulations since budgetary considerations on funding levels and program design await final decision in the context of the submission of the President's budget and action thereon by the Congress. Conforming amendments have been made by deleting proposed §§ 420.23(b)(1) and (2) and 420.24(b) to comport with the fact that Federal budget decisions are not yet final.

Proposed § 420.24 also provided that the financial assistance to the States for the development of State energy conservation plans be allocated on the basis of fifty percent divided among the States equally and fifty percent divided on the basis of the State population as specified in the 1970 U.S. Census. A comment received by FEA suggested that the most recent census estimate be utilized. FEA has adopted this suggestion and the final version of § 420.24(b) provides for the utilization of the census as of July 1, 1973, the most recent census estimate available for all jurisdictions.

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations is amended by establishing Part 420 as set forth below, effective immediately.

Issued in Washington, D.C., February 20, 1976.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

Chapter II is amended by establishing Part 420 to read as follows:

Subpart A—General Provisions

Sec.
420.1 Purpose and scope.
420.2 Recordkeeping.

Subpart B—Definitions

420.11 Definitions.

Subpart C—State Energy Conservation Feasibility Report Guidelines

420.21 Purpose and scope.
420.22 Submission of State energy conservation feasibility reports.
420.23 Contents of State energy conservation feasibility reports.
420.24 Financial assistance.
420.25 Technical assistance.

AUTHORITY: Energy Policy and Conservation Act, Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 420.1 Purpose and scope.

This part establishes the procedures and guidelines of FEA for the implementation of Part C of Title III (42 U.S.C. 6321–6326) of the Energy Policy and Conservation Act (Pub. L. 94–163), which establishes a program for State energy conservation plans.

§ 420.2 Recordkeeping.

Each recipient of Federal financial assistance under this part shall keep such records as FEA shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by FEA, and such other records as FEA determines necessary to facilitate an effective audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74–7 (34 CFR Part 256) and any further requirements which may be established by FEA.

Subpart B—Definitions

§ 420.11 Definitions.

For purposes of this part—

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163).

"FEA" means the Federal Energy Administration, acting through either its Administrator or the delegate of its Administrator.

"State" means each of the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific.

Subpart C—State Energy Conservation Feasibility Report Guidelines

§ 420.21 Purpose and scope.

This subpart prescribes guidelines applicable to the preparation of State energy conservation feasibility reports. It also provides for technical and financial assistance to the States in the development of State energy conservation plans.

§ 420.22 Submission of State energy conservation feasibility reports.

(a) FEA shall invite the Governor of each State to submit a State energy conservation feasibility report to the appropriate FEA Regional Administrator.

(b)(1) In order for a State to be eligible to receive financial assistance pursuant to this subpart for the development of a State energy conservation plan, its Governor shall submit a State energy conservation feasibility report to the appropriate FEA Regional Administrator

within three months after the effective date of this subpart, unless an extension of time is granted by FEA pursuant to paragraph (b) (2) of this section.

(2) An extension of time for submission of a State energy conservation feasibility report may be granted if FEA determines that participation by the State submitting such report is likely to result in significant progress toward achieving the purposes of the Act. A request for an extension pursuant to this subparagraph shall be made to the appropriate FEA Regional Administrator within three months after the effective date of this subpart.

§ 420.23 Contents of State energy conservation feasibility reports.

A State energy conservation feasibility report, to be submitted in accordance with forms and instructions provided by FEA, shall include—

(a) An assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of a State energy conservation plan, of 5 percent or more in the total amount of energy consumed in the State in the year 1980 from the projected energy consumption for the State in the year 1980;

(b) A proposal for the development of a State energy conservation plan to achieve the State energy conservation goal.

§ 420.24 Financial assistance.

Subject to the appropriation of funds authorized by section 365(d) of the Act (42 U.S.C. 6325(d)), grant funds may be made available to assist the States in the development of State energy conservation plans in accordance with the following formula—

(a) Fifty percent of such funds shall be divided among the States equally; and

(b) Fifty percent shall be divided on the basis of the resident population of the States as of July 1, 1973, as reported by the U.S. Department of Commerce, Bureau of the Census, in "Current Population Reports," Series P–25, numbers 520 and 603.

§ 420.25 Technical assistance.

At the request of the Governor of any State, and subject to the availability of personnel and funds, FEA shall provide information and technical assistance in the preparation of State energy conservation feasibility reports.

[FR Doc.76–5503 Filed 2–23–76;3:59 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–CE–10–AD; Amdt. 39–2525]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 33, 35, 36, 55, 56, 58 (Except 58P) and 95 Series Airplanes

The Federal Aviation Administration has been advised that some Beech 33, 35, 36, 55, 56, 58 (except 58P) and 95 series airplanes having additional seats installed after leaving the factory do not meet the required emergency egress provisions for airplanes with more than five seats. Specifically, existing optional curtains and curtain bars may block the openable window used for emergency egress and placards and markings describing the operation of the window emergency exit have not been installed in these airplanes. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued, applicable to Beech 33, 35, 36, 55, 56, 58 (except 58P) and 95 series airplanes having more than five seats installed, which will require inspection of the existing curtain and openable window installation and modification thereof where necessary to assure that it is an acceptable emergency exit.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

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

BEECH.—Applies to Beech 33, 35, 36, 55, 56, 58 (except 58P) and 95 series airplanes having more than five seats installed.

Compliance: Required as indicated, unless already accomplished.

To assure adequate window emergency egress provisions, within the next 50 hours' time in service after the effective date of this AD, accomplish the following:

(A) Visually inspect the openable window installation located near the center of the cabin (left side) to determine:

1. The presence of an emergency exit instruction placard,

2. That Beech P/N 96–534051–61 or equivalent release pin has a red handle, and

3. That any curtain bars and/or curtains installed are attached to the openable window so that they will not restrict egress in the event of an emergency.

(B) If, as a result of the inspection required by Paragraph A, any deficiencies in the above-mentioned requirements are noted, accomplish the following as appropriate:

1. Install Beech P/N 96–534042–1 or equivalent placard near the lower edge of the window exit which reads:

EMERGENCY EXIT PULL PIN PUSH OUT WINDOW

2. Paint the handle of the existing release pin red or install Beech P/N 96–534051–61 or equivalent release pin having a red handle.

3. Either remove the curtains and curtain bars or modify the curtain installation by attaching the bars to the openable window frame in accordance with Beech Kit 35–681 or Beech Drawing 35–001070 or equivalent.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective February 27, 1976.

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

Issued in Kansas City, Mo., on February 13, 1976.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.76–5105 Filed 2–25–76;8:45 am]

[Docket No. 75–NE–5; Amdt. 39–2524]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Model CF700–2C, CF700–2D and CF700–2D–2 Turbofan Engines

Amendment 39–2114, 41 FR 8543, AD 75–05–13, requires an eddy current type repetitive inspection to detect blade cracks on compound turbine and fan blades at an initial inspection of 1000 hours followed by a 400 hour repetitive inspection on General Electric Model CF700–2C, CF700–2D and CF700–2D–2 engines. After issuing Amendment 39–2114, service history has shown that the initial inspection hourly limit was inadequate. Therefore, the AD is being amended to require an initial eddy current inspection at 400 hours time in service.

In accordance with operator comments, a paragraph providing for equivalent approved inspection methods has been added.

For clarity a paragraph has also been added to require replacement of compound turbine and fan blades with confirmed cracks prior to further flight.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2114 (41 FR 8543), AD 75–05–13 is amended as follows:

1. Amend paragraph beginning with the words "To preclude possible failures * * *" by inserting the words "or equivalent inspection method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region," after the words "Section 72–72–1" and before the words "in accordance with".

2. Amend Paragraph (a) to read:

Compound turbine and fan blades with 400 or more hours total time in service on the effective date of this AD:

Inspect within the next 30 hours time in service and inspect every 400 hours time in service thereafter.

3. Amend Paragraph (b) to read:

Compound turbine and fan blades with less than 400 hours total time in service on the effective date of this AD:

Inspect prior to the accumulation of 430 hours total time in service and inspect every 400 hours time in service thereafter.

4. Insert a new paragraph after Subparagraph (b) to read:

Replace all compound turbine and fan blades, confirmed as cracked, prior to further flight.

This amendment becomes effective March 3, 1976.

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

Issued in Burlington, Mass., on February 12, 1976.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.76-5107 Filed 2-25-76;8:45 am]

[Docket No. 12433, Amdt. 39-2527]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.) Helicopters

Amendment 39-1666 (38 FR 15501), AD 73-13-2, requires repetitive inspections of main drive shaft and freewheel assemblies, P/N's 3160S.60.00.000 and 3160.S.60.10.000, at intervals not to exceed 25 hours' time in service on Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.) Alouette Model SA 315B, SE 3160, SA 316B, SA 316C, SA 3180, SA 318B, SA 318C and SA 319B helicopters. After issuing Amendment 39-1666, the FAA has determined that a repetitive inspection interval of 100 hours' time in service is adequate for those main drive shaft and freewheel assemblies that have been reworked in accordance with paragraph (e) of the airworthiness directive (AD), and the AD is being amended accordingly.

Since this amendment relieves a restriction and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1666 (38 FR 15501), AD 73-13-2, is amended by striking the number "25" in paragraph (f) and inserting the number "100" in its place.

This amendment becomes effective March 11, 1976.

Issued in Washington, D.C. on February 17, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-5104 Filed 2-25-76;8:45 am]

[Airspace Docket No. 76-AL-3]

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

Alteration of Control Zone at Bettles, Alaska

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to reduce the effective period of the Bettles, Alaska, control zone from continuous to 16 hours daily.

Aviation weather observations at the Bettles Airport will be reduced from continuous to 16 hours daily. Weather observations are required to support the control zone designation. Therefore, it is necessary to reduce the effective period of the Bettles control zone to the hours that weather observations are provided.

It is planned to supplement the 16 hours of weather observations with two additional reports for forecasting purposes. The effective period of the control zone will not be extended beyond 16 hours because the 16-hour control zone designation covers the period when IFR operations are normally conducted at the Bettles Airport.

In order to allow for anticipated minor variation in times of designation the hours of the Bettles control zone will be made effective during specific dates and times established in advance by a Notice to Airmen. The initial period of the control zone designation will be from 0545 to 2145 hours local time daily, upon the effective date of this amendment.

Since this amendment is necessary due to the reduction of weather observations, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days. However, in order to make the effective date coincident with the next publication of Alaska enroute charts and the Alaska Supplement, the effective date of this amendment is March 25, 1976.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. on March 25, 1976, as hereinafter set forth.

In § 71.171 (41 FR 355) the Bettles, Alaska, control zone is amended by adding:

This control zone is effective during dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska.

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

Issued in Anchorage, Alaska, on February 13, 1976.

RICHARD L. FAILOR,
Acting Director, Alaskan Region.

[FR Doc.76-5106 Filed 2-25-76;8:45 am]

[Airspace Docket No. 76-SO-15]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Gulfport, Miss., transition area.

The Gulfport transition area is described in § 71.181 (41 FR 440). In the description, extensions are predicated on the Keesler TACAN 050° and 200° radials. The United States Air Force has relocated the TACAN which resulted in a change in the final approach radials associated with TACAN instrument approach procedures. It is necessary to alter the transition area to reflect the change in final approach radials. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 20, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Gulfport, Miss., transition area is amended as follows: " * * * Keesler TACAN 050° and 200° radials, * * *" is deleted and "* * * Keesler TACAN 041° and 203° radials, * * *" is substituted therefor.

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

Issued in East Point, Ga., on February 11, 1976.

PHILIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5112 Filed 2-25-76;8:45 am]

[Airspace Docket No. 76-SO-14]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Greenville, Miss., control zone and transition area.

The Greenville control zone is described in § 71.171 (41 FR 355) and the Greenville transition area is described in § 71.181 (41 FR 440). In each description, reference has been made to the Greenville Municipal Airport. The official name of the airport has been changed to Greenville International Airport and it is necessary to alter the descriptions to reflect the change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 20, 1976, as hereinafter set forth.

In § 71.171 (41 FR 355), the Greenville, Miss., control zone is amended as follows:

"* * * Greenville Municipal Airport * * *" is deleted and "* * * Greenville International Airport * * *" is substituted therefor.

In § 71.181 (41 FR 440), the Greenville, Miss., transition area is amended as follows:

"* * * Greenville Municipal Airport * * *" is deleted and "* * * Greenville International Airport * * *" is substituted therefor.

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

Issued in East Point, Ga., on February 12, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5290 Filed 2-25-76;8:45 am]

[Airspace Docket No. 75-RM-32]

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

Alteration of Transition Area

On November 24, 1975, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (40 FR 54429) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area of Hugo, Colorado.

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

Effective date. This amendment shall be effective 0901 G.m.t., May 20, 1976.

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

Issued in Aurora, Colorado on February 17, 1976.

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

In Federal Aviation Regulation § 71.-181 (40 FR 441) the description of the Hugo, Colorado transition area is amended to read:

HUGO, COLORADO

That airspace south and east of Hugo, Colo., VOR extending upward from 8500 feet MSL, bounded on the west by V-19, on the northwest by V-108 and V-169, on the north by V-4, on the northeast by V-17, on the southeast by V-216, and on the south by V-210, excluding the airspace within Federal airways, the Pueblo and Colorado Springs, Colo., transition areas and the State of Kansas.

[FR Doc.76-5291 Filed 2-25-76;8:45 am]

[Airspace Docket No. 76-SO-16]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fort Myers, Fla., transition area.

The Fort Myers transition area is described in § 71.181 (41 FR 440). In the description, an extension is predicated on the Tice RBN. Due to a change in instrument approach procedures, the extension is no longer required and action is taken herein to revoke it. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G. M. T, May 20, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Fort Myers, Fla., transition are is amended by deleting:

"* * * within 3 miles each side of the 220° bearing from Tice RBN, extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN; * * *"

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

Issued in East Point, Ga., on February 12, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5465 Filed 2-25-76;8:45 am]

[Docket No. 15411; Amdt. No. 1009]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective April 8, 1976.*

Charleston, SC—Charleston AFB/Muni. Arpt., VOR Rwy 3 (TAC), Amdt. 6.
Charleston, SC—Charleston AFB/Muni., Arpt., VOR Rwy 15 (TAC), Amdt. 8.
Charleston, SC—Charleston AFB/Muni. Arpt., VOR Rwy 21 (TAC), Amdt. 6.
Charleston, SC—Charleston AFB/Muni. Arpt., VOR Rwy 33, Amdt. 7.
Charleston, SC—Charleston AFB/Muni. Arpt., VORTAC Rwy 33, Original.
West Bend, WI—West Bend Muni. Arpt., VOR Rwy 13, Amdt. 1.
West Bend, WI—West Bend Muni. Arpt., VOR Rwy 24, Amdt. 1.
West Bend, WI—West Bend Muni. Arpt., VOR Rwy 31, Amdt. 4.

* * * *effective March 4, 1976:*

Bedford, MA—Laurence G. Hanscom Field, VOR Rwy 23, Amdt. 4.
Lawrence, MA—Lawrence Muni. Arpt., VOR Rwy 23, Amdt. 3.
Tewksbury, MA—Tew-Mac Arpt., VOR Rwy 21, Amdt. 4.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective March 4, 1976.*

Lawrence, MA—Lawrence Muni. Arpt., LOC Rwy 5, Original.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective April 8, 1976.*

West Bend, WI—West Bend Muni. Arpt., NDB Rwy 31, Amdt. 5.

* * * *effective March 11, 1976:*

Wallace, NC—Henderson Field, NDB Rwy 27, Original.

* * * *effective March 4, 1976:*

Frenchville, ME—Northern Aroostook Regional Arpt., NDB Rwy 32, Original.
Bedford, MA—Laurence G. Hanscom Field, NDB Rwy 11, Amdt. 13.
Lawrence, MA—Lawrence Muni. Arpt., NDB-A, Amdt. 10, cancelled
Tewksbury, MA—Tew-Mac Arpt., NDB-21, Amdt. 2, cancelled.
Tewsbury, MA—Tew-Mac Arpt., NDB-A, Original.
Medford, WI—Taylor County Arpt., NDB Rwy 33, Original.

* * * *effective February 13, 1976:*

Iliamna, AK—Iliamna Arpt., NDB-A, Amdt. 2.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective March 11, 1976.*

Richmond, VA—Richard Evelyn Byrd Int'l Arpt., ILS Rwy 15, Original.

* * * *effective March 4, 1976:*

Bedford, MA—Laurence G. Hanscom Field, ILS Rwy 11, Amdt. 16.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAP, *effective February 17, 1976.*

Amarillo, Tx—Amarillo Air Terminal, RADAR-1, Amdt. 9.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP, *effective April 8, 1976.*

West Bend, WI—West Bend Muni. Arpt., RNAV Rwy 13, Amdt. 2.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 19, 1976.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

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

[FR Doc.76-5463 Filed 2-25-76;8:45 am]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 15—Coordination of NASA Facilities Planning and Projects

INTERIM REGULATION

The National Aeronautics and Space Administration is issuing interim regulations to implement the coordination provisions required by the revision of OMB Circular A-95, Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects (published in 41 FR 2052-2065, January 13, 1976), effective February 27, 1976. The interim regulations establish NASA policy and procedures for coordinating NASA facilities planning and projects with state, areawide and local planning authorities, and OMB Circular A-95 clearinghouses to assure that any such planning and projects are consistent or compatible with state, areawide and local development plans and programs.

Interested persons may submit written comments to the Office of Facilities, Code BX, National Aeronautics and Space Administration, Washington, D.C. 20546. All relevant comments received on or before March 29, 1976, will be considered. Final regulations must be promulgated no later than April 29, 1976.

1. 14 CFR Part 1204 is amended by adding a new Subpart 15, reading as follows:

Subpart 15—Coordination of NASA Facilities Planning and Projects

Sec.
1204.1500 Scope.
1204.1501 Policy.
1204.1502 Implementation.
1204.1503 Inclusion of clearinghouse comments.

AUTHORITY: Section 1204.1103 (National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*); EO 11514, March 5, 1970 (3 CFR 271 (1974)); Council on Environmental Quality Guidelines, August 1, 1973 (40 CFR 1500); OMB Circular A-106 (40 FR 1325, January 7, 1975); EO 11752, December 17, 1973 (3 CFR 380 (1974)); and EO 11738, September 10, 1973 (3 CFR 373 (1974))); OMB Circular A-95 (41 FR 2052-2065, January 13, 1976); Coastal Zone Management Act of 1972 (16 U.S.C. 1451, *et seq.*); Title IV of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231, *et seq.*); Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334).

§ 1204.1500 Scope.

This Subpart 1204.15 establishes policy and procedures for coordinating NASA facilities planning or projects with state, areawide, and local planning authorities and clearinghouses.

§ 1204.1501 Policy.

It is NASA policy to coordinate installation master planning, development programs and projects, as well as real property acquisition, use and disposal, with state, areawide and local development planning authorities.

§ 1204.1502 Implementation.

Directors of Field Installations and the Director of Headquarters Administration, NASA Headquarters, are responsible for implementing the coordination policy for facility planning under their purview in the following manner:

(a) Consult with state and areawide comprehensive planning agencies and local elected officials at the earliest practicable stage of advance planning, e.g., during the preparation of Preliminary Engineering Reports or environmental assessments, whichever occurs first, on those projects having a significant impact on the conservation and development plans and programs of the state, area, or localities in which the project is to be located. Establish memoranda of agreement between NASA Installations and state and areawide OMB Circular A-95 clearinghouses for coordinating Federal and civilian planning (see Attachment A). Rehabilitation and modification projects and minor additions not having any significant impact on the conservation and development plans and programs in the area in which the project is to be located may be excluded from the coordination provisions.

(b) Assure that any such project is consistent or compatible with state, areawide, and local development plans and programs, and make exceptions only where there is clear justification. Such exceptions will be documented.

(c) Use the state and areawide planning and development clearinghouses as noted in OMB Circular A-95 for coordination of planning to the greatest extent possible, to effectuate the above requirements.

(d) Prepare environmental impact statements and provide an opportunity for review and comment as set forth in § 1204.1103, including but not limited to, state, areawide and local agencies authorized to develop and enforce environmental standards.

(e) In the case of projects located in the Coastal Zone, provide the state agency responsible for administration of the state approved program for the management of the Coastal Zone with the opportunity to review the relationship of the proposed project to such program and its consistency therewith.

§ 1204.1503 Inclusion of clearinghouse comments.

Include all clearinghouse comments, if any, with the plan and budget request.

Effective Date. This amendment takes effect on February 27, 1976.

WM. E. LILLY,
NASA Comptroller.

ATTACHMENT A

ITEMS TO COVER IN MEMORANDA OF AGREEMENT

The items to be covered in Memoranda of Agreement between NASA Installations and state and areawide OMB Circular A-95 clearinghouses for coordinating NASA and civilian planning:

1. Clearinghouses will be contacted at the earliest practicable point in project planning. Generally, this will be during the preparation of Preliminary Engineering Reports, or possibly earlier if meaningful information is available that could practically serve as an input in the decision-making process. It should be noted that clearinghouses are generally comprehensive planning agencies. As such, they are often the best repositories of information required for development planning and constitute a resource that can often save Federal planners substantial time and effort, if consulted early enough. In addition to providing information necessary for preliminary engineering, clearinghouses can make useful inputs to the development of environmental impact statements, as well as in reviewing draft statements. Thus, consultation at the earliest stage in planning can have substantial payoffs in installation development.

2. Clearinghouses will be afforded a minimum time of 30 days in which to review and comment on a proposed project and a maximum time of 45 days in which to complete such review.

3. The minimum information to be provided to the clearinghouse will consist of project description, scope and purpose, summary technical data, maps and diagrams where relevant, and any data which would show the relationship of the proposed project or action to applicable land use plans, policies, and controls for the affected area.

4. Establish procedures for notifying clearinghouses of the actions taken on projects, such as implementation, timing, postponement, abandonment, and explaining, where appropriate, actions taken contrary to clearinghouse recommendations.

[FR Doc.76-5451 Filed 2-25-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Disqualification of Administrative Law Judge

The Commission announces the following amendment to Part 3 of Subchapter A of Chapter I of Title 16 of the Code of Federal Regulations to permit Administrative Law Judges to consider whether they should recuse themselves from an adjudicative proceeding.

Section 3.4(g)(2) is amended to read as follows:

§ 3.42 Presiding officials.

* * * * *

(g) *Disqualification of Administrative Law Judge.* * * *

(2) Whenever any party shall deem the Administrative Law Judge for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the Secretary a motion addressed to the Administrative Law Judge to disqualify and remove him, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. If the Administrative Law Judge does not disqualify himself within ten (10) days, he shall certify the motion to the Commission, together with any statement he may wish to have considered by the Commission. The Commission shall promptly determine the validity of the grounds alleged, either directly or on the report of another Administrative Law Judge appointed to conduct a hearing for that purpose.

* * * * *

The above amendment is effective on February 26, 1976.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46), 80 Stat. 383, as amended, 81 Stat. 54 (5 U.S.C. 552))

By direction of the Commission dated February 17, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-5494 Filed 2-25-76;8:45 am]

[Docket C-2781]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Argonaut Investments, Inc., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.73 Formal regulatory and statutory requirements; 13.73–92 Truth in Lending Act; § 13.155 Prices; 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Prices: § 13.1823 Terms and conditions; 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–75 Truth in Lending Act; § 13.1905 Terms and conditions; 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

In the Matter of Argonaut Investments, Inc., a Corporation, and Barney Lieberman and Frank Williams, Individually and as Officers of Said Corporation

Consent order requiring a Hollywood, Calif., mortgage loan broker, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

It is ordered, That respondents Argonaut Investments, Inc., a corporation, its successors and assigns, and its officers, and Barney Lieberman and Frank Williams, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with any extension of, or arrangement for the extension of, consumer credit as "consumer credit" is defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by §§ 226.5(b) and 226.8(b)(2) of Regulation Z.

2. Failing, in any transaction in which a security interest is or will be retained or acquired in any real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with two copies of the notice of the right to rescind, as set forth in § 226.9 of Regulation Z, in the form and manner specified by § 226.9(b) of Regulation Z.

3. Causing or permitting the disbursement of any monies, other than in escrow, until after the rescission period has expired, as required by § 226.9(c)(1) of Regulation Z.

4. Causing or permitting a customer to modify or waive his right to rescind a transaction subject to § 226.9 of Regulation Z, unless:

(a) The extension of credit is needed in order to meet a bona fide immediate personal financial emergency of the customer;

(b) The customer has determined that a delay of three (3) business days in performance of the respondents' obligation under the transaction will jeopardize the welfare, health or safety of natural persons or endanger property which the customer owns or for which he is responsible; and

(c) The customer furnishes the respondents with a separate dated and signed personal statement describing the situation requiring immediate remedy and modifying or waiving his right of rescission.

5. Causing or requiring a customer to execute any document that indicates, expressly or by implication, that said customer's right of rescission period as set forth by § 226.9(a) of Regulation Z has expired and the creditor may proceed with his obligation.

6. Failing, in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer, to comply with all requirements regarding the right of rescission set forth in § 226.9 of Regulation Z.

7. Failing in any consumer credit transaction to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z at the time and in the manner, form, and amount required by §§ 226.6 and 226.8 of Regulation Z.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions and to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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

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

The Decision and Order was issued by the Commission Jan. 19, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-5405 Filed 2-25-76;8:45 am]

[Docket C-2782]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Fred Meyer, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; § 13.125 Limited offers or supply; § 13.155 Prices; 13.155–35 Discount savings; 13.155–75 Product or quantity covered; § 13.180 Quantity; 13.180–30 In stock; 13.180–35 Offered; § 13.205 Scientific or other relevant facts; § 13.240 Special or limited offers. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–45 Maintain records; 13.533–45(k) Records, in general; 13.533–55 Refunds, rebates and/

[1] Copies of the Complaint, Decision and Order, filed with the original document.

or credits. Subpart: Misrepresenting oneself and goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1720 Quantity; § 13.1740 Scientific or other relevant facts; § 13.1747 Special or limited offers. —Prices: § 13.1820 Retail as cost, etc., or discounted; § 13.1825 Usual as reduced or to be increased. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 Scientific or other relevant facts. Subpart—Using deceptive techniques in advertising: § 13.2275 Using deceptive techniques in advertising.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

In the Matter of Fred Meyer, Inc., a corporation

Consent order requiring a West Coast retail food and general line merchandise store chain operating in Oregon, Washington and Montana, among other things to cease misrepresenting the availability of merchandise; and misrepresenting the price at which merchandise may be purchased. Further, respondent is required to prominently display the location and price of items advertised below the regular shelf price and to post a notice to consumers and a copy of the advertisement near entrances to its stores; and to issue rainchecks for any advertised items temporarily out of stock.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I. *It is ordered*, That respondent Fred Meyer, Inc., a corporation, its successors or assigns, its officers, agents, representatives, and employees, directly, or through any corporate subsidiary, as defined below, or through any division or other device, shall, in connection with the advertising, offering for sale, or sale of food, drug, variety, and other merchandise offered or sold in its retail stores, hereinafter sometimes referred to as items, in or having an effect on commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended:

Cease and desist from directly or indirectly disseminating or causing the dissemination of any advertisement by any means which offers any items for sale at a stated price, unless throughout the effective period of the advertised offer at each retail store covered by the advertisement:

1. There is a sign or other conspicuous marking at the place where an item advertised below regular shelf price is displayed for sale clearly disclosing that the item is "as advertised," or "on sale," or words of similar import as appropriate, and disclosing on such sign or marking, the advertised price;

2. Each advertised item which respondent usually and customarily individually marks with a price is individually, clearly, and conspicuously marked with the advertised price;

3. Each advertised item is sold to customers at or below the advertised price; *Provided*, That it shall not be deemed a violation of the above subparagraphs 1, 2, and 3 if respondent is complying with a specific exemption, limitation, or restriction with respect to store, item, quantity, or price which is clearly and conspicuously disclosed in all advertisements. *Provided further*, That in stores equipped with optical scanning devices which electronically "read" an identification code marked on the packaging of items, which transmit the information to a computer which then transmits the correct price of the items to an electronic cash register where the price is displayed so it is visible to the customer and where the item and price are printed on the cash register tape, the items need not be price-marked in any additional manner; but this proviso will not be applicable unless respondent clearly and conspicuously posts the advertised prices of such items at the point of display and is in compliance with section I(3) hereof.

The Commission recognizes that technical per se violations of section I of this order are inevitable. Therefore, in determining compliance with section I of this order, the Commission will consider the circumstances surrounding failure to mark the advertised items conspicuously or to sell them at or below the advertised prices due to circumstances beyond respondent's control. Further, both parties recognize that the second proviso to Section I is limited solely to the purpose of this proceeding.

Definition of "corporate subsidiary": All corporate subsidiaries except those corporate grocery retailers wherein respondent has obtained shares of stock solely to protect past due accounts receivable owing to respondent or to provide as security for promissory notes for monetary advances to purchase real estate, fixtures, and inventory; wherein respondent has provided a contractual right to manage the corporation to a person not an employee of respondent; and wherein respondent exercises no operational control over the grocery retailer.

II. *It is further ordered*, That respondent Fred Meyer, Inc., a corporation, its successors or assigns, its officers, agents, representatives, and employees, directly, through any corporate subsidiary, as defined above, or through any division or other device, shall cease and desist from disseminating or causing to be disseminated, any advertisement which contains any of the offers prohibited by Section I of this order:

A. By United States mails, or in or having an effect upon commerce by any means, as "commerce" is defined in the Federal Trade Commission Act, as amended, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, grocery products, or other items of merchandise covered by section 12 of the Federal Trade Commission Act which are offered for sale or sold in its retail stores;

B. By any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, of food, grocery products, or other items of merchandise covered by section 12 of the Federal Trade Commission Act which are offered for sale or sold in its retail stores.

III. *It is further ordered*, That, throughout each advertised sale period in each of its retail stores covered by an advertisement, respondent shall post conspicuously (1) at or near the place where customers pay for items, and (2) in such location or locations as is reasonably calculated to catch the attention of each person who enters the retail store, a notice which contains the following:

A. A copy of the advertisement.

B. A statement that: "All items advertised are readily available for sale at or below advertised price except as specifically noted in this ad. Rain checks will be gladly issued for any advertised items temporarily out of stock that will enable you to purchase those items at or below the advertised price in the near future. If you have any questions, the department manager will be glad to assist you."

IV. *It is further ordered*, That respondent shall cause the following statement to be clearly and conspicuously set forth in each advertisement which represents that items are available for sale at a stated price in any of its retail stores: "Each of these advertised items must be readily available for sale at or below the advertised price in each Fred Meyer store, except as specifically noted in this ad."

V. *It is further ordered*, That:

A. Respondent sall forthwith deliver a copy of this order to each of its operating divisions and to each of its present and future officers and other personnel in its organization down to the level of and including assistant store managers who, directly or indirectly, have any supervisory responsibilities with respect to individual retail stores of respondent, or who are engaged in any aspect of preparation, creation, or placing of advertising, and that respondent shall secure a signed statement acknowledging receipt of said order from each such person;

B. Respondent shall institute and maintain a program of continuing surveillance adequate to reveal whether the business practices of each of its retail stores conform to this order, and shall confer with any duly authorized representative of the Commission pertaining to such program when requested to do so by a duly authorized representative of the Commission;

C. Respondent shall, for a period of three (3) years subsequent to the date of this order:

1. Maintain business records which show the efforts taken to ensure continuing compliance with the terms and provisions of this order, except that magnetic tapes need be retained for six months only;

2. Grant any duly authorized representative of the Federal Trade Commission access to all such business records; and

[1] Copies of the Complaint, Decision and Order, filed with the original document.

3. Furnish to the Federal Trade Commission copies of such records which are requested by any of its duly authorized representatives;

D. Respondent shall, all other provisions of this order notwithstanding, on or before each of the first three (3) anniversary dates of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order in the preceding year. The anniversary dates of the order shall be based upon the original date of service of the order upon respondent.

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

VII. *It is further ordered,* That respondent shall, within sixty days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.

The Decision and Order was issued by the Commission Jan. 20, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-5406 Filed 2-25-76;8:45 am]

[Docket C-2779]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

A. Soloff & Son, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1200 Content; § 13.1212 Formal regulatory and statutory requirements; 13.1212-90 Wool Products Labeling Act; § 13.1320 Scientific or other relevant facts. Subpart—Misrepresenting oneself and goods—Goods: § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623-90 Wool Products Labeling Act; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; 13.1852-80 Wool Products Labeling Act; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68)

In the Matter of A. Soloff & Son, Inc., a Corporation, and Merrill Leviss, Individually and as an Officer of Said Corporation

Consent order requiring a Fall River, Mass., manufacturer of woolen apparel, among other things to cease misbranding and mislabeling the fiber content of its woolen products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

It is ordered, That respondents A. Soloff & Son, Inc., a corporation, its successors and assigns and its officers, and Merrill Leviss, individually and as an officer of said corporation, and respondents' representatives, agents and employess, directly or through any corporation, subsidiary, division or other device in connection with the manufacture for introduction into commerce, introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely, and deceptively stamping, tagging, labeling, or otherwise identifying such products.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each of its operating divisions.

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

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

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

The Decision and Order was issued by the Commission Jan. 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-5404 Filed 2-25-76;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original document.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-9149, File No. S7-514]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

ANCSA Corporations; Rescission of Exemptive Rule

Notice is hereby given that the Securities and Exchange Commission has determined to rescind Rule 6c-2(T) [17 CFR 270.6c-2] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] ("Act"). This rule provided a temporary exemption for corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971 [43 U.S.C. 1601-24] ("ANCSA Corporations" and "Settlement Act," respectively) from all but five essential provisions of the Act.[2] This exemption was made effective retroactively to December 18, 1971, the date of enactment of the Settlement Act, and was later made subject to the condition that an ANCSA Corporation wishing to obtain the exemptive relief conferred by the rule register with the Commission pursuant to Section 8 (a) of the Act [15 U.S.C. 80a-8a].[3]

The Commission's determination to rescind Rule 6c-2(T) results from the passage of an amendment[3] to the Settlement Act, signed into law by the President on January 2, 1976, which exempts ANCSA Corporations from all provisions of the Act, as well as from all provisions of the Securities Act of 1933 [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. This exemption will remain in effect through December 31, 1991, and, as a practical matter, removes the necessity for Rule 6c-2(T).

Accordingly, the Commission has determined that rescission of Rule 6c-2(T) is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. The Commission further finds that publication of advance general notice of such rescission is unnecessary because all ANCSA Corporations are now, by virtue of the aforementioned amendment to the Settlement Act, statutorily exempt from all provisions of the Act.[4]

Therefore, pursuant to authority granted the Commission in Sections 6 (c) [15 U.S.C. 80a-6c] and 38(a) [15 U.S.C. 80a-38a] of the Act, the Commis-

[2] Investment Company Act Rel. No. 8251 (February 26, 1974), published in the FEDERAL REGISTER on March 7, 1974 (39 FR 8915).

[3] Investment Company Act Rel. No. 8902 (August 22, 1975), published in the FEDERAL REGISTER on September 9, 1975 (40 FR 41818).

[3] P.L. 94-204.

[4] See Section 201.4(b) of the Commission's Rules of Practice (17 CFR § 201.4(b) and Section 553(b) of the Administrative Procedure Act (5 U.S.C. § 551 et seq. (1970)).

sion has rescinded Rule 6c-2(T) [§ 270.6c-2(T)] under the Act effective February 6, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 6, 1976.

[FR Doc.76-5513 Filed 2-25-76;8:45 am]

Title 18—Conservation of Power and National Resources

CHAPTER VI—WATER RESOURCES COUNCIL

PART 701—COUNCIL ORGANIZATION

Subpart E—Protection of Privacy

RULEMAKING TO AMEND PREVIOUSLY ADOPTED MATERIAL

On page 1921 of the FEDERAL REGISTER of January 13, 1976, there was published a notice of proposed rulemaking to amend previously adopted material. The proposal was occasioned by the comments and suggestions offered by the Presidential Ad Hoc Interagency Task Force on Privacy Act Implementation review of the Council rules (published as final notice of rulemaking at 40 FR 45675). The amendments are intended to further implement provisions of the Privacy Act of 1974. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed rulemaking.

No objections have been received and the proposed rulemaking is hereby adopted without change (with the exception of one typographical correction) as set forth below. Line seven of § 701.305 (c) has been corrected by deletion of the figure "§ 701.311" and by the substitution in lieu thereof the figure "701.312".

This rulemaking is done by authority of section 402 of the Water Resources Planning Act of 1965 (Sec. 402, Pub. L. 89-80; 79 Stat. 254, as amended (42 U.S.C. 1962d-1)) and the Privacy Act of 1974 (Pub. L. 93-579; 88 Stat. 1896 (5 U.S.C. 552a)).

Effective date. This rulemaking is effective on February 13, 1976.

WARREN D. FAIRCHILD,
Director, Water Resources Council.

In consideration of the foregoing, Subpart E of Part 701 of chapter VI of Title 18 of the Code of Federal Regulations is amended as follows:

1. By revising the table of sections for Subpart E to read as follows:

Subpart E—Protection of Privacy

Sec.
701.300 Purpose and scope.
701.301 Definitions.
701.302 Procedures for notification of existence of records pertaining to individuals.
701.303 Conditions of disclosure.
701.304 Procedures for identification of individuals making requests.
701.305 Procedures for requests for access to or disclosure of records pertaining to individuals.
701.306 Special procedure: Medical records.
701.307 Requests for correction or amendment to record.
701.308 Council review of request for correction or amendment of record.
701.309 Appeal of initial adverse determination.
701.310 Disclosure of record to person other than the individual to whom it pertains.
701.311 Accounting for disclosures.
701.312 Fees.
701.313 Penalties.
701.314 Exemptions.

AUTHORITY: Sec. 402, Water Resources Planning Act of 1965 (Sec. 402, Pub. L. 89-80; 79 Stat. 254, as amended (42 U.S.C. 1962d-1)) and the Privacy Act of 1974 (Pub. L. 93-579; 88 Stat. 1896 (5 U.S.C. 552a))

2. By revising paragraph (a) of, and by adding a new paragraph (c) to, § 701.302 to read as follows:

§ 701.302 Procedures for notification of existence of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the Council are listed annually in the FEDERAL REGISTER as required by that Act. Any individual may request the Council to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person during business hours or in writing at the location and to the person specified in the notice describing that record system.

* * * * *

(c) The Council will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or to inform the requestor of the need for additional time or additional information within 10 working days. If a request is complied with within 10 working days, no separate acknowledgment will be made.

3. By revising § 701.304 to read as follows:

§ 701.304 Procedures for identification of individuals making requests.

(a) Each individual requesting the disclosure of a record or copy of a record will furnish the following information with his or her request: (1) The name of the record system containing the record; (2) proof as described in paragraph (b) of this section that he or she is the individual to whom the requested record relates; and (3) any other information required by the notice describing the record system.

(b) Proof of identity as required by paragraph (a)(2) of this section will be provided as described in paragraph (b)(1) and (2) of this section. Requests made by an agent, parent, or guardian will include the authorization described in § 701.310 (a) and (b).

(1) Requests made in writing will include a statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identification in the form of a drivers license, birth certificate, passport or other identification acceptable to the notary public. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the agency determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requester will submit proof of identification similar to that described in paragraph (b)(1) of this section, acceptable to the Council.

4. By revising § 701.305 to read as follows:

§ 701.305 Procedures for requests for access to or disclosure of records pertaining to individuals.

(a) After being informed by the Council that a system of records contains a record pertaining to him or her, an individual may request the Council for access to or disclosure of that record to him or her in the manner described in this section. Each such request of a record or a copy of it will be made at the place specified in the notice describing that system of records, either in writing or in person. Requests may be made by agents, parents, or guardians of individuals as described in § 701.310 (a) and (b).

(b) The request for access to or disclosure of a record should specifically identify the systems of records involved.

(c) The Council will attempt to affirm or deny a request within 10 working days from the time it receives the request or to inform the requester of the need for additional time, additional information, identification, or the tendering of fees (as specified in § 701.312), within 10 working days; except that if the request for access was not preceded by a notification request as provided in § 701.302, then the 10-day period will not begin until after such time as it has been determined that the record exists. If a request is complied with within 10 working days, no separate acknowledgement will be made.

§ 701.306 [Amended]

5. By deleting in paragraph (a) of § 701.306 the figure "§ 701.309(a)" and inserting in lieu thereof the figure "§ 701.310(a)".

6. By deleting in paragraph (a) of § 701.308 the figure "§ 701.304" and inserting in lieu thereof the figure "§ 701.307"; and by adding a paragraph (e) to read as follows:

§ 701.308 Council review of request for correction or amendment of record.

* * * * *

(e) If the requested correction or amendment to a record is agreed to by the Council, the Council will, within 30 working days: (1) Advise the individual; (2) correct the record accordingly; and (3) where an accounting of disclosures had been made (as provided in § 701.311), advise all previous recipients (including the individual) of the record of the fact that the correction was made and the substance of the correction.

7. By adding a new paragraph (3) to paragraph (d) of § 701.309 to read as follows:

§ 701.309 Appeal of initial adverse determination.

* * * * *

(d) * * *

(3) The right to file with the Council a concise statement setting forth the requester's reasons for disagreement with the Council's refusal to correct or amend the record.

8. By redesignating §§ 701.311, 701.312, and 701.313 as §§ 701.312, 701.313, and 701.314 respectively and by adding a new § 701.311 as follows:

§ 701.311 Accounting for disclosures.

(a) *Maintenance of an accounting.* (1) Where a record is disclosed to any person, or to another agency, under any of the provisions of § 701.303 except §§ 701.303(c) (1) and (2), an accounting will be made. (2) The accounting will record (i) the date, nature, and purpose of each disclosure of a record to any person or to another agency and (ii) the name and address of the person or agency to whom the disclosure was made. (3) Accountings prepared under this section will be maintained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(b) *Access to accounting.* (1) Except for accountings of disclosures made under §§ 701.303(c) (1) and (2), accountings of all disclosures of a record will be made available to the individual to whom the record relates at his or her request. (2) An individual desiring access to accountings of disclosures of a record pertaining to him or her will submit his request by following the procedures of § 701.305.

(c) *Notification of disclosure.* When a record is disclosed pursuant to § 701.303 (c) (11) as the result of the order of a court of competent jurisdiction, reasonable efforts will be made to notify the individual to whom the record pertains as soon as the order becomes a matter of public record.

[FR Doc.76-5606 Filed 2-24-76;11:20 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[Docket No. 76-3]

PART 663—BIKEWAY DEMONSTRATION PROGRAM

Interim Regulation

● Purpose. The purpose of this part is to provide interim guidelines for administering the Bikeway Demonstration Program. ●

Chapter 1, Subchapter G of title 23, Code of Federal Regulations is hereby amended by adding a new part, Part 663.

An interim regulation is hereby published by the Federal Highway Administration (FHWA) which prescribes policies and procedures for administering, on an interim basis, the Bikeway Demonstration Program authorized by section 119 of the Federal-Aid Highway Amendments of 1974, enacted January 4, 1975, as Public Law 93-643. A final regulation will be issued which will have the benefit of further public comment and suggestion.

The program will provide grants to States for demonstration projects for bikeway construction in designated urbanized and urban areas. The grants provide funds for 80 percent of the cost of a project, the remaining 20 percent will be paid by the grantee. Each bikeway project must be part of the continuing comprehensive transportation planning process carried on cooperatively by States with local communities under section 134 of title 23 of the United States Code.

This regulation codifies Volume 6, Chapter 9, Section 14 of the Federal-Aid Highway Program Manual.

Interested parties and government agencies are encouraged to submit written comments, views, or data concerning the regulation promulgated hereby to the Office of the Chief Counsel, Room 4230, FHWA Docket No. 76-3, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. All such submissions received on or before March 30, 1976, will be considered prior to the promulgation of a final Bikeway Demonstration Program regulation.

General notice of proposed rulemaking is not required because the material published herein relates to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). This interim regulation is effective on March 27, 1976.

Issued on: February 23, 1976.

L. P. LAMM,
Executive Director.

Chapter I of title 23 is amended by adding Part 663, as follows:

Sec.

663.1 Purpose.
663.3 Definitions.
663.5 Eligible projects.
663.7 Construction standards.
663.9 Federal participation.
663.11 Application procedures.
663.13 Content of proposals.
663.15 Project selection criteria.
663.17 Programming and fiscal procedures.
663.19 Submission date.
Appendix A—Summary Sheet.

AUTHORITY: § 119, Pub. Law 93-643, 88 Stat. 2288, 23 U.S.C. 314, 49 CFR 1.48(b).

§ 663.1 Purpose.

This part prescribes the policies and procedures for administering the Bikeway Demonstration Program which is intended to provide additional Federal funding for bikeway projects of national interest and promote bicycling as a safe and viable alternative mode of transportation for commuter and/or recreational use in urban or urbanized areas.

§ 663.3 Definitions.

As used herein:

(a) *"Bikeway"*—a bicycle lane or path, or support facility, a bicycle traffic control device, shelter, or a parking facility to serve bicycles and persons using bicycles.

(b) *"Urbanized area"*—an area (of more than fifty thousand population) so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval of the Federal Highway Administrator and Urban Mass Transportation Administrator. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

(c) *"Urban area"*—an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Federal Highway Administration. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

(d) *"State"*—any one of the fifty States, the District of Columbia, or Puerto Rico.

(e) *"Applicant"*—a public agency or a nonprofit public service organization.

(f) *"Grantee"*—a State, acting for itself, or on behalf of an applicant.

§ 663.5 Eligible Projects.

(a) Grants made for projects under this section shall be in addition to, and not in lieu of, funds made available for bicycle projects under the provisions of part 652 of this Chapter, "Bikeways and Walkways in Conjunction with Federal and Federal-aid Highways." The following bikeway projects are not eligible for Bikeway Demonstration funds:

(1) Bikeway projects currently advanced to the "authorization to proceed," stage for any phase of work (23 CFR 630A).

(2) Bikeway projects which are eligible for funding as incidental features of Federal-aid highway construction projects.

(b) Bikeway demonstration projects eligible for funding shall be used for commuting and/or recreational purposes, and shall be located in urban or urbanized areas.

(c) Bikeway demonstration projects in urbanized areas shall be in accordance with the continuing comprehensive transportation planning process carried on cooperatively by States and local communities pursuant to Part 450A of this Chapter.

(d) The provisions of title 23 U.S.C. apply. Federal-aid procedures established by existing regulations are to be followed except where otherwise prescribed. Many bikeway projects will be of such a nature or magnitude that they will not have an effect on decisions or activities of concern to clearinghouse agencies or will not have a significant impact on the environment. Therefore, in accordance with the policy prescribed in 23 U.S.C. 101(e), the timesaving procedures for specific projects outlined in

§ 655.506(b) of this Chapter for Highway Safety Improvement Program projects should be utilized to the extent feasible.

§ 663.7 Construction Standards.

The American Association of State Highway and Transportation Officials' "Guide for Bicycle Routes"[1] shall be used as a standard for the construction and design of bicycle routes. Reasonable deviations will be permitted in the interest of demonstrating innovations in bikeway design. These deviations should be briefly explained in the proposal.

§ 663.9 Federal Participation.

(a) The Federal share of any demonstration project for the construction of a bikeway shall be 80 per centum of the total eligible cost of such project.

(b) Federal participation in eligible bikeway demonstration projects may include the costs of preliminary engineering, right-of-way, construction and evaluation.

§ 663.11 Application Procedures.

(a) Applicants shall submit eight (8) copies of their proposal to the appropriate State highway agency which will transmit seven (7) copies of the proposal to the Regional Federal Highway Administrator through the FHWA Division Office. When the State highway agency is the applicant, only seven (7) copies need be submitted.

(b) The FHWA Regional Office shall review the proposals, together with State and Division Office comments, recommend not more than ten (10) proposals for demonstration in the Region, and transmit five (5) copies of each recommended proposal and one copy of all other proposals together with the Region's comments to the FHWA Design Division, HNG-20, Washington Office. The Regional Office shall ensure that the applicants are notified of the Region's action on the proposals.

(c) The Federal Highway Administration shall make the final selection of projects on a nationwide basis. A committee composed of representatives from appropriate Department of Transportation offices will make the initial project selections and forward their recommendations to the Federal Highway Administrator for final project selection.

(d) The State highway agency will be responsible for:

(1) Certifying the proposed project(s) as being in accordance with section 134 of title 23 U.S.C.,

(2) Making the program funds available to the selected applicants,

(3) Overseeing project evaluation and the preparation of a final evaluation report, and

(4) Ensuring that projects are completed in substantial conformance with the details outlined in the applicant's proposal.

§ 663.13 Content of Proposals.

Each proposal should include as appropriate:

(a) A statement summarizing the need for the proposed project,

(b) A concise statement(s) of what the project is designed to demonstrate and the expected results and benefits,

(c) A description of project activities, including how and where the demonstration project will be implemented,

(d) A demonstration project time schedule (including future use beyond end of demonstration period and plans for development, implementation and operation,

(e) A brief description of the area, available transportation facilities, and other proposed bicycle transportation system improvements in the urban area,

(f) A summary of project costs and breakdown of funding sources,

(g) A description of an evaluation plan to measure the success in achieving the project objectives,

(h) Identification of participating organizations and a statement on coordination with ongoing planning efforts,

(i) Estimated amounts of Federal, State, and local funds spent in the urban area on bikeway projects during the last five (5) fiscal years,

(j) A determination that:

(1) For urbanized areas the project is in accordance with section 134 of title 23 U.S.C. and

(2) A public agency will be responsible for maintenance, and

(k) A one-page project summary sheet (see Appendix A).

§ 663.15 Project Selection Criteria.

(a) Emphasis will be on the selection of a range of projects with potential for nationwide application—differing sizes, types and geographic locations—in which maximum benefits are achieved soon after project completion.

(b) The following criteria will be applied by FHWA Regional and Washington Headquarters in selecting demonstration projects:

(1) Application of new ideas in design, construction, operation, maintenance, utilization, and promotion of bikeways. Particular emphasis will be given to those projects that will provide a safe bicycling environment,

(2) Involvement in the project by local, State, and Federal agencies,

(3) Present and past utilization of available funds for bikeway construction,

(4) Quality of proposed monitoring and evaluation, along with the ability to modify the facility or operation as a result of that evaluation, and

(5) The present and projected utility of the proposed project, and the degree to which the project will serve in satisfying community and national goals such as in reducing air pollution and energy consumption.

§ 663.17 Programming and Fiscal Procedures.

(a) Once a project has been approved, no further programming action is required. Project development shall be in accordance with procedures applicable to Federal-aid highway projects unless modified by this regulation.

(b) Upon selection of projects, allotments will be made to the Regional Administrators for projects located in their Region. Payment of the Federal share of the costs incurred will be made through the State's current billing procedures as a construction project.

§ 663.19 Submission Date.

(a) Proposals shall be submitted to the appropriate State highway agency by June 1, 1976.

(b) Proposals shall be received in the Washington Headquarters by July 15, 1976.

APPENDIX A

SUMMARY SHEET

Bikeway Demonstration Project

1. Project Title or Identification No. _____
2. Project Sponsor _____
3. Project Contact Person _____
4. Type of Service: Mainly Commuter _____, Mainly Recreational _____, Both _____
5. Project Length (if applicable) _____
6. Estimated Total Cost: _____
   Estimated Bikeway Demonstration Funds: _____
7. Estimated Number of Average Weekly Bicyclists: _____ 1st Yr.; _____ 2d Yr.
8. Brief Summary of Demonstration Project Objectives and Expected Results (one paragraph): _____

[FR Doc.76-5534 Filed 2-25-76;8:45 am]

[1] Copies of the "Guide for Bicycle Routes" are available for examination at the office of the Federal Highway Administration located in each State. Copies may be purchased for $2.00 per copy, plus postage, from the American Association of State Highway and Transportation Officials (AASHTO), 341 National Press Building, Washington, D.C. 20045.

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Housing Assistance Plans

Correction

In FR Doc. 76-4804 appearing at page 7503 in the issue for Thursday, February 19, 1976, on page 7505, the first column, immediately after the first line add the following phrase: "income households expected to reside in".

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 641-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Q—Bureau of Prisons

APPROVAL OF OPERATION OF FACILITIES BY PRETRIAL SERVICES AGENCIES

This order assigns to the Director of the Bureau of Prisons the Attorney General's authority to approve the operation or contracts for the operation of facilities by pretrial services agencies, under section 201 of the Speedy Trial Act of 1974, 88 Stat. 2087-8 (18 U.S.C. 3154(4)).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.96 of Subpart Q of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding at the end thereof the following new paragraph (r):

§ 0.96 Delegations.

* * * * *

(r) The approval of the operation or contracts for the operation, by pretrial services agencies with the cooperation of the Administrative Office of the United States Courts, of appropriate facilities for the custody or care of persons released pursuant to the Speedy Trial Act of 1974.

(18 U.S.C. 3154(4))

Dated: February 19, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-5411 Filed 2-25-76;8:45 am]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2609—LIMITATION ON GUARANTEED BENEFITS

Correction

In FR Doc. 76-3997, appearing at page 6194 in the issue for Wednesday, February 11, 1976, in the third column, on page 6195, "paragraph (3)" should read as set forth below.

(3) The next step is to determine the monthly amount of the benefit provided under the plan subsequent to the amendment which has the same value as of the date of the amendment as the monthly amount of the benefit provided under the plan prior thereto, § 2609.5(c)(3). This is accomplisehd by multiplying the monthly amount of the benefit which would have been payable under the plan prior to the increase based on service credited to the participant as of the date he retired by a fraction comprised of the factors computed in Step 2. The numerator of this fraction is the factor applicable to the benefit provided subsequent to the amendment and the denominator is the factor applicable to the benefit provided prior to the amendment. In this example, a $300 per month single life annuity payable at age 65 (based on the participant's 30 years credited service) is multiplied by the fraction .9/1. This results in an equivalent joint and survivor (contingent basis) 50% annuity payable at age 65 of $270 per month.

Title 40—Protection of Environment

[FRL 494-3]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Primary Copper, Zinc, and Lead Smelters; Correction

In FR Doc. 76-733 appearing at page 2331 in the FEDERAL REGISTER of January 15, 1976, the ninth line of paragraph (a) in § 60.165 is corrected to read as follows: "total smelter charge and the weight."

Dated: February 20, 1976.

ROGER STRELON,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-5398 Filed 2-25-76;8:45 am]

[FRL 495-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to Commonwealth of Virginia

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the Commonwealth of Virginia on December 30, 1975, EPA is today amending 40 CFR 60.4, *Address*, to reflect this delegation. A Notice announcing this delegation is published today at 41 FR 8416 in the FEDERAL REGISTER. The amended § 60.4, which adds the address of the Virginia State Air Pollution Control Board to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on December 30, 1975, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 111 of the Clean Air Act, as amended. 42 U.S.C. 1857c-6.

42 U.S.C. 1857c-6.

Dated: February 21, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph (VV) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(A)-(UU) * * *

(VV) Commonwealth of Virginia, Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219.

[FR Doc.76-5504 Filed 2-25-76;8:45 am]

[FRL 495-5]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to Commonwealth of Virginia

Pursuant to the delegation of authority for national emission standards for hazardous air pollutants (NESHAPS) to the Commonwealth of Virginia on December 30, 1975, EPA is today amending 40 CFR 61.04, *Address*, to reflect this delegation. A Notice announcing this delegation is published today at 41 FR 8416 in the FEDERAL REGISTER. The amended § 61.04, which adds the address of the Virginia State Air Pollution Control Board to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on December 30, 1975, and it serves no purpose to delay the technical change of this address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-7.

Dated: February 21, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04, paragraph (b) is amended by revising subparagraph (VV) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(A)-(UU) * * *

(VV) Commonwealth of Virginia, Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219.

[FR Doc.76-5505 Filed 2-25-76;8:45 am]

[FRL 494-2]

PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

Portable Air Compressors; Correction

In FR DOC 76-731 appearing at page 2162 in the FEDERAL REGISTER of January 14, 1976, the equation and terms appearing on page 2176 in paragraph (h) of § 204.54 are amended to read:

§ 204.54 **Test procedures.**

* * * * *

(h) * * *

$$\overline{L}=10\log\left(\frac{1}{5}\left[\text{Antilog}\frac{L_1}{10}+\text{Antilog}\frac{L_2}{10}+\text{Antilog}\frac{L_3}{10}+\text{Antilog}\frac{L_4}{10}+\text{Antilog}\frac{L_5}{10}\right]\right)$$

Where:

$\overline{L}$=The average A-weighted sound level (in decibels)
L_1=The A-weighted sound level (in decibels) at microphone position 1
L_2=The A-weighted sound level (in decibels) at microphone position 2
L_3=The A-weighted sound level (in decibels) at microphone position 3
L_4=The A-weighted sound level (in decibels) at microphone position 4
L_5=The A-weighted sound level (in decibels) at microphone position 5

* * * * *

Dated: February 20, 1976.

ROGER STRELON,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-5399 Filed 2-25-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 75-5; Notice 05]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Agricultural Commodity Trailers

This notice amends Standard No. 121, *Air Brake Systems*, by extending until June 30, 1976, the period in which bulk agricultural commodity trailers designed with a high ground clearance and other special features for use with farm tractors during harvest can meet emergency and parking brake requirements other than those specified in S5.6 and S5.8 of the standard.

Standard No. 121, 49 CFR 571.121, presently permits this specialized agricultural trailer category the option, until March 1, 1976, of meeting the parking brake requirements of the standard (actuation by an energy source unaffected by air loss in the service brake system) or the air-actuated "breakaway" system that complies with Bureau of Motor Carrier Safety requirements (49 CFR § 393.43). The NHTSA proposed extension of the March date to June 30, 1976 (41 FR 1763, January 12, 1976) to permit completion of the bulk agricultural commodity trailers necessary for the 1976 harvest season, in response to a petition of the Utility Trailer Manufacturing Company. In a separate action, the NHTSA has also proposed that the present parking brake requirements for all vehicles subject to the standard be broadened in a closely similar fashion to permit the use of an air energy source, with single diaphragm brake chambers as well as dual diaphragm brake chambers for actuation of the parking brake (40 FR 56920, December 5, 1975). It is clear, however, that separate and swifter action than the general proposal is necessary to permit the manufacture of trailers for the 1976 harvest.

Utility Trailer Manufacturing Company supported the extension of the period to June 30, 1976, and advocated extension of the option to all other air-braked vehicles. Wesco Truck and Trailer Sales (Wesco) also supported the proposal and suggested that a 2-year suspension of the standard would permit perfection of the new brake systems. Wesco recommended that the parking brake system be made optional on this type of agricultural trailer. Fruehauf Corporation supported the proposal without qualification.

In view of the comments received and the NHTSA's continued view that the special considerations for in-field use should be given to agricultural trailers with regard to parking brake requirements, the agency has decided to amend the standard as proposed. The other recommendations by Utility and Wesco are noted, but they do not fall within the limits of action proposed by the NHTSA.

§ 571.121 [Amended]

In consideration of the foregoing, the last sentences of paragraphs S5.6 and S5.8 of Standard No. 121 (49 CFR 571.-121) are amended by changing the date "March 1, 1976" to "June 30, 1976".

Effective date: February 26, 1976. Because this amendment creates no additional requirements for any person, and because trailer manufacturers need to know the extent of the option period as the basis for planning manufacturing schedules, an immediate effective date is found to be in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on February 20, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76-5296 Filed 2-20-76;11:46 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected SO No. 1230]

PART 1033—CAR SERVICE

Illinois Central Gulf Railroad Company Authorized To Operate Over Tracks of Waterloo Railroad Company

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of February, 1976.

It appearing that the Waterloo Railroad Company (Waterloo) is unable to operate over its line between Gilbertville, Iowa, and Shaver, Iowa, because of track conditions; that numerous shippers served by the Waterloo between Shaver and Cedar Rapids are thereby deprived of railroad service; that the Illinois Central Gulf Railroad Company (ICG) has consented to operate over tracks of the Waterloo between Cedar Rapids and Shaver in order to provide continued service to the aforementioned shippers; that the Waterloo has consented to such use of its tracks by the ICG; that operation by the ICG over the aforementioned tracks of the Waterloo are necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1230 **The Illinois Central Gulf Railroad Company authorized to operate over tracks of the Waterloo Railroad Company.**

(a) The Illinois Central Gulf Railroad Company (ICG) be, and it is hereby, authorized to operate over tracks of the Waterloo Railroad Company (Waterloo) between Cedar Rapids, Iowa, and Shaver, Iowa, a distance of approximately 0.91 mile, together with various auxiliary tracks located at these stations.

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

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

(d) *It is further ordered,* That on or before the expiration date of this order the Waterloo shall effect repairs sufficient to restore its line to operating condition unless authorized to forego such repairs by order of the Commission.

(e) Nothing in this order shall be deemed to relieve the Waterloo of its obligations to operate as a common carrier over its entire line between Waterloo and Cedar Rapids to the extent required to provide rail transportation to shippers dependent on the Waterloo for railroad service.

(f) *Effective date.*[1] This order shall become effective at 12:01 a.m., February 20, 1976.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and

[1] Effective date omitted from original order.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-5529 Filed 2-25-76;8:45 am]

[Ex Parte No. MC-19 (Sub-No. 26)]

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

Practices of Motor Common Carriers of Household Goods (Use of Vehicle-Load Manifest)

● PURPOSE. The purpose of this notice is to inform the public that the Interstate Commerce Commission has amended § 1056.11 of the Commission's General Rules and Regulations (49 CFR 1056.11) to eliminate use of the vehicle-load manifest and to substitute therefor a prescribed Driver's Weight Certificate form. ●

The Interstate Commerce Commission in the above-entitled proceeding has amended 49 CFR 1056.11 to eliminate the requirement for use of the vehicle-load manifest by motor common carriers of household goods, and to substitute therefor a new form entitled Driver's Weight Certificate. This action is the result of a petition filed by the American Movers Conference seeking the noted change. Petitioner demonstrated that the vehicle-load manifest was a burden for the carrier to complete and a source of confusion for shippers.

Notice of the proposed change together with a copy of the proposed driver's weight certificate was published in the Federal Register on June 26, 1975, and comments were filed by interested persons. No one voiced any opposition to the proposed change, and all persons filing views agreed that the new procedure would benefit both the industry and consumer alike.

The promulgation of the amended § 1056.11 also necessitated certain editorial changes in § 1056.6 (49 CFR 1056.6) to eliminate references to the vehicle-load manifest.

The rule is issued under the authority of 49 U.S.C. 301, 302, 304, and 308.

Issued in Washington, D.C.

It appearing that by petition filed June 4, 1975, the American Movers Conference requested this Commission to institute a rulemaking proceeding to investigate certain specified matters described in the attached report concerning problems relating to the motor common carrier transportation, in interstate or foreign commerce, of household goods; and that, on June 26, 1975, notice of the filing of the petition was published in the Federal Register, inviting written comments by any person (including petitioner) wishing to make representations in favor of, or against, the relief sought in the petition;

And it further appearing, that investigation of the matters and things involved in this proceeding has been made and that the Commission has made and filed its report herein containing its findings of facts and conclusions thereon, which report is hereby referred to and made a part hereof;

It is ordered, That Part 1056 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by modifying §§ 1056.6 and 1056.11 as set forth in the notice attached hereto.

It is further ordered, That this order shall become effective on April 12, 1976, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of Secretary of the Commission at Washington, D.C., and by filing a copy of the attached notice with the Director, Office of the Federal Register. (49 U.S.C. 301, 302, 304, and 308, 5 U.S.C. 553 and 559.)

[SEAL] ROBERT L. OSWALD, *Secretary.*

Accordingly, this action modifies 49 CFR 1056.6 and 1056.11.

The elimination of the vehicle-load manifest and the adoption of the revised § 1056.11 as below will require the following editorial changes in 49 CFR 1056.6:

§ 1056.6 [Amended]

(1) Paragraph 1056.6(a)(1)

Delete the words "and in part B of the vehicle-load manifest" appearing at the end of the first sentence and at the end of the second sentence of this paragraph.

(2) *Paragraph 1056.6(b)*

Delete the words "receipt or bill of lading accompanying the shipment" and substitute the words "driver's weight certificate."

(3) *Paragraph 1056.6(d)*

Delete the words "and the vehicle-load manifest."

(4) *Paragraph 1056.6(e)*

Delete the words "in part B of the vehicle-load manifest" where they appear in the second proviso of this subsection and substitute the words "on the driver's weight certificate."

Section 1056.11 is revised to read as follows:

§ 1056.11 Driver's weight certificate.

Whenever weights are required to be obtained pursuant to these rules, the carrier shall cause to be executed a weight certificate for each shipment in the form specified below, at the time the gross weight is obtained, and the original or true copy of such certificate shall be carried in the vehicle transporting the shipment and shall be delivered to the party paying the carrier's charges. The original or true copy of such certificate shall be maintained by the carrier as part of its record of shipment.

DRIVER'S WEIGHT CERTIFICATE

Carrier's Name _____ Tractor No. _____
Carrier's Address _____ Trailer No. _____
Truck No. _____
Shippers Name _____ Carrier's Ref. No. _____
Origin _____ Destination _____
(City/State) (City/State)

Gross weight of loaded vehicle with the driver thereon _____ pounds

Gross weight obtained at _____ in _____ on _____
(Name of Scales) (City/State) (Date)

Tare weight of vehicle with the driver thereon, including full fuel tanks and all necessary pads, chains, dollies, hand trucks, and other equipment and previously loaded shipments, if any. _____ pounds

Tare weight obtained at _____ in _____ on _____
(Name of Scales) (City/State) (Date)

Net weight (Gross weight minus tare weight) _____ pounds

List other shipments on board vehicle at time above weights were obtained. If no other shipments, enter "None."

Carrier's Ref. No.	*Shippers Name*

THE USE OF THIS FORM IS REQUIRED BY THE INTERSTATE COMMERCE COMMISSION

The undersigned hereby states that he is duly qualified and authorized to make this weight certification and that in signing this certification he is aware that anyone who, in any matter within the jurisdiction of an agency of the United States, intentionally makes or uses any

false, fictitious, or fraudulent writing or document, may be subject to prosecution and fined up to $10,000 and imprisoned for up to five years. (18 U.S.C. 1001.)

Dated ----------, 19-- ----------
(Carrier)

---------- ----------
(Signature) (Title)

---------- ----------
(Typed or Printed Name) (Complete Address)

[FR Doc.76-5530 Filed 2-25-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Crab Orchard National Wildlife Refuge; Illinois

The following special regulation is issued and is effective February 26, 1976.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuges.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Sport fishing on the Crab Orchard National Wildlife Refuge, Illinois, is permitted only on the areas designated by signs as open to fishing. These open areas comprising 8,800 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Sport fishing shall be in accordance with all applicable State regulations, subject to the following special conditions.

(1) The open season for sport fishing on the refuge extends from January 1, 1976 thru December 31, 1976, in areas designated on Map I and III; and from March 15, 1976 thru September 30, 1976, daylight hours only, in areas designated on Map II; except bank fishing is permitted from the Wolf Creek Road and State Highway 148 causeways, during daylight hours from January 1, 1976 thru December 31, 1976. Boat fishing only is permitted between Wolf Creek Road west to the closed portion boundary line (Carterville Road) from January 1, 1976 thru December 31, 1976.

(2) The use of boats and motors is permitted, except that use of a boat with a motor larger than ten (10) horsepower is prohibited on Devils Kitchen Lake and Little Grassy Lake.

(3) Snagging for carp, buffalo, freshwater drum, paddle fish, bowfin, gar, and carpsucker is permitted 200 yards downstream from the Crab Orchard Lake Spillway. Fishermen are limited to one (1) pole and line device, with no more than two (2) hooks, which must measure at least ½ inch from hook tip to shank.

(4) Jug fishing in the closed portion of the refuge as shown on Map II east of Wolf Creek Road is authorized from March 15 thru September 30. Jugs may be left in the lake overnight. Personnel are not authorized in the area during the hours of darkness. Jug fishing in the open portion of the refuge as shown on Map I west of the boundary (Carterville Road) is authorized both day and night, except between May 31, 1976 and September 6, 1976, jug fishing is authorized from sunset to sunrise only. Jugs must be removed from the lake at sunrise during this period. In the area from Wolf Creek Road west to the closed portion of the refuge boundary (Carterville Road) jug fishing is permitted from January 1, 1976 thru December 31, 1976.

(5) Floating trot lines are not allowed in the open portion of the refuge west of the boundary (Carterville Road) during the hours of daylight from May 31, 1976 thru September 6, 1976.

(6) Fishing in designated ponds in the closed portion of the refuge is authorized from March 15, 1976 thru September 30, 1976, during daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1976.

WAYNE D. ADAMS,
Project Manager Crab Orchard National Wildlife Refuge, Carterville, Illinois.

FEBRUARY 18, 1976.

[FR Doc.76-5410 Filed 2-25-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 285—ATLANTIC TUNA FISHERIES

Yellowfin Tuna

On November 6, 1975, the National Marine Fisheries Service published in the FEDERAL REGISTER a notice of proposed rulemaking concerning the taking of yellowfin tuna in Atlantic waters (40 FR 51647). The purpose of the proposed regulations was to implement conservation measures adopted by the International Convention for the Conservation of Atlantic Tunas (ICCAT). Authority for the proposals was the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971, *et seq.* (the Act). The Notice of November 6 proposed to amend Part 285, subpart A, general provisions concerning procedural matters and to add subpart C, provisions governing the yellowfin tuna fishery; and subpart D, provisions governing the importation of tuna and tuna products. (In addition, subpart B, governing the taking of Atlantic bluefin tuna, previously promulgated in final form at 40 FR 33978 (August 13, 1975), was reprinted for the convenience of interested persons.)

The public had the opportunity to present views and comments at public hearings held at San Diego, California, and at Boston, Massachusetts, on November 25, 1975, and to submit written comments until December 4, 1975. Full and careful consideration was given to all comments received.

As a result of comments received, substantive changes in subparts A, C, and D, are made as follows:

1. The definition "Closed season" which appears in § 285.1 is changed by deleting "(b) for the purpose of yellowfin tuna, the time during which yellowfin tuna may not be lawfully taken within the regulatory area." The ICCAT recommendation made no mention of an open or closed season for yellowfin tuna in the Atlantic.

2. In § 285.20 reference to open season is deleted and the words "not authorized" are substituted by the word "prohibited."

3. Section 285.21 *Open and closed seasons* is deleted and this section is reserved for future use. Since the Commission's recommendations made no mention of an open or closed season for yellowfin tuna in the Atlantic, the suggestion to delete that section and place it in reserve is accepted.

4. It has been recognized that there is a need to identify all species caught in the Atlantic when entering the Pacific Ocean via the Panama Canal. Therefore, references to yellowfin tuna in paragraphs (a) and (b) of § 285.24, Reporting Requirements, have been deleted and the word "fish" substituted therefor.

Section 9 of the Act provides for regulations to be effective within the territorial sea of the United States (generally the area over which the States have jurisdiction pursuant to the Submerged Lands Act, 43 U.S.C. 1301–1343), provided that the Secretary first determines that:

a. Within a reasonable period of time after promulgation of these regulations States have not adopted measures which implement the Commission's recommendations; or

b. If a State has adopted regulations they are:

(1) Less restrictive; or

(2) Not effectively enforced.

There is also provision for a State to request a hearing on the record to consider these issues. (These provisions are proposed to be implemented by § 285.8.) Consequently, it is necessary to initially define the regulatory area to exclude the territorial sea of the United States. In the event the Director makes a finding that the laws and regulations of a State(s), or the absence thereof, do not meet the criteria of section 9 of the Act, and publishes notice thereof pursuant to § 285.8 of subpart A, the regulatory area for yellowfin tuna will be extended to include the territorial sea or any part thereof as appropriate. (Section 285.8 of these regulations will allow States 30 days from the date of promulgation of regulations to adopt appropriate measures.) States may then request a hearing on the record, if appropriate.

Since the ICCAT regulation limiting the taking and landing of yellowfin tuna of less than 3.2 kg. entered into effect on July 1, 1973, measures implementing the regulation at the national level have now been adopted by 12 of the 14 Commission members which include Brazil, Canada, Cuba, France, Ivory Coast, Japan, Korea, Portugal, Senegal, South Africa, Spain, and the United States. Morocco has no specific regulation for the control of the yellowfin fishery as this species does not exist in Moroccan waters, and the Moroccan fleet does not fish in yellowfin waters. Ghana has issued Administrative Instructions to all vessel operators unloading at Tema, including those of foreign flags, to adhere to the size limit regulations.

In accordance with Executive Order No. 11821 dated November 27, 1974, it is hereby certified that the inflationary impact of this action on the Nation has been carefully evaluated; no substantial impact on the Nation is anticipated.

In consideration of the comments received and pursuant to the authority contained in section 6 of the Atlantic Tunas Convention Act of 1975, Public Law 94–70 (16 U.S.C. 971–971h), 50 CFR Part 280, subpart A is amended, and subparts C and D are added as follows, effective February 29, 1976.

Dated: February 23, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

Subpart A—General

Sec.

285.1 Definitions.
285.2 Basis and purpose.
285.3 Prohibitions.
285.4 Civil penalties.
285.5 Enforcement.
285.6 Civil procedures.
285.7 Persons and vessels exempt.
285.8 Relationship to other laws and regulations.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

Sec.

285.10 Authorized fishing.
285.11 Open and closed seasons.
285.12 Quotas.
285.13 Incidental catch.
285.14 Reporting requirements.
285.15 Presumptions.

Subpart C—Yellowfin Tuna (Thunnus albacares)

285.20 Authorized fishing.
285.21 Open and closed seasons.
285.22 Incidental catch.
285.23 Recordkeeping.
285.24 Reporting requirements.

Subpart D—Restrictions on Tuna Imports

285.30 Basis and purpose.
285.31 Species subject to regulation.
285.32 Species under investigation by the Commission.
285.33 Investigation authorized.
285.34 Publication of findings.
285.35 Proof of admissibility.
285.36 Removal of import restrictions.

AUTHORITY: Atlantic Tunas Convention Act of 1975, Pub. L. 94–70, 16 U.S.C. 971–971h.

Subpart A—General

§ 285.1 Definitions.

In addition to the meaning ascribed by the Act, if any, the following terms shall mean:

"The Act" means Atlantic Tunas Convention Act of 1975, Pub. L. 94–70.

"Albacore" means the species of fish scientifically known as *Thunnus alalunga.*

"Angling" means the taking or the attempted taking of fish with a hand held rod and reel designed and manufactured for the purpose of sport.

"Atlantic bluefin tuna" means the species of fish scientifically known as *Thunnus thynnus thynnus.*

"Atlantic bonito" means the species of fish scientifically known as *Sarda chiliensis.*

"Cargo vessel" means any fishing vessels used for transporting fish or fish products.

"Closed season" means the time during which a regulated species may not be taken within the regulatory area, except in limited quantities as an incident to fishing for another species with which the regulated species may be mingled.

"Commercial activity" means all activities, other than fishing, of industry and trade, including but not limited to, the buying and selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established pursuant to Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, including any amendments or protocols which are or become effective for the United States.

"Council" means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to Article V of the Convention.

"Dealer" means any person (as hereinafter defined) who engages in a commercial activity with respect to a regulated species or parts thereof.

"Director" means the Director of the National Marine Fisheries Service.

"Fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for, any species of fish covered by the Convention, or any activities in support thereof.

"Fishing vessel" includes all watercraft, except purse seine skiffs, which are used, used in support of, or outfitted for, catching, taking, processing or transporting fish.

"Fishing voyage" means the period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to any port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service.

"Open season" means the time during which a regulated species may be lawfully taken within the regulatory area in accordance with established quotas or other limitations.

"Person" includes any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Purse seining" means the taking or the attempted taking of fish by means of an encircling net and associated gear used in commercial fishing operations.

"Quota" means the amount of fish measured either by number or weight, that may be retained.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna—the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

(b) For purposes of yellowfin tuna—the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas except the waters over which the States have jurisdiction unless the Director has determined otherwise in accordance with § 285.8.

"Round weight" means the weight of a fish prior to gilling, gutting, and beheading.

"Secretary" includes the Secretary of Commerce or his designee.

"State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

"Tuna" means Atlantic bluefin, yellowfin, skipjack, albacore or Atlantic bonito.

"Yellowfin tuna" means the species of fish scientifically known as *Thunnus albacares.*

§ 285.2 Basis and purpose.

(a) At a Tuna Symposium convened in Dakar, Senegal December 12–17, 1960, the Commission for Technical Cooperation in Africa South of the Sahara suggested the need to develop international procedures for the conservation of Atlantic tunas. The idea gained support and culminated in the convening of a Conference of Plenipotentiaries on the Conservation of Atlantic Tunas in Rio de Janeiro, Brazil, during May 2–14, 1966. The Conference prepared the International Convention for the Conservation of Atlantic Tunas, which entered into force March 21, 1969, after ratification by Canada, Japan, France, Ghana, South Africa, Spain, and the United States. Ratifications have been deposited by Brazil, Cuba, Ivory Coast, Korea, Morocco, Portugal and Senegal since the Convention entered into force.

(b) The International Commission for the Conservation of Atlantic Tunas (ICCAT) has been established under the authority of the Convention. The Com-

mission is responsible for the study of the populations of tuna and tuna-like fishes in the Atlantic Ocean and is empowered to recommend proposals for joint action by member governments aimed at maintaining these stocks at levels which will permit the maximum sustainable catch. The Commission structure also includes a Council which serves as an executive body between biennial meetings of the Commission.

(c) The First Regular Meeting of the Commission held in Rome, December 1–6, 1969, and the First Regular Meeting of the Council in Madrid, November 16–20, 1970, centered on organizational questions. Priority was given to the collection of basic data by the Secretariat from member countries on tuna fisheries and to the organization of a Standing Committee on Research and Statistics (SCRS). The Committee, composed of scientists from member countries, is responsible for coordinating and reviewing data collection and stock assessment work on tuna and tuna-like species in the Atlantic.

(d) At the second biennial meeting of the Commission held in Madrid December 2–7, 1971, the SCRS reviewed the somewhat limited data available and warned that regulatory measures might be needed in the future (1) to control the taking of Atlantic bluefin and yellowfin tuna below a certain size and (2) to reduce fishing intensity on yellowfin tuna.

(e) At the Second Regular Meeting of the ICCAT Council in Madrid November 29–December 5, 1972. The Council recommended a ban on taking and landing yellowfin tuna weighing less than 3.2 kilograms but provided for an incidental catch allowance for yellowfin tuna weighing less than 3.2 kilograms of 15 percent of all yellowfin onboard. The Council held its Third Regular Meeting in Madrid November 20–26, 1974, at which time it adopted two regulatory measures for Atlantic bluefin tuna which included a 6.4 kilogram minimum size and a limit on fishing mortality of Atlantic bluefin tuna to recent levels for a period of one year. The Council's recommendations were formally approved by a majority of the Commission members in February 1975.

(f) On August 5, 1975, the President signed into law the Atlantic Tunas Convention Act of 1975, which under certain conditions authorizes the Secretary to implement the Commission's recommendations. The Secretary's authority under the Act has been delegated to the Director.

§ 285.3 Prohibitions.

(a) It shall be unlawful—

(1) For any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these regulations; or

(2) For any person to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to these regulations, without regard to the citizenship of the person or fishing vessel which took the fish.

(b) It shall be unlawful for a dealer or master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports required by these regulations to be made, kept, or furnished by such dealer, master or person.

(c) It shall be unlawful for a dealer or master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of these regulations, to enter the premises of said dealer or to board such vessel in order to inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of these regulations, or to obstruct such officials in the execution of such duties.

(d) It shall be unlawful for any person to import from any country any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of these regulations.

§ 285.4 Civil penalties.

Any person who—

(a) Violates any provision of § 285.3 (a) of this Part shall be assessed a civil penalty of not more than $25,000 and for any subsequent violation of said section shall be assessed a civil penalty of not more than $50,000;

(b) Violates any provision of § 285.3 (b) or (c) of this Part shall be assessed a penalty of not more than $1,000 and for any subsequent violation of said subsection shall be assessed a civil penalty of not more than $5,000; or

(c) Violates any provision of § 285.3 (d) of this Part shall be assessed a civil penalty of not more than $100,000.

§ 285.5 Enforcement.

(a) These regulations and the provisions of the Act shall be enforced jointly by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the United States Customs Service.

(b) Enforcement Agents of the National Marine Fisheries Service shall enforce these regulations and the provisions of the Act on behalf of the Secretary and may take any actions authorized by the Act and these regulations with respect to enforcement. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal Agency for the purposes of enforcing this Act. Subject to the limitations of section 6 of the Act, the Secretary may also designate personnel of a State to enforce these regulations and the provisions of the Act.

§ 285.6 Civil procedures.

(a) The method for assessment of civil penalties for violation of these regulations or the Act shall be in accordance with the rules and procedures set forth in 50 CFR Part 218.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, any person authorized to enforce the regulations in this part may cause to be sold, and any person may purchase, for not less than its reasonable market value such quantities of perishable tunas as may be seized and forfeited pursuant to the Act or any regulations promulgated thereunder.

(c) The proceeds of any sale made pursuant to paragraph (b) of this section after deducting the reasonable costs of the sale, if any, shall be remitted by the purchaser to the Regional Director for deposit and retention in the Suspense Account of the National Marine Fisheries Service (Account No. 14X6875(17) pending judgment of the court or other disposition of the case.

(d) If a duly constituted official acting under authority and in behalf of a State of the United States seizes any tuna taken in the regulatory area under the applicable laws or regulations of such government, such tuna may be forfeited and sold or otherwise disposed of pursuant to such laws or regulations. Any tuna so seized by an official of a State shall not be seized by an officer or employee of the Federal Government unless it is voluntarily turned over to him to be processed again under applicable Federal laws or regulations.

§ 285.7 Persons and vessels exempt.

Nothing contained in this Part shall apply to any person or vessel authorized by the Commission, the Director or any State, upon approval by the Director, to engage in fishing for research purposes.

§ 285.8 Relationship to other laws and regulations.

(a) Pursuant to subsection 9(d) of the Act, with respect to any State whose waters border on the convention area:

(1) These regulations shall apply therein if the Director determines that any such State:

(i) Within 30 days after the promulgation of these regulations, has not enacted laws or promulgated regulations which implement the recommendations of the Commission within its waters; or

(ii) Has enacted such laws or promulgated such regulations, but such laws or regulations:

(A) Are less restrictive than the regulations promulgated pursuant to this Act to implement such recommendations of the Commission, or

(B) Are not being effectively enforced;

(b) To insure that the purposes of this section are carried out, the Director shall undertake a continuing review of the relevant laws and regulations of all States

to which the Act and these regulations apply or may apply and the extent to which such laws and regulations are enforced.

(c) Upon notice of a determination adverse to its interests under § 285.8(a)(1), a State may request a hearing on the record.

Subpart C—Yellowfin Tuna

(Thunnus Albacares)

§ 285.20 Authorized fishing.

Fishing for yellowfin tuna that weigh 7 pounds round weight (3.2 kg.) or more by persons or fishing vessels subject to the jurisdiction of the United States is authorized in the regulatory area. Except as provided in § 285.22, fishing in the regulatory area for yellowfin tuna that weigh less than 7 pounds round weight by persons or fishing vessels subject to the jurisdiction of the United States is prohibited.

§ 285.21 [Reserved]

§ 285.22 Incidental catch.

Persons or fishing vessels subject to the jurisdiction of the United States may take yellowfin tuna that weigh less than 7 pounds round weight as an incident to fishing in the regulatory area for yellowfin tuna that weigh 7 pounds round weight or more, provided, however, that no such persons or fishing vessels may land or transship such yellowfin tuna (weighing less than 7 pounds round weight) taken during any one fishing voyage as exceed 3 percent by weight of the total weight of yellowfin tuna taken during said fishing voyage that weigh 7 pounds round weight or more.

§ 285.23 Recordkeeping.

(a) Any person in charge of a fishing vessel, or any master or other person in charge of a fishing vessel subject to the jurisdiction of the United States or any person as may be authorized in writing to serve as the agent of such person or master, shall:

(1) Keep an accurate log of all operations conducted from the vessel, entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of tuna aboard by species. The record and bridge log shall be sufficient to comply with this paragraph, provided however, that the items of information specified herein are fully and accurately entered in such log; and

(2) Furnish on a form obtainable from the Regional Director, following the sale or delivery of a catch of tuna made by such vessel, a report, certified to be correct as to facts within the knowledge of the reporting individual, giving the name and official number of the fishing vessel, the dates of beginning and ending of the fishing voyage, the port of departure, and a listing separately by species of the round weight quantities (pounds or short tons) of tuna sold or delivered. At the option of the vessel master or other person in charge, a copy of the fish ticket, weighout slip, settlement sheet, or similar record issued by the dealer or his agent may, however, be used for reporting purposes in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph. In addition, any vessel landing its catch in California may satisfy the requirements of this paragraph by submitting an official copy of the California fish ticket. Such sale and delivery reports shall be delivered or mailed to the Regional Director within 72 hours after weighout has been completed.

(b) Any person authorized to carry out enforcement activities under the Act or these regulations shall have power, without warrant or other process, to inspect, at any reasonable time, log books, catch reports, statistical records, or other reports as required by the regulations in this part to be made, kept or furnished.

§ 285.24 Reporting requirements.

(a) Any person in charge of a fishing vessel or any Master or other person in charge of a fishing vessel, subject to the jurisdiction of the United States, except vessels proceeding directly to Puerto Rico or to any other U.S. Port for unloading, shall report to the Regional Director not less than 48 hours prior to entering the regulatory area via the Panama Canal. In addition, any person in charge of a fishing vessel or any Master or other person in charge of a vessel, subject to the jurisdiction of the United States except a vessel without fish aboard, shall notify the Regional Director not less than 48 hours prior to leaving the regulatory area via the Panama Canal. Each report shall include the name of the reporting vessel, the tonnage by species aboard, and whether the fish were caught in Pacific or Atlantic waters.

(b) All such fishing vessels entering or leaving the regulatory area via the Panama Canal shall be subject to inspection. Official seals will be affixed to wells containing fish taken within or outside the regulatory area, as appropriate and the same will be noted on the vessel log. The official seals shall be removed only by a designated agent of the National Marine Fisheries Service, upon the arrival at point of sale or delivery.

(c) Any person in charge of a fishing vessel or any Master or other person in charge of a fishing vessel subject to the jurisdiction of the United States, shall notify the Regional Director not less than 48 hours prior to any transfer of yellowfin tuna taken in the regulatory area to another vessel for the purpose of transshipment. Such reports shall include the date and place of unloading, name and destination of the oncarrying vessel, and the tonnage by species of tuna transferred.

(d) The failure to file the reports or to follow the procedures required by this section, the tampering with or the removal of an official seal, or the alteration of a fishing vessel's log by any person or fishing vessel subject to the jurisdiction of the United States shall be a prohibited act within the meaning of § 285.3 of this Part.

Subpart D—Restrictions on Tuna Imports

§ 285.30 Basis and purpose.

(a) The stocks of Atlantic tunas under investigation and regulation by the Commission represent the concern of a number of countries interested in the conservation of such stocks. In order to assure that the achievement of the conservation objectives of the Commission are fulfilled the Act provides for certain restrictions on the importation of Atlantic tunas. Pursuant to Section 6(c) of the Act, the Secretary, with the concurrence of the Secretary of State, is directed to promulgate regulations to prohibit:

(1) The entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(2) The entry into the United States, from any country when vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area;

(3) The entry into the United States, from any country when vessels of such country engage in repeated and flagrant fishery operations in the regulatory area which seriously threaten the achievement of the objectives of the Commission's recommendations, of fish in any form of those species which are under investigation by the Commission and which were taken from the regulatory area.

(b) By letter of February 18, 1976, the Secretary of State concurred in the promulgation of the regulations in this part. Such regulations are designed to implement the provisions of Section 6(c) of the Act with respect to import controls and to proscribe procedures for the establishment of restrictions on imports of tuna and tuna-like fish whenever such action shall be deemed warranted.

§ 285.31 Species subject to regulation.

The species of tuna currently subject to regulation pursuant to recommendations of the Commission within the meaning of Section 6(c) are yellowfin tuna and Atlantic bluefin tuna.

§ 285.32 Species under investigation by the Commission.

Those species of tuna currently under investigation by the Commission within the meaning of section 6(c) of the Act are yellowfin, Atlantic bluefin, skipjack, albacore, bigeye and Atlantic bonito, and billfishes.

§ 285.33 Investigations authorized.

(a) The Director shall cause to be made, from time to time, such inquiries and investigations as may be necessary to keep himself and other interested persons currently informed regarding the nature and effectiveness of the measures for the implementation of the Commission's recommendations concerning those activities which are being carried out by foreign countries whose vessels engage in fishing within the regulatory area. In making a finding, as to:

(1) Whether or not fish in any form of those species which are subject to regulation by the Commission are being taken from the regulatory area in a manner or under such circumstances as would tend to diminish effectiveness of the conservation recommendations of the Commission; or

(2) Whether or not a country is condoning the use of vessels in the conduct of fishing operations in the regulatory area in such a manner or under such circumstances that would tend to diminish the effectiveness of the conservation recommendations of the Commission; or

(3) Whether or not a country is condoning the use of vessels in repeated and flagrant fishing operations which seriously threaten the achievement of the objectives of the commissions recommendations, the Director shall take into account, among such other considerations as may appear to be pertinent in a particular case, the following factors:

(i) Whether or not the country provides or causes to be provided to the Commission pertinent statistics on a timely basis;

(ii) whether or not the country has in force conservation measures applicable to its own fishermen adequate for the implementation of the Commission's recommendations;

(iii) whether or not the country has in force measures for the control of landings in its ports of species subject to regulations which are taken in the regulatory area by fishermen of other countries contrary to the Commission's conservation recommendations;

(iv) whether or not the country, having put conservation measures into effect, takes reasonable action to enforce such measures;

(v) the number of vessels of the country which conduct fishing operations in the regulatory area;

(vi) the quantity of species subject to regulation taken from the regulatory area by the Country's vessels contrary to the Commission's conservation recommendations and its relationship to (A) the total quantity permitted to be taken by the vessels of all countries participating in the fishery and (B) the quantity of such species sought to be restored to the stocks of fish pursuant to the Commission's conservation recommendations.

(b) Any person who shall have reason to believe that the vessels of any country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission or that other acts within the purview of the import control provisions of section 6(c) of the Act, are occurring or are likely to occur, may communicate his belief to the Director. Every such communication shall contain or be accompanied by a full statement of the reasons for the belief, including a detailed description of such specific acts or events as may indicate a need for instituting an investigation as authorized in this part.

(c) Upon receipt by the Director of any communication submitted pursuant to paragraph (b) of this section and upon a finding that the communication complies with the requirements of that paragraph, the Director promptly shall cause such investigation to be made as appears to be warranted by the circumstances of the case. In conducting such investigations the Director or his designated representative shall consider any representations offered by foreign interests, importers, brokers, domestic producers, or other interested persons. Unless good cause to the contrary shall exist, every such investigation shall be completed within 60 days following receipt of the communication.

§ 285.34 Publication of findings.

If it shall be determined on the basis of § 285.33 that species of fish subject to regulation or under investigation by the Commission, as the case may be, are ineligible for entry into the United States pursuant to the provisions of section 6 (c) of the Act, the Director, with the approval of the Secretary of the Commerce and with the concurrence of the Secretary of State, shall publish a finding to that effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding in the FEDERAL REGISTER every shipment of fish in any form of the species found to be ineligible shall be denied entry unless it shall be established by satisfactory proof pursuant to § 285.35 that a particular shipment of such fish is not ineligible for entry: *Provided*, That entry shall not be denied and no such proof shall be required for any such shipment which, on the date of such publication, was in transit to the United States on board a vessel operating as a common carrier.

§ 285.35 Proof of admissibility.

(a) For the purposes of § 285.33 of this part and section 6(c) of the Act a shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry, directly or indirectly, from a country named in a finding published under § 285.34 shall be deemed to be eligible for entry if the shipment is accompanied by a certificate of eligibility certifying as may be appropriate, that the fish in the shipment:

(1) Are not of the species specified in the published finding;

(2) Are of the species named in the published finding but were not taken in the regulatory area; or

(3) Are of the species named in the published finding but are products of an American fishery lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the published finding solely for transhipment. The certificate shall be attached to the invoice and be in the following form:

CERTIFICATE OF ELIGIBILITY

I, _____ an authorized officer of the Government of _____, certify that the shipment of tuna accompanied by this certificate, consisting of _____ of (quantity)

_____ in _____
(Species)

(Number and kind of packages or containers bearing the following marks and numbers)

☐ (a) Contains no tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975. (A certificate of authentication executed by a consular officer or a consular agent of the United States must be attached.)

☐ (b) Contains tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975, but that such tuna were caught in the waters of _____

(Identify area or areas in which tuna were taken)

by vessels subject to the jurisdiction of _____

and that none of the tuna were taken in the Atlantic Ocean or its adjacent seas. (A certificate of authentication executed by a consular officer or consular agent of the United States must be attached.)

☐ (c) Contains tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975, but that such tuna, as shown in the attached declaration, were taken in strict conformity with applicable conservation laws and regulations in a fishing enterprise conducted under the American flag by vessels of the United States, are products of an American fishery within the meaning of Schedule I, Part 15A, Tariff Schedules of the United States, were landed in a foreign country solely for transshipment without change in condition and are eligible for free entry under such Schedule and 19 CFR 10.78–10.79. (Where an entry is to be made pursuant to this paragraph, this certificate must be executed by a consular officer or consular agent of the United States and the declaration(s) required by 19 CFR 10.79 and must be attached.)

_____
Signature

_____
Title

_____
Address

(b) If the tuna are offered for entry under paragraph (a) or (b) of the Certificate of Eligibility, the certificate must be executed by a duly authorized official of the country named in the published finding and the certificate must be authenticated with respect to the signa-

ture and official position of the person executing the same by a consular officer or consular agent of the United States. Such certificate of authentication shall be attached to the Certificate of Eligibility and be substantially in the following form:

I, _____,
(Name of the consular officer or consular agent)
_____ of the United
(Title)
States of America at _____,
(Place)
duly commissioned and qualified, do hereby certify that _____, whose
(Name of foreign official)
true signature and official seal are, respectively subscribed and affixed to the annexed certificate, was, on the ____ day of _____, 19__, the date thereof, _____,
(Title of foreign official)
duly commissioned and qualified, to whose official acts faith and credit are due.

In witness whereof I have hereunto set my hand and affixed the seal of the _____ this day of _____ 19__, _____
Signature

_____
(Name and full title of officer)

(c) If the tuna are offered for entry under paragraph (c) of the Certificate of Eligibility, the certificate must be executed by a consular officer of consular agent of the United States and be accompanied by the declaration(s) required by 19 CFR 10.79. The "Declaration of Master and Two Members of Crew on Entry of Products of American Fisheries", required by 19 CFR 10.79 must contain a further statement as follows: "We further declare that the said tuna were caught by us in full compliance with Part 285, Title 50, Code of the *Federal Regulations*, and such other conservation laws and regulations as were applicable at the time the fishing operation was in progress.

§ 285.36 Removal of import restrictions.

Upon a determination by the Director that the conditions no longer exist which warranted the imposition of import restrictions in the finding published pursuant to § 285.34 the Director, with the approval of the Secretary and the concurrence of the Secretary of State, shall publish a finding to such effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding, the prior existing import restrictions against the country designated therein shall terminate: *Provided*, that for a period of 1 year from such date of publication every shipment of fish in any form that was subject to the finding published pursuant to § 285.34 shall continue to be denied entry unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States, certifying that no portion of the shipment is comprised of fish taken prior to or during the import restriction.

[FR Doc.76-5438 Filed 2-25-76;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 24—BOARD OF CONTRACT APPEALS

Authority To Hear FmHA Debarment Appeals

On February 26, 1975, there was published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 8212) proposing debarment regulations for the Farmers Home Administration, Department of Agriculture, and comments were received and considered. Those regulations are being adopted concurrently with this amendment to 7 CFR Part 24. This revision amends § 24.4(d) of Subpart A of Part 24, Subtitle A, Title 7 of the Code of Federal Regulations and will authorize the Board of Contract Appeals to hear appeals from Farmers Home Administration (FmHA) debarment decisions made under the authority of proposed FmHA regulations governing Suspension and Debarment, Subpart C of Part 1918, Chapter XVIII of this title. It is found and determined that further compliance with the notice of proposed rulemaking, public procedures and effective date requirements of 5 U.S.C. 553 is unnecessary and that this amendment shall be effective February 26, 1976. Subpart A of Part 24, Subtitle A, Title 7 of the Code of Federal Regulations is amended as follows:

§ 24.4 Jurisdiction.

* * * * *

(d) *Debarment.* The Board shall have jurisdiction to hear and determine the issue of debarment and the period thereof, if any, on an appeal by a person debarred (1) by an authorized official of the Commodity Credit Corporation under 7 CFR 1407.6(d), or (2) by an authorized official of the Department of Agriculture, under 41 CFR 4-1.604-1(b), or (3) by an authorized official of the Farmers Home Administration, under Subpart C of Part 1918, Chapter XVIII of this title.

* * * * *

(5 U.S.C. 301); (40 U.S.C. 486(c)); sec. 4, 62 Stat. 1070, amended (15 U.S.C. 714b); 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011(f)); secs. 9, 10, 62 Stat. 1072, 1073 (15 U.S.C. 714g, 714h).

Effective date: This amendment shall become effective on February 26, 1976.

Dated: February 20, 1976.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.76-5446 Filed 2-25-76;8:45 am]

PART 25—ADVISORY COMMITTEE MANAGEMENT

Nondiscrimination Regarding Selection of Member

On September 11, 1975, committee management regulations for the Department of Agriculture were published in the FEDERAL REGISTER (40 FR 42171) as new Parts 25 and 25A, Title 7 of the Code of Federal Regulations.

7 CFR Part 25 is amended by revising §§ 25.11(b)(1)(i)(C) and 25.15 to read as follows:

§ 25.11 Establishment and renewal of Advisory Committees.

* * * * *

(b) *Procedure for establishment.*—(1) *Obtaining approval.* (i) * * *

(C) A description of the agency's plan to attain balanced membership on the proposed advisory committee in terms of points of view to be represented, functions to be performed, and expected participation by women and minorities (see § 25.15).

* * * * *

§ 25.15 General procedure.

* * * * *

(e) There shall be no discrimination on the basis of race, color, national origin, religion, or sex in the selection of members. Minorities and women will be represented on committees in reasonable proportion to the degree they are affected by the work of the committee. It shall be the responsibility of the agency providing support services to determine the extent to which minorities and women are to be represented on each committee. Justification for such determination shall be forwarded to the Office of Management and Finance no later than the time the letter to OMB is sent forward for Departmental clearance. This justification should include your planned actions to obtain this level of representation.

* * * * *

Since these amendments require agencies of the Department to justify their plan for membership on advisory committees, it is not believed that public comment would afford the Department any additional information. Accordingly, pursuant to 5 U.S.C. 553, good cause is found that notice and public procedure is unnecessary, and good cause is found to make the amendment effective less than 30 days after publication.

Effective date: February 26, 1976.

Dated: February 23, 1976.

J. P. BOLDUC,
Acting Assistant Secretary for Administration.

[FR Doc.76-5455 Filed 2-25-76;8:45 am]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to the authority contained in § 401.101 of the above identified regulations, the following county has been designated for wheat crop insurance for the 1977 crop year.

KANSAS

Morton

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] M. R. PETERSON,
Manager,
Federal Crop Insurance Corporation.

[FR Doc.76-5447 Filed 2-25-76;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; PARISHES DESIGNATED FOR SUGARCANE CROP INSURANCE

Pursuant to the authority contained in § 401.101 of the above identified regulations, the following parish has been designated for sugarcane crop insurance for the 1977 crop year.

LOUISIANA

Vermilion

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] M. R. PETERSON,
Manager,
Federal Crop Insurance Corporation.

[FR Doc.76-5448 Filed 2-25-76;8:45 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 7]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Revisions in Certain Areas of Venue

● **Basis and Purpose. The purpose of this amendment is to revise the marketing quota review committee areas of venue in seven States.** ●

Section 711.29 is amended for the seven States to read as follows:

§ 711.29 Establishment of areas of venue.

* * * * *

ARKANSAS

Counties of:

Area I—Clay, Craighead, Crittenden, Cross, Greene, Independence, Jackson, Lawrence, Mississippi, Poinsett, Randolph, St. Francis, Woodruff.

Area II—Arkansas, Conway, Faulkner, Lee, Lonoke, Monroe, Phillips, Prairie, Pulaski, White.

Area III—Ashley, Bradley, Calhoun, Chicot, Cleveland, Dallas, Desha, Drew, Grant, Jefferson, Lincoln, Union.

Area IV—Clark, Columbia, Garland, Hempstead, Hot Spring, Howard, Lafayette, Little River, Logan, Miller, Montgomery, Nevada, Ouachita, Perry, Pike, Polk, Saline, Scott, Sevier, Yell.

Area V—Baxter, Benton, Boone, Carroll, Cleburne, Crawford, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sebastian, Sharp, Stone, Van Buren, Washington.

* * * * *

GEORGIA

Counties of:

Area I—Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Clarke, Cobb, Coweta, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Fulton, Gilmer, Gordon, Greene, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lincoln, Lumpkin, Madison, Murray, Oconee, Oglethorpe, Paulding, Pickens, Polk, Rabun, Stephens, Tallaferro, Towns, Troup, Union, Walker, White, Whitfield, Wilkes.

Area II—Baldwin, Bibb, Butts, Crawford, Chattahoochee, Clayton, Columbia, Crisp, De Kalb, Dooly, Fayette, Glascock, Gwinnett, Hancock, Harris, Henry, Houston, Jasper, Jones, Lamar, Lee, McDuffie, Macon, Marion, Meriwether, Monroe, Morgan, Muscogee, Newton, Peach, Pike, Putnam, Rockdale, Schley, Spalding, Stewart, Sumter, Talbot, Taylor, Turner, Twiggs, Upson, Walton, Warren, Washington, Webster, Wilkinson, Worth.

Area III—Baker, Ben Hill, Berrien, Bleckley, Brooks, Calhoun, Clay, Colquitt, Cook, Decatur, Dodge, Dougherty, Early, Grady, Irwin, Laurens, Mitchell, Miller, Montgomery, Pulaski, Quitman, Randolph, Seminole, Telfair, Terrell, Thomas, Tift, Treutlen, Wheeler, Wilcox.

Area IV—Appling, Atkinson, Bacon, Brantley, Bryan, Bulloch, Burke, Camden, Candler, Charlton, Chatham, Clinch, Coffee, Echols, Effingham, Emmanuel, Evans, Glynn, Jeff Davis, Jefferson, Jenkins, Johnson, Lanier, Liberty, Long, Lowndes, McIntosh, Pierce, Richmond, Screven, Tattnal, Toombs, Ware, Wayne.

* * * * *

INDIANA

Counties of:

Area I—Bartholomew, Brown, Decatur, Fayette, Fountain, Franklin, Greene, Hendricks, Henry, Johnson, Lawrence, Monroe, Morgan, Owen, Parke, Putnam, Rush, Shelby, Sullivan, Union.

Area II—Clark, Crawford, Dearborn, Dubois, Floyd, Harrison, Jackson, Jefferson, Jennings, Ohio, Orange, Perry, Ripley, Scott, Spencer, Switzerland, Warrick, Washington.

* * * * *

IOWA

Counties of:

Iowa has no commodity for which marketing quota programs are in effect, therefore, the areas of venue previously established will no longer be in effect.

* * * * *

MISSISSIPPI

Counties of:

Area I—Bolivar, Coahoma, De Soto, Panola, Quitman, Tallahatchie, Tate, Tunica.

Area II—Holmes, Humphreys, Issaquena, Leflore, Sharkey, Sunflower, Washington, Yazoo.

Area III—Alcorn, Benton, Calhoun, Grenada, Itawamba, Lowndes, Montgomery, Pontotoc, Prentiss, Webster, Yalobusha.

Area IV—Attala, Covington, Forrest, Greene, Hancock, Jefferson, Jones, Kemper, Lauderdale, Madison, Marion, Neshoba, Pike, Rankin, Simpson.

* * * * *

TEXAS

Counties of:

Area I—All Counties.

* * * * *

VIRGINIA

Counties of:

Area I—Brunswick, Chespeake, Chesterfield, Dinwiddie, Greensville, Isle of Wright, James City, Mathews, New Kent, Northampton, Prince George, Southampton, Suffolk, Surry, Sussex.

Area II—No Change.

Area III—No change.

* * * * *

(Secs. 301, 363–368, 375, 52 Stat. 38, as amended, 63, 64, as amended 66, as amended; 7 U.S.C. 1301, 1363–1368, 1375)

Effective Date: Since this amendment revises certain areas of venue which were recommended by the respective State committees and it may be necessary soon to review one or more marketing quotas in areas of venue that are changed by this amendment, it is hereby determined and found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this amendment shall become effective on February 26, 1976.

Signed at Washington, D.C. on February 20, 1976.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-5500 Filed 2-25-76;8:45 am]

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

[Navel Orange Reg. 369]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Feb. 27–Mar. 4, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel oranges prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.669 Navel Orange Regulation 369.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the

Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is fair with some buildup of consumer resistance.

Prices f.o.b. averaged $3.20 a carton on a reported sales volume of 931 carlots last week, compared with an average f.o.b. price of $3.32 per carton and sales of 1,121 carlots a week earlier. Track and rolling supplies at 373 cars were up 22 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 24, 1976.

(b) *Order.* (1) The respective quantities of Naval oranges grown in Arizona and designated part of California which may be handled during the period February 27, 1976, through March 4, 1976, are hereby fixed as follows:

(i) District 1: 1,066,000 cartons;

(ii) District 2: 234,000 cartons;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: February 25, 1976.

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

[FR Doc.76–5735 Filed 2–25–76;12:04 pm]

[Milk Order No. 1]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MILK), DEPARTMENT OF AGRICULTURE

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

Order Amending and Merging Orders

7 CFR pt.	Marketing area	Docket No.
1001	Boston regional	AO–14–A55
1015	Connecticut	AO–305–A33

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each 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) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Boston Regional and Connecticut marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

(1) The New England order, which amends and merges the aforesaid orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

(4) All milk and milk products handled by handlers, as defined in the New England order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1001.85 of the New England order.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the New England marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of the New England order, which amends and merges the aforesaid orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the New England order; and

(3) The issuance of the New England order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the New England marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the Boston Regional and Connecticut marketing areas (Parts 1001 and 1015, respectively) shall be amended and merged into one order. Part 1015 is thereby superseded, and such vacated part designation shall be reserved for future assignment. The handling of milk in the merged marketing area, to be designated as the "New England Marketing Area" (Part 1001), shall be in conformity to and in compliance

with the terms and conditions of the following order:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1001.1 General Provisions.

DEFINITIONS

1001.2 New England marketing area.
1001.3 Route disposition.
1001.4 Plant.
1001.5 Pool plant.
1001.5a Distributing plant.
1001.5b Supply plant.
1001.5c Cooperative association plant located in the marketing area.
1001.6 Exempt distributing plant.
1001.7 Distributing plant for unregulated markets.
1001.8 Regulated plant under another Federal order.
1001.9 Handler.
1001.10 Producer-handler.
1001.11 Dairy farmer for other markets.
1001.12 Producer.
1001.13 Producer milk.
1001.14 Pool milk.
1001.15 Diverted milk.
1001.16 Exempt milk.
1001.17 Fluid milk product.
1001.18 Cream.
1001.19 Filled milk.
1001.20 Cooperative association.

REPORTS

1001.30 Monthly reports of receipts and utilization.
1001.31 Other reports of receipts and utilization.
1001.32 Reports regarding individual producers and dairy farmers.
1001.33 Notices to producers.

CLASSIFICATION OF MILK

1001.40 Classes of utilization.
1001.41 Classification of inventories.
1001.42 Classification of fluid milk products moved to plants.
1001.43 Assignment of receipts to classes—in general.
1001.44 Initial assignments to Class I milk.
1001.45 Initial assignments to Class II milk.
1001.46 Special assignments at pool distributing plants.
1001.47 Additional assignments to Class I and Class II milk.
1001.48 Market administrator's report concerning classification.

CLASS PRICES

1001.50 Class prices.
1001.51 Basic formula price.
1001.52 Plant location adjustments.
1001.53 Determination of applicable zone locations for pricing purposes.
1001.54 Announcement of class prices.
1001.55 Equivalent price.

BLENDED PRICE

1001.60 Computation of value of fluid milk products at class prices.
1001.61 Computation of basic blended price.
1001.62 Announcement of blended prices and butterfat differential.

PAYMENTS FOR MILK

1001.70 Producer-settlement fund.
1001.71 Handlers' producer-settlement fund debits and credits.
1001.72 Payments to and from the producer-settlement fund.
1001.73 Payments to producers.
1001.74 Payments to cooperative associations.
1001.75 Statements to producers.
1001.76 Butterfat differential.
1001.77 Adjustment of accounts.
1001.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1001.85 Assessment for order administration.
1001.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1001 are issued under Sections 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1001.1 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

§ 1001.2 New England marketing area.

"New England marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the places set forth below, all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by any governmental installation, institution, or other similar establishment:

CONNECTICUT

All of the State of Connecticut.

MASSACHUSETTS

Counties:
Barnstable.
Bristol.
Dukes.
Essex.
Franklin (except the towns of New Salem, Orange, and Warwick).
Hampden (except the towns of Brimfield, Monson, Palmer, and Wales).
Hampshire (except the town of Ware).
Middlesex.
Norfolk.
Plymouth.
Suffolk.
Worcester (except the towns of Athol, Barre, Douglas, East Brookfield, Hardwick, New Braintree, North Brookfield, Northbridge, Petersham, Phillipston, Royalston, Templeton, Uxbridge, Warren, West Brookfield, and Winchendon).

NEW HAMPSHIRE

Counties:
Belknap.
Cheshire.
Grafton (the towns of Ashland, Bridgewater, Bristol, Holderness, and Plymouth only).
Hillsborough.
Merrimack.
Rockingham.
Strafford.
Sullivan (except the town of Plainfield).

RHODE ISLAND

All cities and towns except New Shoreham (Block Island).

VERMONT

Counties:
Bennington (the towns of Landgrove, Peru, and Winhall only).
Windham (except Somerset).
Windsor (the towns of Andover, Baltimore, Cavendish, Chester, Ludlow, Plymouth, Reading, Springfield, Weathersfield, Weston, West Windsor, and Windsor only).

§ 1001.3 Route disposition.

"Route disposition" means distribution of Class I milk by a handler to retail or wholesale outlets, which include vending machines but do not include plants or distribution points. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing and packaging plant.

§ 1001.4 Plant.

"Plant" means the land and buildings, together with their surroundings, facilities, and equipment, constituting a single operating unit or establishment that is operated by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products and used for the handling or processing of milk or milk products. The term "plant" shall not include:

(a) Distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants); or

(b) Bulk reload points (separate premises used for the transfer of milk en route from dairy farmers' farms to a plant, at which premises facilities for washing and sanitizing cans or tank trucks are not maintained and used).

§ 1001.5 Pool plant.

"Pool plant" means any plant that meets the applicable conditions for pool plant status under §§ 1001.5a, 1001.5b, or 1001.5c. However, if the market administrator determines that a specified proportion or quantity of the receipts from dairy farmers and of pool milk from other sources handled at a plant is not available for Class I use because there is in force an unconditional contract for the plant to supply fluid milk products for Class II use, the plant shall not be a pool plant for the month in which the market administrator notifies the handler of the determination and for any subsequent month in which the contract is in force for any part of the month.

§ 1001.5a Distributing plant.

Each processing and packaging plant (other than a producer-handler's plant under any Federal order, a regulated plant under another Federal order, or an exempt distributing plant under § 1001.6 (b)) shall be a pool distributing plant in any month in which it meets the conditions specified in this section. Receipts and disposition of filled milk shall be excluded in determining whether a plant has met these conditions.

(a) Its total Class I disposition in the month, or in either of the 2 preceding months, is not less than 40 percent of its total receipts of fluid milk products in the corresponding month.

(b) Its route disposition in the marketing area in the month:

(1) Is not less than 10 percent of its total receipts of fluid milk products;

(2) Exceeds its route disposition in any other Federal marketing area; and

(3) Exceeds 700 quarts on any day or a daily average of 300 quarts.

§ 1001.5b Supply plant.

Each plant (other than a plant described in paragraph (e) of this section) shall be a pool supply plant in any month in which it meets the conditions specified in paragraph (a), and in paragraph (b), (c), or (d), of this section. Receipts and disposition of filled milk shall be excluded in determining whether a plant has met these conditions. For the purposes of this section, milk received at a plant from a cooperative association in its capacity as a handler under § 1001.9(d) shall be considered as having been received at that plant from dairy farmers' farms.

(a) It is a plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment or to other vehicles.

(b) It is a plant from which in the month of July at least 15 percent, and in any month of August through November at least 25 percent, of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk, to pool distributing plants.

(c) For any month of July through November, it is one of a group of plants that meets the conditions specified in this paragraph.

(1) The handler's written request for continuation of pool supply plant status, which the plant held under his operation in the preceding month, is received by the market administrator on or before the 16th day of the month.

(2) The group of plants, considered as a unit, meets the shipping requirements specified in paragraph (b) of this section.

(3) To qualify as a pool supply plant under this paragraph in November of any year, the plant, considered individually, shall have met the shipping requirements specified in paragraph (b) of this section in one of the months of July through October of that year.

(4) For the purposes of this paragraph, any supply plant operated by a cooperative association that is also a handler under § 1001.9(d) may be considered as one of a group of plants. In that event, the group's total receipts of milk from dairy farmers' farms shall be the total of such receipts by the association other than at any of its plants that is not one of the group, and the group's qualifying shipments shall consist of the qualifying shipments from the plants in the group plus the quantity of milk moved from farms of its members to pool distributing plants by the association in its capacity as a handler under § 1001.9(d).

(d) For any month of December through June, it is a plant from which at least 15 percent of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk, to pool distributing plants, or it is a plant that meets the requirements for automatic pool plant status specified in this paragraph. The automatic pool plant status of a plant shall be revoked for any month for which the market administrator has received the handler's written request for revocation on or before the 16th day of that month. In that event, the plant shall not have automatic pool plant status in any subsequent month of the current December through June period.

(1) The plant was a pool supply plant under this order or the Boston Regional or Connecticut orders in each of the preceding months of July through November; or

(2) The plant was a pool supply plant under this order or the Boston Regional or Connecticut orders in at least two of the preceding months of July through November and would have been such a plant in all other months in that period had it not been a pool plant under the New York-New Jersey Federal order.

(e) No plant shall be a pool supply plant in any month in which it is operated as:

(1) A pool distributing plant;

(2) An exempt distributing plant under § 1001.6(b);

(3) The plant of a producer-handler under any Federal order;

(4) A regulated plant under another Federal order if its Class I disposition of fluid milk products, except filled milk, in the marketing area regulated by that order exceeds its shipments of fluid milk products, except filled milk, to pool distributing plants under this order; or

(5) A plant designated as a regular pool plant under the New York-New Jersey Federal order.

§ 1001.5c Cooperative association plant located in the marketing area.

Each plant, other than a plant operated as a pool distributing plant or a pool supply plant, that is located in the marketing area and operated by a cooperative association shall be a pool plant in any month in which its route disposition does not exceed 2 percent of its total receipts of fluid milk products. Receipts and disposition of filled milk shall be excluded in determining whether a plant has met these conditions.

§ 1001.6 Exempt distributing plant.

"Exempt distributing plant" means:

(a) A plant, other than a pool supply plant or a regulated plant under another Federal order, that meets all the requirements for status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed 700 quarts on any day or a daily average of 300 quarts.

(b) A plant that is operated by a governmental agency and from which there is route disposition in the marketing area.

§ 1001.7 Distributing plant for unregulated markets.

"Distributing plant for unregulated markets" means a processing and packaging plant from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month. The term shall not apply to a pool plant, an exempt distributing plant, a producer-handler's plant under any Federal order, or a regulated plant under another Federal order.

§ 1001.8 Regulated plant under another Federal order.

"Regulated plant under another Federal order" means a pool plant under another Federal order or any other plant at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order.

§ 1001.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates any other plant, or a pool bulk tank unit as defined under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area;

(c) Any person who does not operate a plant but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets packaged fluid milk products received from any plant described in paragraph (a) or (b) of this section; or

(d) Any cooperative association with respect to the milk that is moved from farms in tank trucks operated by, or under contract to, the association to pool plants or as diverted milk to nonpool plants, other than a producer-handler's plant, for the account of, and at the direction of, the association. The association shall be considered as the handler who received the milk from the dairy farmers. However, the cooperative association shall not be the handler with respect to the milk moved from any farm if the association and the operator of the pool plant to which milk from such farm is moved both submit a request in writing, on or before the due date for filing the monthly reports of receipts and utilization, that the operator of the pool plant be considered as the handler who received the milk from the dairy farmer, and the pool plant operator's request states that he is purchasing the milk from such farm on the basis of the farm bulk tank measurement readings and the butterfat tests of samples of the milk taken from the farm bulk tank.

§ 1001.10 Producer-handler.

"Producer-handler" means any person who, during the month, is both a dairy farmer and a handler and who meets the conditions specified in each of the paragraphs of this section.

(a) He provides as his own enterprise and at his own risk the maintenance, care, and management of the dairy herd and other resources and facilities that he uses to produce milk, to process and package such milk at his own plant, and to distribute it as route disposition.

(b) His own route disposition constitutes the majority of the route disposition from his plant.

(c) The quantity of route disposition in the marketing area from his plant is greater than in any other Federal marketing area.

(d) He receives no fluid milk products except from his own production and pool plants. If his receipts from own production and the total route disposition from his plant each exceed 4,300 pounds per day for the month, his receipts from pool plants are not in excess of 2 percent of his receipts from own production. For the purposes of this paragraph, his receipts of fluid milk products shall include receipts from plants of other persons at all retail and wholesale outlets that are located in a Federal marketing area and operated by him, an affiliate, or any person who controls or is controlled by him.

§ 1001.11 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer described in this section. For the purposes of this section, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by the handler or dealer. Receipts from a "dairy farmer for other markets" under paragraphs (a), (b), and (c) of this section shall be considered as receipts from the unregulated plant at which the greatest quantity of his milk was received in the most recent month.

(a) The term includes a dairy farmer with respect to milk that is purchased from him during the month by a dealer who operates a plant but does not operate a pool plant, if the milk is moved to a pool plant directly from the dairy farmer's farm. The term shall not apply to the dairy farmer, however, if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(b) The term includes a dairy farmer with respect to milk that is purchased from him by a handler and moved to a pool plant or that is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d), if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month. The term shall not apply to the dairy farmer, however, if all the nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order or if all the nonpool milk is excluded from producer milk under § 1001.15.

(c) The term includes a dairy farmer with respect to milk that is received from him by a handler at a pool plant or that is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any of the months of December through June, if under this order or the Boston Regional or Connecticut orders the handler caused nonpool milk from the same farm to be received during any of the preceding months of July through November at a plant that is not a pool plant under any Federal order in the current month. The term shall not apply to the dairy farmer, however, if all the nonpool milk was a receipt of producer milk under the provisions of another Federal order or represented receipts from own production by a producer-handler under any Federal order, or was excluded from producer milk under § 1001.15 or comparable provisions under the Boston Regional or Connecticut orders.

(d) Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section, the term shall apply to any dairy farmer with respect to milk moved from his farm to a handler's pool plant or purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any month in which milk from that farm was received as base milk under another Federal order.

§ 1001.12 Producer.

"Producer" means a dairy farmer who produces milk that is moved, other than in packaged form, from his farm to a pool plant, or to any other plant as diverted milk. However, the term shall not include:

(a) A producer-handler under any Federal order;

(b) A dairy farmer with respect to milk caused to be moved from his farm to a pool plant under this order by a handler under another Federal order if all of the dairy farmer's milk so received is considered as a receipt from a producer under the provisions of the other Federal order;

(c) A dairy farmer for other markets;

(d) A dairy farmer who is a local or state government that has nonproducer status for the month under § 1001.16(c);

(e) A dairy farmer who is a governmental agency that is operating an exempt distributing plant under § 1001.6 (b);

(f) A dairy farmer with respect to salvage product assigned under § 1001.45 (e);

(g) A dairy farmer with respect to milk that is excluded from producer milk under § 1001.15; or

(h) A dairy farmer with respect to milk that a handler causes to be moved from the dairy farmer's farm to a regulated plant under another Federal order if any portion of such dairy farmer's milk so moved is assigned to Class I milk under the provisions of such other order and all of the dairy farmer's milk so moved is considered as producer milk under the other order.

§ 1001.13 Producer milk.

"Producer milk" means milk that the handler has received from producers. The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1001.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

§ 1001.14 Pool milk.

"Pool milk" means fluid milk products (other than exempt milk) received or disposed of as specified in this section, except that with respect to filled milk the term shall include only the quantity proved to have been made from other fresh fluid milk products.

(a) Receipts of producer milk;

(b) The following receipts of fluid milk products at pool plants (exclusive of receipts from other pool plants, producer-handlers under any Federal order, exempt distributing plants, and receipts from regulated plants and pool bulk tank units under other Federal orders that are classified and priced under the other orders):

(1) Receipts at pool distributing plants from plants located outside the New England States and beyond zone 40;

(2) Receipts at pool plants, other than pool distributing plants, to the extent assigned to Class I milk under § 1001.45 (g), from plants located outside the New England States and beyond zone 40; and

(3) Receipts at pool plants, to the extent assigned to Class I milk under § 1001.45(h), from plants located within one of the New England States or in zone 40 or a nearer zone, exclusive of bulk fluid milk products from distributing plants for unregulated markets; and

(c) Route disposition in the marketing area from any processing and packaging plant (except a pool plant, a producer-handler's plant under any Federal order, an exempt distributing plant, or a regulated plant under another Federal order). In determining the quantity of pool milk under this paragraph, the total quantity of route disposition in the marketing area from the plant first shall be reduced by the quantity of fluid milk products received at the plant during the month that is classified and priced as Class I milk or the equivalent thereof under any marketwide pool Federal order and that is not used to offset route disposition in any other Federal marketing area.

§ 1001.15 Diverted milk.

"Diverted milk" means milk, other than that excluded under § 1001.12 from being considered as received from a producer, that meets the conditions set forth in paragraph (a) or (b) of this section and is not excluded from diverted milk

under paragraph (c) of this section. For purposes of this section, the terms "producer milk" and "pool plant" shall include any milk or any plant that met the "producer milk" or "pool plant" definitions of the Boston Regional and Connecticut orders at the applicable time.

(a) Milk that a handler in his capacity as the operator of a pool plant reports as having been moved from a dairy farmer's farm to the pool plant, but which he caused to be moved from the farm to another plant that is not a plant of a producer-handler, if the handler specifically reports such movement to the other plant as a movement of diverted milk, and the conditions of paragraph (a)(1) or (2) of this section have been met. Milk that is diverted milk under this paragraph shall be considered to have been received at the pool plant from which it was diverted, but for pricing purposes the location adjustments for the zone location specified in § 1001.53 shall be used.

(1) During any 2 months subsequent to July of the preceding calendar year, or during the current month, on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during the month, all of the milk that the handler caused to be moved from that farm was physically received as producer milk at the handler's pool plant or at another of the handler's pool plants that is no longer operated as a plant.

(2) During the current month and not more than 5 other months subsequent to July of the preceding calendar year, milk from the dairy farmer's farm was received at or diverted from the handler's pool plant as producer milk, and during the current month all of the milk from that farm that the handler reported as diverted milk was moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant in accordance with the preceding provisions of this paragraph.

(b) Milk that a cooperative association in its capacity as a handler under § 1001.9(d) caused to be moved from a dairy farmer's farm to a nonpool plant that is not a plant of a producer-handler if the association specifically reports the movement to such plant as a movement of diverted milk, and the conditions of paragraph (b) (1) or (2) of this section have been met. Milk that is diverted under this paragraph shall be considered to have been received by the cooperative association in its capacity as a handler under § 1001.9(d), but for pricing purposes the location adjustments for the zone location specified in § 1001.53 shall be used.

(1) During any 2 months subsequent to July of the preceding calendar year, or during the current month, on more than half of the days on which the cooperative association in its capacity as a handler under § 1001.9(d) caused milk to be moved from the farm as producer milk during the month, all of the milk that the association caused to be moved from the farm was physically received at a pool plant.

(2) During the current month and not more than 5 other months subsequent to July of the preceding calendar year, the cooperative association in its capacity as a handler under § 1001.9(d) caused milk to be moved from the dairy farmer's farm as producer milk, and during the current month all of the milk from that farm that the cooperative association in its capacity as a handler under § 1001.9(d) reported as diverted milk was moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted by the association in accordance with the preceding provisions of this paragraph.

(c) Milk moved, as described in paragraphs (a) and (b) of this section, from dairy farmers' farms to nonpool plants in excess of 25 percent of the total quantity of producer milk received (including diversions) by the handler during the month shall not be diverted milk. Such milk, and any other milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. If the handler fails to designate the dairy farmers whose milk is to be so excluded, the entire quantity of milk that the handler caused to be moved from dairy farmers' farms directly to nonpool plants during the month shall be excluded from producer milk.

§ 1001.16 Exempt milk.

"Exempt milk" means:

(a) Fluid milk products received at a pool plant in bulk from a nonpool plant to be processed and packaged, for which an equivalent quantity of packaged fluid milk products is returned to the operator of the nonpool plant during the same month, if the receipt of bulk fluid milk products and return of packaged fluid milk products occur during an interval in which the facilities of the nonpool plant at which the fluid milk products are usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control;

(b) Packaged fluid milk products received at a pool plant from a nonpool plant in return for an equivalent quantity of bulk fluid milk products moved from a pool plant for processing and packaging during the same month, if the movement of bulk fluid milk products and receipt of packaged fluid milk products occur during an interval in which the facilities of the pool plant at which the fluid milk products are usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control; and

(c) Milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer, if:

(1) The dairy farmer is a State or local government that is not engaged in the route disposition of any of the returned products; and

(2) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

§ 1001.17 Fluid milk product.

"Fluid milk product" means milk, skimmed milk, flavored milk or skimmed milk, cultured skimmed milk, buttermilk, filled milk, concentrated milk, and any mixture of milk or skimmed milk and cream containing less than 10 percent butterfat. The term includes these products in fluid, frozen, fortified, or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as eggnog, yogurt, whey, ice cream mix, ice milk mix, milk shake base mix, evaporated or condensed milk or skimmed milk (in either plain or sweetened form), and any product that contains 6 percent or more nonmilk fat (or oil). Fluid milk products that have been placed in containers for disposition to retail or wholesale outlets are referred to in this order as packaged fluid milk products.

§ 1001.18 Cream.

"Cream," for purposes of this order, means that portion of milk, containing not less than 10 percent butterfat, that rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes soured cream, frozen cream, fortified cream, reconstituted cream, and any mixture of milk or skimmed milk and cream containing 10 percent or more of butterfat.

§ 1001.19 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skimmed 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).

§ 1001.20 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

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

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

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

REPORTS

§ 1001.30 Monthly reports of receipts and utilization.

On or before the 8th day after the end of the month, or not later than the 10th day if the report is delivered in person to the office of the market administrator, each handler with respect to each of his pool plants or any other plant (except an exempt distributing plant under § 1001.6(b)) from which there is route disposition in the marketing area, and each cooperative association in its capacity as a handler under § 1001.9(d), shall file a report for the month with the market administrator. Such report shall be in the detail and on forms prescribed by the market administrator and shall show the quantities of skim milk and butterfat contained in:

(a) Receipts of milk and milk products in the form of:

(1) Producer milk (including the specific quantities of diverted milk and receipts from the handler's own production);

(2) Pool milk other than producer milk;

(3) Fluid milk products and cream from all other plants;

(4) Milk from cooperative associations in their capacity as handlers under § 1001.9(d); and

(5) Fluid milk products and cream from all other sources (including the quantities of fluid milk products or cream reconstituted from other milk products and the quantities of other milk products used to fortify fluid milk products or cream);

(b) Inventories of fluid milk products and cream at the beginning and at the end of the month;

(c) The respective quantities of fluid milk products and cream sold, distributed, used, or otherwise disposed of, and classified in accordance with the provisions of §§ 1001.40 through 1001.42; and

(d) Bulk milk received at a handler's pool plant from a cooperative association in its capacity as the operator of a pool plant or as a handler under § 1001.9(d), if such milk was rejected by the handler subsequent to his receipt of the milk on the basis that it was not of marketable quality at the time the milk was delivered to the handler's plant, and such milk was removed from the plant in bulk form by the cooperative association and was replaced with other milk from the association. Except for purposes of this paragraph and § 1001.31(c), such milk that was so removed from the handler's plant shall be treated for all other purposes of the order as though it had not been delivered to and received at the handler's plant.

§ 1001.31 Other reports of receipts and utilization.

(a) Each handler who is not required to file monthly reports of receipts and utilization under § 1001.30 shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

(b) Each handler who dumps fluid milk products at a pool plant shall:

(1) Give the market administrator, at his request and in accordance with instructions by him, advance notice of the handler's intention to dump such products and the quantities involved; and

(2) Submit to the market administrator at the time and in the manner prescribed by him such detailed reports of dumpage as the market administrator requests.

(c) Each handler who intends to have a receipt of unmarketable milk replaced with other milk in the manner described under § 1001.30(d) shall give the market administrator, at his request and in accordance with instructions by him, advance notice of the handler's intention to have such milk replaced.

§ 1001.32 Reports regarding individual producers and dairy farmers.

(a) Each handler shall report on or before the 15th day after the end of each month the information required by the market administrator with respect to producer additions, producer withdrawals, changes in farm locations, and changes in the name of farm operators.

(b) Each handler that is not a cooperative association, upon request from any such association, shall furnish it with information with respect to each of its producer members from whose farm the handler begins, resumes, or stops receiving milk at his pool plant. Such information shall include the applicable date, the producer-member's post office address and farm location, and, if known, the plant at which his milk was previously received, or the reason for the handler's failure to continue receiving milk from his farm. In lieu of providing the information directly to the association, the handler may authorize the market administrator to furnish the association with such information, derived from the handler's reports and records.

(c) Each handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for the month, which shall show for each producer:

(1) The daily and total pounds of milk delivered and its average butterfat test; and

(2) The net amount of the handler's payments to the producer, with the prices, deductions, and charges involved.

§ 1001.33 Notices to producers.

Each handler shall furnish each producer from whom he receives milk the following information regarding the weight and butterfat test of the milk:

(a) Whenever he receives milk from the producer on the basis of farm bulk tank measurements, the handler shall give the producer at the time the milk is picked up at the farm a receipt indicating the measurement and the equivalent pounds of milk received;

(b) Whenever he receives milk from the producer on a basis other than farm bulk tank measurements, the handler shall give the producer within 3 days after receipt of the milk a written notice of the quantity so received;

(c) If butterfat tests of the producer's milk are determined from fresh milk samples, the handler shall give the producer within 10 days after the end of each month a written notice of the producer's average butterfat test for the month. Such notice shall not be required if the handler has given the producer a written notice of the butterfat test for each of the sampling periods within the month; and

(d) If butterfat tests of the producer's milk are determined from composite milk samples, the handler shall give the producer within 7 days after the end of each sampling period a written notice of the producer's average butterfat test for the period.

CLASSIFICATION OF MILK

§ 1001.40 Classes of utilization.

Except as provided in §§ 1001.41 and 1001.42, all skim milk and butterfat required to be reported by a handler under § 1001.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat (including that used to produce concentrated milk):

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

(2) Not established as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat for which the handler who first receives the skim milk and butterfat proves that such were:

(1) Disposed of, or in inventory at the end of the month, in the form of cream;

(2) Used to produce milk products other than fluid milk products or cream;

(3) Disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which the fluid milk products were used in the manufacture of food products other than milk products;

(4) In fluid milk products in inventory at the end of the month to the extent not classified as Class I milk under § 1001.41;

(5) Disposed of in fluid milk products for livestock feed;

(6) In fluid milk products dumped or discarded, if the conditions imposed under § 1001.31(b) have been met;

(7) In fluid milk products destroyed or lost under extraordinary circumstances; and

(8) In shrinkage not in excess of 2 percent of the respective quantities of skim milk and butterfat in receipts of fluid milk products and cream, exclusive of diverted milk and inventory at the beginning of the month. The shrinkage on the milk of a cooperative association in its capacity as a handler under § 1001.9(d) that is received at a pool plant shall be classified as Class II milk

up to the entire 2 percent maximum rate if the operator of the pool plant notifies the market administrator in writing, on or before the date on which its receipt is required to be reported under § 1001.30, that he has agreed to purchase the milk on the basis of farm bulk tank measurement readings and of the butterfat tests of samples of the milk taken from the farm bulk tank. Otherwise, the shrinkage on such receipts at a pool plant shall be classified as Class II milk only up to 1.5 percent thereof and shrinkage of up to 0.5 percent on the milk so moved shall be classified as Class II milk to the cooperative association in its capacity as a handler under § 1001.9(d).

§ 1001.41 Classification of inventories.

Inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk products, if the handler requests such classification and does not receive milk from producers or cooperative associations in their capacity as handlers under § 1001.9(d) or does not claim a Class II classification of any fluid milk products received.

§ 1001.42 Classification of fluid milk products moved to plants.

Fluid milk products moved from a pool plant to any other plant, or by a cooperative association in its capacity as a handler under § 1001.9(d) to any plant, shall be classified as follows:

(a) As Class I milk if transferred in packaged form to any other plant;

(b) As Class I milk if transferred from a pool plant to the plant of a producer-handler under any Federal order;

(c) As Class I milk if moved from a pool plant to an exempt distributing plant under § 1001.6(b);

(d) In the class to which assigned under § 1001.47 if moved in bulk form to any pool plant;

(e) In the class to which assigned under the other order if moved in bulk form to a regulated plant under another Federal order;

(f) As Class I milk, to the extent of the total quantity of the same form of fluid milk products so moved that is utilized as Class I milk at the plant to which moved, if moved in bulk form to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section, and as Class II milk to the extent of any remainder; and

(g) As Class I milk if moved in bulk form to any plant other than a pool plant or a regulated plant under another Federal order and thence to another plant, not regulated under a Federal order, located outside the New England States and New York State.

§ 1001.43 Assignment of receipts to classes in general.

(a) The total quantities of skim milk and butterfat received during the month at each pool plant and by each cooperative association in its capacity as a handler under § 1001.9(d) (including those quantities in inventory at the beginning of the month) shall be assigned separately, in the manner and sequence provided in §§ 1001.44 through 1001.47, to the respective quantities of skim milk and butterfat classified as Class I milk and Class II milk under §§ 1001.40 through 1001.42.

(b) Except as provided in § 1001.46, whenever receipts have been assigned under §§ 1001.44 through 1001.47 to the remaining pounds in a class, all remaining receipts shall be assigned to the other class.

(c) If receipts from more than one plant are to be assigned under a paragraph in § 1001.45 or § 1001.47, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the nearest zone to Boston for assignments to Class I milk and beginning with the plant in the most distant zone from Boston for assignments to Class II milk.

§ 1001.44 Initial assignments to Class I milk.

(a) Assign to Class I milk the receipts of exempt milk.

(b) Assign to Class I milk the receipts of packaged fluid milk products from regulated plants under other Federal orders, if the fluid milk products are classified and priced under the other orders as Class I milk or the equivalent thereof or in accordance with their assignment under this order.

(c) Assign to Class I milk the receipts of packaged fluid milk products from other pool plants.

(d) Assign to Class I milk the fluid milk products in inventory at the beginning of the month that were classified as Class I milk in the preceding month.

§ 1001.45 Initial assignments to Class II milk.

(a) Assign to Class II milk the quantities of fluid milk products or cream reconstituted from other milk products and the quantities of other milk products used to fortify fluid milk products or cream. If the quantity of any reconstituted product is not known, the quantity assigned shall be the quantity of butterfat used in the reconstitution and the quantity of skim milk required to produce the milk products so used. Any unaccounted-for plain condensed milk or skimmed milk, dry whole milk, or nonfat dry milk shall be considered to have been used in the reconstitution of fluid milk products.

(b) Assign to Class II milk the quantities of cream in inventory at the beginning of the month and received during the month.

(c) Assign to Class II milk the receipts of fluid milk products (other than exempt milk) from a local or State government that has elected nonproducer status for the month under § 1001.16(c) and receipts from dairy farmers for other markets under § 1001.11(d).

(d) Assign to Class II milk the fluid milk products in inventory at the beginning of the month that were not assigned under § 1001.44(d).

(e) Assign to Class II milk the receipts of fluid milk products from producer-handlers under any Federal order, from farms of a governmental agency that is operating an exempt distributing plant under § 1001.6(b), and from exempt distributing plants; and receipts from dairy farmers which are rejected and segregated in the handler's normal operation for receiving milk, and which receipts are accepted and disposed of by the handler as salvage product rather than as milk.

(f) Assign to Class II milk the receipts of bulk fluid milk products from distributing plants for unregulated markets located within one of the New England States or in zone 40 or a nearer zone.

(g) At pool plants other than pool distributing plants, assign to Class II milk the receipts of fluid milk products from plants located outside the New England States and beyond zone 40, if the fluid milk products are not classified and priced under any Federal order.

(h) Assign to Class II milk the receipts of fluid milk products from plants located within one of the New England States or in zone 40 or a nearer zone, except receipts assigned under paragraph (f) of this section and receipts that are classified and priced under any Federal order.

§ 1001.46 Special assignments at pool distributing plants.

(a) At pool distributing plants, assign to Class II milk, to the extent of the remaining pounds in that class, the receipts of bulk fluid milk products from each regulated plant or handler under another Federal order, if both the shipper and the operator of the receiving plant have requested such Class II classification and assignment.

(b) At pool distributing plants, assign in the manner provided in paragraph (b) (1) and (2) of this section any remaining receipts of bulk fluid milk products from each regulated plant or handler under another Federal order, if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this order.

(1) Assign such receipts to Class I milk and Class II milk in proportion to the estimated percentages of skim milk and butterfat, respectively, in each class in producer milk of all handlers for the month as announced under § 1001.43, or in proportion to the remaining pounds of skim milk and butterfat, respectively, in each class at all of the handler's pool plants, whichever procedure results in the greater quantity of skim milk and butterfat combined in such receipts being assigned to Class II milk.

(2) The quantity assigned to Class II milk under this paragraph shall not exceed the quantity of Class II milk remaining at all of the handler's pool plants. Any remaining receipts shall be assigned to Class I milk.

(c) If the quantity to be assigned to a class under paragraph (b) of this section exceeds the quantity remaining in that class at the pool distributing plant,

the remaining quantity shall be increased to the quantity to be assigned to that class and the remaining quantity in that class at the handler's other pool plants shall be decreased to the same extent, in sequence beginning with the plant in the zone nearest to Boston. The quantity remaining in the other class thereupon shall be decreased correspondingly at the pool distributing plant and shall be increased correspondingly at the other pool plants involved in the adjustment.

(d) The quantities assigned under this section shall be limited to the excess of the receipts from a plant over the quantities of bulk fluid milk products moved to that plant from the pool distributing plant.

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) At pool distributing plants that have received bulk fluid milk products from pool plants located outside the nearby plant zone, assign to Class II milk a quantity of receipts from producers and cooperative associations in their capacity as handlers under § 1001.9 (d) equal to 6 percent of the plant's Class I route disposition or the remaining Class II milk at the plant, whichever is less.

(b) Assign to Class I milk the receipts of milk from producers and cooperative associations in their capacity as handlers under § 1001.9(d) that have not been previously assigned.

(c) Assign to Class I milk the receipts of bulk fluid milk products from other pool plants.

(d) At pool distributing plants, assign to Class I milk the receipts from plants located outside the New England States and beyond zone 40 of pool milk other than producer milk, if the fluid milk products received are not classified and priced under any Federal order.

(e) At pool plants other than pool distributing plants, assign to Class I milk the receipts of bulk fluid milk products from each regulated plant or handler under another Federal order, if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this order.

(f) Assign to Class II milk any receipts of fluid milk products not previously assigned.

§ 1001.48 Market administrator's report concerning classification.

Whenever required for the purpose of assigning receipts from a regulated plant or handler under another Federal order under § 1001.46(b), the market administrator shall publicly announce his estimate of 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.

Class Prices

§ 1001.50 Class prices.

The class prices per hundredweight of milk for the month at plants located in zone 21 shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.58.

(b) *Class II price.* Subject to the adjustment set forth below for the applicable month, the Class II price shall be the basic formula price for the month.

Month:	*Amount*
January	+$0.03
February	+.02
March	−.05
April	−.09
May	−.12
June	−.11
July	+.03
August	+.10
September	+.06
October	+.06
November	+.06
December	+.06

§ 1001.51 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.

§ 1001.52 Plant location adjustments.

The class prices and blended prices computed under §§ 1001.50 and 1001.61 shall be subject to plant location adjustments based upon the zone locations of plants. The zone location of any plant and the location adjustments applicable to each zone location shall be determined as specified in this section.

(a) Each plant that is located in the States of Connecticut, Massachusetts (except Berkshire County), or Rhode Island shall be in the "nearby plant" zone.

(b) The zone location of each plant that is outside the "nearby plant" zone shall be based upon its highway mileage distance to Boston, Massachusetts, as determined by use of Mileage Guide No. 10, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Virginia. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate state road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the state in which the road is located.

(c) The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point; and

(2) For each of these key points, add to the result in paragraph (c)(1) of this section the mileage between the key point and the named point, measured to the greatest extent possible over roads designated as principal roads.

(d) Notwithstanding the provisions of paragraphs (b) and (c) of this section, for any named point located in New England and New York State, determine the highway mileage distance between Boston and the named point by use of the appropriate state maps contained in Mileage Guide No. 7, issued by Household Goods Carriers' Bureau, Agent, Arlington, Virginia. Such distance shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the state in which the road is located. The mileage so determined, or the mileage determined under paragraphs (b) and (c) of this section, whichever is less, shall be considered to be the lowest highway mileage distance between Boston and the named point.

(e) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location adjustments for determination of zone price

Distance to Boston (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)	Class II price adjustments (cents per hundredweight)
Various	Nearby plant.	+40.0	+5.8
31 to 40	4	+36.4	+4.5
41 to 50	5	+35.2	+4.2
51 to 60	6	+34.0	+4.0
61 to 70	7	+32.8	+3.7
71 to 80	8	+31.6	+3.5
81 to 90	9	+30.4	+3.2
91 to 100	10	+29.2	+3.0
101 to 110	11	+28.0	+2.9
111 to 120	12	+26.8	+2.6
121 to 130	13	+25.6	+2.4
131 to 140	14	+24.4	+2.1
141 to 150	15	+7.2	+1.6
151 to 160	16	+6.0	+1.3
161 to 170	17	+4.8	+1.2
171 to 180	18	+3.6	+.6
181 to 190	19	+2.4	+.4
191 to 200	20	+1.2	+.1
201 to 210	21	0	0
211 to 220	22	−1.0	−.6
221 to 230	23	−2.0	−.7
231 to 240	24	−3.0	−.9
241 to 250	25	−4.9	−.9
251 to 260	26	−5.0	−1.2
261 to 270	27	−6.0	−1.3
271 to 280	28	−7.0	−1.5
281 to 290	29	−8.0	−1.6
291 to 300	30	−9.0	−1.8
301 to 310	31	−10.0	−2.3
311 to 320	32	−11.0	−2.4
321 to 330	33	−12.0	−2.5
331 to 340	34	−13.0	−2.8
341 to 350	35	−14.0	−2.8
351 to 360	36	−15.0	−3.0
361 to 370	37	−16.0	−3.1
371 to 380	38	−17.0	−3.3
381 to 390	39	−18.0	−3.4
391 to 400	40	−19.0	−3.5
401 and over	41 and over	(1)	−3.5

[1] Class I and blended price location adjustments applicable to plants located more than 400 miles from Boston shall be obtained by extending the table at the rate of 1 cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in the same one.

§ 1001.53 Determination of applicable zone locations for pricing purposes.

In computing the value of fluid milk products at class prices under § 1001.60, the handlers' producer-settlement fund debits and credits under § 1001.71, the minimum amounts payable to producers under § 1001.73, and the minimum amounts payable to cooperative associations under § 1001.74, the location adjustments specified in § 1001.52 for the zone location of the plant for which the computation is being made shall be used except that for the following items the adjustments for the zone locations specified shall be used:

(a) For producer milk diverted by any handler, including a cooperative association in its capacity as a handler under § 1001.9(d), the zone location of the plant to which the milk was diverted;

(b) For producer milk of a cooperative association in its capacity as a handler under § 1001.9(d) moved to a pool plant, the zone location of the plant to which the milk was moved;

(c) For milk of a cooperative association in its capacity as a handler under § 1001.9(d) in shrinkage, overage, extraordinary loss, and ending inventory, the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of such milk of the cooperative association was moved during the current month or the most recent month;

(d) For beginning inventory of a cooperative association in its capacity as a handler under § 1001.9(d), the zone location at which the milk was priced as ending inventory during the previous month;

(e) For receipts of pool milk other than producer milk from plants, the zone location of the plant from which it was received;

(f) For receipts assigned to Class I milk under §§ 1001.45 (e) and (f) and 1001.47 (f), the zone location of the plant from which the product was received; and

(g) For any excess of beginning inventory assigned to Class I milk under § 1001.45(d) over the quantities of producer milk and of milk from cooperative associations in their capacity as handlers under § 1001.9(d) assigned to Class II milk in the preceding month, the zone location of the pool plants from which an equivalent quantity of receipts of fluid milk products were assigned to Class II milk in the preceding month in sequence beginning with the plant in the zone nearest to Boston.

§ 1001.54 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 price for the preceding month.

§ 1001.55 Equivalent price.

If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the price that is specified.

Blended Price

§ 1001.60 Computation of value of fluid milk products at class prices.

For each month, the market administrator shall compute, as specified in this section, the value of fluid milk products at class prices, at each plant other than the plant of a producer-handler under any Federal order, and of the fluid milk products of each cooperative association in its capacity as a handler under § 1001.9 (d) which were not moved to a pool plant. The prices used shall be those for the applicable zone locations as determined under § 1001.53.

(a) Multiply by the applicable class prices the quantities of:

(1) Producer milk assigned under § 1001.47 (a) and (b) except that for any cooperative association in its capacity as a handler under § 1001.9(d) the quantity of producer milk shall be reduced by the total quantity of milk moved to pool plants during the month, to the limit of the quantity of producer milk;

(2) Pool milk other than producer milk assigned under §§ 1001.45 (g) and (h) and 1001.47(d); and

(3) Milk received at a pool plant from a cooperative association in its capacity as a handler under § 1001.9(d) and assigned under § 1001.47 (a) and (b).

(b) Multiply by the applicable Class I prices the quantities of:

(1) Product assigned to Class I milk under §§ 1001.44(d) and 1001.45(a) through (c);

(2) Product assigned to Class I milk under § 1001.45(d), except that for any cooperative association in its capacity as a handler under § 1001.9(d) the quantity shall be reduced by the quantity of any excess of milk moved to pool plants during the month over the quantity of producer milk, to the limit of the quantity assigned to Class I milk under § 1001.45 (d);

(3) Product assigned to Class I milk under §§ 1001.45(e) and (f) and 1001.47 (f); and

(4) Filled milk not proved to have been made from other fresh fluid milk products assigned to Class I milk under § 1001.45(g) and (h).

(c) If the total quantity of skim milk or butterfat classified as Class I milk or Class II milk under §§ 1001.40 through 1001.42 exceeds the total quantity of skim milk or butterfat, respectively, assigned to that class under §§ 1001.43 through 1001.47, multiply the excess (overage) by the applicable class price, adjusted by the butterfat differential.

(d) Multiply by the applicable Class I price the quantities of:

(1) Pool milk distributed as route disposition in the marketing area from the handler's nonpool plant; and

(2) Filled milk distributed as route disposition in the marketing area from the handler's nonpool plant which is excluded from pool milk only because it is not proved to have been made from other fresh fluid milk products.

(e) Multiply by the applicable Class II prices the quantities of:

(1) Product assigned to Class I milk under § 1001.45(a) through (c);

(2) Product assigned to Class I milk under §§ 1001.45(e) and (f) and 1001.47 (f); and

(3) Product for which a value is determined under paragraphs (b)(4) and (d)(2) of this section.

(f) Multiply by the applicable Class I price for the preceding month the product assigned to Class I milk under § 1001.44(d).

(g) Multiply by the applicable Class II price for the preceding month the quantity of product for which a value is determined under paragraph (b)(2) of this section.

(h) For any cooperative association in its capacity as a handler under § 1001.9 (d), multiply by the applicable Class II price for the preceding month the quantity of any excess of milk moved to pool plants during the month over the quantity of producer milk, to the limit of the quantity of milk in its inventory at the beginning of the month.

(i) Add together the amounts obtained under paragraphs (a) through (d) of this section and subtract therefrom the

sum of the amounts obtained under paragraphs (e) through (h) of this section.

§ 1001.61 Computation of basic blended price.

The basic blended price per hundredweight of pool milk containing 3.5 percent butterfat, applicable to plants located in zone 21, shall be computed for each month as specified in this section.

(a) Combine into one total the respective values of fluid milk products at class prices computed under § 1001.60 for each handler from whom the market administrator has received at his office prior to the 11th day after the end of the month the reports for the month prescribed in § 1001.30 and the payment for the preceding month required under § 1001.72(a).

(b) Deduct the amount of the plus adjustments, and add the amount of the minus adjustments, that are applicable under §§ 1001.52 and 1001.53.

(c) Subtract for each of the months of March, April, May, and June an amount computed by multiplying the total hundredweight of pool milk included in these computations by 20 cents in March, 30 cents in April, and 40 cents in May and June.

(d) Add for the months of August, September, and October an amount representing 25 percent, 30 percent, and 30 percent, respectively, of the aggregate amount subtracted under paragraph (c) of this section for the prior period of March–June, and for November add the remainder of the amount subtracted under such paragraph (c) and the interest earned on the aggregate fund.

(e) Add an amount equal to not less than one-half of the unobligated balance of the producer-settlement fund as at the close of business on the 10th day after the end of the month.

(f) Divide the resulting amount by the total hundredweight of pool milk for which a value is included under paragraph (a) of this section.

(g) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer-settlement fund.

§ 1001.62 Announcement of blended prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the zone blended prices resulting from the adjustment of the basic blended price for such month, as computed under § 1001.61, by the location adjustments set forth in § 1001.52.

Payments for Milk

§ 1001.70 Producer-settlement fund.

(a) The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund." He shall deposit into the fund all amounts received from handlers under §§ 1001.72, 1001.77, and 1001.78 and the amount subtracted under § 1001.61(c). He shall pay from the fund all amounts due handlers under §§ 1001.72, 1001.77, and 1001.78 and the amount added under § 1001.61(d), subject to his right to offset any amounts due from the handler under these sections and under §§ 1001.85 and 1001.86.

(b) All amounts subtracted under § 1001.61(c), including interest earned thereon, shall remain in the producer-settlement fund as an obligated balance until it is withdrawn for the purpose of effectuating § 1001.61(d).

(c) The market administrator shall place all monies subtracted under § 1001.61(c) in an interest-bearing bank account or accounts in a bank or banks duly approved as a Federal depository for such monies, or invest them in short-term U.S. Government securities.

§ 1001.71 Handlers' producer-settlement fund debits and credits.

On or before the 15th day after the end of the month, the market administrator shall render a statement to each handler showing the amount of the handler's producer-settlement fund debit or credit, as calculated in this section.

(a) The producer-settlement fund debit or credit for each plant and each cooperative association in its capacity as a handler under § 1001.9(d) shall be computed as specified in this paragraph.

(1) Multiply the quantities of pool milk and the quantities of fluid milk products received at the pool plant from cooperative associations in their capacity as handlers under § 1001.9(d) by the basic blended price computed under § 1001.61 adjusted by any location adjustments applicable under §§ 1001.52 and 1001.53.

(2) For any cooperative association in its capacity as a handler under § 1001.9(d), multiply the quantities of milk moved to each pool plant by the basic blended price computed under § 1001.61 adjusted by any location adjustments applicable under §§ 1001.52 and 1001.53; and to the result add the value determined under § 1001.60.

(3) If the value of fluid milk products, as determined under § 1001.60 for any plant, or as determined under paragraph (a)(2) of this section for any cooperative association in its capacity as a handler under § 1001.9(d), is greater than the credit as determined under paragraph (a)(1) of this section, the difference shall be the producer-settlement fund debit for the plant or the cooperative association in its capacity as a handler under § 1001.9(d).

(4) If the value of fluid milk products, as determined under § 1001.60 for any plant, or as determined under paragraph (a)(2) of this section for any cooperative association in its capacity as a handler under § 1001.9(d), is less than the credit as determined under paragraph (a)(1) of this section, the difference shall be the producer-settlement fund credit for the plant or the cooperative association in its capacity as a handler under § 1001.9(d).

(b) The producer-settlement fund debit or credit of any handler shall be the net of the producer-settlement fund debits and credits as computed for all of its operations under paragraph (a) of this section.

§ 1001.72 Payments to and from the producer-settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall pay to the market administrator the handler's producer-settlement fund debit for the month as determined under § 1001.71.

(b) On or before the 20th day after the end of the month, the market administrator shall pay to each handler the handler's producer-settlement fund credit for the month as determined under § 1001.71. If the unobligated balance in the producer-settlement fund is insufficient to make such payments, the market administrator shall reduce uniformly such payments and shall complete them as soon as the funds are available.

§ 1001.73 Payments to producers.

(a) On or before the 5th day after the end of the month, each handler shall pay each producer for milk received from him during the first 15 days of the month at a rate that is not less than the zone 21 Class II price for the preceding month.

(b) On or before the 20th day after the end of the month, each handler shall make final payment to each producer for the total value of milk received from him during the month at not less than the basic blended price per hundredweight computed under § 1001.61, adjusted by the location adjustment applicable under §§ 1001.52 and 1001.53 and the butterfat differential applicable under § 1001.76, minus the amount of the payment made to the producer under paragraph (a) of this section. If the handler has not received full payment from the market administrator under § 1001.72(b) by the date payments are due under this paragraph, he may reduce pro rata his payments to producers by an amount not to exceed such underpayment. Such payments shall be completed after receipt of the balance due from the market administrator by the next following date for making payments under this paragraph.

(c) If the handler's net payment to a producer is for an amount less than the total amount due the producer under this section, the burden shall rest upon the handler to prove to the market administrator that each deduction from the total amount due is properly authorized and properly chargeable to the producer.

(d) In making payment to producers under paragraph (b) of this section for milk diverted from a pool plant to a plant at which a lower blended price would apply under this order, the handler may elect to pay such producers at the price applicable at the zone location of the plant from which the milk was diverted, if the resulting net payment to each producer is not less than that otherwise required under this section and the rate of payment and the deductions shown on the statement required to be furnished under § 1001.75 are those used in computing the payment.

§ 1001.74 Payments to cooperative associations.

(a) Each cooperative association may file with a handler who is not a cooperative association a claim either for the payments that the handler is required to make to the association's producer members under §1001.73 or for authorized deductions from such payments. The claim shall contain a list of the producers to whom the payments are due or to whom the deductions apply, an agreement to indemnify the handler in the making of such payments or deductions, and a certification that the association has for each producer listed an unterminated membership contract authorizing the payment or deduction.

(b) The handler shall withhold from the association's producer members the payments or the deductions specified in paragraph (a) of this section in accordance with the association's claim. He shall pay the amounts withheld to the association on or before the dates on which such amounts otherwise would have been due to the producer members under § 1001.73.

(c) For each producer member from whom payment was withheld, the handler shall furnish the association a supporting statement showing the information required to be furnished to the producer under § 1001.75. Such information with respect to milk received during the first 15 days of the month shall be furnished not later than the 27th day of the month and with respect to milk received during the remainder of the month not later than the 12th day of the following month. For each producer member from whom a deduction is made under this section, the handler shall furnish the association a statement showing the pounds of milk received.

(d) Each handler who receives fluid milk products at his plant from a cooperative association in its capacity as the operator of a pool plant or in its capacity as a handler under § 1001.9(d) shall make payment to the association for such receipts as follows:

(1) On or before the 5th day after the end of the month, for the fluid milk products received from the association during the first 15 days of the month at a rate that is not less than the zone 21 Class II price for the preceding month. The payment made to the association under this subparagraph shall constitute partial payment of the total amount required to be paid under this paragraph.

(2) On or before the 20th day after the end of the month, for not less than the total value of fluid milk products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under §§ 1001.44 and 1001.47 by the class price for the month, adjusted by the location adjustments applicable under §§ 1001.52 and 1001.53 and the butterfat differential applicable under § 1001.76, minus the amount of the payment made to the association under paragraph (d)(1) of this section.

(3) On or before the 20th day after the end of the month, for not less than the total value of milk received from the cooperative association in its capacity as a handler under § 1001.9(d), at the basic blended price per hundredweight for the month computed under § 1001.61, adjusted by the location adjustment applicable under §§ 1001.52 and 1001.53 and the butterfat differential applicable under § 1001.76, minus the amount of the payment made to the association under paragraph (d)(1) of this section. If the handler has not received full payment from the market administrator under § 1001.72(b) by the date payment is due under this subparagraph, he may reduce his payment to the association by an amount not to exceed such underpayment. Such payment shall be completed after receipt of the balance due from the market administrator by the next following date for making payment under this subparagraph.

§ 1001.75 Statements to producers.

In making the payments to producers required under § 1001.73, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The pounds and butterfat test of milk that is received from the producer, or if more than one minimum rate of payment is applicable to the producer's milk under § 1001.73, the respective pounds and test to which each minimum rate of payment applies;

(c) The minimum rate or rates, including the butterfat differential, at which payment to the producer is required under § 1001.73;

(d) The rate that is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 1001.74 and 1001.86, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

§ 1001.76 Butterfat differential.

(a) In making the payments to producers required under § 1001.73 and the payments to cooperative associations required under § 1001.74(d), each handler shall add for each one-tenth of one percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of one percent of average butterfat content below 3.5 percent, as a butterfat differential, an amount per hundredweight that shall be computed by the market administrator under paragraph (b) of this section.

(b) Multiply by 0.115 and round to the nearest one-tenth cent the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department for the month.

§ 1001.77 Adjustment of accounts.

(a) Whenever the market administrator's verification of a handler's reports or payments discloses an error in payments to or from the market administrator under §§ 1001.72, 1001.85, or 1001.86, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period beginning with the 11th day of the prior month and ending with the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during that period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever the market administrator's verification of a handler's payments discloses payment to a producer or a cooperative association of an amount less than is required by §§ 1001.73 and 1001.74, the handler shall make payment of the balance due the producer or the cooperative association not later than the 20th day after the end of the month in which the handler is notified of the deficiency.

§ 1001.78 Charges on overdue accounts.

Any producer-settlement fund account balance due from or to a handler under §§ 1001.72, 1001.77, or 1001.78, for which remittance has not been received in or paid from the market administrator's office by the close of business on the 20th day of any month, shall be increased one percent effective the following day. Any remittance received by the market administrator after the 20th day of any month in an envelope that is postmarked not later than the 18th day of the month shall be considered to have been received by the 20th day of that month.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1001.85 Assessment for order administration.

On or before the 18th day after the end of the month, each handler shall pay to the market administrator his pro rata share of the expense of administration of this order. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may prescribe. The payment shall apply to:

(a) All of a handler's receipts at pool plants during the month of fluid milk products from all sources, except receipts from pool plants, receipts from regulated plants or pool bulk tank units under other Federal orders if such receipts were subject to an administrative expense assessment under the other order, and receipts of exempt milk processed at plants other than pool plants;

(b) All receipts and beginning inventory of a cooperative association in its capacity as a handler under § 1001.9(d) for the month less its disposition to pool plants and ending inventory for the month; and

(c) The quantity distributed as route disposition in the marketing area from a handler's nonpool plant for which a value is determined under § 1001.60(d).

§ 1001.86 Deduction for marketing services.

(a) In making the payments required by § 1001.73 to producers, other than himself and any producer who is a member of a cooperative association that the Secretary determines is performing the services specified in this section, each handler shall deduct 3 cents per hundredweight, or such lesser rate as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator or or before the 18th day after the end of the month.

(b) The market administrator shall expend amounts received under paragraph (a) of this section only in providing for market information to such producers and for verification of weights, samples, and tests of milk received from them. The market administrator may contract with a cooperative association for the furnishing of the whole or any part of these services.

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

Effective date: April 1, 1976.

Signed at Washington, D.C., on February 23, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-5495 Filed 2-25-76;8:45 am]

[Milk Order No. 2; Docket No. AO-71-A70]

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

§ 1002.14 [Amended]

1. In § 1002.14, paragraph (b) is revoked.

2. In § 1002.28, paragraph (f) is revised as follows:

§ 1002.28 Temporary pool plants.

* * * * *

(f) A plant shall not be a pool plant on the basis of this section for the periods and under the conditions set forth in subparagraphs (1) and (2) of this paragraph:

(1) If the pool plant designation was canceled on the first of August, September, October, or November pursuant to § 1002.27(a), for the period through November 30 except as specified in paragraph (e) of this section.

(2) If the pool plant designation was canceled pursuant to § 1002.27 for failure to meet the requirements of § 1002.26 (a), for the period from the date the cancellation was effective through the following June 30.

(3) [Revoked]

* * * * *

§ 1002.29 [Amended]

3. In § 1002.29, the proviso of paragraph (a) is revoked.

§ 1002.45 [Amended]

4. In § 1002.45(a), subparagraph (9) is revoked.

5. In § 1002.45(a)(12), the reference "(9)" is revoked.

§ 1002.50a [Amended]

6. In § 1002.50a, the reference "1002.-52" in the introductory text is revoked.

§ 1002.52 [Removed]

7. Section 1002.52 is revoked.

§ 1002.70 [Amended]

8. In § 1002.70(d), the reference "(6)" in the introductory text is changed to "(4)" and subparagraph (5) is revoked.

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

Effective date: April 1, 1976.

Signed at Washington, D.C., on February 23, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-5496 Filed 2-25-76;8:45 am]

[Milk Order No. 94; Docket No. AO-103-A38]

PART 1094—MILK IN THE NEW ORLEANS, LOUISIANA, MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New Orleans, Louisiana, marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and

other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1094.85.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New Orleans-Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1094.1 General provisions.

DEFINITIONS

1094.2 New Orleans-Mississippi marketing area.
1094.3 Route disposition.
1094.4 [Reserved]
1094.5 [Reserved]
1094.6 [Reserved]
1094.7 Pool plant.
1094.8 Nonpool plant.
1094.9 Handler.
1094.10 Producer-handler.
1094.11 [Reserved]
1094.12 Producer.
1094.13 Producer milk.
1094.14 Other source milk.
1094.15 Fluid milk product.
1094.16 Fluid cream product.
1094.17 Filled milk.
1094.18 Cooperative association.

HANDLER REPORTS

1094.30 Reports of receipts and utilization.
1094.31 Payroll reports.
1094.32 Other reports.

CLASSIFICATION OF MILK

1094.40 Classes of utilization.
1094.41 Shrinkage.
1094.42 Classification of transfers and diversions.
1094.43 General classification rules.
1094.44 Classification of producer milk.
1094.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1094.50 Class prices.
1094.51 Basic formula price.
1094.52 Plant location adjustments for handlers.
1094.53 Announcement of class prices.
1094.54 Equivalent price.

UNIFORM PRICE

1094.60 Handler's value of milk for computing uniform price.
1094.61 Computation of uniform price.
1094.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1094.70 Producer-settlement fund.
1094.71 Payments to the producer-settlement fund.
1094.72 Payments from the producer-settlement fund.
1094.73 Payments to producers and to cooperative associations.
1094.74 Butterfat differential.
1094.75 Plant location adjustments for producers and on nonpool milk.
1094.76 Payments by handler operating a partially regulated distributing plant.
1094.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1094.85 Assessment for order administration.
1094.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1094 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674.)

GENERAL PROVISIONS

§ 1094.1 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

§ 1094.2 New Orleans-Mississippi marketing area.

The "New Orleans-Mississippi marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Louisiana parishes and Mississippi counties, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties and parishes:

ZONE 1

Louisiana Parishes

Jefferson.
Lafourche.
Orleans.
Plaquemines.
St. Bernard.
St. Charles.
Terrebonne.

ZONE 2

Louisiana Parishes

St. Tammany.
Tangipahoa.
Washington.

Mississippi Counties

George.
Hancock.
Harrison.
Jackson.
Pearl River.
Stone.

ZONE 3

Mississippi Counties

Adams.
Amite.
Claiborne.
Clarke.
Copiah.
Covington.
Forrest.
Franklin.
Greene.
Hinds.
Issaquena.
Jasper.
Jefferson.
Jefferson Davis.
Jones.
Kemper.
Lamar.
Lauderdale.
Lawrence.
Leake.
Lincoln.
Madison.
Marion.
Neshoba.
Newton.
Perry.
Pike.
Rankin.
Scott.
Sharkey.
Simpson.
Smith.
Walthall.
Warren.
Wayne.
Wilkinson.
Yazoo.

ZONE 4

Mississippi Counties

Attala.
Bolivar.
Carroll.
Choctaw.
Holmes.
Humphreys.
Leflore.
Lowndes.
Montgomery.
Noxubee.
Oktibbeha.
Sunflower.
Washington.
Webster.
Winston.

ZONE 5

Mississippi Counties

Calhoun.
Coahoma.
Grenada.
Quitman.
Tallahatchie.
Yalobusha.

§ 1094.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a milk processing plant to wholesale or retail outlets (including any delivery by a vendor and from a plant store or through a vending machine) other than a delivery to any milk or filled milk receiving and/or processing plant.

§ 1094.4 [Reserved]

§ 1094.5 [Reserved]

§ 1094.6 [Reserved]

§ 1094.7 Pool plant.

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

(a) Any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which during the month:

(1) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1,500 pounds or 10 percent of receipts from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), handlers described in § 1094.9(c), and other plants; and

(2) Total route disposition, except filled milk, is 50 percent or more of receipts from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), handlers described in § 1094.9(c), and other plants.

(b) Any plant, other than a plant described in paragraph (a) of this section, at which milk eligible for distribution in the marketing area under a Grade A label is received and from which during the month not less than 45 percent of the Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), and handlers described in § 1094.9(c) is shipped to and received at plants qualifying for the month pursuant to paragraph (a) of this section. Any plant meeting such shipping standard for each of the months of August through November shall continue to be a pool plant the following months of December through July unless the operator notifies the market administrator in writing before the first day of any such month of his intent to withdraw such plant as a plant qualified under this paragraph, in which case such plant thereafter shall be a nonpool plant except in any month it meets the above 45 percent shipping standard.

(c) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and 50 percent or more of the producer milk of members of the cooperative association is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool status under this paragraph has been requested, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area.

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

(1) A producer-handler plant;

(2) A governmental agency plant;

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

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part or such plant has automatic pooling status under such other order. This paragraph shall not apply during the months of December through July to a plant that retains automatic pooling status under this part.

§ 1094.8 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, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

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

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1094.9 Handler.

"Handler" means:

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

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with § 1094.13;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another person in a tank truck owned and operated by, under contract to, or under the control of such association (unless the association and the person operating the pool plant both notify the market administrator, in writing, prior to the time of delivery that the pool 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). For purposes of pricing, such milk shall be deemed to have been received by the association from producers at the location of the pool plant at which such milk is physically received;

(d) Any person who operates a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person who operates an other order plant described in § 1094.7(d).

§ 1094.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production, pool plants and other order plants;

(c) Whose receipts of fluid milk products during the month from pool plants and other order plants do not exceed a daily average of 1,500 pounds;

(d) Who disposes of no other source milk as Class I milk except receipts from other order plants and by increasing the nonfat milk solids content of the fluid milk products received from his own farm production, pool plants, or other order plants; and

(e) Who provides 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.

§ 1094.11 [Reserved]

§ 1094.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory

agency, which is received at a pool plant or by a handler described in § 1094.9(c) or is diverted pursuant to § 1094.13.

(b) "Producer" shall not include:

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

(2) A governmental agency that operates a plant exempt pursuant to § 1094.8(e);

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1094.44(a)(8)(iii) and the corresponding step of § 1094.44(b); and

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

§ 1094.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer;

(b) Received by a handler described in § 1094.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the 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 § 1094.9(c), is the handler for such milk;

(d) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(e) Diverted by the operator of a pool plant or a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) During December through July such diversions may be made without limit;

(2) During August through November such diversions shall be limited to the amounts specified in paragraph (e)(2)(i), (ii), and (iii) of this section:

(i) A cooperative association may divert the milk of any producer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of the cooperative's total producer milk during that month;

(ii) The operator of a pool plant may divert from such plant the milk of any eligible nonmember dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of his nonmember producer milk during that month; and

(iii) If the 35 percent limitation described in paragraph (e)(2)(i) and (ii) of this section is exceeded, the diversion of any eligible dairy farmer's milk shall be limited to 15 days' production during any such month. If this 15-day limitation is exceeded for any such dairy farmer, he shall be eligible for pooling only with respect to that milk physically received at pool plants during the month;

(3) Diverted milk shall be deemed to have been received at the location of the plant to which diverted; and

(4) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk.

§ 1094.14 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 § 1094.40(b)(1) from any source other than producers, handlers described in § 1094.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1094.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1094.40(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 § 1094.40(b)(1)) for which the handler fails to establish a disposition.

§ 1094.15 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.

§ 1094.16 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.

§ 1094.17 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).

§ 1094.18 Cooperative association.

Cooperative association means any cooperative association of producers which the Secretary determines:

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

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

§ 1094.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month (if postmarked), or not later than the 7th day if the report is delivered in person to the office of the market administrator, 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 § 1094.9(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 § 1094.40(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 § 1094.9 (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.

§ 1094.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1094.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

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

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

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

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1094.76 (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.

§ 1094.32 Other reports.

(a) Each handler who operates an other order plant with route disposition in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1094.30 and 1094.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1094.40 Classes of utilization.

Except as provided in § 1094.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1094.30 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 plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole 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, dry curd cottage cheese, and Creole 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 § 1094.15; and

(6) In shrinkage assigned pursuant to § 1094.41(a) to the receipts specified in § 1094.41(a)(2) and in shrinkage specified in § 1094.41 (b) and (c).

§ 1094.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1094.30, 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 § 1094.9(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 § 1094.9 (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.

§ 1094.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool 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 another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions 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 or divertee-plant after the computations pursuant to § 1094.44 (a) (12) and the corresponding step of § 1094.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1094.44(a) (7) or the corresponding step of § 1094.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1094.44(a) (11) or (12) or the corresponding steps of § 1094.44(b), the skim milk or butterfat so transferred or diverted, 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 or divertee-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 § 1094.40.

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

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

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

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

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

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

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

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1094.30 for the month within which such transaction occurred; and

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

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

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

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

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

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

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

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

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

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

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

(*a*) To such nonpool plant's receipts from dairy farmers who the market ad-

ministrator 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 handler described in § 1094.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1094.9(c) to another handler's pool plant shall be classified pursuant to § 1094.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1094.43 General classification rules.

In determining the classification of producer milk pursuant to § 1094.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1094.30 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 § 1094.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk or butterfat, respectively, in each class in accordance with §§ 1094.40, 1094.41, and 1094.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1094.9 (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; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1094.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1094.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1094.9(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 § 1094.41 (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 § 1094.40(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 § 1094.40(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 § 1094.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1094.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this subsection;

(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 paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to 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 § 1094.9(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 § 1094.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

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

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to 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 paragraph (a)(12) (ii), (iii), and (iv) of this section such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined, being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1094.45(a); or

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

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

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

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

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1094.42(a); and

(14) If the total of skim milk remaining in all classes exceeds the pounds of skim milk in producer milk and milk received from a handler described in § 1094.9(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 § 1094.9(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.

§ 1094.45 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 § 1094.44(a)(12) and the corresponding step of § 1094.44(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 § 1094.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

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

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1094.50 Class prices.

Subject to the provisions of § 1094.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

(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.

§ 1094.51 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.

§ 1094.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1094.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1094.50(a) shall be adjusted by the amount stated in paragraph (a)(1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1094.2 the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	Minus 18 cents.
Zone 3	Minus 40 cents.
Zone 4	Minus 55 cents.
Zone 5	Minus 65 cents.

(2) For a plant located in any of the following Louisiana parishes, the adjustment shall be as follows:

(i) No adjustment.

Acadia.	Lafayette.
Ascension.	Pointe Coupee.
Assumption.	St. James.
Calcasieu.	St. John the Baptist.
Cameron.	St. Landry.
East Baton Rouge,	St. Martin.
Iberia.	St. Mary.
Iberville.	Vermilion.
Jefferson Davis,	West Baton Rouge.

(ii) Minus 19 cents.

Allen.	Livingston.
Avoyelles.	Rapides.
Beauregard.	St. Helena.
East Feliciana.	Vernon.
Evangeline.	West Feliciana.

(iii) Minus 38 cents.

Bienville.	Lincoln.
Bossier.	Madison.
Caddo.	Morehouse.
Caldwell.	Natchitoches.
Catahoula.	Ouachita.
Claiborne.	Red River.
Concordia.	Richland.
De Soto.	Sabine.
East Carroll.	Tensas.
Franklin.	Union.
Grant.	Webster.
Jackson.	West Carroll.
La Salle.	Winn.

(3) For a plant located in the State of Mississippi outside the marketing area the adjustment shall be minus 65 cents;

(4) For a plant located in the State of Alabama, or in Escambia or Santa Rosa County, Florida, the adjustment shall be the adjustment applicable at Columbus, Meridian, Pascagoula or Tupelo, Mississippi, whichever city is nearest; and

(5) For a plant located outside the areas described in paragraph (a)(1) through (4) of this section and more than 150 miles by shortest highway distance, as determined by the market administrator, from the City Hall in New Orleans, Louisiana, the adjustment shall be minus 45 cents per hundredweight. Such minus adjustment to be increased 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located in excess of 160 miles from the New Orleans City Hall.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1094.44(a)(12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1094.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to §1094.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each han-

dler according to the shortest highway distance between such plant and the City Hall in New Orleans, Louisiana. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

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

§ 1094.53 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.

§ 1094.54 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

§ 1094.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1094.9 (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 § 1094.9(c) that were classified in each class pursuant to §§ 1094.43 (a) and 1094.44(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 § 1094.44(a)(14) and the corresponding step of § 1094.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1094.74, 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 § 1094.44 (a)(9) and the corresponding step of § 1094.44(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 § 1094.44(a)(7) (i) through (iv) and the corresponding step of § 1094.44 (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 § 1094.44(a)(7) (v) and (vi) and the corresponding step of § 1094.44(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 § 1094.44 (a)(11) and the corresponding step of § 1094.44(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 § 1094.9(c) the amount obtained from multiplying the Class III price for the preceding month, as adjusted by the butterfat differential specified in § 1094.74, 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.

§ 1094.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.60 except those of handlers who failed to make payments required pursuant to § 1094.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1094.75;

(c) Add not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the amount computed pursuant to paragraphs (a) through (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1094.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

§ 1094.62 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

§ 1094.70 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 §§ 1094.71, 1094.76, and 1094.77, and out of which he shall make all payments pursuant to §§ 1094.72 and 1094.77; *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1094.71 Payments to the producer-settlement fund.

(a) On or before the 12th 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 § 1094.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1094.75, of such handler's receipts of producer milk and milk received from a handler described in § 1094.9(c), less in the case of a handler described in § 1094.9(c) the amount due from other handlers pursuant to § 1094.73(e), exclusive of the butterfat differential specified in § 1094.74; 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 § 1094.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more 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 disposi-

tion 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.

§ 1094.72 Payments from the producer-settlement fund.

On or before the 13th 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 § 1094.71(a)(2) exceeds the amount computed pursuant to § 1094.71(a)(1). If at such time 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 appropriate funds are available.

§ 1094.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer, who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the higher of the Class III price for the preceding month, or 90 percent of the uniform price for the preceding month as adjusted pursuant to § 1094.75, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1094.86;

(iii) Plus or minus adjustments for errors made in previous payments to such producer;

(iv) Less deductions authorized in writing by such producer; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1094.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Each handler shall furnish to the producer the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer during the first 15 days of such month;

(2) On or before the 15th day of the following month (i) the pounds of milk received from the producer each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments, and (iii) the amount and nature of payments due pursuant to § 1094.77.

(c) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on the part of the association, each handler:

(1) Shall pay to the cooperative association, in lieu of payments pursuant to paragraph (a) of this section, on or before the 2nd day prior to the date on which payments are due individual producers, an amount equal to not less than the amount due such certified members as determined pursuant to paragraph (a) of this section;

(2) Report to the cooperative association on or before the 25th day of the month, the pounds of milk received from each member of the cooperative association during the first 15 days of such month and on or before the 7th day of the following month to the cooperative association for its individual members the following information: (i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments and (iii) the amount and nature of payments due pursuant to § 1094.77. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(3) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(a) as follows:

(1) On or before the 22nd day of each month an amount equal to not less than the higher of the Class III price for the preceding month, or 90 percent of the uniform price for the preceding month as adjusted pursuant to § 1094.75 for the location of the receiving handler's pool plant, multiplied by the hundredweight of milk received from the cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the receiving handler's pool plant, plus the amount due the market administrator from the cooperative association on such milk pursuant to § 1094.85, less amounts paid pursuant to paragraph (d)(1) of this section.

(e) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(c) as follows:

(1) On or before the 22nd day of each month an amount equal to not less than the higher of the Class III price for the preceding month, or 90 percent of the uniform price for the preceding month as adjusted pursuant to § 1094.75, multiplied by the hundredweight of milk received from the cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, multiplied by the hundredweight of milk so received from the cooperative association during the month, less amounts paid pursuant to paragraph (e)(1) of this section.

§ 1094.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 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.

§ 1094.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be reduced according to the location of the plant, each at the rates set forth in § 1094.52(a); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1094.52(a) applicable at the location of the nonpool plant from which the milk was received; except that the uniform price shall not be less than the Class III price.

§ 1094.76 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 §§ 1094.30(b) and 1094.31(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 § 1094.60 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 § 1094.60 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 § 1094.60 for such handler shall include, in lieu of the value of other source milk specified in § 1094.60(f) less the value of such other source milk specified in § 1094.71(a)(2)(ii), a value of milk determined pursuant to § 1094.60 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 § 1094.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1094.30(b) and 1094.31(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 § 1094.60 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 § 1094.74, 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 § 1094.74, 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.

§ 1094.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Administrative Assessment and Marketing Service Deduction

§ 1094.85 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 5 cents per hundredweight or such lesser amount as the Secretary may, from time to time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in:

(a) Producer milk (including such handler's own production) other than such receipts by a handler described in § 1094.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1094.9(c);

(c) Other source milk allocated to Class I pursuant to § 1094.44(a)(7) and (11) and the corresponding steps of § 1094.44(b), except such other source milk that is excluded from the computations pursuant to § 1094.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1904.76(a)(2).

§ 1094.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1094.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market adminis-

trator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make 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 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

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

Effective date: April 1, 1976.

Signed at Washington, D.C., on February 23, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-5497 Filed 2-25-76;8:45 am]

[Milk Order No. 96; Docket No. AO-257-A26]

PART 1096—MILK IN THE NORTHERN LOUISIANA MARKETING AREA
Order Amending Order

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northern Louisiana marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1096.85 of the attached order.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greate Louisiana marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1096.1 General provisions.

Definitions

1096.2 Greater Louisiana marketing area.
1096.3 Route disposition.
1096.4 Plant.
1096.5 [Reserved]
1096.6 [Reserved]
1096.7 Pool plant.
1096.8 Nonpool plant.
1096.9 Handler.
1096.10 Producer-handler.
1096.11 [Reserved]
1096.12 Producer.
1096.13 Producer milk.
1096.14 Other source milk.
1096.15 Fluid milk product.
1096.16 Fluid cream product.
1096.17 Filled milk.
1096.18 Cooperative association.

HANDLER REPORTS

1096.30 Reports of receipts and utilization.
1096.31 Payroll reports.
1096.32 Other reports.

CLASSIFICATION OF MILK

1096.40 Classes of utilization.
1096.41 Shrinkage.
1096.42 Classification of transfers and diversions.
1096.43 General classification rules.
1096.44 Classification of producer milk.
1096.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1096.50 Class prices.
1096.51 Basic formula price.
1096.52 Plant location adjustments for handlers.
1096.53 Announcement of class prices.
1096.54 Equivalent price.

UNIFORM PRICE

1096.60 Handler's value of milk for computing uniform price.
1096.61 Computation of uniform price.
1096.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1096.70 Producer-settlement fund.
1096.71 Payments to the producer-settlement fund.
1096.72 Payments from the producer-settlement fund.
1096.73 Payments to producers and to cooperative associations.
1096.74 Butterfat differential.
1096.75 Plant location adjustments for producers and on nonpool milk.
1096.76 Payments by handler operating a partially regulated distributing plant.
1096.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1096.85 Assessment for order administration.
1096.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1096 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1096.1 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

§ 1096.2 Greater Louisiana marketing area.

The "Greater Louisiana marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the following Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installa-

tions, institutions, or other similar establishments if any part thereof is within any of the listed parishes:

ZONE I

Bienville.	Lincoln.
Bossier.	Madison.
Caddo.	Morehouse.
Caldwell.	Natchitoches.
Catahoula.	Ouachita.
Claiborne.	Red River.
Concordia.	Richland.
De Soto.	Sabine.
East Carroll.	Tensas.
Franklin.	Union.
Grant.	Webster.
Jackson.	West Carroll.
La Salle.	Winn.

ZONE II

Allen.	Livingston.
Avoyelles.	Rapides.
Beauregard.	St. Helena.
East Feliciana.	Vernon.
Evangeline.	West Feliciana.

ZONE III

Acadia.	Lafayette.
Ascension.	Pointe Coupee.
Assumption.	St. James.
Calcasieu.	St. John the Baptist.
Cameron.	St. Landry.
East Baton Rouge.	St. Martin.
Iberia.	St. Mary.
Iberville.	Vermilion.
Jefferson Davis.	West Baton Rouge.

§ 1096.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product(s) classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to another plant.

§ 1096.4 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1096.5 [Reserved]

§ 1096.6 [Reserved]

§ 1096.7 Pool plant.

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

(a) Any plant that is approved by a duly constituted regulatory agency for the processing and/or packaging of fluid milk products eligible for distribution in the marketing area under a Grade A label and from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area of not less than 10 percent of such eligible fluid milk products; and

(2) Total route disposition, except filled milk, equal to not less than 50 percent of such fluid milk products which are physically received at such plant or diverted to a nonpool plant as producer milk pursuant to § 1096.13.

(b) Any plant, other than a plant described in paragraph (a) of this section, that is approved by a duly constituted regulatory agency for the disposition of fluid milk products eligible for distribution in the marketing area under a Grade A label and from which during the month not less than 50 percent of the total quantity of Grade A milk that was physically received at such plant from producers and handlers described in § 1096.9(c) or diverted therefrom by the plant operator or cooperative association as producer milk to a nonpool plant pursuant to § 1096.13 is transferred during the month to a plant(s) described in paragraph (a) of this section. Such plant that was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for any of the remaining months through August.

(c) Any plant located in the marketing area that is operated by a cooperative association and which did not meet the shipping requirements of paragraphs (a) or (b) of this section, shall be a pool plant in any month in which the volume of milk received at pool distributing plants directly from member producers or as a handler described in § 1096.9(c) is not less than 60 percent of the total pounds of member producer milk pooled during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section:

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

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than in the Greater Louisiana marketing area and was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order.

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order.

§ 1096.8 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 not an other order plant, a producer-handler plant, or an exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is not an other order plant, a producer-handler plant, or an exempt plant.

(e) "Exempt plant" means a plant operated by a governmental agency.

§ 1096.9 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 producers it diverts pursuant to § 1096.13;

(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.

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1096.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1096.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Receives no fluid milk products from sources other than his own farm production and whose receipts of fluid milk products during the month from pool and other order plants do not exceed a daily average of 1,500 pounds;

(c) Disposes of no other source milk as Class I milk except receipts from other order plants or by increasing the nonfat solids content of the fluid milk products received from his own farm production or pool or other order plants; and

(d) Provides 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.

§ 1096.11 [Reserved]

§ 1096.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant or accounted for by a cooperative association pursuant to § 1096.13(c), or is diverted pursuant to § 1096.13(b).

(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 which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1096.44(a)(8)(iii) and the corresponding step of § 1096.44(b); and

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

§ 1096.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1096.9(c);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk received by a handler described in § 1096.9(c) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1096.52 and 1096.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 6 days' production of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than 15 percent of the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than 15 percent of the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk.

§ 1096.14 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 § 1096.40(b)(1) from any source other than producers, handlers described in § 1096.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1096.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1096.40(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 § 1096.40(b)(1)) for which the handler fails to establish a disposition.

§ 1096.15 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.

§ 1096.16 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.

§ 1096.17 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).

§ 1096.18 Cooperative association.

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

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

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

HANDLER REPORTS

§ 1096.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month (if postmarked) or not later than the 7th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in 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 § 1096.9(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 § 1096.40(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 § 1096.9 (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.

§ 1096.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1096.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

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

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

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

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1096.76 (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.

§ 1096.32 Other reports.

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

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1096.30 and 1096.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1096.40 Classes of utilization.

Except as provided in § 1096.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1096.30 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 plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

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

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

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

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

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

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

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

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

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

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

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

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1096.15; and

(6) In shrinkage assigned pursuant to § 1096.41(a) to the receipts specified in § 1096.41(a)(2) and in shrinkage specified in § 1096.41(b) and (c).

§ 1096.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1096.30, 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 § 1096.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

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

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk

fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity from 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 § 1096.9 (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.

§ 1096.42 Classification of transfers and diversions.

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

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1096.44(a)(12) and the corresponding step of § 1096.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1096.44(a)(7) or the corresponding step of § 1096.44(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 § 1096.44(a)(11) or (12) or the corresponding steps of § 1096.44(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 § 1096.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transfered or diverted from a pool plant to an exempt plant shall be classified:

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

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

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt 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 (ix) of this section.

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1096.30 for the month within which such transaction occurred; and

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

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

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

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

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

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

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

(iv) Except as provided in paragraph (d)(2)(ix) of this section, 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.

(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; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant shall be classified as if they were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II or Class III utilization indicated: *Provided,* That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat covered by this subdivision being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers according to the respective quantities of fluid milk products each handler transferred to the nonpool plant unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

§ 1096.43 General classification rules.

In determining the classification of producer milk pursuant to § 1096.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1096.30 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 § 1096.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1096.40, 1096.41, and 1096.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1096.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1096.9(a) for each of his pool plants separately and of each handler described in § 1096.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1096.41 (b);

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

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

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

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

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(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 § 1096.40(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 § 1096.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1096.40(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 an exempt plant;

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

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

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

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

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and

Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step, at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, milk from a handler described in § 1096.9(c), 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 § 1096.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

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

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to 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 paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be prorata 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 § 1096.45(a); or

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

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

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

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

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1096.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for

skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1096.45 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 § 1096.44(a)(12) and the corresponding step of § 1096.44(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 § 1096.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

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

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1096.50 Class prices.

Subject to the provisions of § 1096.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.47.

(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.

§ 1096.51 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.

§ 1096.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1096.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price computed pursuant to § 1096.50(a) shall be adjusted by an amount determined pursuant to paragraph (a)(1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1096.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone I	No adjustment.
Zone II	Plus 19 cents.
Zone III	Plus 38 cents.

(2) For a plant located in any of the following Louisiana parishes, the adjustment shall be as follows:

(i) Plus 38 cents.

Jefferson.	St. Bernard.
Lafourche.	St. Charles.
Orleans.	Terrebonne.
Plaquemines.	

(ii) Plus 19 cents.

St. Tammany.	Washington.
Tangipahoa.	

(3) For a plant located in any of the following Mississippi counties the adjustment shall be as follows:

(i) Plus 19 cents.

George.	Jackson.
Hancock.	Pearl River.
Harrison.	Stone.

(ii) No adjustment.

Adams.	Madison.
Amite.	Pike.
Claiborne.	Rankin.
Copiah.	Sharkey.
Franklin.	Simpson.
Jefferson.	Warren.
Hinds.	Wilkinson.
Issaquena.	Yazoo.

(4) For a plant located in any of the following Texas counties, the adjustment shall be as follows:

(i) Plus 38 cents.

Chambers.	Jefferson.
Hardin.	Liberty.
Harris.	Orange.

(ii) Plus 19 cents.

Jasper.	Polk.
Newton.	Tyler.

(iii) No adjustment.

Angelina.	Panola.
Cass.	Rusk.
Harrison.	Sabine.
Gregg.	San Augustine.
Marion.	Shelby.
Nacogodoches.	Upshur.

(5) For a plant located outside of the areas described in paragraph (a) (1) through (4) of this section, and located more than 50 miles by the shortest hard-surfaced highway distance, as determined by the market administrator, from the nearer of the City Hall in Monroe or Shreveport, Louisiana, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee plant after the computations are made pursuant to § 1096.44(a)(12), subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1096.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts from other pool plants, first to transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1096.42(a), and at which the applpicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate determined

pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same location adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plant; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

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

§ 1096.53 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.

§ 1096.54 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

§ 1096.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1096.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1096.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1096.44(a)(14) and the corresponding step of § 1096.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1096.74, 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 § 1096.44(a)(9) and the corresponding step of § 1096.44(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 § 1096.44(a)(7) (i) through (iv) and the corresponding step of § 1096.44 (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 § 1096.44(a)(7) (v) and (vi) and the corresponding step of § 1096.44 (b) and;

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(11) and the corresponding step of § 1096.44(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.

§ 1096.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1096.60 for all pool handlers who made reports prescribed in § 1096.30 for such month and who have made payments for the previous month pursuant to § 1096.71;

(b) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1096.75,

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1096.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for producer milk.

§ 1096.62 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 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1096.70 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 §§ 1096.71, 1096.76, and 1096.77 and out of which he shall make payments to handlers pursuant to §§ 1096.72 and 1096.77: *Provided,* That payments due to any handler shall be offset by any payment due from such handler.

§ 1096.71 Payments to the producer-settlement fund.

(a) On or before the 12th 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 § 1096.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1096.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1096.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plan that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1096.72 Payments from the producer-settlement fund.

On or before the 13th 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 § 1096.71(a)(2) exceeds the amount computed pursuant

to § 1096.71(a)(1). If, at such time, 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 appropriate funds are available.

§ 1096.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month;

(b) On or before the 15th day after the end of each month for milk received during the month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.61, subject to the butterfat differentials and location adjustments computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(1) Less payment made pursuant to paragraph (a) of this section;

(2) Less deductions for marketing services pursuant to § 1096.86;

(3) Plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such producers; and

(4) Less proper deductions authorized by such producer;

(c) On or before the 25th and 13th days of each month, in lieu of the payment pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association which so requests, with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(d) In making the payments to producers pursuant to paragraph (b) or (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer;

(e) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler pursuant to § 1096.9(a) as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices adjusted pursuant to § 1096.74, (i) less the amounts paid pursuant to paragraph (e)(1) of this section, and (ii) plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such cooperative association; and

(f) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler described in § 1096.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized such cooperative association to collect for their milk as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month at not less than the uniform price adjusted pursuant to §§ 1096.74 and 1096.75, less payment made pursuant to paragraph (f)(1) of this section.

§ 1096.74 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.

§ 1096.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received, at the rates set forth in § 1096.52.

(b) For purposes of computations pursuant to §§ 1096.71 and 1096.72 the uniform price shall be adjusted at the rates set forth in § 1096.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1096.76 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 §§ 1096.30(b) and 1096.31(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 another 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 § 1096.60 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 re-

maining 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 § 1096.60 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 § 1096.60 for such handler shall include, in lieu of the value of other source milk specified in § 1096.60(f) less the value of such other source milk specified in § 1096.71(a)(2)(ii), a value of milk determined pursuant to § 1096.60 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 § 1096.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1096.30 (b) and 1096.31(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 § 1096.60 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 § 1096.74, 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 § 1096.74, 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.

§ 1096.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, discloses errors resulting in monies due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

Administrative Assessment and Marketing Service Deduction

§ 1096.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.44(a) (7) and (11) and the corresponding steps of § 1096.44 (b), except such other source milk that is excluded from the computations pursuant to § 1096.60 (d) and (f);

(b) Each cooperative association on producer milk diverted to a nonpool plant for the account of such association or received by such association as a handler described in § 1096.9(c); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1096.76(a)(2).

§ 1096.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1096.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such monies shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the service set forth in paragraph (a) of this section and for whom a cooperative association is authorized to receive payment for marketing services as set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in ductions from the payment to be made paragraph (a) of this section, such deductions from the payment 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 shall pay such deductions to the cooperative association entitled to receive it, on or before the 15th day after the end of the month during which such milk was received. Such deductions shall be accompanied by a statement showing the quantity of milk for which such deduction was computed for each producer. In lieu of such statement, the handler may request the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1096.31.

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

Effective date: April 1, 1976.

Signed at Washington, D.C., on February 23, 1976.

Richard L. Feltner,
Assistant Secretary.

[FR Doc.76-5498 Filed 2-25-76;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 DEFENSE

Department of the Air Force

[32 CFR Part 806b]

PRIVACY ACT OF 1974

Proposed Additional Exemption of Records

On November 28, 1975, there was published in the FEDERAL REGISTER on pages 55580 to 55593 (40 FR 55580 to 55593), the Department of the Air Force notice of adopted rulemaking.

Notice is hereby given that the Secretary of the Air Force proposes to amend § 806b.58 of Subpart H, 40 FR 55592, by proposing as a rule under 5 U.S.C. 552a (k) to exempt an additional system of records within the Department of the Air Force from the specified subsections of 5 U.S.C. 552a. The proposed exemption was previously omitted from the notice of rulemaking due to oversight.

Interested persons may participate in this proposed rulemaking by submitting either in person or through the mail, written data, views, or arguments to the Director of Administration, Headquarters United States Air Force (HQ USAF/DA), Room 5A266, Pentagon Building, Washington, D.C. 20330, on or before March 25, 1976.

This rule is proposed under the authority of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a.

Accordingly, the Department of the Air Force proposes to establish a new paragraph (k) to § 806b.58 in Subpart H of Part 806b, 32 CFR, as follows:

§ 806b.58 Specific Exemptions.

* * * * *

(k) 03501 General Officer Personnel Data System.

(1) Exemption. Such portions of this system as pertain to completed Air Force Forms 78, "Air Force General Officer Effectiveness Report" are exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d); (e)(4)(G); (e)(4)(H); (e)(4)(I); and (f).

(2) Authority. 5 U.S.C. 552(k)(7).

(3) Reasons. This exemption is required to insure that selection boards are provided with candid evaluations of the potential of officers being considered for promotion to Major General, Lieutenant General and General.

J. W. PLUMMER,
Acting Secretary of the Air Force.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

FEBRUARY 23, 1976.

[FR Doc.76–5607 Filed 2–24–76;11:20 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 14455]

MCDONNELL DOUGLAS, LOCKHEED, BOEING, AND AIRBUS INDUSTRIES

Proposed Airworthiness Directives

Amendments 39–2262 (40 FR 29269), AD 75–15–05, requires modifications to improve the capability of the passenger and crew compartment floors to withstand, without collapse, an in-flight depressurization caused by the sudden opening of a large hole in the lower deck cargo compartments on McDonnell Douglas Model DC–10 Series, Lockheed Model L–1011 Series, and Boeing Model B–747 Series airplanes, certificated in all categories. After issuing Amendments 39–2262, the FAA has determined that the reasons for issuing the amendment also apply to the Airbus Industries' Model A300 Series airplanes. Therefore, it is proposed to amend Amendment 39–2262 to cover the Airbus Industries' Model A300 Series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before April 26, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the clothing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2262 (40 FR 29269), AD 75–15–05, by revising the applicability statement and paragraph (c) to read as follows:

MCDONNELL DOUGLAS, LOCKHEED, BOEING, AND AIRBUS INDUSTRIES'. Applies to the McDonnell Douglas Model DC–10 Series, Lockheed Model L–1011 Series, Boeing Model B–747 Series, and Airbus Industries' Model A–300 Series airplanes certificated in all categories.

* * * * *

(c) The modifications and determinations required under paragraphs (a) and (b) of this AD must be approved by the Chief, Aircraft Engineering Division, FAA Western Region, for McDonnell Douglas Model DC–10 Series and Lockheed Model L–1011 Series airplanes; the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, for Boeing Model B–747 Series airplanes; or the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region for Airbus Industries' Model A–300 Series airplanes.

Issued in Washington, D.C., on February 19, 1976.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.76–5464 Filed 2–25–76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75–EA–53]

VOR FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke and realign some existing airways in the Norfolk area in order to improve traffic handling capabilities in the terminal area.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center,

AIS-230, 800 Independence Avenue SW., Washington, D.C. 20591.

The proposed amendment would provide for major procedural revisions in the Norfolk, Va., terminal area complex which would improve the traffic handling capability in this area.

Victor Airway 1 would continue to serve that segment of Victor Airway 194 proposed for revocation between Cofield and Norfolk VORTACs. Aircraft operating on Victor Airway 260 between Richmond and Norfolk VORTACs en route to the Norfolk terminal area will be routed from over Richmond VORTAC via the Harcum VORTAC direct to Norfolk.

The FAA proposed to realign or revoke the following airways segments in § 71.123:

1. V-1E would be realigned from over Pinetown, N.C., INT direct to the Cofield, N.C., VORTAC.
2. V-33 would be revoked between Cofield VORTAC and Harcum, Va., VORTAC.
3. V-66 would be revoked between Franklin, Va., VORTAC and Norfolk, Va., VORTAC.
4. V-139 would be realigned from Pinetown INT direct to the Norfolk VORTAC.
5. V-194 would be realigned from Cofield VORTAC direct to the Sunbury, N.C., INT. Additionally V-194 would be revoked from Cofield VORTAC to Melfa, Va., INT via the Norfolk VORTAC.
6. V-260 would be revoked from Hopewell, Va., VORTAC to the Norfolk VORTAC.
7. V-266 would be revoked from Franklin VORTAC to the Norfolk VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

Issued in Washington, D.C., on February 18, 1976.

[FR Doc.76-5109 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-11]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Manteo, N.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Manteo transition area described in § 71.181 (41 FR 440) would be amended as follows: "* * * 343° bearing * * *" would be deleted and "* * * 229° and 343° bearings * * *" would be substituted therefor and "* * * north of the RBN," would be deleted and "* * * southwest and north of the RBN." would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the proposed NDB RWAY 4 Instrument Approach Procedure to Manteo Airport, utilizing the Manteo (nonfederal) Nondirectional Radio Beacon.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Georgia, on February 11, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5110 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-12]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Goldsboro, N.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or argumentse presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Goldsboro transition area described in § 71.181 (41 FR 440) would be amended as follows: "* * * long. 77°58'00" W.)." would be deleted and "* * * long. 77°58'00" W.); within three miles each side of the 044° bearing from the Wayne RBN (lat. 35°27'15" N., long. 77°58'26" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN." would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the proposed NDB RWY 22 instrument approach procedure to Goldsboro-Wayne Municipal Airport, utilizing the Wayne (nonfederal) nondirectional radio beacon.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on February 11, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5111 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-13]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Reidsville, N.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Reidsville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Shiloh Airport (latitude 36°26'10" N., longitude 79°50'30" W.).

The proposed designation is required to provide controlled airspace protection

for IFR operations at the Shiloh Airport. A prescribed instrument approach procedure to this airport, utilizing the Greensboro VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in East Point, Ga., on February 11, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-5113 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-NE-1]

AUGUSTA, MAINE, CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of the Federal Aviation Regulations so as to alter the Augusta, Maine, Control Zone and 700-foot transition area.

This action is under consideration as the result of the establishment of an Instrument Approach Procedure to serve Augusta State Airport. It will be necessary to alter the Augusta, Maine, control zone and 700-foot Transition Area to provide controlled airspace for aircraft executing this procedure. The amended Augusta, Maine, 700-foot transition area will include the existing Waterville, Maine, 700-foot transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Augusta, Maine, proposes the airspace action hereinafter set forth:

AUGUSTA, MAINE, CONTROL ZONE

SECTION 71.171

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Augusta, Maine, control zone and insert the following in lieu thereof:

Within a 5 mile radius of the Center (44°19'15" N., 69°47'45" W.) of Augusta State Airport, Augusta, Maine; within 3.5 miles each side of the Capital City, Maine RBN (44°20'18" N., 69°48'22" W.) 333° bearing, extending from the 5 mile radius zone to 10.5 miles northwest of the RBN and within 3.5 miles each side of Augusta VORTAC 328° radial, extending from the 5 mile radius zone to 10.5 miles northwest of the VORTAC, and within 3 miles each side of Augusta, Maine VORTAC 192° radial, extending from the 5 mile radius zone to 8.5 miles south of the VORTAC.

AUGUSTA, MAINE, 700-FOOT TRANSITION AREA

SECTION 71.181

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Augusta, Maine, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8 mile radius of the Center (44°19'15" N., 69°47'45" W.) of the Augusta State Airport, Augusta, Maine, within 4.5 miles northeast and 9.5 miles southwest of the Capital City, Maine RBN (44°20'18" N., 69°48'42" W.) 333° bearing, extending from the Capital City RBN to 18.5 miles northwest of the RBN and within 4.5 miles northeast and 9.5 miles southwest of the Augusta VORTAC 328° radial, extending from the Augusta VORTAC to 18.5 miles northwest of the VORTAC, and within a 11.5 mile radius of the Center (44°32'10" N., 69°-40'30" W.) of Waterville Robert LaFleur Airport, Waterville, Maine and within 4.5 miles west and 9.5 miles east of the Augusta VORTAC to 18.5 miles south of the VORTAC; excluding that portion which coincides with the Wiscasset, Maine 700-foot Transition Area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Massachusetts, on January 26, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-5115 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-NE-3]

WATERVILLE, MAINE, 700-FOOT TRANSITION AREA

Proposed Cancellation

The Federal Aviation Administration is considering amending Section 71.181 of the Federal Aviation Regulations so as to delete the Waterville, Maine 700-foot transition area.

This action is under consideration as the result of the establishment of an Instrument Approach Procedure to serve the Augusta State Airport. It will be necessary to alter the Augusta, Maine, control zone and 700-foot transition area to provide controlled airspace for aircraft executing this procedure. The Augusta, Maine, 700-foot transition area, as altered, will include the airspace presently within the Waterville, Maine, 700-foot transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Waterville, Maine, proposes the airspace action hereinafter set forth:

WATERVILLE, MAINE, 700-FOOT TRANSITION AREA

SECTION 71.181

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Waterville, Maine, 700-foot transition area in its entirety concurrent with the effective date of the amended Augusta, Maine, 700-foot transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on January 26, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-5116 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-2]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the transition area at Dallas-Fort Worth, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (41 FR 440), the Dallas-Fort Worth, Tex., transition area is amended to read, in part, by deleting:

To latitude 32°31'00'' N., longitude 96°44'00'' W.; to latitude 32°29'00'' N., longitude 97°01'00'' W.; to latitude 32°23'00'' N., longitude 97°05'00'' W.;

and substituting therefor:

To latitude 32°31'00'' N., longitude 96°44'-00'' W.; to latitude 32°29'20'' N., longitude 96°59'30'' W.; to latitude 32°26'00'' N.; longitude 96°59'45'' W.; to latitude 32°26'-00'' N., longitude 97°02'50'' W.; to latitude 32°23'00'' N., longitude 97°05'00'' W.;

Alteration of the transition area is necessary to provide controlled airspace for a standard instrument approach procedure to the Grand Prairie, Tex., Municipal Airport predicated on the Greater Southwest VORTAC.

It is also proposed to change the airport classification from VFR to IFR.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on February 13, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-5287 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-3]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Gilmer, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (41 FR 440), the following transition area is added:

GILMER, TEX.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Upshur County Airport, Gilmer, Tex. (latitude 32°41'57'' N., longitude 94°56'55'' W.).

Designation of the transition area is necessary to provide controlled airspace for a standard instrument approach procedure to the Upshur County Airport, Gilmer, Tex., predicated on the Gregg County VORTAC.

It is proposed to change the airport designation from VFR to IFR.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 P.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on February 13, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-5288 Filed 2-25-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the transition area at Ozark, Ark.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before March 29, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (41 FR 440), the Ozark, Ark., transition area is amended to read:

OZARK, ARK.

That airspace extending upward from 700 feet above the surface within a 9-statute-mile radius of Ozark-Franklin County Airport, Ozark, Ark. (latitude 35°30'36'' N., longitude 93°50'23'' W.); and within 3.5 statute miles each side of the 167° bearing from the Ozark RBN (latitude 35°30'27'' N., longitude 93°50'26'' W.), extending from the 9-mile-radius area to 11.5 statute miles south of the RBN.

Alteration of the transition area is necessary to provide controlled airspace for a new instrument approach procedure to the Ozark-Franklin County Airport predicated on the Ozark RBN.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on February 13, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-5289 Filed 2-25-76;8:45 am]

National Highway Traffic Safety Administration

[23 CFR Part 1204]

[Docket No. 76-2; Notice 2]

HIGHWAY SAFETY PROGRAM STANDARDS

Advance Notice of Standards Revision; Correction

In FR Docket 76-1983, appearing at page 3315, in the issue of Thursday, January 22, 1976, in the listing of NHTSA standards found in the first full paragraph on page 3316, the following standard was omitted:

16____ Debris hazard control and cleanup.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 402); delegation of authority at 49 CFR 1.50(b) and 49 CFR 501.8(d)).

Issued on February 20, 1976.

FRED W. VETTER, Jr.,
Associate Administrator
Traffic Safety Programs.

[FR Doc.76-5417 Filed 2-25-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 86]

[FRL 487-8]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Revised Light Duty Truck Regulations for 1978 and Later Model Year Vehicles

Correction

In FR Doc. 76-4209 appearing in the issue for Thursday, February 12, 1976 at page 6279, make the following changes:

1. On page 6280, in the first column, the First word in the third full paragraph which now reads "Rare", should read "Road".

2. On the same page, in the third column, in § 86.078-2(f), the last line should read as follows: "accordance with § 86.078-24h."

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 97]

[Docket No. 20686]

AMATEUR RADIO SERVICE

Portable and Mobile Operation of Stations Licensed; Order Extending Time for Filing Comments

In the matter of deregulation of Part 97 of the Commission's rules concerning portable and mobile operation of stations licensed in the Amateur Radio Service, Docket No. 20686.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the American Radio Relay League, Incorporated, ARRL) for an extension of time for filing comments and reply comments in the above captioned proceeding. The prescribed time for filing comments is February 27, 1976, while the prescribed time for filing reply comments is March 8, 1976.[1] The petitioner requests that these deadlines be extended to April 30, 1976 and May 7, 1976, respectively.

2. In support of its request the ARRL states that the additional time is required because the Notice of Proposed Rulemaking in this proceeding will not be reported to ARRL members until publication of the April, 1976 issue of QST magazine. The ARRL alleges that until its membership is apprised of the Commission's proposals in this matter through publication in QST, many amateur licensees who might otherwise submit comments will not have an opportunity to do so.

3. It appears that the additional time requested by the ARRL would not unduly delay final action in this proceeding. Further, additional comments would be helpful to the Commission in reaching its decision.

4. Accordingly, in view of the foregoing: *It is ordered,* Pursuant to §§ 0.331 and 1.46 of the Commission's rules, that the time for filing comments in Docket 20686 is extended from February 27, 1976 to April 30, 1976, and that the time for filing reply comments is extended from March 8, 1976 to May 7, 1976.

Adopted: February 19, 1976.

Released: February 20, 1976.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special
Radio Services Bureau.

[FR Doc.76-5474 Filed 2-25-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 206]

[Docket No. R-0020 Reg. F]

SECURITIES OF MEMBER STATE BANKS

Notice of Proposed Rulemaking

Pursuant to its authority under section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78l(i), the Board proposes to amend its Regulation F (12 CFR Part 206) in order that it will be substantially similar to comparable rules and regulations issued by the Securities and Exchange Commission ("the Commission"). Effective December 1, 1975, Regulation F was revised for this purpose. Under section 12(i), as amended, any changes made by the Commission in its relevant rules and regulations must also be made by the Board in its Regulation F or the Board must publish reasons why it has determined that such changes are not necessary or appropriate. Since December 1, 1975, the Commission has amended certain of its rules and regulations.

A. Effective for periods beginning after December 25, 1975, the Commission adopted certain changes in its Form 10-Q, its quarterly reporting form, substantially increasing quarterly reporting requirements (40 FR 46111 (1975)). Accordingly, the Board proposes to amend Form F-4, its quarterly reporting form under Regulation F. The amended Form F-4 would be expanded in scope to include a condensed balance sheet, a summarized Statement of Changes in Financial Position, a narrative analysis of results of operations, and to provide for the inclusion of additional financial disclosures that may be deemed appropriate by management. The amended Form F-4 would also require summarized funds statements on a year-to-year basis for the current and prior year, and balance sheets as of the end of the most recent quarter and as of the same date in the preceding year. Comparative balance sheet data shall not be required for interim periods beginning prior to the effective date of this amendment, in the event it is ultimately adopted by the Board.

B. The Commission, at the time it announced its amended quarterly reporting form also amended its Regulation S-X by adopting a new Rule 3-16(t) requiring disclosure of selected financial data in notes to annual financial statements of certain registrants (40 FR 46111 (1975)). Accordingly, the Board proposes to amend § 206.7(c)(10) of Regulation F (12 CFR 206.7(c)(10)) by adding a new sub-section (vii) to provide for such disclosure by certain banks registered under Regulation F, whose securities are listed on a national securities exchange or are quoted on the National Association of Securities Dealers' automated quotation system (NASDAQ).

C. Effective with respect to financial statements filed after January 15, 1976, the Commission amended Article 9 of its Regulation S-X to conform certain reporting practices of bank holding companies and banks to generally accepted accounting principles as practiced in other industries (40 FR 58851 (1975)). The amendment related to reporting of reserves for loan losses, classification of unearned income, and classification of certain debt instruments, sometimes referred to as capital debt. Identical reporting changes have been proposed by the Federal banking agencies in connection with reports of condition that banks are required to make to the banking agencies (40 FR 46399 (1975)). The Board here proposes to amend Regulation F in a similar manner. Under these particular amendments, the allowance for loan losses would be divided into valuation, contingency and deferred tax portions and reported accordingly. Unearned income on loans would be deducted from loans; subordinated notes and debentures would be reported as liabilities rather than as capital

[1] See 41 FR 4604, January 30, 1976.

accounts; and direct lease financing would be reported as a separated item rather than included in other assets.

The proposed changes in placement and terminology relating to allowance for loan losses, unearned income on loans, and subordinated notes and debentures, are for the purpose of adhering more closely to accepted financial reporting treatment and would have no effect on the Board's supervisory treatment of these items for purposes of capital adequacy analysis for State member banks.

D. In order to implement these amendments, the Board proposes that:

I. Section 206.44 be revoked in its entirety and the following be substituted therefor:

§ 206.44 Form for quarterly report of bank (Form F–4).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FORM F–4—QUARTERLY REPORT

PART A.—*Summarized financial information*

(Name of bank)

(City and State)

Item	3 mos ending _____		Fiscal year to date (__ months ending _____)	
	19__ (current year)	19__ (prior year)	19__ (current year)	19__ (prior year)
1 Operating income:				
(a) Interest fees on loans				
(b) Interest and dividends on securities				
U.S. Treasury securities				
Securities of other U.S. Government agencies and corporations				
Obligations of States and political subdivisions				
Other securities				
(c) Other operating income				
(d) Total operating income				
2 Operating expenses:				
(a) Salaries and other compensation				
(b) Interest expenses				
(c) Provision for loan losses				
(d) Other operating expenses				
(e) Total operating expenses				
3 Income before income taxes and securities gains (losses)				
4 Applicable income taxes				
5 Income before securities gains (losses)				
6 Net securities gains (losses), less related tax effect				
7 Net income				
Earnings per common share:				
Income before securities gains (losses)				
Net income				
Cash dividends declared per common share				

PART B.—*Balance sheet*

[Furnish, insofar as practicable in the manner presented below, data as at the end of the latest fiscal quarter and for the ending of the corresponding quarter for the preceding fiscal year]

		As of _____ 19__ (current year)	As of _____ 19__ (prior year)
	ASSETS		
1	Cash and due from banks		
2	Investment securities:		
	(a) U.S. Treasury securities		
	(b) Securities of other U.S. Government agencies and corporations		
	(c) Obligation of States and political subdivisions		
	(d) Other securities		
3	Trading account securities		
4	Federal funds sold and securities purchased under agreements to resell		
5	Other loans		
	Less reserve for loan losses		
	Loans, net		
6	Direct lease financing		
7	Bank premise and equipment		
8	Other real estate owned		
9	Investment in subsidiaries not consolidated		
10	Customers' acceptance liability		
11	Other assets		
12	Total assets		
	LIABILITIES AND CAPITAL		
13	Deposits:		
	(a) Demand deposits in domestic offices		
	(b) Savings deposits in domestic offices		
	(c) Time deposits in domestic offices		
	(d) Deposits in foreign offices		
14	Federal funds purchased and securities sold under agreements to repurchase		
15	Other liabilities for borrowed money		
16	Bank's acceptance outstanding		
17	Mortgages payable		
18	Other liabilities		
19	Total liabilities (excluding subordinated notes and debentures)		
20	Subordinated notes and debentures		
21	Equity capital:		
	(a) Capital stock:		
	Common stock		
	Preferred stock		
	(b) Surplus		
	(c) Undivided profits		
	(d) Reserve for contingencies and other capital reserves		
22	Total equity capital		
23	Total liabilities, subordinated debentures, and equity capital		

PART C.—*Changes in financial position*

	Fiscal year to date (_____months ending_____)	
	19__ (current year)	19__ (prior year)
Sources of funds:		
Operations:		
Net income		
Charges to income not affecting funds:		
Total funds provided by operations		
Equity funds—sale proceeds		
Subordinated notes and debentures—sale proceeds increase in liabilities [1]		
Total		
Applications of funds:		
Payment of dividends		
Purchase of property and equipment		
Decrease in liabilities [1]		
Increase (decrease) in operating assets [1]		
Total		

[1] Sources and applications of funds shall be shown separately by amounts when they exceed 5 pct of the average of total funds provided during the reported periods.

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this quarterly report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Name of bank)

Date_____ By_____
(Name and title of signing officer)

GENERAL INSTRUCTIONS

(a) *Use of Form F–4.* (1) Form F–4 is a guide for use in preparation of quarterly reports to be filed with the Board. (2) The interim report shall be filed not later than 30 days after the end of each of the first three fiscal quarters of each fiscal year. No report need be filed for the fourth quarter of any fiscal year.

(b) *Persons for whom the information is to be given.* The required information is to be given as to the registrant bank or, if the bank files consolidated financial statements with the annual reports filed with the Board, it shall cover the bank and its consolidated subsidiaries. If the information is given as to the bank and its consolidated subsidiaries, it need not be given separately for the bank.

(c) *Presentation of information.* The form calls only for the items of information specified. It is not necessary to furnish a formal financial statement presentation. The information is not required to be audited (see § 206.7(b) of this Part). The report may carry a notation to that effect and any other qualification considered necessary or appropriate. Amounts may be stated in thousands of dollars if a notation to that effect is made.

(d) *Incorporation by reference to published statements.* If the bank makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, such information may be incorporated by reference to such published statement of copies thereof are filed as an exhibit to this report.

(e) *Extraordinary items.* If present with respect to any interim period reported herein, extraordinary items less applicable income tax effect shall be appropriately segregated and included in the determination of net income. (See Form F–9B, Statement of Income.)

(f) *Acquisitions.* (1) If the bank has entered into a business combination with another bank or other related business treated for accounting purposes as a pooling of interests, the results of operations reported in this report for both the current year and the preceding year—should reflect the combined results of the pooled entities. Disclosure of the separate results of the combined entities for periods prior to the combination should be given in a footnote with appropriate explanation. (2) In case the bank has acquired a significant amount of assets in a transaction treated for accounting purposes as a purchase, during any of the periods covered by the report, the effect thereof on revenue and net income, in total and per share, should be disclosed in a footnote.

(g) *Management's Analysis of Quarterly Income Statements.* The bank shall provide a narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most recent quarter and the quarter immediately preceding it, between the most recent quarter and the same calendar quarter in the preceding year, and, if applicable, between the current year to date and the same calendar period in the preceding year. Explanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or in the method of their application that have a material effect on net income as reported.

(h) *Other Financial Information.* The bank may furnish any additional information related to the periods being reported on which, in the opinion of management, is of significance to investors, such as the seasonality of the bank's business, major uncertainties currently facing the bank, significant accounting changes under consideration and the dollar amount of standby letters of credit. In addition, the bank shall indicate whether any Form F–3 was required to be filed reporting any material unusual charges or credits to income during the most recently completed fiscal quarter or whether any Form F–3 was required to be filed during that period reporting a change in independent accountants.

(i) The financial information to be included in this report should be prepared in conformity with the accounting principles and practices, reflected in the financial statements included in the annual report filed with the Board for the preceding fiscal year, except for any subsequent regulatory revisions and for any changes required to be reported by § 206.7(c)(5).

II. Section 206.7(c)(10) be amended by adding the following new subsection:

§ 206.7 Form and content of financial statements.

* * * * *

(c) * * *

(10) * * *

(vii) *Disclosure of selected quarterly financial data in notes to financial statements.—Exemption.* This rule shall not apply to any registrant that does not meet the following conditions:

(*a*) The bank (*1*) has securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 or (*2*) has securities registered pursuant to section 12(g) of that Act which also (*i*) are quoted on the National Association of Securities Dealers Automated Quotation System and (*ii*) meet the requirements for continued inclusion on the list of OTC margin stocks set forth in § 220.8(i) of this chapter; and

(*b*) The bank and its consolidated subsidiaries (*1*) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting, of at least $250,000 for each of the last three fiscal years; or (*2*) had total assets of at least $200,000,000 for the last fiscal year end.

Disclosure shall be made in a note to financial statements of total operating income, income before security gains (losses), income before extraordinary item and cumulative effect of a change in accounting, net income, and per share data based upon such income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented.

When the data required by the preceding paragraph vary from the amounts previously reported on the Form F–4 filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

Describe the effect of any disposals of assets, and extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two-most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

Where this note is part of financial statements which are presented as audited, it may be designated "unaudited."

Instruction: If the financial statements are covered by an independent public accountant's report, and the note required by the

above paragraph (vii) is designated as "unaudited", it shall be presumed that appropriate professional standards and procedures with respect to the data in the note have been followed by the independent accountant who is associated with the unaudited footnote by virtue of reporting on the financial statements in which it is included.

§ 206.71 [Amended]

III. Section 206.71 be amended as follows:

The balance sheet format denoted "A. BALANCE SHEET" would be revoked and the following format would be substituted therefor:

A.—*Balance sheet*

		As of ____ 19__ (current year)	As of ____ 19__ (prior year)
	ASSETS		
1	Cash and due from banks		
2	Investment securities:		
	(a) U.S. Treasury securities		
	(b) Securities of other U.S. Government agencies and corporations		
	(c) Obligation of States and political subdivisions		
	(d) Other securities		
3	Trading account securities		
4	Federal funds sold and securities purchased under agreements to resell		
5	Other loans		
	Less reserve for loan losses		
	Loans, net		
6	Direct lease financing		
7	Bank premise and equipment		
8	Other real estate owned		
9	Investment in subsidiaries not consolidated		
10	Customers' acceptance liability		
11	Other assets		
12	Total assets		
	LIABILITIES AND CAPITAL		
13	Deposits:		
	(a) Demand deposits in domestic offices		
	(b) Savings deposits in domestic offices		
	(c) Time deposits in domestic offices		
	(d) Deposits in foreign offices		
14	Federal funds purchased and securities sold under agreements to repurchase		
15	Other liabilities for borrowed money		
16	Bank's acceptance outstanding		
17	Mortgages payable		
18	Other liabilities		
19	Total liabilities (excluding subordinated notes and debentures)		
20	Subordinated notes and debentures		
21	Equity capital:		
	(a) Capital stock:		
	Common stock		
	Preferred stock		
	(b) Surplus		
	(c) Undivided profits		
	(d) Reserve for contingencies and other capital reserves		
22	Total equity capital		
23	Total liabilities, subordinated debentures, and equity capital		

2. Clauses (1), (2), (3), and (4) in subparagraph (a) in paragraph 5 in Form F–9A of § 206.71 would be respectively redesignated clauses (a), (b), (c), and (d); clauses (1) and (2) in subparagraph (b) of paragraph 5 in Form F–9A of § 206.71 would be respectively redesignated clauses (a) and (b); the designation "(1)" would be inserted following the designation "(a)" in paragraph 5 in Form F–9A of § 206.71; subparagraphs (b), (c), and (d) of paragraph 5 in Form F–9A of § 206.71 would be respectively redesignated (2), (3), and (4); and the following subparagraphs would be added in paragraph 5 in Form F–9A in § 206.71:

(5) Deduct unearned income on loans.

(b) *Less: Reserve for Loan Losses.* State the balance of the loan loss allowance account at the end of the fiscal year. Include in this allowance only the valuation portion that has been established through charges against income.

NOTE: For banks on reserve method of accounting for loan losses, the single value reserve account representing the amount calculated pursuant to IRS regulations will be classified into three existing components: (1) valuation portion; (2) contingency portion; and (3) deferred tax.

Valuation portion. If prior to January 1, 1969, a bank did not distinguish the different parts of the reserve for loan losses, the total balance in the reserve for loan losses at January 1, 1969, is considered to have been entirely a valuation reserve. Such balance is increased by the amount of provision for loan losses *charged to income* in each period since December 31, 1968 and the amount of the loan recoveries in each period since December 31, 1968, and reduced by the loan losses charged to reserve for loan losses in each period since December 31, 1968. The resulting balance is the valuation portion of the reserve which is required to be deducted from total loans in the report of condition. Only the valuation portion of the reserve for loan losses is available for absorbing loan losses.

Contingency portion. The cumulative amount equivalent to the difference between transfers to the bad debt reserve calculated pursuant to IRS regulations, and the provisions for loan losses charged against income in each report period since December 31, 1968. Such amount, net of applicable income tax reduction benefit, should be included in the "undivided profits" account.

Deferred tax portion. The amount of deferred tax related to the contingency portion described above constitutes the deferred income tax portion and should be reported in "Other liabilities."

NOTE: In the rare circumstances where the cumulative provisions for loan losses charged against income have exceeded cumulative transfers to the bad debt reserve account calculated pursuant to IRS regulations in the period since December 31, 1968, the entire balance of the reserve for loan losses is considered a valuation reserve.

3. The Statement of Changes in Capital Accounts format denoted "C. STATEMENT OF CHANGES IN CAPITAL ACCOUNTS" would be revoked and the following format substituted therefor:

C.—Statement of changes in capital accounts

Increase (decrease)	Preferred stock $___ par	Common stock $___ par	Surplus	Undivided profits	Reserve for contingencies and other capital reserves
1 Net income transferred to undivided profits					
2 Preferred stock and common stock sold (par or face value)					
3 Stock issued incident to mergers and acquisitions					
4 Premium on capital stock sold					
5 Additions to, or reductions in, surplus, undivided profits, and reserves incident to mergers					
6 Cash dividends declared on preferred stock					
7 Cash dividends declared on common stock					
8 Stock issued in payment of stock dividend, _____ shares at par value					
9 All other increases (decreases)[1]					
10 Net increase (decrease) for the year					
11 Balance at beginning of year [2]					
12 Balance at end of year					

[1] State separately any material amounts, indicating clearly the nature of the transaction out of which the item arose.
[2] If the statement is filed as part of an annual or other periodic report and the balances at the beginning of the period differ from the closing balances as filed for the previous fiscal period, state in a footnote the difference and explain.

4. Schedule III—OTHER LOANS in Form F–9(D) would be revoked and the following substituted therefor:

SCHEDULE III—OTHER LOANS [1]

Type:	*Book value*
Real estate loans:	
Insured or guaranteed by the U.S. Government or its agencies	
Other	
Loans to financial institutions	
Loans for purchasing or carrying securities (secured or unsecured)	
Commercial and industrial loans	
Loans to individuals for household, family, and other consumer expenditures	
All other loans (including overdrafts):	
Total loans, gross	
Less: Unearned income on loans	
Total other loans reported in balance sheet	

[1] If impractical to classify foreign branch and foreign subsidiary loans in accordance with this schedule, a separate caption stating the total amount of such loans may be inserted. Such action should be explained in a footnote.

5. Schedule VII—ALLOWANCE FOR POSSIBLE LOAN LOSSES in Form F–9(D) would be revoked and the following substituted therefor:

SCHEDULE VII—ALLOWANCE FOR POSSIBLE LOAN LOSSES [1]

Item:	*Amount*
Balances at beginning of period	
Recoveries credited to allowance	
Additions due to mergers and absorptions [2]	
Provision for loan losses from income statement	
Losses charged to allowance	
Balances at end of period [3] [4]	

[1] Do not include any entries pertaining to reserve accounts established by segregations of the bank's undivided profits account. See instructions to Item 22, Equity capital of Form F–9A.
[2] Describe briefly in a footnote any such addition.
[3] Describe briefly in a footnote the basis used in determining the amount accumulated in the Allowance at the end of the period.
[4] Indicate in a footnote whether the bank's Reserve for bad debts computed for Federal income tax return purposes is at the maximum allowable pursuant to the Treasury tax formula. In addition, set forth a summary reconciliation of any material difference between the Allowance for possible loan losses reported herein and the Reserve for bad debts computed for Federal income tax return purposes.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, comments, views or arguments. Any requests for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 23, 1976. All material submitted should include the docket number R–0020. All views expressed in written comments on the proposal and received by that date will be considered by the Board. Such material will be made available for inspection and copying upon request, except as provided in the Board's Rules Regarding Availability of Information (12 CFR Part 261).

By order of the Board of Governors, February 23, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76–5518 Filed 2–23–76;4:51 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 445]

ROOM AIR CONDITIONERS

Termination of Proposed Trade Regulation Rule Proceeding Regarding Labeling and Advertising

On August 28, 1975, notice of a proceeding for the promulgation of a Trade Regulation Rule for the Labeling and Advertising of Room Air Conditioners was published in the FEDERAL REGISTER (40 FR 39532). Subsequently, on December 22, 1975 the "Energy Policy and Conservation Act" (Pub. L. 94–163) became law. Title III, Part B, of this Act directs the Federal Trade Commission to prescribe labeling rules with regard to energy efficiency information of specified consumer products, including room air conditioners, and sets forth the procedures to be followed in prescribing such rules. In light of this new legislation, the Commission has determined to terminate the present trade regulation rule proceeding. Future rulemaking proceeding with respect to energy efficiency labeling for consumer products, including room air conditioners, will be conducted in conformity with and pursuant to the requirements of the "Energy Policy and Conservation Act."

By direction of the Commission dated February 11, 1976.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.76–5493 Filed 2–25–76;8:45 am]

[16 CFR Part 453]

FUNERAL INDUSTRIES INDUSTRY PRACTICES

Proposed Trade Regulation Rule

Correction

In FR Doc. 76–4864 appearing at page 7787 in the issue for Friday, February 20, 1976, the first column, the thirteenth line from the bottom which presently reads "Ms. Ellen Zwiebel [(202) 264–1938], Federal" should read "Ms. Ellen Zweibel [(212) 264–1938], Federal".

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC–9148]

ANCSA CORPORATIONS

Withdrawal of Rule Proposal

Notice is hereby given that the Securities and Exchange Commission hereby withdraws its proposal to adopt Rule 6c–2 [§270.6c–2] [1] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] ("Act"), which rule would have provided substantial exemptive relief from the Act for corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601–24) ("ANCSA Corporations" and "Settlement Act," respectively). On January 2, 1976 the President signed into law [2] an

[1] Investment Company Act Release No. 8902 (August 22, 1975), published in the FEDERAL REGISTER on September 9, 1975 (40 FR 41818).
[2] P.L. 94–204; S. 1469.

amendment to the Settlement Act exempting ANCSA Corporations from all provisions of the Act, as well as from all provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). This exemption will remain in effect through December 31, 1991, and as a practical matter, moots the issues underlying the Commission's proposal to adopt Rule 6c–2 [§ 270.6c–2].

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 6, 1976.

[FR Doc.76–5512 Filed 2–25–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-6/22]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Wednesday, March 17, 1976, in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to:

Discuss the future work program of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO).

Review documents prepared for submission to the Fifteenth Session of the IMCO Subcommittee on Ship Design and Equipment, scheduled to be held in London, April 26–30, 1976, on the following topics:

Code for novel craft.

Draft requirements for segregated ballast tankers less than 150 meters in length.

Definition of terminology "at a similar stage of construction" relative to its use in Safety of Life at Sea (SOLAS) and IMCO documents.

Special purpose vessels.

Requests for further information on the meeting should be directed to Captain D. J. Linde, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2167.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

FEBRUARY 19, 1976.

[FR Doc.76-5414 Filed 2-25-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 6-76]

PUBLIC DEBT SERIES NO. 6-76

Redesignation of Interest Rate

FEBRUARY 23, 1976.

The Secretary of the Treasury announced on February 20, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 6-76, dated February 13, 1976, will be 6⅝ percent per annum. Accordingly, the notes are hereby redesignated 6⅝ percent Treasury Notes of Series Q-1977. Interest on the notes will be payable at the rate of 6⅝ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-5492 Filed 2-25-76;8:45 am]

AUTOMOBILE BODY DIES FROM JAPAN

Antidumping Proceeding Notice

On January 21, 1976, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that automobile body dies from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act").

For purposes of this notice, the term "automobile body dies" means large body dies, in excess of 10 tons in weight, used by automotive manufacturers to cut, draw, extrude, fold, form, pierce, and punch sheet metal into the exterior body components of their mobile end products. Examples of such components are: inner and outer lift doors, inner and outer hoods, right and left front fenders, outer roof panels, outer quarter panels, and right and left hand doors for both front and rear.

There is evidence on record concerning injury or likelihood of injury to or prevention of establishment of an industry in the United States. Available information indicates that a single sale of automobile body dies from Japan made in 1975 accounts for approximately 20 percent of total projected sales of automobile body dies produced by United States independent manufacturers in 1975. Other information indicates that a plant closing in the United States with the loss of 250 jobs may be attributable to the subject sale from Japan.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of pricing information received from all sources is as follows:

The pricing information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the constructed value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

FEBRUARY 20, 1976.

[FR Doc.76-5439 Filed 2-25-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

ARMED FORCES EPIDEMIOLOGICAL BOARD

Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

An ad hoc study team operating as a subcommittee of the Armed Forces Epidemiological Board will meet on March 12, 1976 in Room 3013, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C. from 0900-1600 hours. The purpose of the meeting is to review epidemiological and clinical data on the current outbreak of influenza in order to formulate recommendations for preventive medicine measures to be applied during the next year.

The proposed agenda includes the presentation and discussion of data on current epidemiological and clinical studies on the influenza outbreak; review of past experience in civilian and military populations, and the formulation of recommended courses of action.

This meeting is open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB in writing prior to the meeting at the following address: Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

DUANE G. ERICKSON,
LTC, MSC,
Executive Secretary.

FEBRUARY 23, 1976.

[FR Doc.76-5535 Filed 2-25-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ANGOON TRIBE OF ALASKA

Plan for the Use and Distribution of Angoon Judgment Funds

FEBRUARY 17, 1976.

This notice is published in exercise of authority delegated by the Secretary of

the Interior to the Commission of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of January 3, 1974, 87 Stat. 1071, in satisfaction of the award granted to the Angoon Tribe of Alaska in Indian Claims Commission Docket 278-B. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 10, 1975, and was received (as recorded in he Congressional Record) by the House of Representatives on October 20, 1975, and by the Senate on October 21, 1975. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on February 1, 1976, as provided by section 5 of the 1973 Act, *supra*.

The plan reads as follows:

"The funds appropriated by the Act of January 3, 1974, 87 Stat. 1071, in satisfaction of an award granted to the Angoon Tribe of Alaska in Docket 278-B before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be utilized by the local Angoon Tlingit and Haida Community Council for the following purposes, in accordance with an annual operating budget subject to the approval of the Secretary of the Interior:

(a). Such funds, not to exceed 10 percent, shall be available for expenses incurred in administering this plan.

(b). Such funds as are needed to renovate the 14 tribal houses in Angoon Village are approved for disbursement.

(c). Any balance remaining shall be available for community development projects benefiting Angoon Village and its people."

MORRIS THOMPSON,
Commissioner for Indian Affairs.

[FR Doc.76-5409 Filed 2-25-76;8:45 am]

SUPERINTENDENTS, ALBUQUERQUE AREA

[Albuquerque Area Office Redelegation Order 2, Amdt. 2]

Delegation of Authority Relating to Lands and Minerals

JANUARY 27, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Albuquerque Area Office Redelegation Order 2 was published beginning on page 3763 of the February 26, 1970, FEDERAL REGISTER (35 FR 3763), and subsequently amended. It is further amended by revising sections 2.11, 2.13 (a) and (b), and 2.14 to give the Superintendent of the Ute Mountain Ute Agency authority to approve rights-of-way; to negotiate and approve permits and leases for sand, gravel, pumice, building stone, oil and gas; and to approve surface leases.

Section 2.11 is revised to require that the Area Director, instead of the Field Solicitor, approve the form of instrument granting the particular right-of-way or easement. Section 2.11 is further revised to clarify the wording and update organization titles.

In § 2.13, that portion of paragraph (a) limiting the Superintendents' approval authority to leases for a term not in excess of five (5) years is deleted.

Section 2.13(a) is also revised to make the wording of the redelegation more general to cover acceptance of voluntary surrender of leases, cancellation of leases, approval of agreements for settling claims, and similar actions so each action does not have to be listed. The rewording of § 2.13(a) does not affect the Superintendents' authority except as described above.

Section 2.14(1) is amended to expand the Superintendents' authority to approve surface leases and permits to those whose duration is not in excess of twenty-five (25) years.

As amended, Part 2 reads as follows:

PART 2—AUTHORITY OF AGENCY SUPERINTENDENTS AND SCHOOL SUPERINTENDENTS

* * * * *

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.11 Rights-of-way. To the Superintendents of Jicarilla, Northern Pueblos, Southern Pueblos, Southern Ute and Ute Mountain Ute Agencies only, the authority of the Area Director relating to rights-of-way over Indian lands pursuant to 25 CFR Part 161, provided the form of instrument granting the particular right-of-way or easement has been approved by the Area Director, and provided further that except when approved by the Area Director, the consideration for any right-of-way granted or renewed shall be not less than the fair market value of the rights granted as appraised or approved by an Appraiser in the Area Branch of Real Estate Services.

SEC. 2.12 [Reserved]

SEC. 2.13 Mineral Leases and Permits. (a) To the Superintendents of Jicarilla, Northern Pueblos, Southern Pueblos, Southern Ute, and Ute Mountain Ute Agencies only, the authority of the Area Director relating to the granting of permission to negotiate permits and leases of tribal and individually owned trust or restricted land for sand, gravel, pumice and building stone, and the approval of permits and leases for sand, gravel, pumice and building stone. The authority conferred by (a) of this section includes the approval or other appropriate administrative action required on all subleases and assignments of mining permits or mineral leases now or hereafter in force on tribal or allotted lands, bonds and other instruments or actions required in connection with such leases, subleases, permits or assignments.

(b) To the Superintendents of Jicarilla, Northern Pueblos, Southern Pueblos, Southern Ute and Ute Mountain Ute Agencies only, the authority of the Area Director relating to oil and gas leases on tribal or individually owned Indian lands pursuant to 25 CFR Parts 171 and 172. This authority does not apply to:

* * * * *

SEC. 2.14 Surface Leases. To the Superintendents of Jicarilla, Northern Pueblos, Southern Pueblos, Southern Ute, and Ute Mountain Ute Agencies only, the authority of the Area Director relating to surface leasing and permitting under 25 CFR Part 131. With the exception of homesite leases covering tribal land leased to tribal members or to tribal housing authorities for homesite purposes this authority does not apply to:

(1) Approval of leases or permits which provide for a duration in excess of twenty-five (25) years inclusive of any provision for extensions or renewals thereof.

* * * * *

Effective date. The effective date of this delegation is the date of signature by the Area Director.

Approved: February 17, 1976.

LOYD E. NICKELSON,
Acting Area Director.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-5408 Filed 2-25-76;8:45 am]

Bureau of Land Management

PRINEVILLE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Prineville District, Bureau of Land Management Multiple Use Advisory Board, will meet March 25, 1976, at 9:00 AM in the conference room of the Prineville District office at 185 E. Fourth Street, Prineville, Oregon 97754.

Subjects to be discussed at the meeting include: the district's oil and gas leasing program, the geothermal leasing program, a status report on the high desert grazing Environmental Impact Statement, management framework planning for the Prineville and vicinity planning unit, and formalizing organization of the Advisory Board.

The meeting is open to the public; any person or group wishing to make a presentation will be limited to a 15 minute presentation and must notify the District Manager prior to March 25.

Further information concerning the meeting may be obtained from Paul Arrasmith, District Manager of the Prineville District, phone number 503-447-4115.

PAUL W. ARRASMITH,
District Manager.

FEBRUARY 17, 1976.

[FR Doc.76-5514 Filed 2-25-76;8:45 am]

[Wyoming 54194]

WYOMING

Application

FEBRUARY 20, 1976.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Champlin Petroleum Company has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 98 W.,
Sec. 30.

The pipeline will convey natural gas from a well in sec. 30 T. 20 N., R. 98 W., to an existing gathering system 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 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-5515 Filed 2-25-76;8:45 am]

Fish and Wildlife Service

TOM J. CADE

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

Dr. Tom J. Cade, Cornell University Laboratory of Orinthology, 159 Sapsucker Woods Ithaca, New York 14850.

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 [X] PERMIT

2. IF "PERMIT" IS CHECKED, GIVE A FULL DESCRIPTION OF ACTIVITY FOR WHICH PERMIT IS SOUGHT. (Use separate sheet if necessary)
Importation from Mexico of six, nestling American Peregrine Falcons to be taken from the wild

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is to be issued)
Dr. Tom J. Cade
Cornell University Laboratory of Ornithology
159 Sapsucker Woods Road
Ithaca, N. Y. 14850

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

[X] MR. [ ] MRS. [ ] MISS [ ] MS.	HEIGHT 5'8"	WEIGHT 150lbs.
DATE OF BIRTH 10 Jan. 1928	COLOR HAIR brown	COLOR EYES brown
PHONE NUMBER WHERE EMPLOYED (607) 256-5056	SOCIAL SECURITY NUMBER 449-30-6789	

OCCUPATION
Professor of Ornithology

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, GOVERNMENT AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF BUSINESS, AGENCY, OR INSTITUTION:

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATIONS HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
New York State College of Agriculture and Life Sciences
Cornell University
Ithaca, N. Y. 14853

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Cornell University's George Whittell Falcon Lofts
c/o Colorado Division of Wildlife
1424 Northeast Frontage Road
Fort Collins, Colorado

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit numbers)
Bird-banding no. 7252
Special Purpose no. 5-SP-565

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 document)
Permits pending from Mexico, Colorado State, USDA Animal Health Div.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: no later than 1 Apr 76

11. DURATION NEEDED: 60 days

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 C.F.R. 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23 and 14.32

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) Tom J. Cade DATE 21 Jan. 76

3-200
10/74

T. J. Cade, Permit Application: Attachment—Specific Information Required Under 50 CFR 17.23.

1. Common and Scientific Name: American Peregrine Falcon, *Falco peregrinus anatum.*

2. Country of Origin: Mexico, State of Coahuila or Chihuahua.

3. Justification: The purpose for obtaining and importing these falcons is to increase the genetic diversity of our captive breeding stock of western *anatum* Peregrines, in order to prevent the deleterious effects of inbreeding and to produce the best possible birds for release to the wild.

4. Location: The birds are to be kept permanently at the breeding facilities of The Peregrine Fund, c/o Colorado State Division of Wildlife, 1424 Northeast Frontage Road, Fort Collins, Colorado.

5. At the time of application the wildlife to be imported is still in the wild.

6. Not applicable, as no birds from this population exist other than in the wild.

7. (i) Description of Facility: A 12-unit pole-barn with breeding chambers that are 10 by 20 feet in floor space and 13 to 18 feet high. It is basically the same design as the building at Cornell University. (ii) Experience: We have been keeping and breeding Peregrines and other falcons in captivity for five years and have raised 68 Peregrines, about 70 Prairie Falcons, about 25 Lanners, and 5 Gyrfalcons, not to mention kestreis and some other species. Our staff consists of four full time personnel, in addition to the director of the program, and from three to four graduate student assistants. (iii) We are willing to participate, and have been participating, in a cooperative breeding program for some years and have been helping to develop a studbook for domestically propagated birds of prey. (iv) Transport: The falcons will be transported in suitable, enclosed, boxlike containers that we have designed and found to be best for shipping birds of prey. They will be personally accompanied by one or more of our staff, and they will be transported in a private airplane. They will not be shipped by common carrier.

Information for Exception to Entry at a Designated Port, 50 CFR 14.32.

Because these falcons will be removed from the wild as nestlings, they will require constant attention and will need to be transported directly from the point of capture in Mexico to Fort Collins, Colorado, in order to minimize deterioration or loss associated with transport. Since the closest designated port of entry is several thousand miles off route, I request that El Paso, Texas be authorized as the port of entry for these birds.

Signed by TOM J. CADE.

JANUARY 21, 1976.

JANUARY 21, 1976.

Mr. CLARK R. BAVIN,

Chief, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

DEAR MR. BAVIN: At the urging of the Rocky Mountain/Southwestern Peregrine Recovery Team, I am submitting an application for an endangered species permit to import six, nestling American Peregrine Falcons (*Falco peregrinus anatum*) from northern Mexico in the spring of 1976. Mr. William Huey, New Mexico Department of Fish and Game, has offered to approach the Mexican government in our behalf to obtain capture and export permits. Dr. Grainger Hunt, Chihuahuan Desert Research Institute, and Mr. Eugene Knoder, National Audubon Society, have already determined from field studies that a substantial breeding population of Peregrines exists in northern Mexico, so that the removal of six nestlings will not constitute a measurable reduction in the number of birds that will become available for re-

cruitment into the breeding population from the 1976 cohort of young. Both men have also agreed to work with us in the field to help locate suitable nests for obtaining the young falcons.

Since these Peregrines from nothern Mexico must be genetically very similar to the falcons that breed in the southwestern U.S. and Rocky Mountains, they constitute one of the last sources from which we can safely draw limited numbers of individuals suitable for captive propagation and release in the western United States. The plan to take these birds was fully discussed by the peregrine biologists, conservationists, and government personnel that were brought together under the auspices of the National Audubon Society in 1974, and it was approved in principle. It also has the endorsement of the Rocky Mountain/Southwestern Peregrine Recovery Team.

Please note that if we are to carry out this operation in 1976, we must have the permit in hand no later than 1 April 1976, as these Peregrines nest early in the year.

Sincerely yours,

TOM J. CADE,
Professor of Ornithology.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 60, 1612 K Street, N.W., Washington, D.C.

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 on or before March 29, 1976 will be considered.

Dated: February 20, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-5533 Filed 2-25-76;8:45 am]

National Park Service

[INT FES 76-5]

MOUNT RAINIER NATIONAL PARK, WASHINGTON; MASTER PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the master plan, Mount Rainier National Park, Washington.

The statement refers to a proposed conceptual master plan which will establish development patterns and provide management guidelines. Visitor facilities will be designed to accommodate increased use with the least impact upon the environment. Adverse impact will include littering and trampling of vegetation.

Copies of the statement are available from, or for inspection at, the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Washington 98101.

Superintendent, Mount Rainier National Park, Longmire, Washington 98397.

Portland Field Office, National Park Service, 920 Northeast Seventh Avenue, Portland, Oregon 97232.

Date: February 9, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-5386 Filed 2-25-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[FmHA Instruction 1980 E]

BUSINESS AND INDUSTRIAL LOANS

Insured Loan Interest Rates

Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR § 1980.423(b) is as follows:

a. Insured loans to private entrepreneurs will be at the rate of ten percent (10%). This rate will remain in effect until a change is published in the FEDERAL REGISTER.

Effective Date. This notice shall be effective on February 26, 1976.

Dated: February 19, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76-5449 Filed 2-25-76;8:45 am]

Forest Service

FIRE MANAGEMENT IN THE SELWAY-BITTERROOT WILDERNESS—A PROPOSED POLICY CHANGE

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Fire Management in the Selway-Bitterroot Wilderness—A Proposed Policy Change, Forest Service Report Number USDA-FS-R1 (03) DES-Adm-76-12.

The environmental statement concerns a proposed policy change from fire exclusion in the Selway-Bitterroot Wilderness to allowing some fires to run their course in designated areas when said fires are in accord with wilderness management objectives.

This draft environmental statement was transmitted to CEQ on February 20, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW, Washington, DC 20250.

USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.

USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

USDA, Forest Service, Clearwater National Forest, Route 3, Ahsahka Road, Orofino, ID 83544.

USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.

USDA, Forest Service, Nezperce National Forest, 319 East Main, Grangeville, ID 83530.

A limited number of single copies are available upon request to the above National Forest offices and:

Stevensville District Ranger, Stevensville, MT 59870.

Darby District Ranger, Darby, MT 59829.

Sula District Ranger, Sula, MT 59871.

West Fork District Ranger, Darby, MT 59829.

Lochsa District Ranger, Kooskia, ID 83539.

Powell District Ranger, Powell Ranger Station, Lolo, MT 59847.

Missoula District Ranger, 2801 Russell, Missoula, MT 59801.

Moose Creek District Ranger, Grangeville, ID 83530.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to USDA Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840. Comments must be received by April 20, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: February 20, 1976.

KEITH M. THOMPSON,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.76-5516 Filed 2-25-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INSTITUTES OF HEALTH, NINCDS—BETHESDA

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 Part 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: 76-00081-33-46040. Applicant: National Institutes of Health, NINCDS, Surgical Neurology Branch,

9000 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 201C, and accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for biological research projects involving the peripheral nervous system and the central nervous system. Two interests include the study of cell membrane changes which accompany degeneration and regeneration in the PNS and the study of synaptic function in epileptogenic models in the CNS.

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, was being manufactured in the United States at the time the article was ordered (June 24, 1975).

Reasons: The foreign article is equipped with a eucentric goniometer stage with a 60 degree tilt. 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 National Bureau of Standards (NBS) advises in its memorandum dated February 4, 1976 that the eucentric goniometer stage of the article is pertinent to the applicant's research studies. NBS 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 was being manufactured in the United States at the time the article was ordered.

(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.76-5442 Filed 2-25-76;8:45 am]

WASHINGTON UNIVERSITY AND UNIVERSITY OF TENNESSEE

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before March 17, 1976.

Amended regulations issued under cited Act, (40 FR 12253 et seq., 15 CFR Part 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00288. Applicant: Washington University, Department of Anatomy & Neurobiology, Lindell and Skinker Boulevards, St. Louis, Missouri 63130. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for research activities in the Department of Anatomy and Neurobiology which will include studies of the synaptic organization of the hippocampus *in vivo* and *in vitro*, synaptogenesis in the optic tectum, synaptic organization in the primate visual somatosensory cortex, and the subcellular localization of axonally transported proteins.

The article will also be used to teach graduate and upper level undergraduates the rudiments of electron microscopy which is an integral part of the following courses:

Bio 455: Neurocytology—A general introduction to the cellular basis of neurobiology and includes a general survey of all current and histological methods for studying neural tissue.

Bio 590: Techniques in Neuroscience—Covering the entire range of neurobiological methods (including neurophysiological and neurochemical).

Bio 513: Cell Biology—Teaching student to use the electron microscope and to prepare his own material as part of a study project.

Application received by Commissioner of Customs: February 4, 1976.

Docket number: 76-00289. Applicant: The University of Tennessee, Purchasing Department, 2200 Andy Holt Ave., Knoxville, TN 37916. Article: Automatic Milko-Tester, Model F3120 and accessories. Manufacturer: Foss Electric, Denmark. Intended use of article: The article is intended to be used in Animal Science courses to prepare students for (a) dairy farming, (b) dairy farm managers, (c) extension and other professional employment, (d) graduate study. These courses are also intended to demonstrate to dairy farmers the performance of superior animals. Specifically, the article will be used to determine the percentage of butterfat in monthly milk samples of individual cows which is an integral part of the production records.

Application received by Commissioner of Customs: February 6, 1976.

(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.76-5443 Filed 2-25-76;8:45 am]

Office of the Secretary

[Dept. Organization 40-1, Admt. 1]

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Organization, Function, and Delegation of Authority

Correction

In FR Doc. 76-3841, appearing at page 5857 in the issue for Tuesday, February 10, 1976, make the following changes:

1. The First word in the second line of this document now reading "awards", should read "amends".

2. The FR cite that appears in the same line and now reads "40 FR 56879", should read "40 FR 58879".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Federal Policy and Practices Committee of the Advisory Council on Women's Educational Programs will be held from 2:00 p.m. to 5:00 p.m. on March 15 and from 9:00 a.m. to 4:00 p.m. on March 16, 1976, in Room 821 of the Riviere Building at 1832 M Street, NW., Washington, D.C.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380 Section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meeting of the Federal Policy and Pratices Committee shall be open to the public. The agenda for the meeting will include (1) committee objectives and plans, and (2) discussion of selected Federal education programs.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, N.W., Washington, D.C.

Signed at Washington, D.C., on February 23, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76-5489 Filed 2-25-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 that a meeting of the Council will be held on March 24–26, 1976 at Del Webb's Towne House, 100 West Clarendon, Phoenix, Arizona. The meetings on March 24 and 25 are scheduled from 9:00 a.m. to 5:00 p.m.; and March 26, from 9:00 a.m. to 12:30 p.m.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report anually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meetings of the Council will be open to the public. The agenda will include a discussion on Federal-State relations, including State planning for postsecondary continuing education; Council relations with State Title I Advisory Committees; community service activities of several Arizona postsecondary institutions; and meetings of the standing committees of the Council. All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th St., N.W., Washington, D.C.

JAMES A. TURMAN,
Executive Director.

FEBRUARY 20, 1976.

[FR Doc.76-5412 Filed 2-25-76;8:45 am]

EMERGENCY SCHOOL AID ACT

Extension of Closing Date for Receipt of Applications

A. *Extended closing date.* Notice is hereby given that the February 13, 1976 deadline for filing applications under the Emergency School Aid Act (20 U.S.C. 1601 *et seq.*), which deadline was published in the FEDERAL REGISTER at 40 FR 59769 on December 30, 1975, is extended to 4:00 p.m., local time, Friday, March 5, 1976. The extended deadline applies to those applications invited by the December 30 FEDERAL REGISTER notice; namely, applications for basic grants under section 706(a) of the Act, pilot projects under section 706(b) of the Act, projects to be carried out by public or nonprofit private organizations under section 708 (b) of the Act, bilingual projects under section 708(c) of the Act, and special arts projects, special mathematics projects, special student concerns projects, and other special projects (including projects in Guam, the Trust Territory of the Pacific Islands, Puerto Rico, American Samoa, and the Virgin Islands) under section 708(a) of the Act. Applicants which have already filed such applications will be permitted (but are not required) to review, revise, and refile their applications by the extended deadline.

B. *Place of filing.* Applications for special projects under section 708(a) of the Act must be received by the U.S. Office of Education Application Control Center in *Washington, D.C.* by the extended deadline for filing.

Applications for basic grants, pilot projects, nonprofit organization projects, and bilingual projects under sections 706(a), 706(b), 708(b), and 708(c) of the Act, respectively, must be received by the Application Control Center of the U.S. Office of Education *Regional Office* serving the area in which the applicant is located by the extended deadline for filing.

C. *Applications sent by mail.* Applications for special project grants under section 708(a) of the Act sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202. The address for such applications should be marked: Attention: 13.532C (for other special projects); Attention: 13.532D (for special arts projects); Attention: 13.532E (for special mathematics projects); or Attention: 13.532F (for special student concerns projects).

Applications for grants under sections 706(a), 706(b), 708(b), and 708(c) of the Act sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office listed below:

OFFICE OF EDUCATION REGIONAL OFFICES

DEADLINE FOR FILING (LOCAL TIME) 4:00 P.M.

Region I — (Boston) — Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education Application Control Center, Room 2303, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.

Region II—(New York City)—New York and New Jersey. U.S. Office of Education Application Control Center, Room 3947, Federal Bldg., 26 Federal Plaza, New York, New York 10007.

Region III — (Philadelphia) — Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. U.S. Office of Education Application Control Center, Room 16200, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV — (Atlanta) — Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. U.S. Office of Education Application Control Center, Room 555, 50 Seventh Street NE., Atlanta, Georgia 30323.

Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin. U.S. Office of Education Application Control Center, 32nd Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. U.S. Office of Education Application Control Center, Room 1440, 1200 Main Tower Bldg., Dallas, Texas 75202.

Region VII—(Kansas City)—Iowa, Kansas, Missouri, and Nebraska. U.S. Office of Education Application Control Center, Room 360, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII—(Denver)—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. U.S. Office of Education Application Control Center, Room 11037, Federal Office Bldg., 1961 Stout Street, Denver, Colorado 80202.

Region IX—(San Francisco)—Arizona, California, Hawaii, and Nevada. U.S. Office of Education Application Control Center, Room 211, 50 Fulton Street, San Francisco, California 94102.

Region X—(Seattle)—Alaska, Idaho, Oregon, and Washington. U.S. Office of Education Application Control Center, Room 508, Arcade Plaza Bldg., M/S 1505, 1321 Second Avenue, Seattle, Washington 98101.

An application sent by mail will be considered to have been received on time if: (1) The application was sent to the appropriate office by registered or certified mail not later than March 1, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate U.S. Office of Education mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, the U.S. Office of Education, or the appropriate Regional Office.

D. *Hand delivered applications.* Hand delivered applications for special project grants under section 708(a) of the Act must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. No application will be accepted after 4:00 p.m. local time on the closing date.

Hand delivered applications for grants under section 706(a), 706(b), 708(b) and 708(c) of the Act must be taken to the appropriate U.S. Office of Education Regional Office at the address listed in Part C of this notice. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4:00 p.m. No application will be accepted after 4:00 p.m. local time on the closing date.

E. *Project periods.* Grant awards will be made pursuant to this notice for projects commencing no earlier than July 1, 1976, and terminating no later than June 30, 1977, except that awards for special student concerns projects will be made for a period commencing no earlier than July 1, 1976, and terminating no later than June 30, 1978.

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 185, relating to the Emergency School Aid Act and, except where inconsistent with Part 185, to the Office of Education general provisions regulations in 45 CFR Parts 100 and 100a, relating to direct project assistance programs.

G. *Program information and forms.* Information and application forms for special projects under section 708(a) of the Act may be obtained from the Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, Room 2017, 400 Maryland Avenue SW., Washington, D.C. 20202.

Information and application forms for projects under sections 706(a), 706(b), 708(b), and 708(c) of the Act may be obtained from the appropriate U.S. Office of Education Regional Office.

(Catalog of Federal Domestic Assistance numbers 13.525 (Basic Grants), 13.526 (Pilot Projects), 13.528 (Bilingual Projects), 13.529 (Projects to be carried out by Public or Private Nonprofit Organizations), and 13.532 (Special Projects))

Dated: February 23, 1976.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.76-5589 Filed 2-25-76;8:45 am]

Food and Drug Administration

[FDA-225-76-4006]

ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Maryland Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration (FDA) and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Maryland Department of Agriculture on February 11, 1976. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

Memorandum of Understanding between the Maryland Department of Agriculture and the Food and Drug Administration.

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in Room 201 of the Maryland Department of Agriculture, Parole Plaza Office Building (above American National Bank), Annapolis, Maryland 21401.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, since your agency is one selected to receive a terminal, it must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

(NOTE.—There will be no need for your agency to share the terminal with any other agency in Maryland at the present time. A terminal has been placed in the Maryland Department of Health and Mental Hygiene in Baltimore. It is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.)

III. *Substance of Agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To arrange through Western Union for training of terminal operators.

4. To provide operation instruction manual.

5. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal (110 volts).

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA.)

5. Maintain operator coverage for the terminal between normal working hours of your agency.

6. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

7. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

8. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Term of Understanding.* This understanding, when accepted by both parties, will have an effective period of performance three (3) years from date of signature by the representative of the state agency and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

V. *Name and Address of Terminal Agency.* Department of Agriculture, Parole Plaza Office Building (above American National Bank), Room 201, Annapolis, Maryland 21401.

VI. *Liaison Officers.* For Maryland Department of Agriculture: Douglas H. Wilson, Office of Deputy Secretary.

Address: Parole Plaza Office Building, Room 201, Annapolis, Maryland 21401.

Telephone No.: (301) 267-1333.

For FDA: Lawrence M. Carter, Supervisory Investigator.

Address: 900 Madison Avenue, Baltimore, Maryland 21201.

Telephone No.: (301) 962-3591.

VII. *Nondiscriminatory Clause.* The parties hereto agree to operate this understanding so that no one, if otherwise qualified, may be denied employment or other benefits on the grounds of race, color, sex, religion, age, political affiliation or opinion, handicap, national origin or other nonmerit factors or may be otherwise subject to discrimination.

Approved and accepted for the Maryland Department of Agriculture:

By: Young D. Hance.

Title: Secretary.

Dated: February 3, 1976.

Approved and accepted for the Food and Drug Administration:

By: T. C. Marviglia.

Title: Regional Food and Drug Director.

Dated: February 11, 1976.

Effective date. This Memorandum of Understanding became effective February 3, 1976.

Dated: February 19, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-5435 Filed 2-25-76;8:45 am]

[FDA-225-76-2001]

DRY MILK PRODUCTS

Memorandum of Understanding With the State Quality Control for Dairy Products and Eggs Etc. for the Ministry of Agriculture of Denmark

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The State Quality Control for Dairy Products and Eggs etc. for The Ministry of Agriculture of Denmark executed a Memorandum of Understanding with the Food and Drug Administration on October 30, 1975. The purpose of the memorandum is to establish the procedures and guidelines for controlling the sanitary quality of dry milk products exported to the United States. It reads as follows:

Memorandum of Understanding between the Food and Drug Administration, Public Health Service, Department of Health, Education, and Welfare, United States of America, and the State Quality Control for Dairy Products and Eggs etc. For the Ministry of Agriculture of Denmark Exporting Dry Milk Products to the United States of America.

This Memorandum of Understanding has been developed and agreed to by the Food and Drug Administration of the U.S. and The State Quality Control for Dairy Products and Eggs etc. for The Ministry of Agriculture of Denmark to control the sanitary quality of dry milk products exported to the United States of America.

For purposes of this Memorandum, both parties agree to the definitions following:

Lot—A lot is a quantity of dry milk product produced during a discrete period of time,

by one manufacturer, in one continuous process using a single processing line, packaged in identical containers identified by a code or mark traceable to the manufacturer and the other parameters listed above.

Salmonella-negative—The absence of *Salmonella* will be determined by methodology contained in:

a. "Bacteriological Analytical Manual for Foods," Third Edition, June 1972, Chapter VIII.[x]

b. "AOAC 11," Section 41.026(b), et seq.[xx]

c. With exceptions as provided in FDA Compliance Program Guidance Manual, October 13, 1972, Section 3. "The sampled lot is acceptable only if analysis of all the composite units are negative for *Salmonella*."

Phosphatase activity-negative—The absence of phosphatase activity will be determined by "AOAC 11," Section 16.081, et seq.[xxx]

THE STATE QUALITY CONTROL FOR DAIRY PRODUCTS AND EGGS ETC.

1. We agree to inspect each lot of dry milk product produced in this country and offered for export to the United States of America to assure that it is negative for *Salmonella* based upon examination of 30/100-gm sample units and analyzed by methods prescribed above under "*Salmonella*-negative", and that it contains no phosphatase activity by methods prescribed above under "Phosphatase activity-negative."

2. We agree to issue an export certificate for only those lots which meet the criteria of 1., above. A specimen of certificate is attached to this Memorandum of Understanding. This certificate will be signed and stamped by an inspector of The State Quality Control for Dairy Products and Eggs etc.

3. We agree to require all containers of all lots exported to the United States of America to be identified by lot number, and marked "FOR HUMAN USE ONLY! NOT TO BE USED FOR ANIMAL FEED" together with all other information required by the Food, Drug, and Cosmetic Act.

4. We agree to include in the certificate for each lot exported to the United States of America the following information:

a. Lot identification.

b. Number and size of containers in the lot.

c. Analytical results for *Salmonellae* and phosphatase activity.

d. Date.

e. Name and stamp or seal of authorizing official.

5. We agree to furnish to the Food and Drug Administration a copy of the regulations, and procedures we use to assure that dry milk products are sanitary.

6. We agree to furnish to the Food and Drug Administration a full description of the manufacturing processes and quality controls used to assure the production of sanitary dry milk products.

FOOD AND DRUG ADMINISTRATION

1. The Food and Drug Administration is responsible for the safety and quality of dry milk products imported into this country for human consumption.

2. We will sample products certificated under this program to assure that the exporting country and the exported products comply with specifications set forth in this Memorandum of Understanding and all other requirements of the Food, Drug, and Cosmetic Act.

3. We will share information about our audit sampling with the exporting country.

4. We will share expertise and will provide consultative assistance to the exporting country when necessary to assure the safety of the dry milk products exported to us.

The State Quality Control for Dairy Products and Eggs etc. and Food and Drug Administration agree that this Memorandum of Understanding shall become effective on the date it is signed by the Food and Drug Administration. It shall remain in effect, and govern all dry milk products exported to the United States of America pending revision or revocation at the request of either agency.

In witness whereof, the agencies have executed this Memorandum of Understanding.

For The State Quality Control for Dairy Products and Eggs etc.:

(Signed) H. METZ,
Director, The State Quality Control for Dairy Products and Eggs etc., Denmark.

Date: *June 30, 1975*

For the Food and Drug Administration:

(Signed) ALEXANDER M. SCHMIDT, M.D.,
Commissioner of Food and Drugs, The United States of America.

Date: *October 30, 1975*

Proposed Format for Certificate

Lot____ No. of Units_____/_____
Net Wt. Each

_____
Date

We have examined this lot and found it negative for *Salmonella* and phosphatase activity using the methodol-prescribed in

Each container in the lot bears the lot identification number and the statement, "FOR HUMAN USE ONLY! DO NOT USE FOR ANIMAL FEEDS."

Signed _____

Sealed _____

Effective date. This Memorandum of Understanding became effective on October 30, 1975.

Dated: February 19, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-5436 Filed 12-25-76;8:45 am]

[x] "Bacteriological Analytical Manual for Foods," Pub. No. 1712-00-162, U.S. Government Printing Office, Washington, DC 20402.

[xx] "Official Methods of Analysis," 1970, Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, DC 20044.

[xxx] Phosphatase activity. If the product is negative by the Storch test (paraphenylendiamin test) the Phosphatase test will not be performed.

ADVISORY COMMITTEE

Notice of Meeting

This notice announces the forthcoming meeting of a public advisory committee of the Food and Drug Administration. It also sets out a summary of the procedures governing the committee meeting and the methods by which interested persons may participate in the open public hearing conducted by the committee. The notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)). The following advisory committee meeting is announced:

Committee name	Date, time, place	Type of meeting and contact person
Panel on Review of Oral Cavity Drug Products.	March 10 and 11, 9 a.m. on Mar. 11, Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed committee deliberations Mar. 10, 9 a.m. to 4:30 p.m.; open public hearing Mar. 11, 9 a.m. to 10 a.m.; closed committee deliberations Mar. 11, 10 a.m. to 4:30 p.m.; John T. McElroy, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. During this portion any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. The panel will review data submitted in confidence pursuant to the OTC review's call for data for this panel (see also 21 CFR 330.10(a)(2)). This will include product name, formulas and formulation process data, sales data and in some cases portions of pending or approved new drug applications (NDA's). Also, discussions relating to labeling, drug class standards, and testing will often be intermixed with discussion of formulas, sales data, or NDA material in such a way that the two discussions often cannot be separated without seriously impeding the progress of the panel's deliberations.

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying draft portions of its final report in preparation for submission to the Commissioner of Food and Drugs.

This portion of the meeting will be closed to permit discussion of trade secret data and to protect the free exchange of internal views and formulation of recommendations (5 U.S.C. 552 (b) (4) and (5)).

Note that less than 15 days' notice is being given for this meeting. This date was selected at the panel's February 19 and 20, 1976 meetings as the only date before the first part of May that all panel members could attend.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. Both the Federal Advisory Committee Act and 5 U.S.C. 552(b) permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed shall, however, be closed for the shortest time possible consistent with the intent of the cited statutes.

Generally, FDA advisory committees will be closed because the subject matter is exempt from public disclosure under 5 U.S.C. 552(b)(4), (5), (6), or (7), although on occasion the other exemptions listed in 5 U.S.C. 552(b) may also apply. Thus, a portion of a meeting may be closed where the matter involves a trade secret; commercial or financial information that is priviledged or confidential; personnel, medical, and similar files, disclosure of which could be an unwarranted invasion of personal privacy; and investigatory files compiled for law enforcement purposes. A portion of a meeting may also be closed if the Commissioner determines: (1) That it involves inter-agency or intra-agency memoranda or discussion and deliberations of matters that, if in writing would constitute such memoranda, and which would, therefore, be exempt from public disclosure; and (2) that it is essential to close such portion of a meeting to protect the free exchange of internal views and to avoid undue interference with agency or committee operations.

Examples of matters to be considered at closed portions are those related to the review, discussion, evaluation or ranking of grant applications; the review, discussion, and evaluation of specific drugs or devices; the deliberation and voting relative to the formation of specific regulatory recommendations (general discussion, however, will generally be done during the open committee discussion portion of the meeting); review of trade secrets or confidential data; consideration of matters involving FDA investigatory files; and review of medical records of individuals.

Examples of matters that ordinarily will be considered at open meetings are those related to the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices that have previously been made public, and presentation of any other data or information that is not exempt from public disclosure.

Dated: February 24, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-5696 Filed 2-25-76;9:28 am]

[Docket No. 76N-0021]

INTERIM RECALL PROCEDURES

Availability to Public

The Food and Drug Administration (FDA) has prepared interim recall operating procedures to update Chapter 5 of FDA Reglatory Procedures Manual (RPM). A new Compliance Policy Guide, No. 7153.07, addressing recall policy, has also been prepared.

Because recall is of broad interest and concern to the public, the Commissioner of Food and Drugs has decided that it is in the public interest to announce the availability of the interim procedures and policy guide through this notice.

A copy of the interim recall operating procedures and the policy guide is available for public inspection in the Public Records and Documents Center, Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Copies are also available on written request at the above address.

The Commissioner is not seeking comments on the interim procedures or the policy guide. The public will have an opportunity to comment on a proposed recall practices and procedures regulation to be published in the FEDERAL REGISTER. Where warranted, the interim recall procedures will be revised to reflect comments on that proposed regulation.

Dated: February 19, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-5433 Filed 2-25-76;8:45 am]

PANEL ON REVIEW OF BACTERIAL VACCINES AND TOXOIDS

Meeting Change

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of February 23, 1976 (41 FR 7973), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Bacterial Vaccines and Toxoids, scheduled for March 28 and 29, 1976, has been rescheduled to meet on March 27 and 28, 1976, with the open session beginning March 27 at 1:30 p.m.

Dated: February 19, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-5434 Filed 2-25-76;8:45 am]

Food and Drug Administration

[Docket No. 76N-0048]

POLYCHLORINATED BIPHENYLS (PCB's) IN CERTAIN FRESHWATER FISH

Statement of Policy

The Food and Drug Administration is stating its policy in regard to the contamination of freshwater fish with polychlorinated biphenyls (PCB's).

Although PCB's may not intentionally be added to food in any quantity, they are, at times, unavoidably present in certain foods as a result of environmental contamination. The Commissioner of Food and Drugs promulgated a regulation under § 122.10(a) (21 CFR 122.10 (a)) in the FEDERAL REGISTER of July 6, 1973 (38 FR 18096) that established limits on the amount of PCB's that may lawfully be present in food as the result of such contamination. Among other things, the regulation set a temporary tolerance for fish of 5 parts per million (ppm) PCB's. Since the July 1973 temporary tolerances were established, additional toxicological data on PCB's have become available. These recently developed data have raised concern that PCB's may be more toxic than previously thought. The need to lower the temporary tolerances in light of these data, particularly the tolerance for fish, is under active consideration. Contemporaneously, sampling programs conducted by Federal and State authorities reveal that PCB's continue to be a significant contaminant of some species of freshwater fish taken from certain rivers and lakes in the United States.

The Commissioner believes that the present situation warrants a statement of the policy of FDA regarding the problem of PCB contamination of freshwater fish and the steps FDA has taken, or may initiate, to deal with the problem. Furthermore, the New York State Department of Environmental Conservation has requested guidance from FDA as to what action, if any, is necessary at this time to protect the public health in light of the recurrence of PCB levels in excess of the 5 ppm temporary tolerance in fish taken from certain waters in New York State. This notice responds to the request from the New York State authorities for guidance and discusses the PCB-in-fish problem generally.

BACKGROUND

PCB's are a class of toxic industrial chemicals that are highly stable, heat resistant, and nonflammable. Prior to 1971, PCB's were used in a variety of applications, primarily because of their excellent chemical and thermal stability. It has been estimated that approximately 40 percent of the PCB's used in the United States prior to 1971 went into applications that resulted in loss into the environment. These applications included use as plasticizers, pesticide extenders, microencapsulation of dyes for carbonless copy paper, and as components of hydraulic fluids and lubricants, surface coatings, inks, sealants, and adhesives. The bulk of the remaining 60 percent use of PCB's was in electrical transformers and capacitors (Ref. 1).

By late 1971, it was apparent that the unique physical and chemical properties of PCB's and their widespread, uncontrolled industrial application had led to their becoming a persistent and ubiquitous environmental contaminant. In 1971, the Monsanto Corp., the sole United States producer of PCB's, restricted sales for use only in closed-system electrical application, e.g., transformers and capacitors. PCB use in the United States today is principally limited to such closed systems, which minimizes but does not eliminate the loss of PCB's into the environment (Ref. 2).

One consequence of the contamination of the environment with PCB's was the indirect contamination of certain foods, principally those of animal origin. Although only limited information on the toxicity of PCB's was available in late 1971 to 1972, there were sufficient data for the Commissioner to conclude that PCB's were a poisonous or deleterious substance, and that their presence in food posed a potentially serious health hazard. As a first step to limit human exposure to PCB's from dietary sources, FDA issued a notice of proposed rule making in the FEDERAL REGISTER of March 18, 1972 (37 FR 5705), indicating the agency's intentions under section 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) to restrict the level of PCB's that could lawfully be present in food. Temporary tolerances for PCB's in fish, milk, dairy products, eggs, poultry, animal feed and feed ingredients, and infant and junior foods became effective in the final regulation of July 6, 1973. These tolerances are listed in § 122.10(a). An action level is also in effect for PCB's in paper food-packaging materials.

In setting the temporary tolerances for PCB's, the Commissioner took into account the extent to which a limit on PCB consumption was necessary for the protection of the public health, other ways in which the consumer might be exposed to PCB's or other poisonous or deleterious substances, and the extent to which PCB contamination of food cannot be avoided. Numerous safety factors were used to assure that the temporary tolerances provided an adequate safety margin for the consumer as long as exposure to PCB's was sporadic and diminished with the passage of time.

Surveillance data gathered by FDA and the U.S. Department of Agriculture subsequent to the effective date of the temporary tolerances (Ref. 3) have shown that, with the exception of certain freshwater fish, the presence of PCB's in those individual foods subject to the tolerances continues to be sporadic, and that there has been an overall and substantial decline in frequency and levels. These data further show that the average daily dietary intake of PCB's is quite low and well within the margin of safety.

PCB CONTAMINATION OF FISH

The Commissioner stresses that most fish intended for human consumption come from salt waters. Sampling programs of FDA reveal that those fish are largely uncontaminated with PCB's (Ref. 3). Fish collected from commercial establishments contained an average of less than 0.2 ppm PCB's, substantially below levels that would pose a risk to health. However, considerably higher levels of PCB's are being detected in various species of freshwater fish—particularly sportsfish, e.g., coho and chinook salmon, lake trout—from several areas in the United States. FDA is currently developing information to determine the exact extent of the problem.

The jurisdiction of FDA extends only to food in interstate commerce. For this reason, the agency cannot control directly sportsfishing or the consumption of PCB-contaminated fish, unless such fish are being sold or shipped in interstate commerce. Nonetheless, the Commissioner is concerned about the public health implications for sportsfishermen and others who may regularly consume fish that are caught from PCB-contaminated waters.

PCB CONTAMINATION OF FISH IN CERTAIN NEW YORK STATE WATERS

On October 9, 1975, the New York Department of Environmental Conservation formally sought the support of FDA with respect to specific actions it contemplated to limit the consumption of PCB-contaminated fish. This request by the Department was based on its finding that various fish species caught in the Hudson River and two species of salmon caught in Lake Ontario contained levels of PCB's well in excess of the FDA tolerance of 5 ppm. Specifically, the New York Department of Environmental Conservation was considering the following actions:

1. Banning all commercial fishing in the Hudson River;

2. Advising the public not to consume fish from the Hudson River and salmon from Lake Ontario; and

3. Seizing any Hudson River fish in intrastate commerce that contain PCB's in excess of the 5 ppm temporary tolerance.

On October 20, 1975, the New York Department of Environmental Conservation was informed that FDA would initiate seizure of interstate shipments of fish found to exceed the temporary tolerance and would support the State in taking similar action against intrastate shipments. The State was also advised that FDA would need to evaluate fully the results of surveys of fish taken from the Hudson River and Lake Ontario before it could determine the appropriateness of the other suggested actions. At that time, surveys were still being conducted by the State and by FDA. Subsequently, data from these surveys were submitted and have been evaluated by FDA (Ref. 4).

The samples from the Hudson River included 17 species of fish collected from 18 points on the Hudson River between Glens Falls and Alpine, with 13 samples being collected at Glens Falls and 68 samples below Glens Falls. In summary, this evaluation showed that 53 out of the 68 samples of fish collected at or below Fort Edward (approximately 7 miles below Glens Falls) contained PCB's in excess of 5 ppm. The average level of PCB contamination in these 68 samples was 31.3 ppm. In contrast, only trace levels were found in the 13 samples obtained at Glens Falls. A high proportion of finfish and eels from all sampling points below Glens Falls contained PCB levels in excess of 5 ppm. The Fort Edward sampling point had the highest levels for the species examined, with individual samples ranging from 20.1 to 178 ppm.

Twenty-eight of the 33 samples of coho and chinook salmon from Lake Ontario exceeded 5 ppm, with a range from 2.1 ppm to 24.6 ppm. Of the 4 samples of lake trout tested, results were in the range of 10 to 15 ppm. All other species of fish sampled from Lake Ontario were at 5 ppm or less PCB's.

As a result of these findings, the Commissioner has concluded that fish caught in the Hudson River south of Fort Edward are likely to contain excessive levels of PCB's. Similarly, coho and chinook salmon caught in Lake Ontario are likely to contain excessive levels of PCB's. Since there are no data on current levels of PCB's in shad caught in the Hudson River, FDA is unable to make any conclusions about PCB contamination of that fish at this time. However, data obtained by the State of New York for past years, while limited, indicate that shad may contain relatively low levels of PCB's. There are insufficient samples to make any valid conclusions about lake trout caught in Lake Ontario at this time.

The scientific evidence described in the preamble to the July 6, 1973 FDA final regulations on PCB's and in more recent statements by agency officials (Refs. 5 and 6) supports the conclusion that frequent consumption of fish containing PCB's above 5 ppm poses a risk to public health. Therefore, on February 11, 1976 the Commissioner advised the State of New York that FDA fully supports the remaining proposals of the Department of Environmental Conservation. Specifically, the Commissioner concurs with the State of New York in its proposals to:

1. Ban commercial fishing, except for shad, from the Hudson River at or south of Fort Edward.

2. Advise sportsfishermen and other persons not affected by the ban to restrict their intake of fish caught from these waters and to restrict their intake of salmon caught from Lake Ontario.

When implemented, these actions will effectively eliminate the possibility that commercial fish contaminated with PCB's will enter interstate or intrastate commerce from these waters. An advisory to sportsfishermen and others who consume fish caught from these waters is essential to alert them to the potential hazard of consuming such fish, and is necessary since a ban on commercial fishing does not directly protect such individuals. Should additional regulatory actions become necessary in the future, FDA will promptly take all appropriate steps, consistent with its statutory authority, to protect the public from PCB-contaminated fish. Additionally, the State of New York plans to monitor closely the 1976 spring run of shad to determine what additional action may be required for this species of Hudson River fish.

The presence of significant levels of PCB's in freshwater fish is caused by the continued industrial discharge and disposal of PCB's into the environment. The Commissioner emphasizes that the contamination of fish with PCB's will persist unless controls are initiated to curtail pollution of the environment with PCB's. The Commissioner has, therefore, assured the Environmental Protection Agency (EPA) that the full scientific resources of FDA continue to be available to assist in that agency's efforts to control PCB discharges. Similarly, FDA has provided, and will continue to provide, the full range of its scientific expertise in support of individual State actions aimed at controlling industrial pollution of the environment with PCB's (Refs. 5 and 6).

Status of Temporary Tolerances For PCB's in Food

The preamble to the regulations on PCB's in the July 6, 1973 Federal Register states that FDA will periodically review and evaluate the appropriateness of the temporary tolerances for PCB's. On November 21, 1975, it was announced (Ref. 7) at the National Conference on PCB's sponsored by EPA that FDA had initiated such a review. The scope of this review includes an in-depth evaluation of recent scientific reports on various aspects of the toxicity of PCB's. These reports were formally presented at the National Conference on PCB's (Ref. 8). The purpose of the FDA evaluation will be to determine if the information contained in these reports indicates that a reassessment of the temporary tolerances is warranted. As part of its current activities, the agency is also gathering and reviewing data from different sources on the extent to which PCB's occur in fish and other foods. This information is needed since section 406 of the act requires an assessment of the impact on both human health and the food supply that would result from any lowering of the current temporary tolerances.

Additionally, on November 21, 1975 the Environmental Defense Fund and the National Resources Defense Council petitioned FDA to reduce gradually all the temporary tolerances for PCB's in food to zero. This petition and supporting information will be given full consideration and are included in the current review activities of the agency.

If, on the basis of these reviews, lowering any of the temporary tolerances is warranted, the Commissioner will issue a proposal to amend the existing PCB regulations in the Federal Register, and allow time for public comment prior to implementing any revision.

References

A copy of each reference document is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be seen during working hours, Monday through Friday.

1. World Health Organization, International Agency for Research on Cancer, "IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man," Vol. 7, 1974.

2. Statement by Russell R. Train, Administrator, Environmental Protection Agency, at a Press Conference on PCB's, Monday, December 22, 1975, Washington, DC.

3. "Levels of PCB's in the U.S. Food Supply," C. F. Jelinek and P. E. Corneliussen, Bureau of Foods, Food and Drug Administration, November 25, 1975.

4. "Polychlorinated Biphenyls Residues in Fish from Lake Ontario and the Hudson River," Bureau of Foods, Food and Drug Administration, December 17, 1975.

5. Testimony of Albert C. Kolbye, Bureau of Foods, Food and Drug Administration, before the Department of Environmental Conservation, State of New York, October 17, 1975.

6. Testimony of Henry Roberts, Minneapolis District Office, Food and Drug Administration, before the Department of Natural Resources, State of Wisconsin, August 28, 1975.

7. "FDA Regulation of PCB's in Food," John R. Wessel, Office of the Associate Commissioner for Compliance, Food and Drug Administration, November 21, 1975.

8. "Health Effects and Human Exposure," Session I of the National Conference on PCB's, November 19 through 21, 1975, Chicago, Illinois.

Dated: February 12, 1976.

A. M. Schmidt,
Commissioner of Food and Drugs.

[FR Doc.76–4666 Filed 2–23–76;2:36 pm]

National Institutes of Health

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, March 29, 1976. The meeting will be held in Building 31, Conference Room 9 at the National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public from 10 a.m. to 5 p.m. for the review, discussion and evaluation of individual contract proposals. 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.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: February 17, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–5470 Filed 2–25–76;8:45 am]

COMPREHENSIVE SICKLE CELL CENTERS (CSCC) AD HOC REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Comprehensive Sickle Cell Centers (CSCC) *ad hoc* Review Committee, National Heart and Lung Institute, April 22–23, 1976, National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public on April 22, 1976 from 9:00 a.m. to approximately 10:00 a.m. to discuss administrative details and the criteria to be used in the review of the Comprehensive Sickle Cell Centers (CSCC) applications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting of the Comprehensive Sickle Cell Centers (CSCC) *ad hoc* Review Committee will be closed to the public from approximately 10:00 a.m. to adjournment on April 22, 1976 and from 8:00 a.m. to adjournment on April 23, 1976, for the review, discussion, and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLI, NIH, Building 31, Room 5A03, Bethesda, Maryland 20014, telephone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Mrs. Zena McCallum, Executive Secretary, NHLI, NIH, Westwood Building, Room 548, telephone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, National Institutes of Health.)

Dated: February 17, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–5472 Filed 2–25–76;8:45 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart and Lung Institute, April 1 and 2, 1976, National Institutes of Health, Building 31, Conference Room 10, C–Wing. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on April 1 and 2, 1976, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLI, Building 31, Room 5A03, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLI, Building 31, Room 4A29, (301) 496–6931, will furnish substantive program information.

Dated: February 19, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–5471 Filed 2–25–76;8:45 am]

Office of the Secretary

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the Health Insurance Benefits Advisory Council (HIBAC), established pursuant to Section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters will meet on Thursday, March 18 at 9:00 A.M. and Friday, March 19, 1976 at 9:00 A.M. in Room 5051 of the Department of Health, Education, and Welfare's North Building, Third and C Streets, S.W., Washington, D.C. Principal consideration and discussion will pertain to general policy issues of Medicare and Medicaid cost-containment and program reform. These meetings are open for public observation.

Further information on the Council may be obtained by contacting Ronald M. Klar, M.D., M.P.H., Executive Secretary, Health Insurance Benefits Advisory Council, Room 17A–31, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443–3274 or 443–4728.

Dated: February 12, 1976.

RONALD M. KLAR,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.76–5407 Filed 2–25–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS EXECUTIVE COMMITTEE

Meeting

Notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics (RTCA) Executive Committee, which is being utilized as an Advisory Committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. Appendix I. It will be held March 19, 1976 in RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. 20006, commencing at 9:30 a.m. Agenda items include:

1. Approval of the Minutes of the January 23, 1976 meeting.

2. Review and approval for publication the Reports of SC–126 on Airborne OMEGA Receivers, and SC–131 on High Frequency/Single Side Band Transmitting and Receiving Equipment.

3. Progress reports on activities of the Informal Group on MPS/MOC documentation, and the *ad hoc* Group for nomination of a new RTCA Chairman.

Meetings of the RTCA Executive Committee are open to the public, subject to space limitations. Subject to time being available, any member of the public may present oral statements at the meeting, or may submit written statements to or obtain additional information from the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296–0484.

Issued in Washington on February 13, 1976.

EDGAR A. POST,
Designated Officer.

[FR Doc.76–5103 Filed 2–25–76;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS SPECIAL COMMITTEE 125—MLS IMPLEMENTATION

Meeting

Notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 125—MLS Implementation, which is being utilized as an Advisory Committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. Appendix I. It will be held March 24–25, 1976, in Conference Room 3201, FAA Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590, commencing at 10:00 a.m. Agenda items include:

1. Approval of the Minutes of the January 14–15, 1976 meeting.
2. Receive reports from the Informal Working Groups of SC–125 and on the MLS Advisory Committee meeting of January 20–21, 1976.
3. Approve an outline for SC–125 Final Report, and establish tasks and milestone target dates for completion.

Meetings of Special Committee 125 are open to the public, subject to space limitations. Subject to time being available, and member of the public may present oral statements at the meeting, or may submit written statements to or obtain additional information from the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484.

Issued in Washington on February 13, 1976.

EDGAR A. POST,
Designated Officer.

[FR Doc.76–5466 Filed 2–25–76;8:45 am]

National Highway Traffic Safety Administration

[Docket No. 75IP–1; Notice 2]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation (GM) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with Federal Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims* (49 CFR 571.110), on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on June 16, 1975, and an opportunity afforded for comment (49 FR 25503).

GM discovered that about 17,000 1975 Buick Skyhawks built in Canada before February 28, 1975, had placards which did not display the total number of designated vehicle occupants, as required by S4.3 Standard No. 110. The placards specify only that the vehicle capacity is "2 front 2 rear", whereas Standard No. 110 requires that the placards display the "designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location)." The revised labels read:

"4
2 front 2 rear".

GM believes it obvious that this noncompliance can have no effect on motor vehicle safety.

No comments were received on the petition.

Since GM properly expressed the vehicle's designated seating capacity in terms of occupants for each seat location, its simple failure to add the numbers to reach the total number of vehicle occupants is not likely to mislead anyone as to the vehicle's overall passenger-carrying capacity. Moreover, the omission appears inadvertent and not the result of a deliberate attempt to evade a requirement of a motor vehicle safety standard. Accordingly, it is found that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and GM's petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50.)

Issued on: February 19, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76–5297 Filed 2–25–76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

COMMISSION PROCEEDINGS AND TASK FORCE REPORTS

Seminars

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93–580), as amended, that Congressional Seminar proceedings will he held in Washington, D.C. on Friday, February 27, 1976 from 10:00 a.m. to 12 noon in the Rayburn Building Room B 308. The seminar will be held in conjunction with the Commission Task Force investigating the Trust Responsibility and Federal Indian Relationship (Task Force #1).

The American Indian Policy Review Commission has been authorized to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian Community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. This seminar will focus on issues related to the studies of Task Force #1.

Dated: February 23, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76–5531 Filed 2–25–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 28909; Order 76–2–78]

CANADIAN PACIFIC AIR LINES, LTD.

Order of Investigation and Suspension [1]

Regarding Group-20 GIT Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of February 1976.

By tariff revisions [2] marked to become effective February 20, 1976, Canadian Pacific Air Lines, Limited (CP Air) proposes group inclusive tour (GIT) fares for a minimum of 20 passengers originating in Los Angeles and destined for Calgary/Edmonton. The proposed fares are $146 to Calgary and $160 to Edmonton. The fares are subject to a minimum/maximum stay of 2/30 days, require purchase of a minimum tour package of $30, and are blacked out on Friday through Sunday. Reservations and payment must be made seven days prior to departure, although additional passengers may be added to a qualifying group any time prior to departure, and members of the group may return individually. The tariff contains no expiration date.

Western Air Lines, Inc. (Western) has filed a complaint alleging, *inter alia*, that CP Air has provided no economic justification for introducing a fare in a market where it has only a five percent share of the traffic and no single-plane service. It also asserts that CP Air should not be allowed to dilute yields by radically lowering the minimum group size to 20 passengers from the 65 passengers which is now necessary to qualify for the same 30 percent discount, and by allowing passengers to return individually rather than traveling together on all portions of the trip as required in the group-65 fares.

CP Air did not provide any justification for its proposal or answer Western's complaint.

Upon consideration of all relevant matters the Board has determined that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposals should be suspended pending investigation.

In Phase 5 of the "Domestic Passenger-Fare Investigation," Docket 21866–5, the

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[1] An earlier order was submitted to the White House for the President's consideration on February 9, 1976 (Appendix A). By letter to the Chairman dated February 16, 1976, the President disapproved that order (Appendix B). However, the President stated that he would be prepared to approve an order of investigation and suspension if certain findings could be made. We have revised the order in light of the President's comments to address the question of whether or not the fares are compensatory. Also, we have deleted our earlier finding with respect to CP Air's minimal market participation, in light of the President's view that this is not pertinent to the situation and since it was peripheral to our decision in any event.

[2] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. Nos. 142 and 249.

Board concluded that the long-term cost of carrying passengers at discount fares is essentially equal to the cost of carrying normal-fare passengers, that the additional traffic volume generated by discount fares does not appreciably reduce air carrier unit costs over the long run, and consequently that the allocation of less than full cost to discount traffic imposes more than full cost on normal-fare travel.[3] On the basis of full cost, it is clear that fares at the level proposed by CP Air would not be profitable at a reasonably attainable load factor. Since CP Air provided no data in support of its fares, and its costs are not otherwise available to the Board, we have computed the cost for its predominant aircraft in these markets (B–727–100) based on block-hour costs of the domestic trunkline carriers for similar aircraft. This shows that, for the year ended June 1975, load factors at or slightly in excess of 100 percent would be required to break even. Even assuming that CP Air's B–727 costs are significantly less than those of the domestic trunks, and we have no reasor to believe that they are, the breakeven loac factor would be extremely high.

The Board also concluded in Phase 5, however, that discount fares may be economic during short-run periods of over-capacity to the extent that the net additional revenues are over and above incremental costs. Thus, a short-run test of the reasonableness of a discount fare is the so-called profit-impact test. To satisfy this test, a fare must generate sufficient new traffic to offset the loss of revenue from self-diversion (passengers who would have traveled in any event at the higher normal fare) plus the added cost of carrying the additional traffic. This test is predicated upon the assumption that discount-fare traffic does not affect capacity, and that, therefore, no capacity costs need be allocated to a particular discount fare. However, we are unable to make this assumption here. CP Air's proposed fares provide the same 30 percent discount presently offered by the other carriers in these markets for minimum groups of 65, yet they are substantially less restrictive in application.[4] In our opinion, the restrictions are so liberal that substantial revenue dilution would result, and that capacity would very likely be added to accommodate the traffic. Since the fares are subject only to minimally effective restrictions, they would be widely accessible and could, in effect, become the normal fare in the markets concerned. For this reason, determining their reasonableness on the basis of full costs seems essential.

Of particular concern is the open-return aspect of the proposed fares, combined with the provision that additional passengers over and above the qualifying 20 may be added to the group at any time up to departure. In our opinion, this would open the door to substantial diversion and consequent revenue dilution. In essence, after the qualifying group is arranged, the basic restrictions that apply to additional individuals are (1) the departure date since they must travel outbound with the group, and (2) the tour add-on of $30. These are clearly minimal restrictions on a fare which is discounted 30 percent.[5]

Although not relevant to our conclusion that the proposed fares are noncompensatory, we note that CP Air participates in only about five percent of the traffic in the markets involved. In a number of past cases involving domestic fares, the Board has considered that a minimal participant in a market should not be the ratemaking carrier. In view of the President's letter, however, we do not rely on that consideration here.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof;

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix C attached hereto, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix C hereto are suspended and their use deferred to and including February 20, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[6] and shall become effective February 20, 1976;

4. Except to the extent granted herein, the complaint in Docket 28789 is dismissed;

5. The investigation ordered herein be assigned before an Administrative Law Judge at a time and place hereafter to be designated; and

6. A copy of this order be filed with the aforesaid tariffs and be served upon Canadian Pacific Air Lines, Limited, and Western Air Lines, Inc. which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.76-5491 Filed 2-25-76;8:45 am]

[Docket 27813 Agreement C.A.B. 25684 R-1 through R-8]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to North Atlantic Passenger Fares to and From Africa; Order

Issued under delegated authority February 20, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement proposed for effect on April 1, 1976 and adopted at the January 1976 Joint Meetings of the Traffic Conferences in San Diego, has been assigned the above C.A.B. agreement number.

Insofar as the agreement would apply in air transportation as defined by the Act, passenger fares to/from the United States would be increased by 5 percent to/from West Africa and 3 percent to/from the rest of Africa. Fares to/from Ethiopia would remain at *status quo*.[1] In addition, the agreement would impose a surcharge for travel on supersonic aircraft between points in the United States and points in Africa via the North Atlantic as shown in the Attachment hereto.

The purpose of this order is to establish dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carrier's justifications should be set out in the tabular format suggested in Order 75–7–88, July 17, 1975: historical data as reported to the Board in Form 41 reports by functional account for total transatlantic services for the year ended December 31, 1975, adjusted to exclude operations in market areas not covered by the agreement (e.g. intra-Germany, Europe, and the Middle East) and all scheduled cargo and charter operations pertaining to the Africa market so as to establish the present economic status of passenger services in the U.S.-Africa market areas covered by the agreement. The carriers will also be expected to include a forecast for the year ending March 31, 1977 (the life of the agreement), both including and excluding the increased fares for which approval is sought. The carriers are expected to allocate costs between the passenger and cargo compartments of scheduled passenger aircraft by the

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[3] Orders 72–12–18, December 5, 1972 and 73–5–2, May 1, 1973.

[4] The present group fares, in addition to the minimum group size of 65 passengers, require that reservations be confirmed 45 days in advance; a nonrefundable deposit equal to 25 percent of the fare must be paid at the time reservations are made; and the group must travel together for the entire trip.

[5] The minimum tour add-on is so small in relation to the fare discount that there is a distinct danger of a "throw-away" situation (i.e., travelers interested only in point-to-point transportation could be diverted since they could save money by using the fares even if they simply discarded the tour package).

[6] This order was submitted to the President on February 19, 1976.

[1] Africa, as defined by IATA Resolution 012e, excludes Algeria, Morocco, Egypt and Sudan.

"space method" stipulated by the Board in its April 2, 1970 decision in Docket 18381, *Nonpriority Mail Rates*, (Orders 70–4–9 and 70–4–10).[2]

Lastly, the Board will expect the carriers to address the issue of fares from Miami to points in Africa *vis-a-vis* fares from New York. As a consequence of recent changes in operating authority between New York and Johannesburg, most flights are now routed via Rio de Janeiro. Under these circumstances, it would no longer appear appropriate to charge the Miami passenger, who originates at a point intermediate between New York and Rio de Janeiro, an amount greater than that charged the New York passenger.

Accordingly, *IT IS ORDERED* THAT:

1. All United States air carrier members of the International Air Transport Association providing service within the affected area shall file within 15 calendar days after the date of service of this order, full documentation and economic justification for the fares and related conditions embodied in the subject agreement;

2. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

3. Replies to submissions received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within 25 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board approval of the subject agreement.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.76–5490 Filed 2–25–76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CP 75–1]

BOTTLE AND JAR CUTTING KITS

Denial of Petition

The purpose of this notice is to announce the decision of the Consumer Product Safety Commission to deny the petition submitted by Carolyn Cannon (CP 75–1) to commence a proceeding for the issuance of a consumer product safety rule for bottle and jar cutting kits.

Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Commission for the issuance of a consumer product safety rule. This section also provides that if the Commission denies such a petition, it shall publish in the FEDERAL REGISTER its reasons for the denial.

Ms. Cannon petitioned the Commission on July 3, 1974. She contended that the instructions on bottle and jar cutting kits do not sufficiently warn consumers about the possible injuries that they may suffer while using the kit. Specifically, the petitioner noted that although the instructions recommend the use of goggles or glasses of some kind to protect the eyes, the instructions fail to recommend gloves or something to cover the hands for protection. As such, the petitioner argued, the product presents an unreasonable risk of injury that should be eliminated by either banning the product or, alternatively, by requiring that instructions advise use of gloves or some covering to protect the hands.

Bottle and jar cutting kits present a potential risk of injury to users, since the handling and cutting of glass always presents the possibility of causing cuts to the hands. To evaluate the seriousness of this risk the Commission considered reports of four in-depth investigations of laceration injuries caused by glass cutting kits; an analysis of these injuries by its Office of the Medical Director; and testing performed by its Bureau of Engineering Sciences. The Commission has determined that glass cutting kits do not present an unreasonable risk of injury because they will normally not cause injuries as long as the instructions for use of the kits are followed. In this regard, the Commission commends the manufacturer specifically mentioned by the petitioner for voluntarily modifying the instructions accompanying its cutting kits to recommend that gloves be worn by users of the kits. The Commission encourages such voluntary action by persons subject to the acts the Commission administers.

Based on its finding that no unreasonable risk is associated with bottle and jar cutting kits, the Commission has denied the petition and hereby gives notice of such denial according to section 10(d) of the Consumer Product Safety Act (15 U.S.C. 2059(d)).

A copy of the petition and accompanying materials may be seen during working hours, Monday through Friday, in the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street, NW., Washington, D.C. 20207.

Dated: February 23, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76–5441 Filed 2–25–76;8:45 am]

DEFENSE SUPPLY AGENCY

SMALL BUSINESS EMERGENCY RELIEF ACT

Notice of Delegation of Authority

The Small Business Emergency Relief Act, Pub. L. 94–190, grants authority to the Heads of Executive Agencies to provide relief to specified small business firms. Authority to apply the provisions of the Act has been delegated to the Director of the Defense Supply Agency. The Director of the Defense Supply Agency has delegated the authority to apply the provisions of the Act as follows:

1. To the Commanders, DSA Supply Centers, with the power to further redelegate the authority to make findings and apply the provisions of the Act:

a. To deny any request for relief; and

b. to approve a termination for convenience in any amount or to modify any contract where the contract modification obligates the Government in an amount less than $50,000.

2. To the DSA Small Business Emergency Relief Act Adjustment Board to make findings and apply the provisions of the Act:

a. to deny any request for relief;

b. to approve a termination for convenience or a modification of a contract, the effect of which is to relieve the contractor from the performance of an obligation or obligate the Government in any amount; and

c. to develop and publish guidelines, interpretations and other guidance necessary to carry out the Act.

W. W. VAUGHAN,
Lieutenant General, USA,
Director.

[FR Doc.76–5403 Filed 2–25–76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

URANIUM HEXAFLUORIDE

Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging: Revisions

The Energy Research and Development Administration (ERDA) hereby announces revisions to the notice entitled "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging" as published in the FEDERAL REGISTER on November 29, 1967 (32 FR 16289), and as amended in 34 FR 14039, September 4, 1969; 35 FR 13547, August 25, 1970; 36 FR 4563, March 9, 1971; 36 FR 11877, June 22, 1971; 38 FR 4432, February 14, 1973; 38 FR 13593, May 23, 1973; 38 FR 21518, August 9, 1973; 38 FR 22908, August 27, 1973; 38 FR 27962, October 10, 1973; 39 FR 22182, June 20, 1974; 40 FR 17070, April 16, 1975; and 40 FR 26060 and 40 FR 26061, June 20, 1975 (referred to herein as the notice).

[2] In furnishing the data requested, each carrier should provide complete explanatory notes and supporting detail including statistical data to describe the methods used in making the allocations.

[3] Attachment filed as part of the original document.

Subparagraph 3(c) of the notice is deleted and the following subparagraph 3 (c) is inserted in lieu thereof:

(c) The charge per separative work unit furnished pursuant to other than Requirements-type contracts is $59.05.

Effective date. This notice is effective April 27, 1976.

Dated at Washington, D.C. this 18th day of February 1976..

For the Administrator.

RICHARD W. ROBERTS,
Assistant Administrator for Nuclear Energy.

[FR Doc.76-5594 Filed 2-25-76;8:45 am]

URANIUM HEXAFLUORIDE

Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging: Revisions

The Energy Research and Development Administration (ERDA) hereby announces revisions to the notice entitled "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging" as published in the FEDERAL REGISTER on November 29, 1967 (32 FR 16289), and as amended in 34 FR 14039, September 4, 1969; 35 FR 13547, August 25, 1970; 36 FR 4563, March 9, 1971; 36 FR 11877, June 22, 1971; 38 FR 4432, Feburary 14, 1973; 38 FR 13593, May 23, 1973; 38 FR 21518, August 9, 1973; 38 FR 22908, August 27, 1973; 38 FR 27962, October 10, 1973; 39 FR 22182, June 20, 1974; 40 FR 17070, April 16, 1975; and 40 FR 26060 and 40 FR 26061, June 20, 1975 (referred to herein as the notice).

Subparagraph 3(b) of the notice is deleted and the following subparagraph 3(b) is inserted in lieu thereof:

(b) The charge per separative work unit furnished pursuant to Requirements-type contracts is $67.25 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge.

Effective date. This notice is effective August 25, 1976.

Dated at Washington, D.C., this 18th day of February 1976.

For the Administrator.

RICHARD W. ROBERTS,
Assistant Administrator for Nuclear Energy.

[FR Doc.76-5595 Filed 2-25-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[494-1]

NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee of the Science Advisory Board will be held at 9:30 a.m. on March 19, 1976 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to hear progress reports from committee review groups which are reviewing the air quality criteria documents for sulfur oxides, particulate matter, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen oxides; and (2) to discuss which portions of the criteria documents, in the view of the committee, require updating and/or critical review. The Agenda will also include (3) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde, Scientist Administrator, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The telephone number is (703) 557-7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

FEBRUARY 20, 1976.

[FR Doc.76-5400 Filed 2-25-76;8:45 am]

[FRL 494-7; PF29]

PESTICIDE PETITIONS

Notice of Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1729. Shell Chemical Co., Suite 200, 1025 Connecticut Ave., NW, Washington DC 20036. Proposes amending 40 CFR 180.307 by establishing a tolerance for negligible residues of the herbicide 2-((4-chloro-6-(ethylamino)-*s*-triazin-2-yl) amino-2-methylpropionitrile in or on the raw agricultural commodities wheat grain and wheat straw at 0.1 part per million (ppm). Proposed analytical method for determining residues is a gas liquid chromatographic procedure using an alkali flame ionization detector. PM25

PP 6F1726. Uniroyal Chemical, 74 Amity Rd., Bethany CT 06525. Proposes amending 40 CFR 180.259 by increasing the established tolerances for residues of the insecticide propargite [2-(*p-tert*-butylphenoxy)cyclohexyl 2-propynyl sulfite] in or on the raw agricultural commodities applies from 3 ppm to 10 ppm and in the fat of cattle, goats, hogs, poultry, and sheep from 0.1 ppm (negligible residues) to 1.0 ppm. Proposed analytical method for determining residues is a gas chromatographic procedure using a specific sulfur detector. PM13

FAP 6H5114. Uniroyal Chemical. Proposes that 21 CFR 561.330 be amended to increase the tolerance for residues of the insecticide propargite in dried apple pomace from 80 ppm to 275 ppm when present therein as a result of the application of the insecticide to the growing crop. PM13

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., East Tower, Room 401, Washington, D.C. 20460. Three copies of the comment should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should bear a notation indicating the number of the petition to which the comments pertain. 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 4:00 p.m. Monday through Friday.

Dated: February 19, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-5397 Filed 2-25-76;8:45 am]

[FRL 494-8; OPP-33003]

M-44 SODIUM CYANIDE CAPSULES

Approval of Registration for Use in Device To Control Predators and Waiver of Data in Support of Registration and Classification

On July 7, 1975, the Environmental Protection Agency (EPA) received an application to register M-44 sodium cyanide capsules from the U.S. Department of the Interior (USDI), Fish and Wildlife Service, Washington, D.C. 20250, pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.).

Notice of USDI's application was published in the FEDERAL REGISTER July 15, 1975 (40 FR 29755), providing for an expedited hearing on the application to commence on August 12, 1975. On August 29, the Administrative Law Judge issued his Initial Decision, and on September 16 the Administrator (EPA) issued his Decision and Order. These documents were published in the FEDERAL REGISTER on September 29, 1975 (40 FR 44726).

Pursuant to the order initiating this proceeding, seven (7) additional registration applications were filed and, by order of the Deputy Administrator dated August 8, 1975 (published in the FEDERAL REGISTER August 15, 1975, 40 FR 34455), the following applications were joined in this proceeding: Montana Department of Livestock, Wyoming Department of Agriculture, Colorado Department of Agriculture, Oregon Department of Agriculture, Nevada State Department of Agriculture, Texas Department of Agriculture, and M-44 Safety Predator Control Company.

The applications subject to this proceeding have been, or are now being, processed in accordance with applicable law and regulations, subject to the re-

strictions set forth in the Administrator's Order dated September 16, 1975.

After considering the evidence submitted by USDI in their application for registration and the data submitted in support thereof, the Administrator has made a written finding pursuant to the regulations [40 CFR 162.8(a)(3)] with respect to whether such properties of the M–44 sodium cyanide capsules are fundamentally different from the factors considered by the EPA in establishing the data requirements set forth in the Registration Guidelines. Although The Guidelines were published as proposed rules in the FEDERAL REGISTER on June 25, 1975 (40 FR 26802), and have not as yet been promulgated, the basic data requirements set forth in the proposed Guidelines represent the current data necessary to support a registration. Accordingly, the notification of data waiver will apply to supporting data now required by the Agency and set forth in the proposed Guidelines.

The Administrator has determined that the submission of certain data is not necessary for determining whether the M–44 sodium cyanide capsules will generally cause unreasonable adverse effects on man or the environment. Specifically, the requirement for the separate submission of new experimental data on eye and dermal exposure of experimental animals to demonstrate acute toxicity of sodium cyanide for the proposed use is waived. The waiver is based on the well established effects of the acute toxicity of cyanide already available to the EPA, including data on the acute toxic effects of cyanide on humans by oral and inhalation exposure routes. The compound is highly toxic and is known to be absorbed through the skin. Adequate dose/effect relationships have been observed to presume such relationships will hold for other routes of administration and that there would be little basis for assumption of higher toxicity via dermal or eye administration. Therefore, it is considered that the voluminous data already available are sufficient to meet the purpose of the data requirements and to establish and delineate the highly toxic nature of sodium cyanide and to allow the determination of adequate restrictive precautions and procedures to allow for safe handling of sodium cyanide.

Therefore, it has been determined that the requirements for registration have been satisfied. This application has been approved and the product has been assigned the EPA Registration No. 6704–75. Notice of approval is given pursuant to the regulations [40 CFR 162.7(d)(2)].

Registration has also been approved for several of the applicants joined in these proceedings, as well as for those applicants who requested registration of M–44 sodium cyanide capsules at the conclusion of the proceedings in accordance with the Administrator's Order. These applicants based their method of support for registration on that data provided by USDI. Accordingly, the findings and subsequent determination to waive data requirements apply equally to the following:

Applicant:	*EPA registration No.*
Montana Department of Livestock	35975–2
Wyoming Department of Agriculture	35978–1
Colorado Department of Agriculture	33968–6
Oregon Department of Agriculture	35979–1
California Department of Food and Agriculture	10965–2
South Dakota Department of Game, Fish and Parks	34275–1

Moreover, the determination to waive the requirement for separate submission of new data on eye and dermal exposure of experimental animals to demonstrate acute toxicity for use against mammalian predators will apply to any other application for registration of M–44 sodium cyanide capsules now before the Agency and any other filed hereafter.

Test data and other information submitted in support of these registrations as well as such other scientific information deemed relevant to the registration decision, except for such material protected by Section 10 of FIFRA, are available for public inspection in the office of the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, Room EB–31, East Tower, 401 M St. SW., Washington, D.C. 20460, in accordance with the regulations for section 3(c)(2) of FIFRA (40 CFR 162.7(f)).

Dated: February 20, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76–5396 Filed 2–25–76;8:45 am]

[FRL 494–4; OPP–180066]

TENNESSEE VALLEY AUTHORITY

Receipt of Application for Specific Exemption To Use 2,4-D To Control Eurasian Watermilfoil

The Tennessee Valley Authority (TVA) has applied to the Environmental Protection Agency (EPA) for a specific exemption to use no more than 312,000 pounds acid equivalent of liquid dimethylamine salt and granular butoxyethanol ester formation of the herbicide 2,4-D to control Eurasian watermilfoil on the Tennessee River. Eight of TVA's mainstream reservoirs and one tributary reservoir are involved; the nine reservoirs contain 299,600 acres of water surface, 7,000 surface acres of which require herbicide treatment during the 1976 season. This specific exemption, if granted, will be valid for no longer than one (1) year from the date of approval by EPA.

This application is in accordance with the provisions of section 18 (40 CFR Part 166) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136). Part 166 was isssued on December 3, 1973 (38 FR 33303), and prescribes the requirements for exemption of Federal and State agencies for the use of pesticides under emergency conditions.

This notice does not indicate a decision by this Agency on the application. Interested parties may review the application in the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460.

Dated: February 19, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76–5401 Filed 2–25–76;8:45 am]

[FRL 495–6]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Notice of Delegation of Authority to Commonwealth of Virginia

On December 23, 1971 (36 FR 24876) and March 8, 1974 (39 FR 9308), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for five categories and seven categories of new stationary sources (NSPS), respectively. On April 6, 1973 (38 FR 8820), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On June 2, 1975, the Regional Administrator, Region III, EPA, forwarded to the Commonwealth of Virginia information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS and NESHAPS. On August 26, 1975, Earl J. Shiflet, Secretary of Commerce and Resources, submitted to the EPA Regional Office a request for delegation of authority. Included in that request were copies of the Commonwealth of Virginia regulations which incorporate by reference the Federal emission standards and testing procedures set forth in 40 CFR Parts 60 and 61, with certain exceptions. Also included were copies of State statutes which provide the State with the requisite authority to enforce the NSPS and NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in paragraphs (a) and (b) of the following official letter to Earl J. Shiflet, Secretary of Commerce and Resources, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 11 of that letter:

MR. EARL J. SHIFLET,
Secretary of Commerce and Resources,
Commonwealth of Virginia,
Richmond, Virginia 23219.

Re: Delegation of Authority of New Source Performance Standards *and National Emission Standards for Hazardous Air Pollutants.*

DEAR MR. SHIFLET: This is in response to your letter of August 26, 1975, requesting delegation of authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonwealth of Virginia.

We have reviewed the pertinent laws of the Commonwealth of Virginia and the rules and regulations of the Virginia State Air Pollution Control Board, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS regulations by the Virginia State Air Pollution Control Board and the Commonwealth of Virginia. Therefore, we hereby delegate authority to administer and enforce the NSPS and NESHAPS regulations to the Commonwealth of Virginia as follows:

A. The Commonwealth shall have authority for all sources located in the Commonwealth of Virginia subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as of the date of the request for delegation. The 12 categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; petroleum refineries; nitric acid plants; sulfuric acid plants; asphalt concrete plants; storage vessels for petroleum liquids, secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants. However, the definition of portland cement plants in the State regulation does not include clinker storage or finished product storage facilities, and thus this delegation does not include such facilities.

B. The Commonwealth shall have authority for all sources located in the Commonwealth of Virginia subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of the request for delegation. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Virginia State Air Pollution Control Board, including:

(A) For New Source Performance Standards:

(1) Sources determined to be applicable during that quarter.

(2) Applicable sources which started operation during that quarter or the start of operations prior to that quarter which have not been previously reported.

(3) The compliance status of the above, including the summary sheet from the compliance test(s).

(4) Any legal actions, as defined in J. Rasnic's letter of December 18, 1974, to Mr. Meyer, which pertain to NSPS sources.

(B) For National Emission Standards for Hazardous Air Pollutants:

(1) NESHAPS sources granted a permit to construct.

(2) NESHAPS sources inspected during that quarter and their compliance status (except under § 61.22 (d) and (e)).

(3) The number of inspections under § 61.22 (d) and (e).

(4) The requirements of (A) above.

2. Enforcement of the NSPS and NESHAPS regulations in the Commonwealth of Virginia will be the primary responsibility of the Virginia State Air Pollution Control Board. Where the Virginia State Air Pollution Control Board determines that such enforcement is not feasible and so notifies EPA, or where the Virginia State Air Pollution Control Board acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the Commonwealth of Virginia subject to NSPS and NESHAPS.

3. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the Commonwealth of Virginia to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of August 26, 1975.

4. Upon approval of the Regional Administrator of Region III, the Virginia State Air Pollution Control Board may subdelegate its authority to implement and enforce the NSPS and NESHAPS to air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

5. The Virginia State Air Pollution Control Board will at no time grant a waiver of compliance under the NESHAPS regulations.

6. This delegation to the Commonwealth of Virginia does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. The Commonwealth of Virginia will not grant a variance from compliance with the applicable NSPS and NESHAPS regulations if such variance delays compliance with the Federal Standards (Parts 60 and 61). Should the Virginia State Air Pollution Control Board grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the Virginia State Air Pollution Control Board shall also constitute grounds for revocation of delegation by EPA.

8. The Virginia State Air Pollution Control Board and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a State interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the State.

9. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60 or 61), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. The Virginia State Air Pollution Control Board will utilize the methods specified in 40 CFR Parts 60 and 61, in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State program for enforcing or implementing the NSPS or NESHAPS regulation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Virginia State Air Pollution Control Board.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located in the Commonwealth of Virginia should be submitted to the Virginia State Air Pollution Control Board at Room 1106, Ninth Street Office Building, Richmond, Virginia 23219, in addition to EPA Region III. Any such reports which have been or may be received by EPA, Region III, will be promptly transmitted to the Virginia State Air Pollution Control Board.

Since this delegation is effectvie immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of receipt of this letter, the Commonwealth of Virginia will be deemed to have accepted all of the terms of the delegation.

Sincerely,

DANIEL J. SNYDER, III
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Earl J. Shiflet, Secretary of Commerce and Resources, on December 30, 1975, that authority to implement and enforce the standards of performance for new stationary sources and the national emission standards for hazardous air pollutants was delegated to the Commonwealth of Virginia.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Effective immediately, all reports required pursuant to the standards of performance for new stationary sources listed in the above letter and the national emission standards for hazardous air pollutants should be submitted to the Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219, with copies to EPA, Region III. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) should be sent to the Virginia State Air Pollution Control Board only.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended. 42 U.S.C. § 1857c-6 and 7.

Dated: February 21, 1976.

DANIEL J. SNYDER, III,
Regional Administrator, Region 3.

[FR Doc.76-5506 Filed 2-25-76;8:45 am]

DEPARTMENT OF LABOR

Equal Employment Opportunity Commission

HIGHER EDUCATION STAFF INFORMATION (EEO-6)

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1975 Higher Education Staff Information (EEO-6) report required by 29 CFR 1602.50 is extended from February 28, 1976 to April 30, 1976. The payroll reporting period for the EEO-6 remains unchanged.

Signed at Washington, D.C. this 11th day of February 1976.

LOWELL W. PERRY,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-5444 Filed 2-25-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20627, 20628; File Nos. BPH-9017, BPH-9173]

MIAMI COUNTY BROADCASTING COMPANY, INC. AND Q COMMUNICATIONS CORP.

Applications; Correction

In re Applications of THE MIAMI COUNTY BROADCASTING COMPANY, INC., Sault Ste. Marie, Michigan. Requests: 101.3 MHz, Channel No. 267; 100 kW (H); 60 kW (V); 260 feet.

Q COMMUNICATIONS CORPORATION, Sault Ste. Marie, Michigan. Requests: 101.3 MHz, Channel No. 267; 100 kW (H&V); 328 feet. For Construction Permit.

On December 24, 1975, 41 F.R. 1625, the Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, released a Memorandum Opinion and Order designating the above applications for hearing. As reflected above, the name of the lead applicant in the caption and throughout the document is corrected to read "The Miami County Broadcasting Company, Inc." instead of "The Miami County Broadcasting Company, Incorporated".

Released: February 23, 1976.

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-5473 Filed 2-25-76;8:45 am]

[FCC 76-74]

WESTINGHOUSE COMMUNICATIONS SERVICES, INC., ET AL.

Order Regarding Grant of Experimental Earth Stations in 12 and 14 GHz Bands

In the Matter of Authority to construct and operate experimental earth station facilities in the United States of America to be used in conjunction with the Dominion of Canada's Communications Technology Satellite for the purpose of conducting certain radio experiments and developing a new satellite radio service in the 12 and 14 GHz bands. In particular the application of Westinghouse Communication Services, Inc., for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service near Baltimore, Maryland; File No: 6882-ED-PL-75; and for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service near Lima, Ohio, File No: 6881-ED-PL-75, Communications Satellite Corporation, for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service principally near Clarksburg, Maryland; and elsewhere in the Continental United States and Alaska; File No: 6962-ED-PL-75, and, for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service in the Continental United States and Alaska, File No: 6963-ED-PL-75, Office of Telecommunications Policy, for Commission concurrence in the granting of authority by that Office to the NATIONAL AERONAUTICS AND SPACE ADMINISTRATION to construct and operate (a) Experimental Earth Stations at or near Greenbelt Maryland; Rosman, North Carolina; Cleveland, Ohio; Moffett Field, California; and (b) and Experimental Station for testing and maintaining experimental earth station receivers, all the Governmental Experimental (Research) Radio Service.

Introduction. 1. The United States of America's National Aeronautics and Space Administration (NASA) and the Dominion of Canada's Department of Communications (DOC) are signatories of a Memorandum of Understanding [1] on the joint advancement of the state-of-the-art spacecraft and related ground-based technologies relevant to future space communications in the 11.7 to 12.2 GHz and 14.0 to 14.5 GHz bands.[2] In general, the Memorandum calls for DOC to design and construct this Communications Technology Satellite (CTS)[3] with NASA providing the launch vehicle; it provides that DOC be the owner, operator and licensee, with transponder time being shared equally between Canadian and American experimenters. The agreement also calls for NASA to act as agent for DOC with respect to the selection of American users of transponder time.

2. NASA has advised the Commission that CTS was launched on January 17, 1976; that the satellite will become operational on or about February 26, 1976; and that fifteen American experimenters, involving approximately 160 earth stations (131 receive only, 29 transmit/receive), have been approved to access CTS by NASA. It is estimated that 104 earth stations will be licensed to entities of the private sector and that the remaining 56 will be authorized by the Office of Telecommunications Policy and operated by one of several Federal Governmental agencies. The deployment of these earth stations is to take place over the next twelve months. All stations will require either (a) Commission permits and licenses, or (b) Commission concurrence before the Office of Telecommunications Policy (OTP) will issue authorizations for the construction and operation of Federal Government facilities.[4]

Purpose of experiment. 3. The proposed American use of the Communications Technology Satellite [5] can be categorized into (a) propagation and interference studies, (b) test and evaluation of earth station equipment, and (c) operational evaluation of the satellite system.

a. *Propagational and interference studies.* The primary experimenter in this category is NASA. NASA will evaluate attenuation and signal degradation due to absorption and scattering induced by precipitation; characterize earth-based, man-made signals which could interfere with the uplink band; and determine the impact, if any, on existing radionavigational equipment which share this band.

b. *Test and evaluation of earth station equipment.* Again, NASA will be the primary experimenter/investigator in this category. Some equipment evaluation will be conducted by the various manufacturers independent of NASA (i.e. COMSAT and Satellite Business Systems).

c. *Operational evaluation of the satellite system.* The greatest number of experiments will involve the operational evaluation of the potential delivery capability of the satellite system. The potential satellite users will evaluate the ease of field deployment and operation of the earth stations. Additionally, they will try to determine if their software programing concepts can operate within the framework of the encountered system outages. To accomplish this objective, the various experimenting and investigating users will install and operate earth station networks [6] which will render the proposed communications service. This will permit the end users to evaluate for themselves the viability of utilizing a 12/14 GHz satellite system to solve their communications requirements.

Administrative considerations. 4. Since the Commission does not currently have any service rules permitting satellite operations in the 11.7 to 12.2 GHz and 14.0 to 14.5 GHz bands, the Chief Engineer advised [7] prospective earth stations applicants (through NASA) that non-Government earth station applications should be filed for in the Experimental (Developmental) Radio Service, requesting a waiver of certain Commission rules and regulations and a grant of authority to render a communications service.[8]

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[1] See APPENDIX 1 for the Memorandum of Understanding between NASA and DOC.

[2] See APPENDIX 2 for that portion of the spectrum allocations table applicable to the 11.7 to 12.2 GHz and 14.0 to 14.5 GHz bands.

[3] See APPENDIX 3 for technical parameters of the satellite.

[4] Executive Order 11556, see OTP's Manual of Rules and Procedures for Radio Frequency Management.

[5] CTS Reference Book; Lewis Research Center, Cleveland, Ohio, October 15, 1975; CTS File No: 3100-28.

[6] Some examples of proposed networks are composed of: (1) the forty-six public television member stations of the Southern Educational Communications Association; (2) the instructional television fixed service stations of the Archdiocese of San Francisco and Los Angeles; (3) the Westinghouse Corporation's plants in Baltimore and Lima; (4) NASA's facilities in Washington, Rosman, Cleveland and San Francisco; and (5) thirty hospitals operated by the Veterans Administration.

[7] See APPENDIX 4, for the guidelines issued by the Chief Engineer.

[8] Future applications or major modifications of the instant licenses shall be handled pursuant to appropriate authorization procedures of the Commissions bureau responsible for the service to be provided.

5. The Experimental (Developmental) authorization, § 5.252 of the rules, permits the carriage of messages essential to the installation, extension or development of radio communication facilities; however, § 5.151(b) of the rules does not permit the carriage of programs intended for public reception and/or the rendering of a communications service, unless expressly so requested by the applicant and authorized by the Commission. Since the purpose of the CTS project is to evaluate the viability of implementing a satellite service in the 12/14 GHz band, potential users should be provided the opportunity of evaluating this satellite system first-hand with respect to their own needs and requirements. Thus, the Commission finds that the public interest would be served if authority were granted to the CTS earth station applicants to carry programs intended for public reception and to render a communications service (but not for hire). In addition, any requests for authority to continue the operation of these earth stations after the CTS program has ended would require separate applications, and these applications, as well as the actual operations of these earth station facilities, will be fully subject to all then applicable Commission rules, regulations, policies and practices. Section 5.68 of the Commission's rules provides that an experimental license to use a frequency is granted with the express understanding that no right is conferred to conduct an activity of a continuing nature and that the grant of any such license can be changed or cancelled at any time without hearing if the Commission finds that such an action is needed. The granting of these experimental licenses therefore carries no implication that any of the activities carried on under an experimental license will be permitted to continue on a regular basis. Also, the granting of an experimental license implies no approval of the technical characteristics of the system operated under the license.

6. The Commission's rules, § 5.152, require that call signs be transmitted by Experimental (Developmental) stations. In this instance this requirement seems to the Commission to be unwarranted because satellite transmission of the types of emission (continuous transmission of multi-channel and video signals, analog as well as digital) to be used do not lend themselves to the transmission of call signs which could be read without the Commission's obtaining unusual equipment; to require the transmission of the call sign in a more conventional manner would necessitate additional equipment being obtained by the earth station operator and the interruption of the continual transmission of programing. In fact, the Commission does not require the transmission of station identification for Domestic Earth Stations, § 25.206 of the rules, nor for most terrestrial microwave stations.

7. The Commission feels that to require the earth station applicants to comply with § 5.253(d) of the rules, which dictates that a Petition for Rule Making be filed concurrently with an application for an Experimental (Developmental) authorization, is an unnecessary burden. Such petitions would be redundant in these cases since a similar inquiry is underway by the Commission in its preparation for the 1977 World Administrative Radio Conference on Broadcasting-Satellites (WARC-B/S), Docket 20468. Since this Conference is to take place in early January, 1977, the Commission feels that the public interest would be better served if the licensees were required to prepare and file a preliminary report containing a detailed analysis of the results of the experiment thus far obtained, on or before December 1, 1976. A final report is due 90 days following the expiration of each authorization, or at the time of application for renewal of each authorization. In general, these reports should conform to that specified in §§ 5.255 (c) and (d) of the rules. Consolidated reports are preferable, but not mandatory.

8. The CTS program proposes the cooperative use of earth station facilities. Most prospective CTS users require access to these communications facilities for the sole purpose of conducting their planned experiments. As many of these experiments are of such a short duration that it would not justify the purchase of an earth station by each entity, the Commission has determined that shared use of CTS earth stations will be allowed within the purview of the procedures outlined in the following paragraphs. Experimenters who are unable to afford their own facilities will thus have the opportunity of conducting experiments which could provide additional data that could be used in the evaluation of the satellite system and be useful in the Commission's preparation for the 1977 WARC-B/S. These procedures do not require joint ownership among sharing entities, but they do allow the owner to defray costs incurred by sharing the earth station. The Commission recognizes that the experimental nature of CTS necessitates less structured terms and regulations than those required for an established service. Through the notification processes described below, the Commission should be able to accommodate all experimental CTS users in a timely fashion.

9. The Commission feels that the cooperative use of these CTS earth stations should be permitted when the sharing is accomplished by one of the following or a combination thereof:

a. Without cost to the participants in its use, or;

b. On a non-profit, cost-sharing basis pursuant to a written contract between the parties involved which provides that the licensee shall have control of the licensed facility and that contributions to capital and operating expenses are accepted only on a cost-sharing, non-profit basis, prorated equitably, among all participants using the facilities, or;

c. On a reciprocal basis (i.e. use of one licensee's facilities in exchange for the use of another licensee's facilities) without charge for either capital or operating expense, pursuant to a written contract between the licensees involved.

Joint ownership, with concomitant joint licensing, will of course, be permitted.

10. Each licensee sharing its facilities shall file a notification with the Commission at least 30 days (if possible) prior to the use of its facilities by any other person that has not been specified in its license application or in a prior notification to the Commission. This notice will contain the following information:

(1) Name and description of the licensee;

(2) Call sign of the station or stations;

(3) The names of all prospective participants in the cooperative use of the station and a description of the use proposed for the station; and,

(4) A copy of the contract between the parties for the cooperative use of the facilities.

11. The licensee may institute the service described in the notification filed pursuant to paragraph 10 above, 30 days after filing unless the Commission during that period notifies the licensee that cooperative use is not in the public interest. The licensee shall inform the Commission whenever the cooperative use of any of its facilities in accordance with the above paragraphs is permanently or indefinitely discontinued.

12. Although the spectrum being applied for is within the jurisdiction of the Federal Communications Commission and has been allocated to the various services shown in APPENDIX 2, the Commission has promulgated Rules for only the terrestrial use of certain portions of the spectrum shown in the Appendix, as follows: § 21.801, Local Television Transmission Service, 11.7 to 12.2 GHz; and § 83.404, Radionavigation Service, 14.00 to 14.05 GHz. Since the band 11.7 to 12.2 GHz is the Space-to-Earth segment, earth stations will be receiving, not transmitting; therefore, the granting of the proposed earth station applications will not adversely effect existing licensees. On the other hand, the band 14.0 to 14.5 GHz is the Earth-to-Space segment, and thus the operation of transmitting earth stations could adversely affect existing radionavigational equipments authorized for use aboard vessels in the band 14.00 to 14.05 GHz. Consequently, applicants whose proposed transmitting earth stations are to be located within 8.0 kilometers (5 miles) of navigable waters, are required to provide the Commission with a showing as to the possible impact, if any, upon these radionavigational equipments before their applications will be acted upon.

13. All experimental licenses for earth stations to be used in conjunction with this satellite will expire upon the earlier of the satellite's ceasing to function or the reaching of a date two years after that of the granting of the license, but in no event will any license period extend beyond June 30, 1978.

Applications under consideration. 14. The Commission has before it, nine ap-

plications to construct and operate either earth stations or test equipment which are to be used in conjunction with the Communications Technology Satellite project. Applicants now before the Commission are: Westinghouse Communication Services, Inc. (Westinghouse); Communications Satellite Corporation (COMSAT) and National Aeronautics and Space Administration (NASA). The particulars of each application are detailed in paragraphs 15 through 24, below.

15. Westinghouse filed an application (File No.: 6882–ED–PL–75) on January 13, 1975, subsequently amended on March 18, and December 9, 1975, for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service at the Westinghouse plant located at the Baltimore-Washington International Airport, Anne Arundel County, Maryland, 39°10'56'' north, 76°41'23'' west. The proposed Earth Station is to consist of: (1) a dual linear polarized 4.57 meter (15 foot) parobolic antenna on a mount with motorized elevation and azimuth drives; (2) a 500 watt frequency modulated transmitter which is capable of operating in the bands 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 21.9 dB/°K) that is capable of simultaneously processing the beacon signal on 11.70 GHz, and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz band. The Earth Station will normally transmit on 14.247116 GHz, employing 32500F5 emission, with an EIRP of 78.5 dBw, and receive on 11.700 GHz (beacon) and 11.885500 GHz. Furthermore, WESTINGHOUSE requested that §§ 5.152 (transmission of station identification) and 5.253(d) requiring a petition requesting amendment of the rules governing the service involved to provide for the proposed operation be concurrently filed) of the Commission's rules and regulations be waived. Additionally, Westinghouse requested that they be permitted to render a communications service, per § 5.151(b) of the Commission's Rules and Regulations.

16. Westinghouse filed an application (File No.: 6881–ED–PL–75) on January 13, 1975, subsequently amended on March 18, and December 11, 1975, for authority to construct and operate an Experimental Earth Station in the Experimental (Developmental) Radio Service at the Westinghouse plant located at 4th and South Metcalf Streets, Lima, Allen County, Ohio, 40°42'54'' north, 84°06'54'' west. The proposed Earth Station is to consist of: (1) a dual linear polarized 4.57 meter (15 foot) parobolic antenna on a mount with motorized elevation and azimuth drives; (2) a 500 watt frequency modulated transmitter which is capable of operating in the band 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 16.8 dB/°K) that is capable of processing the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on 14.052116 GHz, employing 32500F9, emission, with an EIRP of 75.0 dBw, and receive on 12.080500 GHz. Furthermore, Westinghouse requested that §§ 5.152 (transmission of station identification) and 5.253(d) (requiring a petition requesting amendment of the rules governing the service involved to provide for the proposed operation be concurrently filed) of the Commission's rules and regulations be waived. Additional WESTINGHOUSE requested that they be permitted to transmit programs intended for public reception and to render a communications service, per § 5.151(b) of the Commission's rules and regulations.

17. COMSAT filed an application (File No: 6963–ED–PL–75) on April 10, 1975, subsequently amended on January 2, 1976, for authority to construct and operate an Experimental Earth Station (transportable) in the Experimental (Developmental) Radio Service principally at the COMSAT laboratories located near Clarksburg, Montgomery County, Maryland, 39°13'21'' north/77°16'33'' west; and at various other unspecified locations throughout the Continental United States and Alaska. The proposed Earth Station will consist of: (1) A 4.57 meter (15 foot) parabolic antenna with dual linear polarized cassegrainian feed, with elevation and azimuth controls; (2) a 20 watt frequency modulated transmitter which is capable of operating in the bands 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 18.0 dB/°K) that is capable of simultaneously processing the beacon signal on 11.700 GHz and the information channel signal in either 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands; and (4) a 31.3 meter (24 foot) modified boat trailer on which the antenna, transmitter and receiver are mounted. The Earth Station will normally transmit on either 14.052116 or 14.247116 GHz, employing 85000F9 or 500F9 emissions with an EIRP of 66.0 dBw, and receive on either 11.885500 or 12.080500 GHz. Furthermore, COMSAT requested that §§ 5.152 (transmission of station identification) and 5.253(d) (requiring a petition amendment of the Rules governing the service involved to provide for the proposed operation be concurrently filed) of the Commission's rules and regulations be waived. Additional, COMSAT requested that they be permitted to transmit programs intended for public reception and to render a communications service, per Section 5.151(b) of the Commission's Rules and Regulations.

18. COMSAT filed an application (File No.: 6962–ED–PL–75) on April 10, 1975, subsequently amended on January 6, 1976, for authority to construct and operate an Experimental Earth Station (transportable) in the Experimental (Developmental) Radio Service at various other unspecified locations throughout the Continental United States and Alaska. The proposed Earth Station will consist of: (1) A 1.22 meter (4 foot) parobolic antenna with dual linear polarized cassegrainian feed, mounted on a commercial tripod with elevation and azimuth controls; (2) a 20 watt frequency modulated transmitter which is capable of operating in bands 14.010 to 14.095 GHz and 14.204 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 15.8 dB/°K) that is capable of simultaneously processing the beacon signal on 11.700 GHz and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on either 14.052116 or 14.247116 GHz, employing 500F9 emission, with a EIRP of 45.6 dBw, and receive on either 11.885500 or 12.080500 GHz. Furthermore, COMSAT requested that § 5.152 (transmission of station identification) and 5.253(d) (requiring a petition amendment of the rules governing the service involved to provide for the proposed operation be concurrently filed) of the Commission's Rules and Regulations be waived. Additional, COM SAT requested that they be permitted to transmit programs intended for public reception and to render a communications service, per § 5.151(b) of the Commission's rules and regulations.

19. NASA filed an application with OTP for authority to construct and operate an Experimental Earth Station in the Governmental Experimental (Research) Radio Service at the Goodard Space Flight Center located near Greenbelt, Prince Georges County, Maryland; 38°–59'–44'' north/76°–50'–26'' west. The proposed Earth Station will consist of: (1) A 4.6 meter (15 foot) parabolic antenna with a linear polarized cassegrainian feed, with elevation and azimuth controls, receiving; (2) a 3.05 meter (10 foot) parabolic antenna with linear polarized cassegrainian feed, with elevation and azimuth controls, transmitting; (3) a 1.6 kw frequency modulated transmitter which is capable of operating the bands 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (4) a receiver (whose figure of merit is calculated to be 26.5 dB/°K) that is capable of simultaneously processing the beacon signal on 11.700 GHz and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on either 14.221616 or 14.247116 GHz employing 30000F5 or 23000F5/F9 emission, with an EIRP of 76.0 dBw, and receiving on 11.700 GHz and on either 12.05500 or 12.080500 GHz.

20. NASA filed an application with OTP for authority to construct and operate an Experimental Earth Station in the Governmental Experimental (Research) Radio Service at the Rosman Tracking Station located near Rosman, Transylvania County, North Carolina; 35°12'00'' north/82°53'20'' west. The proposed Earth Station will consist of: (1) A 4.6 meter (15 foot) parobolic antenna with dual linear polarized cassegrainian feed, with elevation and azimuth controls; (2) a 1.6 kw frequency modulated transmitter which is capable

of operating in bands 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 26.0 dB/°K) that is capable of simultaneously processing the beacon signal on 11.700 GHz and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on either 14.221616 or 14.247116 GHz, employing 30000F9 or 23000F5/F9 emission, with an EIRP of 76.0 dBw, and receiving on 11.700 GHz and on either 12.05500 or 12.080500 GHz.

21. NASA filed an application with OTP for authority to construct and operate an Experimental Earth Station in the Governmental Experimental (Research) Radio Service at the Lewis Research Center located at Cleveland, Cuyahoga County, Ohio, 41°24'45'' north/80°51'55'' west. The proposed Earth Station will consist of: (1) A 4.88 meter (16 foot) parobolic antenna with dual polarized cassegrainian feed, with elevation and azimuth controls; (2) a 1.6 kw frequency modulated transmitter which is capable of operating in the bands 14.010 to 14.095 GHz and 14.204 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 23.8 dB/°K) that is capable of simultaneously processing the beacon signal on 11.7000 GHz and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on either 14.053 or 14.248 GHz, employing 85000F9 and 30000F5 emission with EIRP of 66.0 dBw, and receive on 11.700 GHz (beacon) and on either 11.886 or 12.081 GHz.

22. NASA filed an application with OTP for authority to construct and operate an Experimental Earth Station in the Governmental Experimental (Research) Radio Service at Ames Laboratories located at Moffett Field, Santa Clara, California, 37°25'06'' north/122°03'23'' west. The proposed Earth Station will consist of: (1) A 3.05 meter (10 foot) parabolic antenna with dual polarized primary focus feed, with elevation and azimuth controls; (2) a 1600 watt frequency modulated transmitter which is capable of operating in the bands 14.010 to 14.095 GHz and 14.205 to 14.290 GHz; and (3) a receiver (whose figure of merit is calculated to be 19.7 dB/°K) that is capable of simultaneously processing the beacon signal on 11.700 GHz and the information channel signal in either the 11.843 to 11.928 GHz or the 12.038 to 12.123 GHz bands. The Earth Station will normally transmit on either 14.052116 or 14.247116 GHz employing 30000F5, 16000F9Y, 10800F9Y, or 8000F9Y emission, with an EIRP of 74.6 dBw, and receive on 11.700 GHz (beacon) and on either 11.886 or 12.081 GHz.

23. NASA filed an application with OTP for authority to construct and operate an Experimental Station in the Governmental Experimental (Research) Radio Service at various unspecified locations through the Continental United States and Alaska. The proposed station will consist of: (1) A standard horn antenna of 17.0 dBi gain; (2) an adjustable antenuator of O–99 dB; and (3) a 250 mw frequency modulated transmitter which is capable of operating in the band 11.7 to 12.2 GHz.

24. With respect to assuring compliance with the National Environmental Policy Act of 1969 (NEPA) and the Occupational Safety and Health Act of 1970 (OSHA), WESTINGHOUSE, in its applications, states that the construction of their proposed earth station facilities are minor within the meaning of § 1.1305 of the Commission's rules and that a radiation hazard will definitely exist at both the Baltimore and Lima stations, i.e. radiation level will exceed 10 mw/cm^2. WESTINGHOUSE's application dimensionally defines the area in the vicinity of the antennas in which the power density exceeds safe limits, and describes the methods to be used in preventing possible inadvertent intrusion into these areas. COMSAT also states that its proposed construction is minor within the meaning of § 1.1305 of the Commission's rules, and that the power densities in the vicinity of the antennas do not exceed safe limits, i.e. less than 10 mw/cm^2. Assuring compliance with NEPA and OSHA by NASA facilities is the responsibility of NASA and OTP, not the FCC. Based on the data supplied by the applicants, the Commission finds that there will be no adverse impact on existing radionavigation equipments operating in the band 14.00 to 14.05 GHz by these stations.

IMPLEMENTATION. 25. Appendix 5 contains a list of American entities who have received approval from NASA to take part in the CTS project, along with a short deescription of their planned participation. APPENDIX 6 lists the proposed deployment in the United States of the earth stations noting their classification (fixed or mobile, receive only or transmit/receive), anticipated licensee and projected users.

26. As can be seen in Appendix 6,* there are a large number of applications for earth stations which will be used in conjunction with the Communications Technology Satellite project and which have yet to be filed with the Commission. Since these future applications are expected to be similar to those presently before the Commission, the Commission has decided that the authority should be delegated to the Chief Engineer to (1) act on applications for permits and licenses for non-Governmental earth stations be used as part of this project; (2) permit the carriage of programs intended for public reception and the rendering of a communications service in accordance with § 5.151(b) of the Rules; (3) permit cooperative use of earth stations; and (4) act on requests for concurrence in the granting by the Office of Telecommunications Policy, to Federal Governmental entities, of authority to construct and operate experimental research earth stations to be used in conjunction with this project. If any future application (including an application for modification) proposes operations significantly outside the scope of the experiments listed in Appendix 5, the Chief Engineer will consult with such bureau or bureaus which might be affected before acting on the application.

27. By separate action, the Commission has adopted a letter (FCC 76–75) addressed to the Acting Director, Office of Telecommunications Policy, concurring with grants by that Office which give the authority to the National Aeronautics and Space Administration to construct and operate: (a) Experimental Earth Stations, at the locations specified in paragraphs 19 through 22 above, to be used in conjunction with the Communications Technology Satellite project; and (b) an Experimental Mobile Station (paragraph 23 above) for the testing and maintenance of the CTS earth station receivers, all to be experimental research stations, subject to certain conditions and restrictions.

28. *Therefore, it is ordered,* That the applications of Westinghouse Communication Services, Inc. (6881–ED–PL–75 and 6882–ED–PL–75) and of the Communications Satellite Corporation (6962–ED–PL–75 and 6963–ED–PL–75) to construct and operate Experimental Earth Stations in the Experimental (Developmental) Radio Service to be used in conjunction with the Communications Technology Satellite project, are granted, and that with respect to these stations: (1) Section 5.152 of the Commission's rules and regulations IS WAIVED; (2) the authority to permit the carriage of programs intended for public reception and/or the rendering of a communications service (not for hire) in accordance with § 5.151(b) of the Commission's rules and regulations is granted; and (3) the authority to permit the cooperative use of earth stations, pursuant to the conditions set forth in paragraphs 9, 10 and 11 above, is granted.

29. *It is further ordered,* That authority is delegated to the Chief Engineer to (1) act on such additional applications to construct and operate non-Government earth stations to be used in conjunction with the Communications Technology Satellite project, as may be filed; (2) permit the carriage of programs intended for public reception and/or the rendering of a communications service (not for hire) in accordance with § 5.151 (b) of the Commission's rules and regulations, with respect to such applications; (3) permit cooperative use of earth stations facilities per paragraphs 9, 10 and 11 above; and (4) act on requests for concurrence in granting, by the Office of Telecommunications Policy to Federal Government entities, of authority to construct and operate experimental research earth stations to be used in conjunction with this project.

30. *It is further ordered,* That, with respect to all non-Government applications concerning stations to be used in conjunction with this project, § 5.253(d) of the Commission's rules and regulations

* This is not a definitive list, there will be additions and deletions over the lifetime of the satellite.

IS WAIVED to the extent that it requires such applications to be accompanied by a petition requesting the amendment of the rules.

31. These actions are taken under authority contained in Sections 4(i), 5(d), 303, and 309 of the Communications Act of 1934, as amended.

NOTE: The Appendices, due to volume, will not be included in this document, but will be available for inspection at the Federal Communications Commission.

Adopted: January 29, 1976.

Released: February 11, 1976.

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

FCC 76-75

JANUARY 29, 1976.

MR. JOHN EGER, *Acting Director,*
Office of Telecommunications Policy,
1325 G Street, NW,
Washington, D.C. 20005

DEAR MR. EGER: This letter is to advise you that the Federal Communications Commission has reviewed NASA's applications for authority to construct and operate four (4) Experimental Earth Stations and one (1) experimental mobile station (test set), all in the Government Experimental (Research) Radio Service, which are to be used in conjunction with the Communications Technology Satellite (CTS) project. These stations, along with other stations involved in the CTS project, will make use of non-Government frequencies.

NASA's applications were forwarded to the Commission by the IRAC pursuant to normal co-ordination procedures. The Commission concurs in the granting by your office of authority to construct and operate these facilities, as described in enclosures 1 to 5, provided that the general, and the applicable particular, conditions and restrictions are adhered to. The general conditions and restrictions apply to the CTS project as a whole and are given below. The particular conditions and restrictions apply to a particular station and appear in the enclosure concerning that station. A similar form will be prepared for any future CTS-connected application, the granting of which is concurred in by the Commission.

The general conditions and restrictions are as follows:

(a) All operations are subject to the condition that harmful interference is not caused to any non-Government services.

(b) No protection from harmful interference will be provided from operations by present and future Commission-licensed stations.

(c) All frequency assignments to Government stations will be coordinated with the Commission and approved on a case-by-case basis.

(d) Use of all non-Government frequencies shall be on an experimental basis and such use shall terminate by July 1, 1978, but in no event shall any use of such frequencies be authorized after the CTS satellite ceases to function.

By an Order adopted on this date by the Commission, authority is delegated to the Chief Engineer to act on requests for concurrence in the granting of future authorizations for Government stations to be used in conjunction with the CTS project.

A part of the band to be used for earth-to-space transmissions is now used by non-Government radionavigation equipment. It is our understanding that NASA, as part of its experiment, will conduct a study of the impact that such space operations might have on this equipment and will supply a copy of the results to the Commission. Also, since results of the CTS project may be of use to the U.S. delegation to the World Administrative Radio Conference to be held in 1977 on broadcasting-satellite operations in the 11.7 to 12.2 GHz band, the Commission is requiring the parties operating under its authorizations to file preliminary reports, on or before December 1, 1976, on whatever results may have been obtained; the Commission requests that similar reports be required of Government entities participating in the project.

This letter was adopted by the Commission on January 29, 1976.

By direction of the Commission.

[SEAL] RICHARD E. WILEY,
Chairman.

[FR Doc.76-5475 Filed 2-25-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

KERN COUNTY REFINERY, INC. AND RBN, INC.

Acquisition of Assets

Notice is hereby given that the Federal Energy Administration is considering in a single consolidated proceeding various petitions and applications filed by Russell B. Newton, Jr. (Newton) relating to a proposed acquisition by RBN, Inc. (New Kern) of the assets of Kern County Refinery, Inc. (Kern). Notice is also given that FEA will receive written comments from interested persons with respect to the applications.

New Kern is a corporation formed and controlled by Newton. Kern is a wholly owned subsidiary of the Charter Oil Company (Charter) and currently operates a 15,900 barrel per day refinery in Bakersfield, California.

The applications which Newton filed, if granted, would: (i) permit New Kern to calculate its allowable selling prices of covered products on the basis of the May 15, 1973 prices of Kern; (ii) permit New Kern to measure increased product and nonproduct costs by using the costs which Kern incurred in May of 1973 (similarly upon completion of the acquisition, Charter would exclude Kern's May 1973 costs from its calculation of product and nonproduct costs for the purposes of the FEA Mandatory Petroleum Price Regulations); (iii) permit New Kern and Charter to apportion between the two firms, on the basis of their respective 1975 sales volumes, Charter's increased costs available for recovery on the date of the acquisition; (iv) permit New Kern to determine its base period profit margin on the basis of the separately-stated financial results of Kern; (v) require the transfer to New Kern of Kern's base period supply obligations with respect to those purchasers previously served by the Kern refinery; (vi) permit the transfer to New Kern of Kern's right to purchase crude oil from Kern's December 1, 1973 suppliers and of Kern's right to purchase refined petroleum products from Kern's base period suppliers; and (vii) permit Charter to sell the product inventories of the assets to be sold without first transferring them into its allocable supply.

Since the approval of these applications might have a significant adverse impact on parties which either supply crude oil and refined products to or receive products from the Kern refinery or Charter's other refinery in Houston, Texas, and since the submissions raise issues of general interest regarding refinery acquisitions, the FEA has determined that it is appropriate to call specifically to the attention of all interested persons their opportunity to present their views to the FEA with respect to the foregoing issues in Newton's applications as well as other issues which may arise in relation to the proposed acquisition.

Copies of Newton's applications from which confidential information has been deleted are available for public inspection in the Public Docket Room of the Office of Private Grievances and Redress, Room B120 2000 M Street, N.W., Washington: D.C. Photocopy machines are also available to interested persons.

Any person who has an interest in the subject matter or who is a representative of a group or class of persons that has such an interest is invited to participate in the present proceeding by submitting written comments within ten days of the date of publication of this notice containing data, views, or arguments to Mr. George B. Breznay, Assistant Director, Office of Exceptions and Appeals, Federal Energy Administration, Code 500, Washington, D.C. 20461. Comments so submitted should be identified on the outside of the envelope, and on documents enclosed, with the designation "Newton Application for Exception, Case No. FEE-2210."

Data or information in any comment which the person furnishing it considers to be confidential must be so identified, and two copies of the comment with confidential information deleted pursuant to the provisions of 10 CFR 205.9(f) must be submitted to the FEA. The FEA reserves the right to determine the confidential status of the information or data submitted.

All comments submitted to the FEA must contain a certification that a copy of the comment, with confidential information deleted, if appropriate, has also been transmitted to Kenneth L. Bachman, Jr., Esq., Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036, Attorney for Newton, and W. Scott Lovejoy, Esq., Smith, Hulsey, Schwalbe and Nichols, 500 Barnett National Bank Building, Jacksonville, Florida 32202, Attorney for Charter.

Issued in Washington, D.C., February 20, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-5402 Filed 2-23-76;9:04 am]

FEDERAL MARITIME COMMISSION

[Docket No. 76-10]

JOY MANUFACTURING CO. AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Filing of Complaint

FEBRUARY 23, 1976.

Notice is hereby given that a complaint filed by Joy Manufacturing Co. against Lykes Bros. Steamship Co., Inc. was served February 20, 1976. The complaint alleges that complainant has been subjected to the payment of charges for transportation in excess of those lawfully applicable, in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter shall commence on or before August 23, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-5510 Filed 2-25-76;8:45 am]

FARRELL LINES INCORPORATED AND PACIFIC FAR EAST LINE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 17, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Edward Aptaker, Esquire, Morgan, Lewis & Bockius, Counselors at Law, 1800 M Street, NW., Washington, D.C. 20036.

Agreement No. 10207-1, between Farrell Lines Incorporated and Pacific Far East Line, Inc., would modify the approved basic Agency agreement by the addition of Article 21, entitled "Additional Duties and Responsibilities of Agents", whereby PFEL shall perform, itself or through sub-agents, certain traffic functions at ports of the West Coast of the United States and Canada with respect to cargo moving on Farrell vessels between the East and Gulf Coast of the United States and the South Pacific and between the East Coast of the United States and Africa. PFEL shall be reimbursed cost and expenses and shall receive remuneration, exclusive of surcharges, on all cargo it books, under terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: February 23, 1976.

[FR Doc.76-5509 Filed 2-25-76;8:45 am]

MED-GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 17, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

David C. Shonka, Esquire, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street, NW., Washington, D.C. 20036.

Agreement No. 9522-25 among the members of the above-named Conference modifies the basic agreement by deleting a phrase excluding the movement of olives from Spain and by creating a new Spanish Olive Section to cover the trade from Cadiz, Puerto Santa Maria, Algeciris or Seville, Spain to U.S. South Atlantic and Gulf ports.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: February 23, 1976.

[FR Doc.76-5508 Filed 2-25-76;8:45 am]

NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 17, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., 1126 Sixteenth Street, NW., Washington, D.C. 20036.

Agreement No. 9548-11, among the member lines of the above-named Conference, modifies the organic agreement by providing for an allocation of liability among the members resulting from detention of cargo initiated by the Conference or its agents, under terms and conditions as specified therein.

By Order of the Federal Maritime Commission.

Dated: February 23, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-5507 Filed 2-25-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-7690]

NEW ENGLAND POWER POOL AGREEMENT (NEPOOL)

Initiating Review of Initial Decision

FEBRUARY 19, 1976.

On November 24, 1975, Presiding Administrative Law Judge Curtis Wagner issued an initial decision in this docket. Briefs on exceptions to this initial decision were due to be filed on February 13, 1976.

Inasmuch as no exceptions to the initial decision were filed in a timely fashion, absent this order the initial decision would become final on February 23, 1976, i.e., within ten days from the time for filing exceptions. Accordingly, pursuant to Section 1.30(d)(2) of the Commission's Rules of Practice and Procedure, the Commission herein initiates review of the initial decision of November 24, 1975, provides for the filing of briefs opposing exceptions on or before March 9, 1976, and further orders that said initial decision is stayed pending a final decision by the Commission in this proceeding.

By direction of the Commission.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-5485 Filed 2-25-76;8:45 am]

[Docket No. CP76-248]

NORTHERN NATURAL GAS CO.

Application

FEBRUARY 19, 1976.

Take notice that on January 30, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-248 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Panhandle Eastern Pipe Line Company (Panhandle Eastern) at the Vessels processing plant in Weld County, Colorado, from production by three small independent producers in Weld and Adams Counties, Colorado, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has contracted for a supply of casinghead and gas-well residue gas from production in Adams and Weld Counties by Sands-American Corp., Byron Oil Industries, Inc., and Sentinel Resources Corporation pursuant to contracts between Applicant and the producers dated June 1, 1975, June 25, 1975, and December 1, 1975, respectively. Applicant alleges that it has been unsuccessful in its attempt to arrange for the transportation of such gas from the delivery point to Applicant, the tailgate of the Vessels processing plant in Weld County, because the volumes of gas are relatively small.

Applicant states that because it is unable to move the gas into its system, Applicant has entered into a letter agreement dated January 13, 1976, with Panhandle Eastern for the sale of such gas. Applicant requests authorization to sell and deliver the subject residue gas into Panhandle Eastern's existing facilities at the tailgate of the Vessels plant. The price Applicant would charge Panhandle Eastern for the gas would be 67.232796 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and subject to tax reimbursement. Panhandle Eastern would also pay Applicant a gathering and compression charge of 1.49 cents per Mcf of gas. Applicant estimates total raw reserves at 2,876,000 Mcf at 14.73 psia.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-5482 Filed 2-25-76;8:45 am]

[Rate Schedule Nos. 92, *et al.*]

SKELLY OIL CO., ET AL.

Rate Change Filings Pursuant to Commission's Opinion No. 699-H

FEBRUARY 19, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before March 5, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

Filing date	Producer	Rate schedule No.	Buyer	Area
Feb. 5, 1976	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	92	Texas Eastern Transmission Corp.	Other Southwest.
Feb. 9, 1976	Placid Oil Co., 1600 1st National Bank Bldg., Dallas, Tex. 75202.	3	Texas Gas Transmission Corp.	Do.
Do	do	4	do	Do.
Feb. 10, 1976	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	195	Louisiana-Nevada Transit Co.	Do.

[FR Doc.76-5484 Filed 2-25-76;8:45 am]

NATIONAL GAS SURVEY TRANSMISSION, DISTRIBUTION & STORAGE—TECHNICAL ADVISORY TASK FORCE—RATE DESIGN

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Gas Survey Transmission, Distribution & Storage-Technical Advisory Task Force-Rate Design of March 4, 1976 which was published in the FEDERAL REGISTER February 19, 1976, 41 FR 7528.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-5488 Filed 2-25-76;8:45 am]

NATIONAL GAS SURVEY; TRANSMISSION, DISTRIBUTION & STORAGE—TECHNICAL ADVISORY TASK FORCE—RATE DESIGN

Agenda; Meeting

Federal Power Commission, Union Plaza Building, Conference Room 5200, 825 North Capitol Street, NE., Washington, D.C. 20426, April 1, 1976,[1] 10 a.m.

Presiding: Mr. John F. Craig, Coordinating Representative and Secretary, Federal Power Commission.

[1] This meeting replaces a previously scheduled meeting of the Transmission, Distribution & Storage-Technical Advisory Task Force-Rate Design which was to meet March 4, 1976. The meeting of March 4, 1976 has been cancelled.

1. Call to order and introductory remarks—Mr. John F. Craig.
2. Discussion of selected rate structures by Mr. Louis Zanoff.
3. Discussion of rate structures used by Pennsylvania utilities by Mr. Louis J. Carter.
4. Establishment of uniform definitions and terms to be used.
5. Discussion of other matters.
6. Adjournment—Mr. John F. Craig.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-5487 Filed 2-25-76;8:45 am]

[Docket No. ER76-503]

IDAHO POWER CO.

Rate Schedule Change

FEBRUARY 19, 1976.

Take notice that Idaho Power Company (Idaho) on February 9, 1976, tendered for filing a proposed increase in rates in Idaho's contract for sales of electric power and energy to Nevada Power Company, Elko Division, as filed with the Commission and designated as Supplement No. 1 to Idaho's Rate Schedule FPC No. 30. Idaho states that the proposed changes would increase revenues from sales and service by approximately $261,000 based on the 12-month future test period ending December 31, 1976.

Idaho states the reason for the proposed rate increase is to help offset the effect of increased operating expenses, capital costs and plant additions that have occurred since the Company's only rate adjustment on this customer, a decrease of 12.3 percent as of November 1, 1961. Idaho states that service was initiated to this customer on October 30, 1960. Idaho states that it in 1974 ended an era of a 100 percent hydro system when the first 500 kilowatt unit of the Jim Bridger steam generating unit was placed in service. Idaho states that the greatly increased financing costs, as well as greater operation and maintenance costs associated with the new steam generating units, in addition to other inflationary trends, dictated the necessity of the rate increase filing at this time.

Idaho states that copies of the filing were served upon Nevada Power Company, the Public Service Commission of Nevada and the Idaho Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1976. 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.76-5483 Filed 2-25-76;8:45 am]

[Docket No. CS76-448, et al.]

BARTON JR., ROY G. ET AL.

Applications for "Small Producer" Certificates [1]

FEBRUARY 26, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Docket No.	Date filed	Applicant
CS76-448	Feb. 4, 1976	Roy G. Barton, Jr., P.O. Box 978, Hobbs, N. Mex. 88240.
CS76-449	do	Tom L. Ingram, P.O. Box 1757, Roswell, N. Mex. 88201.
CS76-450	Feb. 5, 1976	C. A. Cardneaux, P.O. Box 673, Natchez, Miss. 39120.
CS76-451	do	V. Monta Currie, Jr., 114 Jefferson Davis Blvd., Natchez, Miss. 39120.
CS76-452	do	The Stone Oil Corp., 1974 Participating Program, 3100 Fountain Square Plaza, Cincinnati, Ohio 45202.
CS76-453	do	Marilyn K. Crawford, 700 Petroleum Tower, Shreveport, La. 71101.
CS76-454	Feb. 6, 1976	Opal Barton, P.O. Box 978, Hobbs, N. Mex. 88240.
CS76-455	Feb. 9, 1976	B. & R. and Associates, Drew Cornell, Inc., Box 51267, Lafayette, La. 70501.
CS76-456	do	Alan B. Sverolow, 1905 Dock Bldg., Sarasota, Fla. 33577.
CS76-457	do	PWG Partnership, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS76-458	do	Oil Property Management, Inc., 300 Insurance Bldg., Wichita, Kans. 67202.
CS76-460	do	Melvin Cein, Box 147, Winnsboro, Tex. 75494.
CS76-462	Feb. 10, 1976	Davis Bros., a partnership of Elliott Davis and Leon Davis, sole partners, 500 McFarlin Bldg., Tulsa, Okla. 74103.
CS76-463	do	Robert E. Boling, 202 American Home Bldg., Artesia, N. Mex. 88210.

[FR Doc.76-5486 Filed 2-25-76;8:45 am]

[Docket No. RI76-71]

P. S. & G., INCORPORATED

Notice of Amended Petition for Special Relief

FEBRUARY 24, 1976.

Take notice that on February 23, 1976, P. S. & G., Incorporated (Petitioner), 1804 Chamber of Commerce Building, Houston, Texas 77002, filed in Docket No. RI76-71 an amended petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations. On November 21, 1975 Petitioner filed a petition for special relief in this docket seeking a rate of 92.5 cents per Mcf for the sale of natural gas to Texas Gas Transmission Corporation from certain leases in the Monroe Field, Union Parish, Louisiana. By its amended petition Petitioner now requests authorization for a rate of 84 cents per Mcf for the sale.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 11, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-5550 Filed 2-27-76;8:45 am]

[Docket Nos. RP72-123 (PGA 76-1)]

UNITED GAS PIPELINE CO., ET AL.

Order Staying Proceedings With Respect to Small Producer Purchases

FEBRUARY 19, 1976.

In the matter of United Gas Pipe Line Company (RP72-133 (PGA76-1)), South Texas Natural Gas Gathering Company (RP73-57 (PGA76-1)), Transcontinental Gas Pipeline Corporation (RP73-3, *et al.* (PGA76-1)), El Paso Natural Gas Company (RP72-155 (PGA76-1)), Texas Eastern Transmission Corporation (RP 74-41 (PGA76-1)), Northern Natural Gas Company (RP71-107 (PGA76-1)), Montana-Dakota Utilities Co. (RP74-97 (PGA76-1)), National Fuel Gas Supply Corporation (RP74-100 (PGA76-2)), Natural Gas Pipeline Company of America (RP71-125 (PGA76-3)), Florida Gas Transmission Company (RP72-136 (PGA 76-1)), Valley Gas Transmission, Inc. (RP73-94 (PGA76-1)), Transwestern Pipeline Company (RP74-52 (PGA76-1)), Oklahoma Natural Gas Gathering Corporation (RP72-115 (PGA76-1)), Southern Natural Gas Company (RP73-64 (PGA76-1)), Kansas-Nebraska Natural Gas Company, Inc. (RP72-32 (PGA 76-1)).

On August 28, 1975, in Docket No. R-393, the Commission issued its Opinion No. 742 establishing just and reasonable rates for sales of natural gas by small producers. The Commission approved small producer rates equal to 130 percent of the base ceiling rates for comparable large producer sales, subject to any adjustments permitted or required under orders governing the comparable large producer sales. Numerous applications for rehearing of Opinion 742 have been filed, and are presently before the Commission for consideration. It is anticipated that a further order will be issued dealing with the arguments raised in the applications for rehearing.

Concurrently, on August 28, 1975, the Commission issued, in Docket No. RM 76-5, a notice of proposed rulemaking requesting the comments of interested parties addressed to the question of whether the Commission should require small producers to reduce prospectively their above-ceiling rates to the applicable just and reasonable ceiling rates established in Opinion No. 72. A number of comments have been received by the Commission in response to the notice and are presently being reviewed by the Commission for the purpose of determining what action should be taken.

Subsequent to the issuance of Opinion 742, a number of purchased gas cost adjustment (PGA) rate filings made with the Commission by natural gas pipelines disclosed purchases by the pipelines from small producers at rates in excess of those prescribed in Opinion 742. The Commission has issued separate orders in each of the above-entitled proceedings[1] suspending that portion of the pipeline's PGA increase representing small producer rates in excess of Opinion 742, and has initiated hearings in order to determine the possible refund liability, if any, of the pipelines with respect thereto. In addition, the Commission has made the above-ceiling small producers respondents to the respective proceedings and has initiated investigations pursuant to Section 5 of the Natural Gas Act to determine the just and reasonable small producer rates to be applied prospectively. As an aid in determining small producer rate and refund issues, the Commission has requested the small producer respondents to submit data showing their cost of finding and producing natural gas.

Upon further review of the various pending proceedings involving small producer rate regulation, as outlined above, we find that the issues encompassed in the above-entitled separate PGA rate proceedings may be in large part the same issues presently before the Commission in the proceedings of general applicability in Docket Nos. R-393 and RM76-5. The issue of just and reasonable small producer rates remains pending before the Commission in Docket No. R-393 upon applications for rehearing of Order No. 742. Furthermore, in the event the Commission in Docket No. RM76-5 ultimately orders all small producers to conform their rates prospectively to a prescribed level, there would be no need for further prosecution of the Section 5 aspects of the previously described investigations.

Based on the foregoing considerations, we find it is in the public interest, as well as advisable as a matter of administrative policy, that the individual proceedings designated in the caption of this order and listed in Appendix B be stayed pending action by the Commission in Docket Nos. R-393 and RM76-5. We shall so order.

A number of individual pipeline rate proceedings involving small producers were initiated by the Commission prior to the issuance of Opinion 742. (See Appendix A). These proceedings are similar to those arising under Opinion 742, except that they involve small producer sales at rates in excess of the applicable area or national rate levels then in effect. However, hearings in these proceedings were stayed by the initiating orders pending the completion of court review proceedings involving Commission Order No. 428, also dealing with small producer regulation. For the reasons previously indicated, these proceedings should and will continue to be stayed pending Commission action in Docket Nos. 9-393 and RM76-5.

A few of the individual proceedings herein also involve certain other issues which were set for formal hearing. These issues are wholly separate and distinct from the small producer rate and related pipeline refund issues which are the subject of this order. The reasons for ordering a stay do not apply to these other issues, and the hearings previously initiated with respect thereto should therefore proceed in accordance with existing procedural schedules.

The Commission finds:

It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the individual proceedings designated in the caption of this order and in Appendix B be stayed pending action of the Commission in Docket Nos. R-393 and RM76-5. The proceedings presently stayed and listed in Appendix A should remain stayed.

The Commission orders:

(A) The proceedings designated in the caption of this order and in Appendix B, insofar as they pertain to the small producer rates, and related pipeline refund issues, are hereby stayed pending further action of the Commission in Docket Nos. R-393 and RM76-5. The stay granted herein, however, shall not apply to those small producers sales made pursuant to our emergency sales regulations. The proceedings designated in Appendix A shall remain stayed.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] See Appendix B.

APPENDIX A.—*Proceedings presently subject to stay by orders issued prior to opinion No. 742*

Company	Docket	Date of order
Trunkline Gas Co	RP72-23	Jan. 31, 1974
Natural Gas Pipeline Co. of America	RP71-125, et al	May 31, 1974
Oklahoma Natural Gas Gathering Corp	RP72-115	June 28, 1974
United Gas Pipe Line Co	RP72-133	Do.
Southern Natural Gas Co	RP73-64	Do.
Tennessee Gas Pipeline Co	RP73-114, et al	Do.
Texas Eastern Transmission Corp	RP72-98	Do.
Cities Service Gas Co	RP72-142	July 22, 1974
Texas Gas Transmission Corp	RP72-156	July 31, 1974
Mid-Louisiana Gas Co	RP73-43	Do.
Panhandle Eastern Pipe Line Co	RP73-36	Do.
Columbia Gas Transmission Corp	RP73-65	Aug. 30, 1974
Transwestern Pipeline Co	RP74-52	Sept. 27, 1974
Arkansas Louisiana Gas Co	RP74-61 (PGA75-1)	Oct. 31, 1974
Kansas-Nebraska Natural Gas Gathering Co	RP72-32 (PGA75-1)	Nov. 29, 1974
South Texas Natural Gas Gathering Co	RP73-57 (PGA75-1)	Do.
Natural Gas Pipeline Co. of America	RP74-96, et al. (PGA75-4, et al.	Do.

APPENDIX A.—*Proceedings presently subject to stay by orders issued prior to opinion No. 742*

Company	Docket	Date of order
Northern Natural Gas Co	RP71-107, et al. (PGA75-1)	Dec. 26, 1974
United Gas Pipe Line Co	RP72-133 (PGA75-1)	Dec. 31, 1977
Texas Eastern Transmission Corp	RP72-08, et al. (PGA75-3)	Do.
Oklahoma Natural Gas Gathering Corp	RP72-115 (PGA75-1)	Do.
Cities Service Gas Co	RP72-142	Jan. 22, 1975
Trunkline Gas Co	RP73-35 (PGA75-1)	Jan. 31, 1975
Panhandle Eastern Pipe Line Co	RP73-36 (PGA75-2)	Do.
Western Transmission Corp	RP72-41 (PGA75-1-A)	Jan. 10, 1975
Mid-Louisiana Gas Co	RP73-43	Jan. 31, 1975
United Gas Pipe Line Co	RP72-133 (PGA75-1b)	Do.
Transwestern Pipeline Co	RP72-128	Mar. 31, 1975
McCulloch Interstate Gas Corp	RP73-91	Apr. 2, 1975
El Paso Natural Gas Co	RP72-155 et al. (PGA75-2)	Mar. 31, 1975
National Fuel Gas Supply Corp	RP74-100	Apr. 30, 1975
Michigan-Wisconsin Pipe Line Co	RP73-102, et al	Do.
Natural Gas Pipeline Co. of America	RP71-125, et al	May 30, 1975
South Texas Natural Gas Gathering Co	RP73-57 (PGA75-2)	Do.
United Natural Gas Co	RP72-133 (PGA75-3)	June 30, 1975
Florida Gas Transmission Co	RP72-136 (PGA75-2)	Do.
Texas Eastern Transmission Corp	RP74-41 (PGA75-8)	Do.
Oklahoma-Natural Gas Gathering Corp	RP72-115 (PGA75-2)	July 16, 1975
Cities Service Gas Co	RP72-142 (PGA75-5)	July 22, 1975
Panhandle Eastern Pipe Line Co	RP73-36, et al	July 31, 1975
Mid-Louisiana Gas Co	RP73-43 (PGA75-5)	Do.
Texas Gas Transmission Corp	RP72-64 (PGA75-4)	July 25, 1975

APPENDIX B.—*Proceedings stayed by this order*

Company	Docket	Date of order
El Paso Natural Gas Co	RP72-155 (PGA76-1)	Sept. 30, 1975
Transwestern Pipeline Co	RP74-52 (PGA76-1)	Do.
National Fuel Gas Supply	RP74-100 (PGA76-2)	Oct. 17, 1975
Transcontinental Gas Pipeline Corp	RP73-3, et al. (PGA76-1)	Oct. 31, 1975
Kansas-Nebraska Natural Gas Co., Inc	RP72-32 (PGA76-1)	Nov. 28, 1975
Natural Gas Pipeline Co. of America	RP71-125 (PGA76-3)	Do.
South Texas Natural Gas Gathering Co	RP73-57 (PGA76-1)	Do.
Northern Natural Gas Co	RP71-107 (PGA76-1)	Dec. 24, 1975
Florida Gas Transmission Co	RP72-136 (PGA76-1)	Dec. 31, 1975
Montana-Dakota Utilities, Co	RP74-97 (PGA76-1)	Do.
Oklahoma Natural Gas Gathering Corp	RP72-115 (PGA76-1)	Dec. 31, 1975
Southern Natural Gas Co	RP73-64 (PGA76-1)	Do.
Texas Eastern Transmission Corp	RP74-41 (PGA76-1)	Do.
United Gas Pipe Line Co	RP72-133 (PGA76-1)	Do.
Valley Gas Transmission, Inc	RP73-94 (PGA76-1)	Do.

[FR Doc.76-5348 Filed 2-25-76;8:45 am]

[Docket No. ER76-92]

WESTERN POWER DIVISION, CENTRAL TELEPHONE & UTILITIES CORP.

Order Accepting for Filing and Suspending Proposed Rate Changes, Etc.

FEBRUARY 20, 1976.

On August 29, 1975, Western Power Division, Central Telephone & Utilities Corporation (Western Power) tendered for filing proposed rate schedule changes[1] designed to increase revenues by $1,301,038 (14.9%) for service to thirty-two (32) wholesale customers based on the twelve month test period ending December 31, 1975. Western Power proposed that the rate schedule changes be made effective on October 1, 1975.

Western Power claims that the present rates are clearly inadequate under present conditions and that the proposed changes are designed to recover the costs of providing service so as to increase the earned rate of return to a required level of 9.8%. The proposed rate schedules also incorporate various changes in rate design to provide for a yearly "nominated" billing demand, a flat energy charge, a high voltage discount, and a revised fuel adjustment clause designed to conform with Order No. 517.

Public notice of the August 29 filing was issued on September 10, 1975, with protests and petitions to intervene due on or before September 18, 1975. Various responses have been received as discussed below.

Upon initial review of Western Power's filing we concluded that it was deficient with respect to certain requirements of the Commission's Regulations. Accordingly the Commission Secretary, by letter dated September 24, 1975, informed Western Power that its filing did not comply with Section 35.13(b)(4)(iii) of the Regulations in that Period I did not incorporate the most recent twelve consecutive months for which actual data is available. The letter order required Western Power to submit data revising Periods I and II such that Period I ended no earlier than four months prior to the date of filing. Western Power was notified that a filing date would not be assigned to its submittal pending receipt of the requested data.

On October 6, 1975, Western Power filed a petition for rehearing or for reconsideration of our September 24 letter order. By order issued November 5, 1975, we denied Western Power's application for rehearing and modified our September 24 letter order to provide that August 31, 1975, and Period II the 12 month Period I end no earlier than 7 months prior to the new filing date.

On January 27, 1976, Western Power filed revised data such that Period I constitutes the 12 month period ending August 31, 1976. Western Power requests that its originally proposed effective date of October 1, 1975, be permitted.

Public notice of the January 27 filing was issued on February 6, 1976 with protests and petitions to intervene due on or before February 16, 1976.

In response to the original filing of August 29 the Kansas Municipal Defense Group (Municipals), constituting Western Power's twenty-one wholesale municipal customers, on September 18, 1975, filed a protest, petition to intervene, motion for summary judgment and motion for rejection or alternatively for a five-month suspension. On September 19, 1975, Western Power's eleven wholesale cooperative customers (Cooperatives) filed a protest, petition to intervene and petition for rejection. On September 29, 1975, Western Power filed a response to the petitions of Municipals and Cooperatives. On October 14, 1975, the State Corporation Commission of the State of Kansas filed a petition to intervene.

Both Municipals and Cooperatives move for summary rejection of that portion of the proposed rate that is based on the inclusion of construction work in progress (CWIP) in rate base. Our review indicates that Western Power has indeed included CWIP in its calculation of rate base. Recent Commission decisions have made it clear that the Commission will not currently allow utilities to base rates upon the inclusion of CWIP in rate base.[2] As we stated in the Order Denying Application For Rehearing,[3] *Georgia Power Company*, Docket No. E-9091, issued September 19, 1975:

The majority rule of public utility regulation holds that the value of plant under construction cannot be included in the rate base until the plant is "used and useful" in providing service to jurisdictional customers. We have consistently applied the "used and useful" rule throughout our formally reported final decisions. Our Uniform System of Accounts for public utilities and licensees clearly reflects that principle, although it has not been formally codified in a separate regulation, as is the case for gas pipeline companies, Sec. 154.63(f), 18 CFR.

We note that while it has not been the policy of this Commission to permit utili-

[1] See Appendix A for list of customers and rate schedule designations.

[2] See e.g., *Central Vermont Public Service Corporation*, Docket No. E-9040, issued August 5, 1975; *Green Mountain Power Corporation*, Docket No. E-9446, issued June 13, 1975; *New England Power Company*, Docket Nos. E-9316 and E-9140, issued August 5, 1975; and *Georgia Power Company*, Docket No. E-9091, issued August 5, 1975.

[3] Pending review in *Georgia Power Company*, v. *FPC*, No. 75-1940, D.C. Circuit, Denial of Application for Stay, issued October 3, 1975.

ties to earn a return on CWIP, that practice is currently being reviewed in Docket No. RM75–13.[4] For all of the above reasons, it would therefore be inappropriate for Western Power to reflect in its rates the inclusion of CWIP in rate base for facilities which will not be placed into service prior to the end of the test period. Accordingly, we shall require that Western Power file revised rates reflecting the elimination of CWIP from rate base.

Municipals also seek summary rejection of that portion of the rate increase attributable to income tax normalization. In Order No. 530 issued June 18, 1975, we placed upon the utility seeking income tax normalization for ratemaking purposes the burden of coming forward with evidence sufficient to justify its claim. In Order No. 530–A issued January 19, 1976, we made it eminently clear that a *prima facie* case may not be made without a showing that a tax deferral will result rather than a permanent tax savings to the utility. Our review of the filed case-in-chief reveals that Western Power has adopted full normalization without making the requisite evidentiary showing enunciated in Order Nos. 530 and 530–A. However, in view of the recent issuance of Order No. 530–A, we shall permit Western the opportunity to submit within thirty days of the issuance of this order such testimony and exhibits as it deems necessary to support the normalization it seeks herein. To the extent that Western Power's presentation fails to make a *prima facie* case of tax deferral, we believe that summary disposition of this issue will be appropriate and such rate adjustments and refunds as may be necessary will be ordered. Municipals' motion for summary rejection is hereby denied without prejudice to any party's right to seek such summary disposition as it deems appropriate after Western Power has availed itself of the opportunity to produce further evidence.

Cooperative contend that under the *Mobile-Sierra* doctrine[5] Western Power's proposed revisions to certain rate schedule provisions must be rejected. Cooperative claim that while the existing rate schedules[6] permit Western Power to unilaterally file for revised rates, there is no provision permitting Western Power to unilaterally file amendments to any terms not related strictly to rates (namely Western Power's proposed revisions to the billing demand provision, the character of service provision and the tax clause). In response to this contention Western Power points to Section 3.1 of Article III in each of the existing subject contracts which states as follows:

"3.1 The *rates* to be paid by the Cooperative for the service to be provided by the Company under this contract, and the *terms and conditions* of such service, shall be, for the first two years after the date of this contract and thereafter, subject to Article X (10.2) below, until changed in the manner prescribed by law, as provided in the Company's Rate Schedule 73–CWh–2, a copy of which is attached hereto and made a part hereof, or in any effective superseding rate schedule or schedules on file with and required to be filed by the Federal Power Commission from time to time, *it being understood hereby that the Company reserves the right to change its Rate Shcedule 73–CWh–2 or any superseding rate schedule, and/or other terms of its FPC electric tariff*, to be effective at any time after the expiration of two years from the date of this contract." (Emphasis added)

It is noted that Article III is entitled "Rate". It is further noted that the above-referenced Rate Schedule 73–CWh–2 includes sections entitled "RATE" and "TERMS AND CONDITIONS" which arguably correspond to similar language in Section 3.1 Schedule 73–CWh–2 includes various other sections to include those entitled "BILLING DEMAND", "CHARACTER OF SERVICE", and "TAX CLAUSE", which Cooperatives contend are not subject to unilateral revision.

However, upon further examination of Section 3.1, we find the controlling language to be: "* * * it being understood hereby that the Company reserves the right to change its Rate Schedule 73–CWh–2 or any superseding rate schedule, and/or other terms of its FPC electric tariff * * *". We find that this language clearly reserves to Western Power the right to unilaterally change Rate Schedule 73–CWh–2 in its entirety at any time after two years from September 26, 1973, the date of the contracts. Reading the contract as a whole and interpreting every part with reference to the whole so as to give effect to its general intent, we conclude that no special meaning should be afforded the words "rates" and "terms and conditions" within Section 3.1 *vis-a-vis* Rate Schedule 73–CWh–2. For these reasons, we must reject Cooperatives' contention.

Municipals and Cooperatives have moved to reject certain portions of the filing as they relate to certain other issues. We believe that these issues should be investigated in an evidentiary hearing and therefore, find summary rejection inappropriate.

With reference to the "Tax Clause" included in Western Power's proposed rate schedules, we note that any application of such an adjustment will constitute a rate change requiring timely filing pursuant to the Federal Power Act and the Commission's Regulations thereunder.

Our review indicates that the proposed rates filed by Western Power herein have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we shall suspend the proposed rate for one day and establish hearing procedures.

The Commission finds:

(1) Good cause exists to require Western Power to file revised rates based upon the exclusion of CWIP from rate base.

(2) Pending receipt of further evidence as hereinafter ordered, good cause does not exist to warrant rejection of that portion of Western Power's filing which is based upon income tax normalization of those items for which a tax deferral has not been shown.

(3) Good cause has not been shown to grant waiver of our prior notice requirements so as to permit an effective date of October 1, 1976.

(4) Good cause exists to accept for filing Western Power's proposed increased rates and to suspend those rates for one day until February 23, 1976, when they shall become effective subject to refund.

(5) Good cause does not exist to grant Municipals' and Cooperatives' Motions to reject except to the extent hereinabove granted.

(6) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of Western Power's rate schedules as proposed to be revised herein.

(7) Good cause exists to allow Municipals, Cooperatives and the State Corporation Commission of the State of Kansas to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms, and conditions of service included in Western Power's FPC Electric Rate Schedules as proposed to be revised by the subject filing.

(B) Within 45 days of the issuance of this order Western Power shall file revised rate schedules reflecting the reduced rates based on the elimination of

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[4] Notice of Proposed Rulemaking issued November 14, 1974.

[5] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[6] The subject rate schedules are those with the ten "Rural Electric Cooperatives" listed in the attached Appendix A.

CWIP from rate base and make refunds of the difference between those rates and the rates herein permitted to become effective on February 23, 1976, with interest at 9% per annum.

(C) Pending a hearing and final decision thereon, Western Power's filing is hereby accepted for filing and suspended for one day, to become effective on February 23, 1976, subject to refund, subject to the condition that it file revised rates pursuant to Paragraph (B) above.

(D) Western Power shall, within thirty days of the issuance of this order, amend its heretofore filed case-in-chief so as to present such further evidence as it deems appropriate in order to meet the burden of proof enunciated in Order Nos. 530 and 530–A. Upon receipt of such further evidence we shall take such further action as is appropriate.

(E) Except to the extent hereinabove granted, Municipals' and Cooperatives' motions to reject are hereby denied.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 13 CFR 3.5 (d), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure)."

(G) The Presiding Administrative Law Judge shall preside at the initial conference in this proceeding to be held on March 10, 1976, at 9:30 a.m., at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(H) Municipals, Cooperatives, and the State Corporation Commission of the State of Kansas are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order or orders issued by the Commission in this proceedings.

(I) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

APPENDIX A.—*Central Telephone and Utilities Corp., Rate Schedule Designations*

[Filed: Aug. 29, 1975, dated: undated]

	Designation	Supersedes
I Rural electric cooperatives rate 75-CWh-2:		
Ark Valley	Supp. No. 2 to FPC No. 74.	Supp. No. 1.
C.M.S.	Supp. No. 3 to FPC No. 75.	Do.
C&W	Supp. No. 2 to FPC No. 76.	Do.
Jewell-Mitchell	Supp. No. 3 to FPC No. 77.	Do.
N.C.K.	Supp. No. 3 to FPC No. 78.	Do.
Ninnescah	Supp. No. 2 to FPC No. 79.	Do.
Norton-Decatur	Supp. No. 2 to FPC No. 80.	Do.
Smoky Hill	Supp. No. 2 to FPC No. 81.	Do.
Sumner-Cowley	Supp. No. 2 to FPC No. 82.	Do.
Victory	Supp. No. 3 to FPC No. 83.	Do.
II Municipal wholesale customers rate 75-MWH-5:		
Cawker City	Supp. No. 2 to FPC No. 61.	Do.
Cimarron	Supp. No. 2 to FPC No. 73.	Do.
Coats	Supp. No. 2 to FPC No. 62.	Do.
Glasco	Supp. No. 2 to FPC No. 72.	Do.
Glen Elder	Supp. No. 2 to FPC No. 63.	Do.
Holyrood	Supp. No. 2 to FPC No. 64.	Do.
Isabel	Supp. No. 2 to FPC No. 65.	Do.
Jamestown	Supp. No. 2 to FPC No. 66.	Do.
Lucas	Supp. No. 2 to FPC No. 67.	Do.
Luray	Supp. No. 2 to FPC No. 68.	Do.
Mankato	Supp. No. 2 to FPC No. 69.	Do.
Montezuma	Supp. No. 2 to FPC No. 70.	Do.
Tipton	Supp. No. 2 to FPC No. 71.	Do.
III Interconnected transmission and distribution utility, revised schedule A:		
Central Kansas Electric Cooperative, Inc.	Supp. No. 8 to FPC No. 35.	Supp. No. 7.
IV Interconnected municipal utilities, revised schedule A1:		
Anthony	Supp. No. 6 to FPC No. 59.	Supp. No. 4.
Attica	Supp. No. 1 to FPC No. 84.	
Beloit	Supp. No. 4 to FPC No. 60.	Supp. No. 2.
Hoisington	Supp. No. 6 to FPC No. 57.	Supp. No. 4.
Kingman	Supp. No. 8 to FPC No. 58.	Supp. No. 6.
Pratt	Supp. No. 7 to FPC No. 34.	Supp. No. 5.
Russell	Supp. No. 6 to FPC No. 41.	Supp. No. 4.
Washington	Supp. No. 6 to FPC No. 56.	Do.

[FR Doc.76-5359 Filed 2-25-76;8:45 am]

FEDERAL RESERVE SYSTEM

COLUMBIA HOLDING CORP.

Formation of Bank Holding Company

Columbia Holding Corp., Chicago, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Columbia National Bank of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in § 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 Chicago. 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 no later than March 19, 1976.

Board of Governors of the Federal Reserve System, February 19, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-5420 Filed 2-25-76;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Foreign Currency Operations

In accordance with the Committee's rules regarding availability of information, notice is given that at its meeting on February 18, 1976, paragraph 6 of the Committee's authorization for foreign currency operations was amended to read as follows:

6. The Foreign Currency Subcommittee is authorized to act on behalf of the Committee when it is necessary to enable the Federal Reserve Bank of New York to engage in foreign currency operations before the Committee can be consulted. The Foreign Currency Subcommittee consists of the Chairman and Vice Chairman of the Committee, the Vice Chairman of the Board of Governors, and such other member of the Board as the Chairman may designate (or in the absence of members of the Board serving on the Subcommittee, other Board members designated by the Chairman as alternates, and in the absence of the Vice Chairman of the Committee, his alternate). All actions taken by the Foreign Currency Subcommittee under this paragraph shall be reported promptly to the Committee.

By order of the Federal Open Market Committee, February 18, 1976.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.76-5419 Filed 2-25-76;8:45 am]

FIRST BANC GROUP, INC.

Acquisition of Bank

First Banc Group, Inc., Creve Coeur, Missouri, 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 50 per cent or more of the voting shares of American State Bank of Flat River, Flat River, Missouri. 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 St. Louis. 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 March 17, 1976.

Board of Governors of the Federal Reserve System, February 17, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-5418 Filed 2-25-76;8:45 am]

PEOPLES CREDIT CO.

Order Approving Acquisition of Additional Shares of Bank

Peoples Credit Co., Kansas City, Missouri, a registered bank holding company,[1] has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire an additional 19.7 percent of the voting shares of The Pleasant Hill Bank, Pleasant Hill, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with §3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1942(c)).

Applicant currently has interests in six Missouri banks.[2] These six banks together held, as of September 30, 1975, total deposits of approximately $78.8 million representing approximately .5 percent of total deposits in commercial banks in the State of Missouri. (Banking data are as of June 30, 1975, unless otherwise specified.) Bank holds total deposits of approximately $13.9 million, representing .09 percent of the total deposits in commercial banks in the State and .30 percent of the total deposits in the relevant market,[3] and is the 69th largest banking organization in the relevant market.

Applicant currently owns 24.9 per cent of the outstanding shares of Bank. Applicant proposes to acquire an additional 19.7 per cent of Bank's shares for cash as part of a plan to reorganize the holdings of the family of Applicant's principal shareholder. Since the principal shareholder of Applicant is also, as an individual, the principal shareholder of Bank, and the proposed acquisition by Applicant is part of a reorganization of family interests in a bank that Applicant already controls, consummation of the proposal would not have an adverse effect on existing or potential competition, would not increase concentration of banking resources and would not have an adverse effect on other banks in the area. Thus, competitive considerations are consistent with approval of the application.

The financial condition and managerial resources of Applicant and Bank are considered satisfactory and future prospects for both appear favorable. Banking factors are consistent with approval of the application. Although there will be no change in management, management policies, or Bank's services and facilities, it does not appear that the needs of the Pleasant Hill community are going unserved. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Therefore, it is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application[4] 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,[5] effective February 19, 1976.[6]

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-5521 Filed 2-25-76;8:45 am]

[1] Applicant registered as a bank holding company in 1971 at the request of the Federal Reserve Bank of Kansas City, apparently on the premise that the Company controlled Metropolitan Bank, Kansas City, Missouri, by virtue of the fact that it owned 24.9 per cent of Metropolitan's stock and officers and employees of Company owned additional shares. Although a rebuttable presumption that Company controls Metropolitan Bank exists under § 225.2(b) of the Board's Regulation Y (12 CFR 225), the Board has made no formal determination that Applicant controls that bank.

[2] Applicant also engages in the following nonbanking activities: making or acquiring for its own account or for the account of others, loans and other extensions of credit and providing bookkeeping or data processing services for international operations of the company and storing and processing other banking, financial, or related economic data, including performing payroll accounts receivable, and billing services. Applicant has agreed to file a § 4(c)(8) application to continue to engage in its nonbanking activities.

[3] The relevant market is the Kansas City SMSA excluding all of Ray County and the southern portion of Cass County.

[4] The Board today has also approved a related application by Metro Insurance Agency, Inc., Kansas City, Missouri, to acquire shares of Bank.

[5] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, and Partee. Absent and not voting: Governors Mitchell and Holland.

[6] Board action was taken while Governor Mitchell was a Board Member and before Governor Gardner became a Board Member.

REPUBLIC OF TEXAS CORP.

Order Approving Acquisition of Banks

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares, less directors' qualifying shares, of the successors by merger to First National Bank of Henderson, Henderson, Texas ("Henderson Bank"), and First Bank in Groveton, Groveton, Texas ("Groveton Bank"). (Henderson Bank and Groveton Bank are together referred to herein as "Banks".) The banks into which Banks are to be merged have no significance except as a means to facilitate the acquisition of the voting shares of Banks. Accordingly the proposed acquisition of shares of the successor organizations is treated herein as the proposed acquisition of the shares of Banks.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 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 § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Texas, controls three subsidiary banks with aggregate deposits of approximately $2.8 billion, representing approximately 6.5 per cent of total deposits in commercial banks in the State.[1] Applicant's acquisition of Banks (combined deposits of $34.8 million) would increase Applicant's share of commercial bank deposits in Texas by less than 0.1 per cent, and would not have any appreciable effect upon the concentration of banking resources in Texas.

Henderson Bank holds deposits of approximately $24.9 million, representing approximately 5.5 per cent of the total deposits in commercial banks in the relevant market, and is ranked 10th among 21 banking organizations operating therein.[2] Applicant's banking subsidiary closest to Henderson Bank is located in a separate banking market in Dallas, approximately 134 miles away, and no meaningful competition presently exists between any of Applicant's subsidiary banks and Henderson Bank. Moreover, there appears to be little likelihood for the development in the future of any significant amount of competition between these institutions in view of the distances involved and Texas' restrictive branching law. In addition, the market appears relatively unattractive for *de novo* entry since the relevant area is a sparsely populated, rural area, which has been experiencing a relatively low rate of growth. Accordingly, the Board concludes that competitive considerations are consistent with approval of the aquisition of Henderson Bank.

Groveton Bank holds deposits of approximately $9.9 million, representing approximately 54.7 percent of the total deposits in commercial banks in the relevant market, and is the larger of the two banking organizations operating therein.[3] Applicant's banking subsidiary closest to Groveton Bank is located in a separate banking market in Houston, approximately 95 miles away, and no meaningful competition presently exists between any of Applicant's subsidiary banks and Groveton Bank. Nor does it appear likely that any significant competition between these institutions would develop in the future in view of the distances involved and Texas' restrictive branching law. In addition, the market appears relatively unattractive for *de novo* entry since the relevant area is a sparsely populated, rural area, which has been experiencing a relatively low rate of growth and which has a population-to-banking office ratio which is substantially below the State average. Accordingly, the Board concludes that competitive considerations are consistent with approval of the acquisition of Groveton Bank.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Banks are regarded as generally satisfactory and consistent with approval of the applications. Affiliation with Applicant would enable Banks to expand and improve the range of banking services presently offered to their respective customers, and to increase the availability of credit in both of the respective communities. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with approval of the applications. It is the Board's judgment that the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions 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 Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective February 20, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-5520 Filed 2-25-76;8:45 am]

[1] All banking data are as of June 30, 1975, and reflect holding company formations and acquisitions approved through January 31, 1976.

[2] The Longview banking market is the relevant banking market and is approximated by Gregg, Harrison, and Rusk Counties.

[3] The relevant banking market is approximated by Trinity County.

[4] Voting for this action: Chairman Burns and Governors Holland, Coldwell, Jackson and Partee. Absent and not voting: Governors Gardner and Wallich.

UNITED COUNTIES TRUST CO., ELIZABETH, NEW JERSEY

Order Approving Acquisition of Assets and Assumption of Liabilities

United Counties Trust Company, Elizabeth, New Jersey ("Trust Company"), a member State bank of the Federal Reserve System, has applied for the approval of the Board of Governors of the Federal Reserve System, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), of the acquisition of certain assets and the assumption of certain liabilities, including all of the deposit liabilities, of Springfield State Bank, Springfield, New Jersey ("Springfield Bank"). Incident to the proposal, the present offices of Springfield Bank would become branches of Trust Company.

On the basis of information before the Board of Governors, including information from the Commissioner of Banking of the State of New Jersey, the Board found that the Federal Reserve Bank of New York should act immediately pursuant to the provisions of the Bank Merger Act to prevent the probable failure of Springfield Bank. Accordingly, as authorized by the Bank Merger Act, the Board has dispensed with published notices of the proposed transaction and with requests for reports on the competitive factors involved.

This Reserve Bank has considered all relevant material contained in the record in light of the factors set forth in the Act.

Trust Company ($337.8 million of deposits) controls 5.4 percent of deposits in the Greater Newark market and is the fifth largest of 41 banking organizations competing in that market.[1] Springfield Bank ($22.3 million of deposits) is also located in the Greater Newark market and controls 0.4 percent of the total deposits therein as the market's 25th largest bank. Consummation of the proposed transaction would not significantly increase the concentration of banking resources in any relevant area.

The nearest offices of the banks are approximately 5 miles apart, and a small amount of competition that exists between the two banks would be eliminated upon consummation of the proposal. Nevertheless, it is concluded that consummation of the proposal would not have any significant adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of Trust Company are satisfactory. Those of Springfield Bank support the Board's finding that immediate action is necessary to prevent the probable failure of Springfield Bank. Such anticompetitive effects as will be attributable to consummation of the proposal will be clearly outweighed in the public interest by assuring the continuity of banking services at the present offices of Springfield Bank.

[1] Total deposits data are as of June 30, 1975, and market data are as of June 30, 1974.

Accordingly, it is the judgment of the Federal Reserve Bank of New York that any disposition of the application other than approval would be inconsistent with the public interest and that the application should be approved.

It is hereby ordered, on the basis of the record, that the application be and hereby is approved and that the acquisition of assets and assumption of liabilities and the establishment of branch offices may be consummated immediately but in no event later than three months after the date of this Order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective February 10, 1976.

FREDERICK C. SCHADRACK,
Vice President,
Federal Reserve Bank of New York.

FEBRUARY 10, 1976.

[FR Doc.76-5519 Filed 2-25-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-7]

CERTAIN ELECTRONIC AND AUDIO RELATED EQUIPMENT

Concerning Procedure for Commission Determination and Action

Notice is hereby given that:

1. On February 9, 1976, Presiding Officer Daniel Minchew issued a Notice of a Recommended Determination in the above-captioned investigation in which he stated that there has been no violation of section 337 of the Tariff Act of 1930, as amended, regarding the importation or domestic sale of certain electronic audio and related equipment. On February 10, 1976, the Presiding Officer's Recommended Determination, which contains his findings of fact, opinion forming the basis of the recommendation and conclusions of law, was issued to the Commission and served upon all parties of record to the investigation. Copies of the February 9, 1976, Notice of a Recommended Determination and February 10, 1976, recommendation to the Commission are available for inspection to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

2. Not later than the close of business Monday, March 1, 1976, any person with a substantial interest in the outcome of this proceeding, may file exceptions to Presiding Officer Minchew's recommended determination and submit alternative findings of fact, conclusions of law and recommendations. Exceptions to and alternatives for Presiding Officer Minchew's recommended determination submitted by the parties to this proceeding must be filed in compliance with the Commission's proposed rules of section 337 procedure noticed for comment at 40 F.R. 40174 (Proposed Rules Section 210.-54), pursuant to instructions by the Presiding Officer and pursuant to agreement by all parties to this proceeding. Therefore, all parties must file their exceptions and alternatives with the Commission by February 23, 1976. Documents setting forth such exceptions and alternatives shall be in form and number as set forth in section 201.8 of the Commission's *Rules of Practice and Procedure*, 19 C.F.R. 201.8, and, further, shall be in accordance with the following, which are prescribed to aid the Commission in meeting the statutory time limits placed upon its investigations under section 337:

(a) Each exception shall be separately numbered and shall be stated as a separate point and shall not be restated in several repetitive exceptions.

(b) Each exception shall state, sufficiently identify, and be limited to, an ultimate conclusion in the decision to which exception is taken (such as that a patent is or is not valid; that particular acts do or do not constitute an unfair act or method, etc.).

(c) Exceptions shall specify *any matters of law, fact or policy* which were not argued before the Presiding Officer but are set forth for the first time on argument to the Commission.

No objection may be made at a later time to an ultimate conclusion embodied in the Recommended Decision which is not expressly made the subject of an exception in compliance with the provisions of this paragraph.

3. The Commission will now give plenary review to this proceeding and determine whether there is a violation of section 337 and, where appropriate, what, if any, action shall be ordered to remedy the violation. Briefs filed by parties or other persons in support of exceptions to and alternatives for the findings of fact, conclusions of law and recommended decisions shall be in form and number as set forth in section 201.8 of the Commission's *Rules of Practice and Procedure*, 19 C.F.R. 201.8. Such briefs shall be filed not later than March 1, 1976.

The Commission reserves the opportunity to conduct a hearing on March 5, 1976. Such hearing would pertain to those exceptions, alternative findings of fact and conclusions of law furnished by parties or other persons having a substantial interest in the outcome of this proceeding.

4. If the Commission determines, after consideration of the action of the Presiding Officer, that there is a violation of section 337, the Commission will issue a public notice to that effect and will consider what order (cease and desist or exclusion from entry) is appropriate, and the amount of bond to be imposed during the sixty-day period of presidential consideration. The Commission must also consider the effect of any such order on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. Persons having information relevant to the Commission's consideration of these factors will be requested pursuant to such notice to submit such information and any argument on what order should issue no later than March 19, 1976. In that event, the Commission will also consider any motion for a hearing, limited to argument relevant to the issues described in this paragraph, filed not later than four workng days following the Commission's determination.

By order of the Commission:

Issued: February 23, 1976.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-5477 Filed 2-25-76;8:45 am]

FOOTWEAR

Report to the President

FEBRUARY 20, 1976.

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to footwear.

The investigation was undertaken to determine whether—

footwear, provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, and 700.60), of the Tariff Schedules of the United States (TSUS),[1]

is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted on September 17, 1975, upon receipt of a petition filed on August 20, 1975, by the American Footwear Industries Association, the Boot and Shoe Workers' Union, and the United Workers of America.

Notice of the investigation and hearings was published in the FEDERAL REGISTER of September 22, 1975 (40 FR 43561). A public hearing in connection with the investigation was conducted from December 2 through December 4, and on December 8, 1975, in the Commission's hearing room in Washington, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.

[1] Included in the investigation is footwear provided for in TSUS item 700.55. This item has been subdivided by Executive Order 11888 into two items, viz, item 700.54, covering zoris and item 700.58, covering other footwear formerly in item 700.55. This change in item numbers is reflected in the Determinations, Findings, and Recommendations of the Commission, but not in the remainder of this report.

The information for this report was obtained from fieldwork, questionnaires sent to domestic manufacturers and importers, the Commission's files, other Government agencies, evidence presented at the hearings, briefs filed by interested parties, and from other sources.

There were no significant imports of footwear from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from such countries. Certain recommended relief measures would involve the imposition of rates of duty on imports from countries whose imports are currently subject to rates of duties in column 1 which are higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by the President, it would be necessary for him to conform column 2 by proclaiming rates therefor that are the same as those proclaimed for column 1.

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

On the basis of its investigation, the Commission determines that footwear, provided for in TSUS items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53 and 700.60 [1]), is being imported in such increased quantities as to be a substantial cause of serious injury [2] to the domestic industry or certain industries producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

Commissioners Leonard, Moore and Bedell find and recommend that, in lieu of the existing rates of duty, the imposition of rates of duty as follows is necessary to prevent or remedy such injury:

Footwear, provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, and 700.60, and disposable footwear, designed for 1-time use, provided for in item 700.85),[1] of the TSUS

	1st year	2d year	3d year	4th year	5th year
Valued not over $2.50 per pair	35	32	29	26	23
Valued over $2.50 but not over $6 per pair	30	27	24	21	18
Valued over $6 per pair	25	22	19	16	13

[1] Commissioners Moore and Bedell would except athletic footwear as defined in schedule 7, pt. 1A, statistical headnote 1(a), in whatever item provided for, and zoris, provided for in item 700.54. Commissioner Moore would also except from the higher duties recommended work footwear and footwear for children and infants, as defined in schedule 7, pt. 1A, statistical headnotes 1(b), (l), and (m), respectively, in whatever item provided for.

Commissioners Minchew and Parker find and recommend that it is necessary to impose a tariff-rate quota system for the ensuing five-year period applying to all footwear covered by the Commission's notice of investigation (except zoris provided for in item 700.54 of the TSUS and disposable footwear, designed for one-time use, provided for in item 700.85) with the existing rates of duty applying to footwear within the quotas and rates of duty hereinafter specified applying to footwear imports outside the quotas, and with the quotas established and allocated to countries subject to rates of duty provided for in rate of duty column numbered 1 of the TSUS on the basis of their respective aggregated quantities of footwear imports during calendar year 1974.

QUOTA

[Thousands of pairs]

Country:	*Quantity*
Republic of China (Taiwan)	88,284
Italy	62,603
Spain	35,033
Brazil	21,324
Republic of Korea	9,202
Japan	5,855
Argentina	5,328
Mexico	4,145
Greece	3,238
France	2,965
India	2,924
Romania	2,817
Austria	2,746
Canada	2,746
Yugoslavia	1,784
Poland	1,677
West Germany	1,668
Columbia	1,164
United Kingdom	896
Ireland	785
Switzerland	363
All other	2,667
Total	265,582

All imports outside the specified quota quantities should be assessed with rates of duty as follows:

	Percent
For the 1st year	40
For the 2d year	35
For the 3d year	30
For the 4th year	25
For the 5th year	20

[1] Commissioners Leonard, Minchew, Moore, Bedell and Parker also except disposable footwear designed for one-time use, provided for in item 700.85.

Commissioners Minchew, Moore, Bedell and Parker also except zoris, provided for in item 700.54.

Commissioners Moore and Bedell would also except athletic footwear as defined in Schedule 7, Part 1A, statistical headnote 1 (a), in whatever item provided for.

Commissioner Moore would also except work footwear and footwear for children and infants, as defined in Schedule 7, Part 1A, statistical headnotes 1(b), (l), and (m), respectively, in whatever item provided for.

[2] Commissioner Moore find both serious injury and the threat thereof with regard to the two industries consisting of the respective facilities in the United States devoted to the production of men's, youth's, and boys' footwear and women's and misses' footwear. Commissioner Bedell finds both serious injury and the threat thereof with respect to the domestic industry consisting of the facilities in the United States devoted to the production of nonrubber footwear.

If our recommended, or a similar, tariff-rate quota system should be proclaimed, we suggest that the Commission should, where appropriate, initiate an investigation under section 203(i) of the Trade Act of 1974 to determine whether the country allocations should be relaxed to provide equitable allocations for new entrants to the U.S. market.

Commissioner Ablondi finds and recommends that adjustment assistance under Chapters 2, 3, and 4 of the Trade Act of 1974 can effectively remedy the serious injury suffered by the domestic footwear industry.

By order of the Commission:

Issued: February 23, 1976.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.76-5476 Filed 2-25-76;8:45 am]

SLIDE FASTENERS

Report to the President

FEBRUARY 18, 1976.

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation made under section 201 (b)(1) of that act, relating to slide fasteners and parts thereof.

The investigation was undertaken to determine whether—

slide fasteners and parts thereof, including tapes in continuous lengths but not including tapes wholly of textile fibers, provided for in items 745.70, 745.72, and 745.74 of the Tariff Schedules of the United States,

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The investigation was instituted on August 28, 1975, upon receipt of a petition filed on August 18, 1975, by the Slide Fastener Association.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of September 4, 1975 (40 FR 40878). A public hearing in connection with the investigation was conducted from November 24 through November 26, 1975, in the Commission's hearing room in Washington, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

The information for this report was obtained from fieldwork, from responses to questionnaires sent to domestic manufacturers, importers, distributors, and end users, and from the Commission files, other Government agencies, evidence

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

presented at the hearings, briefs filed by interested parties, and other sources.

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

The Commission, being equally divided,[2] makes no determination[3] of whether slide fasteners and parts thereof, including tapes in continuous lengths but not including tapes wholly of textile fibers, provided for in items 745.70, 745,72, and 745.74 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

DETERMINATIONS

On the basis of the Commission investigation, Commissioners Moore, Parker, and Ablondi determine—

That slide fasteners and parts thereof, including tapes in continuous lengths but not including tapes wholly of textile fibers, provided for in items 745.70, 745.72, and 745.74 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing slide fasteners and parts thereof.

Commissioners Leonard, Minchew, and Bedell determine—

That slide fasteners and parts thereof, including tapes in continuous lengths but not including tapes wholly of textile fibers, provided for in items 745.70, 745.72, and 745.74 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

Commissioners Moore, Parker, and Ablondi find that—

Adjustment assistance under chapters 2, 3, and 4 of the Trade Act of 1974 can effectively remedy the serious injury suffered by the domestic producers of slide fasteners and parts thereof and recommend the provision of such assistance.

Commissioners Leonard and Bedell find that—

No increase in any duty nor any import restriction on the imported articles which are the subject of this investigation is necessary and do not recommend the provision of adjustment assistance.

Commissioner Minchew, noting that the Commission has not found with respect to any article, as a result of its investigation, the serious injury, or the threat thereof, described in section 201 (b), finds, pursuant to section 201(d), that—

No Commission recommendation of remedy is necessary.

Issued: February 23, 1976.

By order of the Commission:

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.76-5478 Filed 2-25-76;8:45 am]

[2] Commissioners Moore, Parker, and Ablondi voted in the affirmative and Commissioners Leonard, Minchew, and Bedell voted in the negative. Section 330(d) of the Tariff Act of 1930, as amended, requires that in a situation of this kind, the findings of each group of Commissioners be transmitted to the President and provides that those of either group may be considered by the President as the findings of the Commission. Commissioner Moore is of the view that section 330(d) of the Tariff Act of 1930 applies in this case, but that the provisions thereof give the President only the option of considering the findings and recommendations of Commissioners Moore, Parker, and Ablondi as the findings and recommendations of the Commission. In other words, the proviso to section 330(d) is not operative in this case by reason of the fact that the three Commissioners who voted unanimously in the negative are not unanimous also as to remedy since only two of them voted on the recommendation and the third, in effect, abstained from voting.

[3] Commissioner Parker is of the view that the Commission has made a conditional affirmative and a conditional negative vote and by operation of law the President can accept either.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on March 18-20, 1976 in the first floor conference room of the Shoreham Building, 806 15th Street, N.W., Washington, D.C. from 9:00 a.m.-5:30 p.m. on all three days.

A portion of this meeting will be open to the public on March 18 from 9:00 a.m.-12:30 p.m. on a space available basis. Accommodations are limited. The discussion will include Application review: Instruction and Training, Arts Exposure, Community Cultural Centers, Neighborhood Arts Services, State Arts Agencies, and General Programs.

The remaining sessions of this meeting on March 18 from 1:30 p.m.-5:30 p.m. and March 19 and 20 from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-5517 Filed 2-25-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP ON CONTRIBUTIONS OF TECHNOLOGY TO ECONOMIC STRENGTH

Meeting

In the Tuesday, February 24 issue of the FEDERAL REGISTER, the following addition should be made to the agenda for the March 12 meeting of the Advisory Group on Contributions of Technology to Economic Strength.

MARCH 12

1300—Reports (continued) Innovation and Productivity—H. Holloman.

There are no other changes in the meeting notice.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1976.

[FR Doc.76-5453 Filed 2-25-76;8:45 am]

ADVISORY PANEL FOR GENETIC BIOLOGY

Corrected Meeting

The Advisory Panel for Genetic Biology will hold its meeting on March 11, 12, and 13, 1976, in lieu of March 12 and 13. The notice of meeting appeared in the Tuesday, February 24 issue of the FEDERAL REGISTER. There are no other changes in the meeting.

M. REBECCA WINKLER,
Committee Management Officer.

FEBRUARY 23, 1976.

[FR Doc.76-5452 Filed 2-25-76;8:45 am]

ADVISORY PANEL FOR ASTRONOMY

Notice of Open 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 Astronomy.
Date: March 15-16, 1976.
Time: 9 a.m. each day.
Place: Rm. 543, National Science Foundation, 1800 G St. NW., Washington, D.C.
Contact person: Mr. Daniel Hunt, Acting Director, Division of Astronomical Sci-

ences, Rm. 615, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5715. Anyone who plans to attend should contact Ms. Saffell at the above address.

Summary minutes: May be obtained from tht Committee Management Coordination Staff, Division of Personnel and Management, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of panel: To provide advice and recommendations concerning: (1) research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated; and (2) short range and long range plans in astronomy, including a recommendation of relative priorities.

Agenda: Topics will include:

MARCH 15

Introduction.

Review of FY 1977 Budget for NSF Astronomical Sciences.

Presentations and Discussions of Key Issues, such as.

Sacramento Peak Observatory and the NASA 3-meter, IR Telescope.

Priority of NSF Astronomy Programs.

MARCH 16

Review of Stars and Stellar Evolution Program.

Priority of NSF Astronomy Programs.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1976.

[FR Doc.76-5454 Filed 2-25-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-9]

ACCIDENT REPORTS; RESPONSES TO SAFETY RECOMMENDATIONS

Notice of Availability and Receipt

Aircraft Accident Reports. The National Transportation Safety Board announces the release of its investigation report concerning a corporate aircraft crash at Hilton Head Island, South Carolina, April 26, 1975. The report, No. NTSB-AAR-76-2, was released February 18. The Safety Board determined that the probable cause of the accident, which involved a Beechcraft A100 owned by Stribling-Puckett, Inc., was the failure of the pilot to maintain a positive rate of climb after takeoff toward an unlighted area in night, visual meteorological conditions. The failure to maintain a positive rate of climb resulted in a collision with trees in the departure path. According to the Board, an overweight condition of the aircraft may have contributed to the pilot's actions.

Also now available are 11 compilations of Board reports on 1974 civil aviation accidents in various categories of type of accident, aircraft, or operation. Each of the 11 publications, released February 29, incorporates accident "briefs" — the Safety Board's computerized printouts of probable causes, contributing factors, and basic accident facts. Also included are tables statistically analyzing the accident briefs by cause/factor, injury, and type of accident. One publication, "Listing of Aircraft Accidents/Incidents by Make and Model—U.S. Civil Aviation 1974" (NTSB-AMM-75-12), breaks down all 1974 civil aircraft accidents by aircraft make and model. The other 10 publications cover only general non-airline aviation. These "Briefs of Accidents" compilations are specifically entitled: "Midair Collisions" (NTSB-AMM-75-13), "Turbine Powered Aircraft" (NTSB-AMM-75-14), "Rotorcraft" (NTSB-AMM-75-15), "Weather as a Cause/Factor" (NTSB-AMM-75-16), "Alcohol as a Cause/Factor" (NTSB-AMM-75-17), "Missing and Missing-Later-Recovered Aircraft" (NTSB-AMM-75-18), "Corporate/Executive Aircraft" (NTSB-AMM-75-19), "Amateur/Home Built Aircraft . . . U.S. General Aviation 1974" (NTSB-AMM-75-20), "Air Taxi Operations" (NTSB-AMM-75-21), and "Aerial Application Operations" (cropdusting) (NTSB-AMM-75-22).

Responses to Safety Recommendations. Addresses of certain earlier Safety Board recommendations have recently supplied the Board with letter responses as follows:

Federal Aviation Administration—

Letter of January 26 regarding recommendations A-75-58 and 59. (See 40 FR 32177, July 31, 1975.) FAA, referring to A-75-58, indicates that the term "radar arrival" will be defined in a proposed Pilot/Controller Glossary, scheduled for completion in May 1976. "Notwithstanding this action," FAA states, "we do not believe defining the term 'radar arrival' has any significance since the procedures on instrument approach clearances as contained in agency directive Notice 7110.422, effective October 1, 1975, should satisfy the latter part of this recommendation regarding the degree of controller responsibility to all arrival aircraft receiving radar service." FAA agrees in principle with recommendation A-75-59, concerning discontinuance of automatic termination of radar service, but FAA studies to date "preclude implementation as specifically recommended." FAA foresees workload and communications difficulties which it feels are unjustified. FAA expects to arrive at a decision on this aspect by April 1, 1976.

Letter of February 2 re recommendations A-75-80 through 83. (See 40 FR 52891, November 13, 1975.) FAA states, "The questions raised by the recommendations (concerning enforcement of 14 CFR 77) have proven to be quite complex and have several legal and technical ramifications. An FAA internal working group is working to resolve the matter. We expect to complete the work within the next sixty days and will advise you of our decision."

U.S. Coast Guard—

Letter of February 6 re recommendations M-74-20 and 21, issued in marine casualty report No. USCG/NTSB-MAR-74-5, concerning the M/V VENUS, explosion and fire on the St. Lawrence River, May 4, 1972. With reference to M-74-20, requiring safety meetings aboard tankships to provide tank cleaning instructions, the Coast Guard states that basic tank cleaning guidelines in the form of procedural regulations are being developed and that the requirement for holding shipboard safety meetings will be included. A program implementing M-74-21 is now under way. The recommendation called for a special inspection of the VENUS and similar tank vessels operating on the Great Lakes to make certain that inadequacies concerning the prevention of entry of inflammable vapors into the deckhouse have been corrected.

Federal Highway Administration—

Letter of February 10 re recommendation H-75-45. (See 41 FR 15, January 2, 1976, and 41 FR 4366, January 29, 1976.) FAA states, "We are studying the accident data reports sent to the Bureau of Motor Carrier Safety to determine whether fires on motor vehicles operating under this Administration's safety jurisdiction would have the safety of operation increased if a flexible hose was provided on the fire extinguisher." FHA expects that the study of fire accidents will take approximately 6 months to complete.

Federal Railroad Administration—

Letter of February 10 re the Safety Board's special study, "Broken Rails: A Major Cause of Train Accidents," report No. NTSB-RSS-74-1, and having apparent reference to recommendations R-74-1 through 5, contained in the study. FRA agrees with the Board that many variables influence rail failure and that some of these many variables should be included in regulations dealing with rail and rail defects. However, FRA believes that some investigations should be made before any changes in the present regulations are proposed in order to provide necessary data concerning effect of these variables on the rail design. In order to make timely any changes in the regulations, FRA states, "* * * a comprehensive review of not only this section but the entire Federal Track Safety Standards is high on the list of objectives for the year 1976."

The aircraft accident report and the compilations of "Briefs of Accidents" are available to the general public; single copies may be obtained without charge. Copies of recommendation response letters may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports and "Briefs" compilations may be purchased

by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906))

FEBRUARY 23, 1976.

MARGARET L. FISHER,
Federal Register Liaison Officer.

[FR Doc.76-5499 Filed 2-25-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-39 and Amendment No. 15 to Facility Operating License No. DPR-48 issued to Commonwealth Edison Company which revised conditions for operation of the Zion Station Units 1 and 2 located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments authorize completion of the 85% to 100% power startup testing program for Zion Station Units 1 and 2. It is the intention of these amendments that operation of the facilities at power levels above 85% power is authorized only for the purpose of completing that testing program.

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 amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on September 9, 1974 (39 FR 31940). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated December 23, 1975, (2) Amendment No. 18 to License No. DPR-39 and Amendment No. 15 to License No. DPR-48, 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 Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60095.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc.76-5202 Filed 2-25-76;8:45 am]

[Docket No. 50-324]

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. 10 to Facility Operating License No. DPR-62 issued to Carolina Power & Light Company for operation of the Brunswick Steam Electric Plant Unit 2, located in Brunswick County, North Carolina. The amendment is effective as of its date of issuance.

The amendment authorizes installation of plugs in the bypass flow holes of the core support plate. Authorization of plant operation with the plugs instaled will be the subject of another licensing action.

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.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR § 51.5(d)(4), an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 4, 1976, and report number NEDO-21118, (2) Amendment No. 10 to License No. DPR-62, 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 Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc.76-5201 Filed 2-25-76;8:45 am]

[Docket Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 18, 18 and 15 to Facility Operating Licenses No. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company which revised Technical Specifications for operation of the Oconee Nuclear Station, Units 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective March 15, 1976.

These amendments revise portions of the Organization, Review and Audit section of the Technical Specifications and consist of (1) changes in the methods by which technical review and control functions are performed, (2) the reassignment of certain specific review requirements to the onsite operating organization and (3) a restructured review and audit organization.

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. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendments dated February 28, 1975, as supplemented June 19, and December 5, 1975, (2) Amendments No. 18, 18, and 15 to Licenses No. DPR-38, DPR-47, and DPR-55, (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 Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691.

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 13th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc.76-5203 Filed 2-25-76;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-16 issued to Jersey Central Power & Light Company which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey. The amendment is effective as of the date of issuance.

The amendment will revise the Technical Specifications to allow the facility to remain in the shutdown refueling, or startup mode with reduced core spray system capability for the duration of the outage during which improvements to the ECCS system are made. The proposed action is in accordance with the license amendment application dated June 24, 1975, and supplements dated July 15, 1975, November 7, 1975, and December 3, 1975.

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 December 17, 1975 (40 FR 58517). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1975, (2) Amendment No. 12 to License No. DPR-16, 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, N.W., Washington, D.C. and at the Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey 08753.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 21st day of January 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5204 Filed 2-25-76;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK 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. 7 to Facility Operating License No. DPR-63 issued to Niagara Mohawk Power Company which revised Technical Specifications for operation of the Nine Mile Point Unit 1, located in Oswega County, New York. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Environmental Technical Specifications relating to reporting requirements. In addition, editorial corrections and changes have been made to reflect the reorganization of the Atomic Energy Commission to form the Nuclear Regulatory Commission.

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.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 11, 1975 and (2) Amendment No. 7 to License No. DPR-63. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Oswego City Library, 120 E. Second Street, Oswego, New York 13126.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 12 day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc.76-5205 Filed 2-25-76;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.114, "Guidance on Being Operator at the Controls of a Nuclear Power Plant," describes a method acceptable to the NRC staff for complying with the Commission's regulations that require an operator to be present at the controls of a nuclear power plant.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.114 will, however, be particularly useful in evaluating the need for an early revision if received by April 23, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not

copyrighted and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland this 17th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-5207 Filed 2-25-75;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order for Modification of License

I. The Vermont Yankee Nuclear Power Corporation (the licensee) is the holder of facility license DPR-28, which authorizes operation of the Vermont Yankee Nuclear Power Station near Vernon, Vermont. This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II. Results of recent 1/12 scale tests of hydrodynamic characteristics of vapor suppression containment systems of type generally known as Mark I (the so called "light-bulb and torus" shape), have indicated that during the course of a postulated design basis loss of coolant accident, forces exerted on the torus in the upward direction may be sufficient to cause unexpected movement in an upward direction. The Mark I containment design is a feature of some Boiling Water Reactors built by the General Electric Company. For all facilities employing the design except the Vermont Yankee Nuclear Power Station, the upward motion if any, indicated by the data derived from the tests, is within the capability of the torus structures and connected piping. Due to the unique combination of features of the Vermont Yankee design, the estimated upward motion during a design basis loss of coolant accident, for pressure conditions which presently exist in the containment system, would exceed 4 inches. This amount of upward motion is such that under these conditions the integrity of containment and connected piping systems could not be assured. Operation of the facility has been suspended pending assessment of these effects and investigation of techniques to mitigate or eliminate these potentially adverse conditions.

Upon investigation of the test results which led to the indication of upward motion, it appears that by imposing a small differential pressure between the drywell portion of the containment (the "light-bulb" shaped portion) and the wetwell, or torus shaped portion of the system, the upward forces are reduced substantially. Under these conditions upward motion, if any, even in the event of the postulated worst case loss of coolant accident may be reduced to values within the structural capability of the system and its piping. This has been verified by stress calculations performed for connected vital piping, including that of the Emergency Core Cooling System, which indicates that with a pressure differential greater than 1.7 psid piping stresses would not exceed yield stresses.

The licensee has concluded that maintaining a differential pressure between the drywell and the wetwell of 1.7 psid provides adequate assurance that containment integrity will not be jeopardized by upward motions resulting from hydrodynamic forces from the most severe loss of coolant accident. The licensee also proposed subsequent installation of tie down rods to provide mechanical restraint, in lieu of the differential pressure method of providing load reduction, within some 60 days. After discussions with the staff, the licensee established a schedule which would provide for installation within 30 days. (Vermont Yankee submittal dated February 4, 1976.)

The staff has carefully reviewed all the relevant data to ascertain the effect of imposing a differential pressure of 1.7 psid between the drywell and torus. As set forth in the Staff Safety Evaluation (concurrently issued with this Order) the staff has concluded that the data support the conclusion that, with a minimum differential pressure between the drywell and wetwell of 1.7 psid, a best estimate of the upward motion of the torus in the event of the worst postulated loss of coolant accident (the complete double ended offset severance of the 28 inch recirculation line in the limited section between the reactor outlet nozzle and the suction side of the recirculation pump), would be less than one inch. All of the vital piping connected to the torus is capable of withstanding an uplift deflection of at least one inch without overstress. Moreover, the staff has further concluded that the probability of the event required to initiate high containment loadings (that is a complete double ended offset severance of the 28 inch recirculation line) is exceedingly low, particularly in light of the present inservice inspections of the piping welds in this section.

It should be noted that the staff's conclusion with respect to the quantitative effect of drywell pressurization on torus uplift is based on a best estimate, rather than a conservative estimate, in that conservatisms involved in certain assumptions are to some degree offset by uncertainties in other areas. Consequently, the staff concludes that reliance on the pressure differential technique alone should be limited to a short term period of time. Accordingly, the staff concludes that a high priority should be given to installation of the tie down system, with completion by the licensee of its installation within 30 days from the date of this Order. Since maintenance of the pressure differential for the interim period before the tie down installation is completed is of importance to assurance of adequate facility safety, the staff has also concluded that specific limitations on operation in the absence of the minimum differential pressure should be imposed, and that requirements for careful monitoring of differential pressure should be imposed pending further review to assure that the necessary minimum pressure differential is maintained in the containment system.

Based on the foregoing considerations, the staff has concluded that the existing plant licensing requirements and an additional requirement to maintain a differential pressure of 1.7 psid between the drywell and suppression chamber, along with consideration of the low probability of a pipe failure of sufficient size to cause high containment loading collectively provide reasonable assurance that the public health and safety will not be endangered by operation of the Vermont Yankee facility during the short period of time before the required completion of modifications to enhance the structural capability of the containment system. The additional licensing conditions to assure conformance with the pressure differential are set forth as Appendix A to this Order. Further, the staff has concluded that the existing plant licensing requirements and the additional requirement to maintain a differential pressure of 1.7 psid between the drywell and suppression chamber provide assurance that the public health and safety will not be endangered by operation of the Vermont Yankee facility following the completion of the modifications to enhance the structural capability of the containment system.

III. In view of the foregoing, and in accordance with provisions of the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, the Director of the Office of Nuclear Reactor Regulation has found that additional conditions on facility operation, set forth in Appendix A hereto are required to protect the public health and safety and that the public health, safety, and interest require that the following order be made effective immediately. Pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50,

It is ordered that:

1. Effective immediately reactor operation shall continue only within the limits of License No. DPR-28 and the Technical Specifications which are a part thereof and the further restrictions set forth in Appendix A, attached hereto.

2. Within thirty days of the date of this Order, the licensee shall complete installation of a system of tie down rods in accordance with the preliminary design contained in Vermont Yankee submittal dated February 4, 1976. The Commission may impose additional requirements including the installation of additional tie down devices if it determines that such additional requirements are necessary to assure adequate design safety margins.

IV. On or before March 29, 1976, the licensee may file a request for a hearing with respect to this Order. On or before March 29, 1976 any other person whose interest may be affected may file a request for a hearing with respect to this

Order in accordance with the provisions of 10 CFR § 2.714 of the Commission's rules of practice. If a request for a hearing is filed within the time prescribed herein, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this action, see (1) VY application dated February 6, 1976 (non-Proprietary version), (2) Mark I Containment Evaluation, Short-term Program—Final Report, NEDC 20989–1 September, 1975, and (3) Safety Evaluation Report.

These items are available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

A single copy of item (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of February, 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director,
Office of Nuclear Reactor Regulation.

APPENDIX A

1. Differential pressure between the drywell and suppression chamber shall be maintained at equal to or greater than 1.7 psid except as specified in A and B below.

A. This differential shall be established within 24 hours of achieving operating temperature and pressure.

B. The above differential may be decreased to less than 1.7 psid for a maximum of two hours for the purpose of testing the drywell-suppression chamber vacuum breakers.

2. If the differential pressure of 1.7 psid cannot be maintained, the plant shall be placed in the cold shutdown condition within 24 hours.

3. The pressure difference between the drywell and suppression chamber shall be recorded once per shift.

4. The volume of water in the torus shall be maintained between 68–70,000 Ft^3 and recorded once per shift.

5. The operability of the low differential pressure alarm shall be verified once every seven days.

6. The operability of the alternate circuit of the standby gas treatment system shall be demonstrated once every seven days.

7. From and after the date that one circuit of the standby gas treatment system is made or found to be inoperable for any reason, reactor operation is permissible only during the succeeding three days unless such circuit is sooner made operable.

8. The operability and closure time (equal to or less than 5 seconds) of the three inch torus purge and vent outlet bypass valve shall be verified once every seven days.

[FR Doc.76–5206 Filed 2–25–76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE DOUGLAS POINT NUCLEAR STATION, UNITS 1 AND 2

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.S. 2039, 2232b.), the ACRS Subcommittee on the Douglas Point Nuclear Station, Units 1 and 2 will meet on March 12, 1976 in Room 1046, 1717 H Street, NW., Washington, DC 20555. The purpose of this meeting is to review the application of the Potomac Electric Power Company for a construction permit.

The agenda for subject meeting shall be as follows:

Friday, March 12, 1976, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to the above review.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Potomac Electric Power Company, and their consultants, and will hold discussions with these groups pertinent to review of the application of Potomac Electric Power Company for a permit to construct the Douglas Point Nuclear Station.

At the conclusion of the open session, the Subcommittee will caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project 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. Upon conclusion of this caucus, the Subcommittee will meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information, particularly with regard to specific features of the plant design and plans related to plant security.

I have determined, in accordance with subsection 10(d) of Pub. L. 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)) and to protect confidential proprietary or plant security information (5 U.S.C. 552(b)(4)). Separation of factual material from individual's 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 besginning of the meeting. Comments should be limited to safety 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 March 5, 1976 to Mr. Elpidio Igne, ACRS, NRC, Washington, D.C. will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 and at the Charles County Library, Garrett and Charles Streets, La Plata, MD 20646.

(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 March 10, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1393, Attn: Mr. Elpidio Igne) between 8:15 a.m. and 5:00 p.m., e.s.t.

(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 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. Elpidio Igne 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 March 19, 1976 at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 and at the Charles County Library, Garrett and Charles Streets, La Plata, MD 20646.

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 June 14, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: February 23, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-5590 Filed 2-25-76;8:45 am]

[Docket No. 70-1201]

BABCOCK & WILCOX CO. COMMERCIAL NUCLEAR FUEL PLANT, LYNCHBURG, VIRGINIA

Negative Declaration Regarding Renewal of License No. SNM-1168

The Nuclear Regulatory Commission (the Commission) has considered the renewal of Special Nuclear Material License SNM-1168 for the continued operation of the Commercial Nuclear Fuel Fabrication Plant at Lynchburg, Virginia.

The U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, has prepared an environmental impact appraisal for the proposed renewal of license SNM-1168. On the basis of this appraisal, the Commission has concluded that environmental impact created by the proposed license renewal action would not be significant and does not warrant the preparation of an environmental impact statement, and accordingly it has been determined that a negative declaration is appropriate. The environmental impact appraisal (NR-FM-005) is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Bethesda, Md., this 20th day of February, 1976.

For the Nuclear Regulatory Commission.

RICHARD B. CHITWOOD,
Chief, Facility Environmental Assessment Branch Division of Fuel Cycle and Material Safety.

[FR Doc.76-5579 Filed 2-25-76;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., CENTRAL IOWA POWER COOPERATIVE, AND CORN BELT POWER COOPERATIVE

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-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

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 the Proposed Issuance of Amendments to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 8, 1976 (41 FR 1547). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the Commission's letters to Iowa Electric Light & Power Company dated September 23, 1975, and December 29, 1975, (2) Amendment No. 16 to License No. DPR-49 and (3) the Commission's related Safety Evaluation issued on September 23, 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 Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

A single copy of items (1) through (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17 day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5580 Filed 2-25-76;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional 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-16 issued to Jersey Central Power & Light Company which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

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 the Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 8, 1976 (41 FR 1548). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letters to Jersey Central Power and Light Company dated September 25, 1975, and December 17, 1975, (2) Amendment No. 13 to License No. DPR-16, and (3) the Commission's related Safety Evaluation issued on September 25, 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 Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey 08753.

A single copy of items (1) through (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5581 Filed 2-25-76;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO., JERSEY CENTRAL POWER AND LIGHT CO., AND PENNSYLVANIA 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. 12 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric 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 clarifies the Technical Specifications regarding the reactor system pressure safety limits.

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.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 17, 1975, (2) Amendment No. 12 to License No. DPR-50, 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 Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

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 Operating Reactors.

Dated at Bethesda, Md., this 17th day of February, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-5582 Filed 2-25-76;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO., JERSEY CENTRAL POWER AND LIGHT CO., AND PENNSYLVANIA 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. 13 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric 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 revises the Technical Specifications to change the reactor coolant system high pressure trip setpoint for a 24-hour period.

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.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 16, 1976, as supplemented February 13, 1976, (2) Amendment No. 13 to License No. DPR-50, 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 Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

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 Operating Reactors.

Dated at Bethesda, Md., this 19th day of February, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-5583 Filed 2-25-76;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK POWER 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. 8 to Facility Operating License No. DPR-63 to the Niagara Mohawk Power Corporation (the licensee), which revised Technical Specifications for operation of the Nine Mile Point Unit 1 (the facility), located in Oswego, New York. The amendment is effective as of its date of issuance.

This amendment revised the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

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 the Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 8, 1976 (41 FR 1548). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letters to Niagara Mohawk Power Corporation dated September 23, 1975 and December 29, 1975, (2) the letters from Niagara Mohawk Power Corporation to the Commission dated October 14, 1975 and January 19, 1976, (3) Amendment No. 8 to License No. DPR-63 and (4) the Commission's related Safety Evaluation issued on September 23, 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 Oswego City Library, 120 E Second Street, Oswego, New York 13126.

A single copy of items (1), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17 day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5584 Filed 2-25-76;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment will permit the release of radioactive gaseous waste collected in the gas decay tanks prior to the minimum 30-day holdup period from November 22, 1975, to December 22, 1975.

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 to 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.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and 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 Fort Calhoun Station, Unit 1 published in August 1972, and that a negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendment dated November 21, 1975, (2) Amendment No. 10 to License No. DPR-40, (3) the Commission's related Safety Evaluation and (4) the Commission's 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 Blair Public Library, ATTN: Mrs. Leona Hansen, Librarian, 1665 Lincoln Street, Blair, Nebraska 68008.

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 Operating Reactors.

Dated at Bethesda, Md., this 17th day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5585 Filed 2-25-76;8:45 am]

[Dockets Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO., PUBLIC SERVICE ELECTRIC AND GAS CO., DELMARVA POWER AND LIGHT CO., AND ATLANTIC CITY ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 17 and 16 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, to the Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station Units 2 and 3 (the facilities), located in York County, Pennsylvania. The amendments are effective as of their date of issuance.

These amendments revise the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collect housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collect housing failure exists.

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 the Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on January 19, 1976 (41 FR 2694). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the Commission's letters to Philadelphia Electric Company dated September 23, 1975 and January 7, 1976, (2) Amendment No. 17 to License No. DPR-44, (3) Amendment No. 16 to License No. DPR-56, and (4) the Commission's related Safety Evaluation issued on September 23, 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 Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A single copy of items (1) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of February, 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-5586 Filed 2-25-76;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC CO. ET AL. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 AND 2)

Special Meeting of Representatives of Parties in This Proceeding

By Order dated February 11, 1976, the Board reopened the record of this proceeding for a limited purpose and on February 18, 1976 an amended notice of hearing was issued.

A special meeting of the representatives of the Parties in this proceeding is scheduled for Tuesday, March 23, 1976, at 9:00 a.m., local time. The above information was furnished to all the Parties in a conference telephone call on February 18, 1976. This meeting will be held at the following location:

U.S. Court of Appeals Courtroom, Second Floor, The Pioneer Courthouse, 555 SW. Yamhill, Portland, Oregon 97204.

The purpose of the meeting is to discuss what issue or issues are embraced by the entrance of the Puget Sound Power & Light Company and the Pacific Power & Light Company as additional applicants. All of the Parties should be prepared to discuss their positions with respect to this question.

In addition, the Parties should be prepared to discuss the future schedule for this proceeding.

Dated at Bethesda, Md., this 23d day of February 1976.

It is so ordered.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.76-5587 Filed 2-25-76;8:45 am]

[Docket No. 50-558]

WESTINGHOUSE ELECTRIC CORP.

Application for and Consideration of Issuance of Facility Export License

Please take notice that the Westinghouse Electric Corporation has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of two pressurized water reactors each with a thermal power level of 2,785 megawatts to the Republic of China and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed export of the reactors will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulation set forth in 10 CFR Chapter I, and

(b) The reactors proposed to be exported are utilization facilities as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facilities to be exported.

On or before March 12, 1976, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Md., this 20th day of February 1976.

For the Nuclear Regulatory Commission.

G. WAYNE KERR,
Chief, Agreements and Exports Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.76-5588 Filed 2-25-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12117; File No. SR-Amex-76-6]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 17, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (Amex) proposes to amend the Commentary to Rule 155 in the manner described below. Brackets [ ] indicate words to be deleted and *underscoring* indicates words to be added.

RULE 155

Precedence Accorded to Orders Entrusted to Specialists.

A specialist shall give precedence to orders entrusted to him as an agent in any stock in which he is registered before executing at the same price any purchase or sale in the same stock for an account in which he has an interest.

COMMENTARY

.01 When a broker inquires of a specialist as to the price at which a block of stock may be sold, the specialist may not specify the amount that would be purchased by the book and the amount that he would take as a dealer.

If the block is to be sold at a "clean-up" price the specialist should [buy at the bid price one unit of trading for his own account and] execute at the "clean-up" price all of the executable buy orders on his book. The report of the block transaction on the tape is to be accompanied by a reprint of the last prior transaction in the regular-way market in the security.

However, if the block is sold at different price limits and the specialist buys part of the block for his own account he should to the extent practicable, buy round lots for his own account at each price limit at which buy orders on the book are executed, and in doing so, he should divide the stock purchased for his own account into round lots of approximately equal size among the price limits at which he participates.

The same principles apply in the case of a purchase of a block of stock .02-.05-No Change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit the execution of block transactions on the Floor of the Amex at one "clean-up" (negotiated) price outside the current quotation.

Commentary .01 to Rule 155 presently provides that in the event an order is received to buy or sell a block of stock at a price above or below the quoted market, the specialist is required to substitute his bid or offer for one unit of trading for the current public bid or offer. This procedure permits public orders at the current bid or offer to be executed at the more favorable "clean-up" price while at the same time providing a point of reference on the transaction tape to allow investors to measure the impact of the block transaction on the market.

Recently, the Amex has ascertained that a number of institutional customers, for whom block transactions are generally effected, would prefer to receive one execution price on their order. In such situations, the present procedure which requires the specialist to enter into a purchase or sale transaction prior to the block execution at the current quote is felt to be obsolete and an added record-keeping burden. As a result of improved data technology, it is unnecessary to print a transaction at the current quote immediately prior to the block transaction in order to permit an evaluation of the effect of the block on the price of the stock. Current Amex computer capabilities allow the last previous sale in the same security to be reprinted on the Amex tape together with the report of the block transaction thus obviating the need for the specialist to establish a point of reference through an execution at the current quote.

The proposed rule change is based upon Section 6(b)(5) of the Act and is consistent with the requirement that that Amex rules be designed to protect investors and the public interest.

Prior to adopting the proposed rule change, discussions were held with institutional customers and specialists relative to the merits of modifying the present procedures under Rule 155. The comments received strongly urged the elimination of the specialist's "point of reference" transaction as explained more fully above.

The Amex has determined that the proposed rule change will not impose a burden on competition.

On or before April 5, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 29, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 19, 1976.

[FR Doc.76-5431 Filed 2-25-76;8:45 am]

[70-5807]

ALABAMA POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

FEBRUARY 19, 1976.

NOTICE IS HEREBY GIVEN that Alabama Power Company ("Alabama") 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $50,000,000 principal amount of its First Mortgage Bonds, ____% Series due March 1, ____, having a term of not less than 5 years nor more than 30 years. Alabama will decide on the term of the new bonds and notify prospective bidders thereof not less than 72 hours prior to the time of the bidding. The interest rate (which shall be a multiple of ⅛%) and the price, exclusive of accrued interest, to be paid to Alabama (which shall be not less than 98% nor more than 102¾% of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of March 1, 1976, which includes a prohibition until March 1, 1981, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

It is stated that Alabama may request by amendment that the proposed sale of bonds be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of the company's management, make such exception in the best interest of the company and its investors and consumers.

Alabama intends to use the proceeds from the sale of the new bonds along with other funds, in financing its 1976 construction program, currently estimated at $491,139,000, and in retiring, through sinking fund operations, $10,000 principal amount of prior lien bonds.

It is stated that the Alabama Public Service Commission has authorized the issuance and sale of the bonds 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 is to be supplied by amendment.

NOTICE IS FURTHER GIVEN that any interested person may, not later than March 12, 1976, 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 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 upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as 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.76-5422 Filed 2-25-76;8:45 am]

[Rel. No. 9166; 812-3659]

THOMAS E. CONNETT AND MIDLAND CAPITAL CORP.

Filing of Application

FEBRUARY 19, 1976.

Notice is hereby given That Thomas E. Connett ("Connett") 80 Guilford Lane, Williamsville, New York 14221, a self-employed management consultant, filed an application on July 2, 1974 and that Connett and Midland Capital Corporation ("Midland") 110 William Street, New York, New York 10038, a New York corporation registered as a closed-end, non-diversified, management investment company under the Investment Company Act of 1940 (the "Act") (collectively referred to as "Applicants") filed an amendment thereto on April 24, 1975, for an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting Connett to receive shares of Lemmon Pharmacal Company ("Lemmon Co.") in connection with Midland's acquisition of shares of that company and, pursuant to Section 6(c) of the Act, for an order of the Commission exempting the receipt of such shares by Connett from the provisions of Section 17(e) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Connett and C. E. Schabacker ("Schabacker"), President of Midland, became associated with each other in 1959 when Connett was an employee and director of Sierra Research Corporation ("Sierra"). In 1960, Schabacker, then a vice-president of Marine Trust Company, became a director of Sierra. From October of 1969, when Connett resigned from Sierra to become a self-employed management consultant, to October of 1972, Connett and Schabacker maintained personal contacts with each other, and from time to time Schabacker recommended Connett as a management consultant to to others.

In 1971, Connett, as a result of his association with Schabacker, became a director and the chief executive officer of Mediplex Corporation ("Mediplex") and a director of Stoner Communications, Inc. ("Stoner"). Mediplex and Stoner had outstanding indebtedness to Midland under terms which provided, respectively, that in the event of default in payment Midland had the right to vote 20% of the outstanding stock of Mediplex and 100% of the outstanding stock of Stoner. Midland also owned 6% of the outstanding voting stock of Stoner. In September of that year, Mediplex ceased doing business as a going concern and remained in a caretaker status under the direction of Connett, until September of 1972. At the time Mediplex ceased doing business, it had nominal assets, but extensive tax loss carry forwards, and it was in default on its outstanding indebtedness to Midland.

On May 5, 1972, Connett met with Arnold Burns ("Burns"), who was a director of Mediplex and counsel to Harris Hollin ("Hollin"), to discuss, at Burn's request, the proposed acquisition of the assets of Lemmon Co. by Hollin and to explore various possibilities of other persons forming a group with Hollin to make the purchase. Shortly thereafter, Schabacker met, at Connett's request, with Burns and Connett to discuss the possibility of Mediplex, Midland, and Hollin forming a group to acquire Lemmon Co. Connett subsequently prepared a financial analysis of Lemmon Co. and determined that the company was worth approximately $3 million. John Lemmon and Max Geffin, the principal shareholders of Lemmon Co. were asking $4.2 million for Lemmon Co. Connett and Hollin thereafter met with John Lemmon at his offices in Pennsylvania to negotiate the purchase of Lemmon Co. On June 8, 1972, Hollin obtained a 45 day option to purchase the assets of Lemmon Co. for $2.9 million.

During the month of June, 1972, Schabacker and Connett met with Hollin to discuss various methods of structuring Midland's participation in the acquisition of Lemmon Co. From June 16 to June 19, Connett met with Schabacker on several occasions to prepare a proposal and by letter dated June 28, 1972, a formal offer of participation was made to Hollin. On July 20, 1972 (the "closing date"), Midland acquired 46% of the outstanding stock of Lemmon Co. The consideration paid by Midland for its interest in Lemmon Co. was $1 million in cash and the transfer to Lemmon Co. of Midland's $690,000 debt interest in Mediplex.

Shortly after the closing date, a dispute arose between Connett and Midland regarding Connett's compensation for the services he rendered in connection with the purchase of Lemmon Co. by Hollin and Midland. Connett asserts that Midland agreed to give him 6% of Lemmon Co.'s stock from Midland's interest in Lemmon Co. Midland denies so agreeing. Connett retained counsel to pursue his claim against Midland and, in May of 1973, a settlement resolving the dispute was reached. Midland agreed, subject to the approval of the Commission, to pay Connett 3% (9,000 shares) of the outstanding common stock of Lemmon Co. as compensation for such services.

Under Section 17(d) of the Act and Rule 17d–1, it is unlawful for any affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which any such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by an order of the Commission. In passing upon such an application, the Commission considers whether the participation of such registered or controlled company in such arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 17(e)(1) of the Act provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as agent, to accept from any source any compensation for the purchase or sale of any property to or for such registered company.

Section 2(a)(3) of the Act defines an affiliated person of another person to mean any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person or any officer, director, partner, copartner, or employee of such person. Because of his association with Mediplex and Stoner and their relationship to Midland, Connett may be considered to have been at the time of the transaction an affiliated person of an affiliated person of Midland. Consequently, Connett, as an affiliate of an affiliate of Midland, is prohibited by Section 17(e) of the Act from accepting compensation for his services in connection with the acquisition of Lemmon by Hollin and Midland. In addition, the arrangement among Applicants may be deemed to constitute a joint enterprise or arrangement subject to the provisions of Section 17(d) and Rule 17d–1 of the Act.

Applicants state that Connett is entitled to compensation for services he rendered in connection with the purchase of Lemmon Co. by Hollin and Midland. Applicants assert that Midland was benefited by the services provided by Connett and that it was solely through Connett's efforts that Midland became part of the group that purchased Lemmon Co. Midland agrees with Connett that he should be fairly compensated for his services and that 3% of the outstanding common stock of Lemmon Co. is fair and reasonable compensation. Applicants assert that Connett's affiliation with Mediplex and Stoner had no effect on the amount of his compensation. Applicants submit that the granting of the requested orders is appropriate in the public interest and consistent with the protection of investors and the provisions, policies and purposes of the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than March 15, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at their respective addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following March 15, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] GEORGE A FITZSIMMONS, *Secretary.*

[FR Doc.76-5425 Filed 2-25-76;8:45 am]

[812-3631, etc.]

[812-3631; 812-3678; 812-3717; 812-3725; 812-3768]

FIDELITY DAILY INCOME TRUST ET AL.

Applications

FEBRUARY 18, 1976.

In the Matter of Fidelity Daily Income Trust, 35 Congress Street, Boston, Massachusetts 02109; J. P. Cabot Short-Term Fund, Inc., 704 South Central Avenue, Valley Stream, New York 11580; Florida Liquid Assets Company, Global Building, 741 U.S. Highway No. 1, North Palm Beach, Florida 33408; White Weld Money Market Fund Incorporated, 100 Federal Street, Boston, Massachusetts 02110; Lionel D. Edie Ready Assets Trust, 530 Fifth Avenue, New York, New York.

Notice is hereby given that Fidelity Daily Income Trust, J. P. Cabot Short-Term Fund, Inc., Florida Liquid Assets Company, White Weld Money Market Fund Incorporated and Lionel D. Edie Ready Assets Trust (collectively, the "Applicants"), open-end management companies registered under the Investment Company Act of 1940 ("Act") have each filed an application pursuant to Section 6(c) of the Act for exemption from the provisions of Rule 19b–1 under the Act, and that White Weld Money Market Fund Incorporated has filed an application pursuant to Section 6(c) for an order declaring that Charles M. Williams, a director of the fund, shall not be

deemed an "interested person," as defined in Section 2(a)(19) of the Act, of either the fund, its investment adviser, or of its principal underwriter, solely by reason of his status as a director of either The Massachusetts Company, Inc. or of National Life Insurance Company.

Rule 19b–1. Lionel D. Edie Ready Assets Trust and Fidelity Daily Income Trust are Massachusetts business trusts, while Florida Liquid Assets Company, J. P. Cabot Short-Term Fund, Inc. and White Weld Money Market Fund Incorporated are Maryland Corporations. Each of the Applicants was organized to invest principally in "money market" securities and similar short-term debt instruments, including Treasury Bills, other obligations issued or guaranteed by the Federal Government, its agencies or instrumentalities, repurchase agreements for government securities, certificates of deposit, bankers' acceptances, commercial paper, and variable amount demand master notes. Applicants' investment objectives are to seek current income and stability of principal.

Each Applicant follows the practice of declaring all net income as dividends on a daily basis. Net income is defined to consist of (1) interest earned or accrued on portfolio securities, (2) plus or minus realized and unrealized gains and losses on portfolio securities, (3) minus estimated expenses relating to the dividend period. Dividends are reinvested daily and are distributed monthly in the form of additional, full and fractional shares of the Applicants at net asset value without a sales charge, or, at the shareholder's option, paid in cash. This practice of declaring and reinvesting net income in the form of dividends enables these funds to maintain a fixed net asset value per share of $1.00, with all adjustments being made in the shareholder's account. Each of the Applicants either is or proposes to qualify as a "regulated investment company" as defined in Section 851 of the Internal Revenue Code of 1954.

Rule 19b–1, as here pertinent, prohibits distributions of long-term capital gains dividends more frequently than once a year. Applicants represent that they will generally not acquire portfolio securities with maturities exceeding six months except in limited instances, but in no case will such instruments be acquired with a view to the realization of long-term capital gains. If unanticipated circumstances result in the accrual of such gains, however, Applicants wish to be in a position to distribute them at approximately the time they accrue together with their other distribution of income. If such gains could not be distributed currently, Applicants' net asset value on each daily valuation day would be increased by the amount of such undistributed gain with no current benefit accruing to shareholders unless they elected to redeem their shares.

Applicants assert that the following are the principal purposes of Rule 19b–1: to prevent shareholders from confusing dividends of interest income with distribution of capital gains; to relieve investment company managers from pressure to realize such gains; to mitigate improper sales practices related to the distribution of such gains; and to eliminate the administrative expenses relating to quarterly or semi-annual capital gains distribution. Applicants state that such dangers are irrelevant to its operation in light of:

(a) the sophistication of their shareholders; (b) the fact that Applicants explicitly disclaim any intention of seeking such gains (or, except in limited circumstances, of even acquiring securities with maturities of more than 6 months); and (c) the intention of Applicants to advise shareholders as to what portion of any any distribution comprises capital gains.

Applicants also state that the purpose of Rule 19b–1, to prevent any sale of securities by a fund for the realization of gains when such sale is not in the interest of a fund's shareholders, is not applicable to the applicants since they propose to declare daily dividends of any gain, whether realized or unrealized, and to distribute such dividends monthly. Thus, there is no reason for any Applicant to sell a security merely in order to be able to distribute a gain on the sale.

Section 2(a)(19). White Weld Money Market Fund Incorporated ("White Weld Fund") seeks an exemptive order declaring that Charles M. Williams ("Williams"), a director of White Weld Fund shall not be deemed an "interestel person" of either White Weld Fund, or First National City Bank ("Citibank"), as investment adviser, or White Weld & Co. Incorporated ("White Weld"), as principal underwriter of the White Weld Fund's shares, within the meaning of Section 2(a)(19) of the Act by reason of his status as a director of either The Massachusetts Company Inc. (the "Massachusetts Company") or National Life Insurance Company ("National").

Williams, a director of White Weld Fund, is also a director of the Massachusetts Company. The Massachusetts Company is the trustee of the Massachusetts Fund and the Massachusetts Fund for Income, both of which are trusts formed under the laws of the Commonwealth of Massachusetts and are management investment companies registered under the Act. Affiliates of the Massachusetts Company serve as investment advisers for Independence Fund, Inc., Freedom Fund, Inc. and Travelers Equities Fund, Inc., which are management investment companies registered under the Act. All of the foregoing registered investment companies are collectively herein referred to as the "MCD Funds". The Massachusetts Company Distributor, Inc. ("MCD") and Fiduciary Investment Company, Inc. ("Fiduciary"), are wholly-owned subsidiaries of the Massachusetts Company and are registered broker-dealers under the Securities Exchange Act of 1934 (the "Exchange Act").

MCD distributes the shares of the MCD Funds and Fiduciary is a retail dealer of such shares. Neither MCD nor Fiduciary conducts a general broker-dealer business but each acts as a broker-dealer only for the limited purpose of either selling or distributiing shares of the MCD Funds and, in the case of MCD, providing limited brokerage services for the MCD Funds.

Williams is also a director of National, a mutual life insurance company organized under the laws of the State of Vermont. National Life Investment Management Company, Inc. ("National Management"), a wholly-owned subsidiary of National, owns all of the outstanding capital stock of Equity Services, Inc. ("Equity"), which is a broker-dealer registered under the Exchange Act. Equity's business consists primarily of distributing the shares of, and providing brokerage services for, the three funds for which National Management serves as investment adviser—Sentinel Growth Fund, Inc., Sentinel Income Fund, Inc. and Sentinel Trustees Fund, Inc.—and selling variable annuity contracts written by National. As an incidental part of its business, Equity sells mutual fund shares for funds with which it has entered into dealer agreements.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company or an investment adviser or a principal underwriter for an investment company to include any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include a director of, or any person directly or indirectly controlling, controlled by or under common control with, such other person.

Williams, as a member of the board of directors of the Massachusetts Company, may be deemed to be an "affiliated person" of its wholly-owned broker-dealer subsidiaries and, consequently, may be deemed to be an "interested person", within the meaning of Section 2(a)(19) of the Act, of White Weld Fund, Citibank and White Weld. Williams may similarly be deemed to be an "interested person" of White Weld Fund, Citibank and White Weld by reason of his being a director of National because National controls National Management, which in turn controls a broker-dealer.

White Weld Fund represents that Williams is not an officer or director of any of the broker-dealers and has no personal interest in their operations. Williams, a professor at Harvard University Graduate School of Business Administration, receives no remuneration from the Massachusetts Company or National or their broker-dealer subsidiaries except his fees as a director of the Massachusetts Company and National. Moreover, White Weld Fund represents and warrants that so long as Williams remains a director of the Massachusetts Company or National and White Weld Fund, White Weld Fund will not effect brokerage transactions with any of the broker-dealers specified herein or any other broker-dealer subsidiary of the Massachusetts Company or

National that may hereafter be organized.

Applicants submit that Williams should not be deemed an "interested person" of White Weld Fund, Citibank or White Weld because his affiliations with the Massachusetts Company and National will not affect or impair his independence in acting on behalf of White Weld Fund and its shareholders, and the requested exemption is therefore consistent with Section 6(c) of the Act.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given That any interested person may, not later than March 15, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application of any of the Applicants accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant with respect to whose application the request is being made, at the respective address stated above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5423 Filed 2-25-76;8:45 am]

[File No. 20-2136A1]

HARVEST FUELS, INC.

Temporary Suspension Order and Notice of Opportunity for Hearing

In the Matter of the following offering sheet(s) filed by Harvest Fuels, Inc.: (File No. 20-2136A1) on November 13, 1975, covering non-producing working interests in the Harvest Fuels, Inc.—No. 1 R. E. Lee.

Harvest Fuels, Inc. having filed the above offering sheet with the Securities and Exchange Commission pursuant to Regulation B of the General Rules and Regulations under the Securities Act of 1933 as amended, for the purpose of obtaining an exemption from registration with respect to a proposed public offering of securities as specified in said offering sheet; and

The Commission having reason to believe, after filing of the offering sheet that:

1. No exemption is available for this offering under Regulation B according to Rule 306(a)(ii) [17 CFR 230.306(a)(2)] because Belmont Oil Company, an affiliate of Harvest Fuels, Inc., was restrained and preliminarily enjoined on November 3, 1975, by the District Court of Harris County, in Houston, Texas, from offering or selling securities within and from the state of Texas in violation of the securities registration, broker-dealer registration, and anti-fraud provisions of the Securities Act of the state of Texas.

2. No exemption is available for this offering under Regulation B according to Rule 306(a)(vi) [17 CFR 230.306(a)(6)] because Belmont Oil Company and Ascot Oils, Inc., affiliates of Harvest Fuels, Inc., have made filings pursuant to section 3(b) of the Securities Act of 1933 which are under orders of temporary suspension.

It is ordered, pursuant to Rule 334(a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the exemption available pursuant to Regulation B under Section 3(b) of said Act with respect to said offering sheet be, and hereby is, temporarily suspended pending a final hearing thereon with respect to the objections hereinbefore enumerated.

It is further ordered that each person, on whose behalf said offering sheet was filed, be, and hereby is, given notice that each such person is entitled to a hearing before the Commission, or an officer or officers of, and designated by, the Commission, for the purpose of determining such matters; that upon receipt of a written request from such a person within thirty days after the date of this order the Commission will, for the purpose of determining such matters, set the matter for hearing at a place to be designated by the Commission, within thirty days after receipt of such request; and that notice of the time and place of such hearing will thereupon be promptly given by the Commission.

Notice is directed to Rule 336(b) which provides that if no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that if such a person does request a hearing pursuant to Rule 336 of Regulation B that such person shall file an answer to the allegations contained in this order within 15 days of requesting such a hearing.

Notice is directed to Rule 7(c) of the Commission's Rules of Practice which provides that any allegation not denied shall be deemed to be admitted.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 17, 1976.

[FR Doc.76-5424 Filed 2-25-76;8:45 am]

[Release No. 34-12114; File No. SR-NYSE-76-11]

NEW YORK STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 12, 1976 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement Of The Terms Of Substance Of The Proposed Rule Change. Proposed changes to Exchange Rule 123A would set forth procedures for executing 100-share market orders processed through the Exchange's Designated Order Turnaround (DOT) System. The procedures will be applicable in situations where a specialist receives more than one 100-share market order simultaneously. The text of the proposed rule change is as follows:

¶62123A.46 Procedures for Executing Orders Received by a Specialist via the Designated Order Turnaround (DOT) System—100-share market orders received by a specialist via the DOT System must be time stamped by the specialist unit upon receipt and shall be executed using normal auction market procedures. The specialist in executing such orders shall be subject to all rules and regulations governing the handling of orders on the Floor. The procedures set forth below shall supplement the rules and regulations governing the handling of orders on the Floor and, when not in contravention thereto, shall be applicable in situations where a specialist receives more than one 100-share market order simultaneously (hereinafter referred to as "orders in a group"). The procedures for pricing such orders are:

(A) In the case where the orders in a group are on both sides of the market and the number of buy orders equals the number of sell orders and:

(i) where the spread in the quotation is ⅛ point, the buy orders and sell orders in a group shall be stopped against each other and executed at prices and

in amounts corresponding to those of subsequent regular way sales in the stock; and

(ii) where the spread in the quotation is more than ⅛ point, the buy orders and sell orders in a group shall be crossed at the price of the immediately preceding regular way sale in the stock, if possible (taking into account such factors as public bids or offers with priority at that price, etc.). Otherwise, the buy and sell orders in a group shall be crossed at a price within the quotation as near to the last sale as possible.

(B) In the case where the orders in a group are all on the same side of the market, the orders must be executed, to the extent possible, at prices that are at or within the quotation that exists at the time the orders are received by the specialist. Any and all orders in a group that will be executed outside such quotation must all be executed at one price, which price shall be within the following parameters:

(i) ¼ point from the immediately preceding regular way sale when such sale is under $10 per share;

(ii) ⅜ point from the immediately preceding regular way sale when such sale is at $10 per share or more, but less than $50 per share; or

(iii) ½ point from the immediately preceding regular way scale, when such sale is $50 per share or more.

Any deviation from the above price parameters shall require the prior approval of a Floor Official. For purposes of determining which orders within a group shall receive a price at or within the quotation and which orders shall receive the price outside the quotation, orders shall be assigned priority within the group in accordance with the sequence numbers assigned to the orders by the DOT System.

(C) In the case where the orders in a group are on both sides of the market and there is an imbalance of buy and sell orders , the buy orders and sell orders in a group shall be crossed, to the extent possible, at either the bid price or the offer price that exists at the time the specialist receives the orders, whichever would be more appropriate, giving due regard to other public orders that have priority at the bid or offer price as the case may be. The remainder of the orders in a group would then be on the same side of the market. Any and all orders in a group that will be executed below such bid or above such offer price, as the case may be, must all be executed at one price, which price shall be within the parameters set forth in paragraph (B) above unless the prior approval of a Floor Official is obtained to deviate from the parameters.

* * * * *

NOTE.—Existing paragraph .46 of Rule 123 A will be renumbered .47.

Statement of Basis and Purpose. The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change. The purpose of the proposed changes to Rule 123A is to set forth procedures for executing 100-share market orders processed through the Exchange's Designated Order Turnaround (DOT) System. At the outset, the DOT System will accept 100-share market orders only.

Essentially, the DOT System will enable a member organization, at its discretion, to transmit, via its computer or terminal, any designated orders through the Exchange's Common Message Switch directly to the appropriate specialist Post, for execution by the specialist, bypassing the trading floor booth and eliminating the use of the pneumatic tubes and other time-consuming routing methods. The system would similarly enable specialists to return completed execution reports to an originating member organization with comparable speed and efficiency. In instances where the order is transmitted through DOT, at the option of the originating member organization, the specialist will be executing orders which formerly would have been handled by a floor broker. In many such instances, the specialist will be handling the orders on both sides of a transaction, at times as principal on one side. Additional clarification by Exchange rules of execution procedures appears in the public interest in such instances.

100-share market orders received by a specialist via the DOT System will be executed through normal auction market procedures and the specialist, in executing such orders, will be subject to all rules and regulations governing the handling of orders on the Floor. The purpose of the procedures set forth in the proposed changes to Rule 123A is to supplement the rules and regulations governing the handling of orders on the Floor, and, when not in contravention thereto, the procedures will be applicable in situations where a specialist receives more than one 100-share market order simultaneously. In such situations, the procedures set forth in the proposed changes to Rule 123A will insure that all specialists are applying a uniform and fair methodology to the execution of orders received through the DOT System.

Basis Under The Act For Proposed Rule Change. It is indicated in various sections of the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975 that the maintenance of "fair and orderly markets" is in the public interest. For example, Section 11A.(a)(1) states that "The Congress finds that—* * * (C) It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . .". Section 11A.(a)(2) states "The Commission is directed, therefore, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets . . .".

The proposed changes to Rule 123A will add to the "fairness" and "orderliness" of the Exchange's market on the Floor because the proposed rule change will insure that all Exchange specialists are applying a uniform and fair methodology to the execution of orders received through the DOT System. The execution procedures set forth in the proposed rule change will supplement existing rules and regulations governing the handling of orders on the Exchange Floor and are necessary because when existing rules were drafted, the creation of the DOT System was not envisioned.

The proposed rule change relates to items (v)(B) and (v)(E) of Item 4 of Form 19b–4A in that the proposed rule change if approved will promote just and equitable principles of trade, will serve to protect investors and will be in the public interest since it will provide a uniform, fair and equitable procedure for the execution of orders received through the DOT System. In addition, the proposed rule change relates to Section 6 of the Act insofar as that Section provides that rules of a national securities exchange may not promote unfair discrimination between customers, issuers, brokers and dealers. Clearly the proposed rule change if approved will serve to prevent any such unfair discrimination in the execution of orders received through the DOT System.

Comments Received From Members, Participants Or Others On Proposed Rule Change. The Exchange has not solicited comments regarding the proposed changes to Rule 123A and has received none.

Burden On Competition. The proposed rule change will not impose any burden on competition.

The Exchange has requested that the foregoing rule change become effective pursuant to Section 19(b)(3)(B) of the Securities Exchange Act of 1934. Such rule change may be put into effect if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 12, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 18, 1976.

[FR Doc.76–5432 Filed 2–25–76;8:45 am]

[70-5800]

SOUTHERN COMPANY ET AL.

Notice of Proposal To Allocate Consolidated Federal Income Tax Liability by Method Other Than Specified in Rule 45(b)(6)

In the Matter of The Southern Company, 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, Alabama Power Company, Alabama Property Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Electric Generating Company, and Southern Services, Inc.

Notice is hereby given that The Southern Company ("Southern"), a registered holding company, and its subsidiary companies have filed a joint declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the amended joint-declaration, which is summarized below, for a complete statement of the proposed transaction.

Southern and its subsidiaries, which as a group join in the filing of consolidated Federal income tax returns, propose to allocate such tax liability for 1975 and all taxable years thereafter by a method which varies from the liberal requirements of Rule 45(b)(6). The proposed method of allocating Federal tax liability will thereupon conform in all respects with the method approved for the Southern system by the Internal Revenue Service for taxable year 1957 and each year thereafter.

In accordance with Rule 45(b)(6), Southern and its subsidiaries allocate Federal income tax liability among system members by the method provided under Section 1552(a)(1) of the Internal Revenue Code of 1954 as amended. Under Section 1552(a)(1), consolidated income tax liability is apportioned among members of the consolidated group in accordance with the ratio which that portion of the consolidated taxable attributable to each member having taxable income bears to the consolidated taxable income. For this purpose no distinction is made between net long-term capital gain income and ordinary income, although the latter type of income is taxed at a 48% rate, whereas the former is taxed at 30%.

Southern states that an allocation of tax liability which does not distinguish between ordinary income and net long-term capital gain can produce inequitable results, inasmuch as any member of the group with relatively large net long-term capital gain will not benefit in the full tax savings attributable to the lower rate of tax per dollar of taxable income which results from combining capital gain with ordinary income in its total taxable income. In years prior to 1975, except for 1957, Southern states that this distortion in the allocation of consolidated tax liability was not so great as to require a request for relief under Rule 45(b)(6), inasmuch as no single member of the group had unusually large long-term capital gains. However, in 1975, two members of the group, Alabama Power Company ("Alabama") and Georgia Power Company ("Georgia"), disposed of property and realized substantial long-term capital gains of approximately $6,700,000 and $36,300,000, respectively. Georgia also plans to dispose of additional items of property in 1976, and to a lesser extent, Alabama and other system companies will continue to make sales of property resulting in net long-term capital gain.

In order to eliminate the inequities which it is claimed will result from a strict adherence to the method for allocating consolidated tax liability provided under Rule 45(b)(6), Southern and its subsidiaries propose to allocate Federal income tax on net long-term capital gain and on ordinary income separately. Under the proposed method of allocation, (i) the tax (30%) on consolidated net long-term capital gain will be apportioned among the group members in accordance with the ratio which that portion of the consolidated net long-term capital gain attributable to each member of the group having net long-term capital gain bears to the consolidated net long-term capital gain, and (ii) the tax and surtax (48%) on ordinary income will be apportioned in accordance with the ratio which that portion of the consolidated ordinary taxable income attributable to each member of the group having ordinary taxable income bears to the consolidated ordinary taxable income; provided, however, that the aggregate tax liability allocated any member of the group will not exceed the amount of tax of such company based upon a separate return computed as if such company had always filed its tax returns on a separate return basis.

The fees, expenses and commissions incurred in connection with this proposal will not exceed $3,500, which includes attorneys fees of $2,500. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given, that any interested person may, not later than March 12, 1976, 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 joint-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request 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 declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the joint-declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act 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.76-5429 Filed 2-25-76;8:45 am]

[File No. 20-2122A1]

SOUTHWESTERN RESOURCES, INC.

Temporary Suspension Order and Notice of Opportunity for Hearing

In the Matter of the following offering sheet(s) filed by Southwestern Resources, Inc.:

(File No. 20-2122A1) on September 15, 1975, covering non-producing working interests in the Southwestern Resources, Inc.-Pruitt Keel No. 1.

Southwestern Resources, Inc. having filed the above offering sheet with the Securities and Exchange Commission pursuant to Regulation B of the General Rules and Regulations under the Securities Act of 1933 as amended, for the purpose of obtaining an exemption from registration with respect to a proposed public offering of securities as specified in said offering sheet; and

The Commission having reason to believe, after filing of the offering sheet that:

1. No exemption is available for this offering under Regulation B because Southwestern Resources, Inc. failed to comply with Rule 310(b) [17 CFR 230.310(b)] by failing to deliver copies of the offering sheet to the investors at or prior to the time of the initial offer.

2. No exemption is available for this offering under Regulation B because Southwestern Resources, Inc. failed to comply with Rule 310(d) [17 CFR 230.310(b)] by failing to deliver copies of the offering sheet to the investors at least 48 hours before the sale was made.

3. No exemption is available for this offering under Regulation B because the offering sheet used failed to comply with Rule 330(a) and (b) of Regulation B [17 CFR 230.330(a) and (b)] by containing untrue statements of material facts and by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, including but not limited to the statement that all monies collected from investors would be placed in an escrow account until disbursed for drilling and completion costs.

4. The offering was made in violation of the anti-fraud provisions of section 17(a) of the Scurities Act of 1933 and section 10(b) of the Securities Exchange Act of 1934, and Rule 10b–5 thereunder, in that Southwestern Resources, Inc., while engaged in the offering, directly and indirectly made use of the means and instruments of transportation and communication in interstate commerce and of the means and instrumentalities of interstate commerce, and in connection with the offer and sale of this offering made to prospective purchasers and investors untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, including but not limited to the following:

(a) That the Pruitt Keel #1 Lease would produce 150 to 250 barrels of oil a day, when in fact, it is impossible to predict production of an undrilled well.

(b) That SRI had been selling fractional undivided working interests to the public for a long time, when in fact, the Pruitt Keel #1 Lease was the first offering sold to the public.

(c) That the leases offered by SRI had little, if any, risk involved, when in fact, all oil and gas drilling is highly speculative.

(d) That on its leases offered as fractional undivided working interests, SRI has had an 85 percent success ratio in drilling, when in fact, SRI has not drilled any wells on leases sold in such a manner.

It is ordered, pursuant to Rule 334(a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the exemption available pursuant to Regulation B under Section 3(b) of said Act with respect to said offering sheet be, and hereby is, temporarily suspended pending a final hearing thereon with respect to the objections hereinbefore enumerated.

It is further ordered, That each person, on whose behalf said offering sheet was filed, be, and hereby is, given notice that each such person is entitled to a hearing before the Commission, or an officer or officers of, and designated by, the Commission, for the purpose of determining such matters; that upon receipt of a written request from such a person within thirty days after the date of this order the Commission will, for the purpose of determining such matters, set the matter for hearing at a place to be designated by the Commission, within thirty days after receipt of such request; and that notice of the time and place of such hearing will thereupon be promptly given by the Commission.

Notice is directed to Rule 336(b) which provides that if no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that if such a person does request a hearing pursuant to Rule 336 of Regulation B that such person shall file an answer to the allegations contained in this order within 15 days of requesting such a hearing.

Notice is directed to Rule 7(c) of the Commission's Rules of Practice which provides that any allegation not denied shall be deemed to be admitted.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 17, 1976.

[FR Doc.76–5426 Filed 2–25–76;8:45 am]

[File No. 20–2122A3, 20–2122A4]

SOUTHWESTERN RESOURCES, INC.

Temporary Suspension Order and Notice of Opportunity for Hearing

In the Matter of the following offering sheet(s) filed by Southwestern Resources, Inc.:

(File No. 20–2122A3) on November 10, 1976, covering non-producing working interests in the Southwestern Resources, Inc.—SW Resources, Inc., Burk Keel #1.

(File No. 20–2122A4) on November 10, 1975, covering non-producing working interests in the Southwestern Resources—SW Resources, Inc., Pruitt Keel #2.

Southwestern Resources, Inc. having filed the above offering sheets with the Securities and Exchange Commission pursuant to Regulation B of the General Rules and Regulations under the Securities Act of 1933 as amended, for the purpose of obtaining an exemption from registration with respect to a proposed public offering of securities as specified in said offering sheet; and

The Commission having reason to believe, after filing of the offering sheets that:

1. No exemption is available for this offering under Regulation B because the offering sheet used failed to comply with Rule 330 (a) and (b) of Regulation B [17 CFR 230.330 (a) and (b)] by containing untrue statements of material facts and by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, including but not limited to the statement that all monies collected from investors would be placed in an escrow account until disbursed for drilling and completion costs.

2. The offering was made in violation of the anti-fraud provisions of section 17(a) of the Securities Act of 1933 and section 10(b) of the Securities Exchange Act of 1934, and Rule 10b–5 thereunder, in that Southwestern Resources, Inc., while engaged in the offering, directly and made use of the means and instruments of transportation and communication in interstate commerce and of the means and instrumentalities of interstate commerce, and in connection with the offer and sale of this offering made to prospective purchasers and investors untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, including but not limited to the following:

(a) That the Pruitt Keel #1 Lease would produce 50 to 250 barrels of oil a day, when in fact, it is impossible to predict production of an undrilled well.

(b) That SRI had been selling fractional undivided working interests to the public for a long time, when in fact, the Pruitt Keel #1 Lease was the first offering sold to the public.

(c) That the leases offered by SRI had little, if any, risk involved, when in fact, all oil and gas drilling is highly speculative.

(d) That on its leases offered as fractional undivided working interests, SRI has had an 85 percent success ratio in drilling, when in fact, SRI has not drilled any wells on leases sold in such a manner.

It is ordered, pursuant to Rule 334(a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the exemption available pursuant to Regulation B under Section 3(b) of said Act with respect to said offering sheet be, and hereby is, temporarily suspended pending a final hearing thereon with respect to the objections hereinbefore enumerated.

It is further ordered, that each person, on whose behalf said offering sheet was filed, be, and hereby is, given notice that each such person is entitled to a hearing before the Commission, or an officer or officers of, and designated by, the Commission, for the purpose of determining such matters that upon receipt of a written request from such a person within thirty days after the date of this order the Commission will, for the purpose of determining such matters, set the matter for hearing at a place to be designated by the Commission, within thirty days after receipt of such request; and that notice of the time and place of such hearing will thereupon be promptly given by the Commission.

Notice is directed to Rule 336(b) which provides that if no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that if such a person does request a hearing pursuant to Rule 336 of Regulation B that such person shall file an answer to the allegations contained in this order within 15 days of requesting such a hearing.

Notice is directed to Rule 7(c) of the Commission's Rules of Practice which provides that any allegation not denied shall be deemed to be admitted.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 17, 1976.

[FR Doc.76–5427 Filed 2–25–76;8:45 am]

[File No. 20-2122A5]

SOUTHWESTERN RESOURCES, INC.

Temporary Suspension Order and Notice of Opportunity for Hearing

In the Matter of the following offering sheet(s) filed by Southwestern Resources, Inc.:

(File No. 20-2122A5) on January 6, 1976, covering non-producing working interests in the Southwestern Resources, Inc.—Barber #1.

Southwestern Resources, Inc. having filed the above offering sheet with the Securities and Exchange Commission pursuant to Regulation B of the General Rules and Regulations under the Securities Act of 1933 as amended, for the purpose of obtaining an exemption from registration with respect to a proposed public offering of securities as specified in said offering sheet; and

The Commission having reason to believe, after filing of the offering sheet that:

No exemption is available for this offering under Regulation B according to Rule 306(a)(vi) [17 CFR 230.306(a)(6)] because Southwestern Resources, Inc. has made filings pursuant to section 3(b) of the Securities Act of 1933 which are under orders of temporary suspension.

It is ordered, pursuant to Rule 334(a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the exemption available pursuant to Regulation B under Section 3(b) of said Act with respect to said offering sheet be, and hereby is, temporarily suspended pending a final hearing thereon with respect to the objections hereinbefore enumerated.

It is further ordered That each person, on whose behalf said offering sheet was filed, be, and hereby is, given notice that each such person is entitled to a hearing before the Commission, or an officer or officers of, and designated by, the Commission, for the purpose of determining such matters; that upon receipt of a written request from such a person within thirty days after the date of this order the Commission will, for the purpose of determining such matters, set the matter for hearing at a place to be designated by the Commission, within thirty days after receipt of such request; and that notice of the time and place of such hearing will thereupon be promptly given by the Commission.

Notice is directed to Rule 336(b) which provides that if no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that if such a person does request a hearing pursuant to Rule 336 of Regulation B that such person shall file an answer to the allegations contained in this order within 15 days of requesting such a hearing.

Notice is directed to Rule 7(c) of the Commission's Rules of Practice which provides that any allegation not denied shall be deemed to be admitted.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 17, 1976.

[FR Doc.76-5428 Filed 2-25-76;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

FEBRUARY 20, 1976.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from February 23, 1976 through March 3, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5457 Filed 2-25-76;8:45 am]

[Release No. 12120; SR-CSE-75-6]

CINCINNATI STOCK EXCHANGE

Order Approving Proposed Rule Change

FEBRUARY 19, 1976.

On December 22, 1975, the Cincinnati Stock Exchange, Dixie Terminal Building, Cincinnati, Ohio 45202, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change, to add one public member to its Board of Trustees, to permit any class of Trustee to serve as an officer of the Exchange and to require that any vacancy on the Board of Trustees be filled by a person of the same class as the Trustee whose place was vacated.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 11988, (January 7, 1976)) and by publication in the FEDERAL REGISTER (41 Fed. Reg. 2292 (January 15, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on December 22, 1975, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5458 Filed 2-25-76;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

FEBRUARY 23, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 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 February 24, 1976 through March 4, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5511 Filed 2-25-76;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

FEBRUARY 20, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America 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 February 21, 1976 through March 1, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5456 Filed 2-25-76;8:45 am]

[Release No. 12123; (SR-PCC-75-2)]

PACIFIC CLEARING CORP.

Order Approving Proposed Rule Change

FEBRUARY 20, 1976.

On January 7, 1976, the Pacific Clearing Corporation ("PCC") 453 South Spring Street, Los Angeles, California 90014, filed with the Commission as a proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), copies of a Non-Exchange Clearing Participants Application and Agreement, to be signed by all participants in PCC which are not member firms of Pacific Stock Exchange, Incorporated.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 11996, January 9, 1976) and by publication in the FEDERAL REGISTER (41 FR 2452, January 16, 1976).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to PCC, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-PCC-75-2, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5459 Filed 2-25-76;8:45 am]

[Rel. No. 9171; File No. 812-1578]

UNIFIED FUNDS, INC.

Notice of Application Pursuant to Section 28(c) of the Act

Notice is hereby given that Unified Funds, Inc. ("Unified"), 207 Guaranty Building, Indianapolis, Indiana 46204, an Indiana corporation registered under the Investment Company Act of 1940 (the "Act") as a face-amount certificate company, has filed an application pursuant to Section 28(c) of the Act for an order of the Commission approving the amendment of a general depository agreement (the "Agreement") between Unified and Merchants National Bank & Trust Company of Indianapolis (the "Bank") so as to require annual rather than semi-annual certification of the financial statements of Unified by an independent public accountant. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 28(c) provides, among other things, that the Commission shall by rule, regulation, or order in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, upon such terms and conditions as the Commission shall prescribe and as are appropriate for the protection of investors, with one or more institutions having the qualifications required by Section 26(a)(1) of the Act for a trustee of a unit investment trust, all or any part of the investments maintained by such company as certificate reserve requirements under the provisions of Section 28(b) of the Act.

By order dated November 20, 1963, the Commission, pursuant to Section 28(c) of the Act, approved the Agreement between Unified and the Bank. The agreement provided for the deposit by Unified with the Bank of qualified investments and reserves as required by Section 28 with respect to the various series of face-amount certificates offered and issued from the general funds of Unified. The Agreement, which Unified seeks to amend, provides, *inter alia*, that Unified shall at all times deposit and maintain with the Bank qualified assets having an aggregate value at least equal to its minimum certificate reserve requirements, which assets shall be held separate and segregated, and that Unified may withdraw assets on deposit for the purpose of retiring certificates or for any other purpose if the remaining assets on deposit will equal the minimum reserve requirements. Assets representing minimum reserves for certificates sold within certain States that require such reserves to be held by a depository within such States may, for the above minimum reserve requirements, be deducted in computing assets of Unified to be held by the Bank.

Prior to the approval and execution of the Agreement, several other depository agreements had been approved and executed with respect to the various segregated funds, i.e., Charter, Series "A," "B," "C," "D," "E," "F," "G" and "H" administered by Unified. Under these agreements, all assets of the segregated funds were held by the Bank. It was deemed appropriate, because of the extensive activities and responsibilities of the Bank, that such assets be audited and certified semi-annually by independent accountants. The last of the segregated funds matured at October 31, 1975, and the Bank and Unified have no further responsibilities under those agreements for the segregated funds.

The present Agreement is in effect only with respect to Series "I" Certificates, Single Payment Certificates and UIC-12 Certificates. Under the Agreement, the assets of Unified are audited and certified semi-annually by independent accountants, i.e., as of June 30, the end of its fiscal year, and as of December 31, the end of the first half of its fiscal year. Reports for the remaining two quarters of the year, ending March 31 and September 30 are certified by officers of Unified.

Because Unified has been in the process of maturing its certificates, the total assets administered by Unified and on deposit with the Bank has continuously diminished from approximately $20,000,000 to approximately $900,000. In an effort to continue to decrease expenses wherever possible, Unified seeks to amend the Agreement to eliminate the requirement that the semi-annual reports be certified by independent accountants.

In support of the application, Unified points out that while Section 30(d) of the Act requires every registered investment company to transmit reports to its stockholders at least semi-annually, Section 30(e) of the Act only requires annual reports to shareholders and annual reports to the Commission to be audited and certified by an independent public accountant.

Notice is further given that any interested person may, not later than March 16, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following March 16, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-5460 Filed 2-25-76;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Notice of Meeting

This is to give notice pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the National Market Advisory Board will conduct open meetings on March 15 and 16, 1976 in the Auditorium of the Chase Manhattan Bank, One Chase Manhattan

Plaza, New York, New York, beginning at 9:30 a.m. on March 15 and 8:30 a.m. on March 16.

The Board will also conduct open meetings on April 20 and 21, 1976 in Washington, D.C. and May 17 and 18, 1976 in Los Angeles, California. The specific location and summarized agenda for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the March meeting is as follows:

1. Discussion of clearance and settlement of securities transactions,
2. Discussion of the roles of market-makers in a national market system,
3. Discussion of access to and membership in a national market system,
4. Presentations on the technological aspects of a composite limit order book and other electronic systems, and
5. Discussion of such other matters as may be properly brought before the Board.

Further information may be obtained by writing Andrew P. Steffan, Director of Economic and Policy Research, Securities and Exchange Commission, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 19, 1976.

[FR Doc.76-5461 Filed 2-25-76;8:45 am]

[Release No. 34-12118; File No. SR-CBOE-76-1]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 12, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

THE EXECUTIVE COMMITTEE

SECTION 7.2. The Executive Committee shall consist of *at least* 5 persons, each of whom must be a Director. The original members of the Executive Committee shall serve until the first regular meeting of Directors following the initial annual election meeting. Thereafter the members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of Directors following the annual election meeting in each year. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange, except it shall not have the power or authority of the Board in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the members the dissolution or exchange of all or substantially all of the Exchange's property and assets, recommending to the members the dissolution of the Exchange or a revocation of a dissolution, or amending the Constitution or Rules of the Exchange.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed changes to the CBOE Constitution is to provide the Board of Directors with the ability to increase the number of directors who may serve as members of the Executive Committee.

In accordance with Section 6(b)(3) of the Securities Exchange Act of 1934, as amended, the CBOE recently amended its Constitution to provide, among other things, that a greater representative portion of its members may participate on its Board of Directors. At the same time the Board was increased from 15 to 21 members, the Constitution was also amended to ensure that a minimum number of people reflecting various CBOE membership categories be required to be elected. This modification in the size and composition of the Board of Directors was accomplished as a result of the CBOE's belief that fair representation of its members in the selection of its directors and the administration of its affairs is necessary to maximize the CBOE's responsiveness to the needs of the investing public and the membership community as a whole.

In view of the foregoing, the Board believes that it should also be in the position to increase the number of directors serving on the Executive Committee to that number necessary to expeditiously administer CBOE business and appropriately reflect the various CBOE member categories represented on the Board of Directors. Inasmuch as the proposed revision to the Constitution is an extension of the principles embodied in the earlier revision approved by the Securities and Exchange Commission referred to above, the CBOE believes that such proposed revision is consistent with the protection of investors and the public interest and is in accordance with the provisions of the Securities and Exchange Act of 1934, as amended.

Comments from the CBOE membership will be manifested in the form of the vote taken at the Special Meeting of Members which it is anticipated will be called shortly to determine whether the above proposed Constitution revision should be implemented. It is the position of the CBOE that the proposed Constitutional revisions will not impose any burden on competition.

CBOE consents to an extension of the period of time specified in Section 19(b)(2) of the Securities Exchange Act of 1934, as amended, until at least thirty-five days after the CBOE has filed appropriate amendments reflecting the results of the Special Meeting of members which is to be convened to determine the implementation of the foregoing proposed Constitutional revisions.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 29, 1976.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretay.

FEBRUARY 19, 1976.

[FR Doc.76-5430 Filed 2-25-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Diaster Loan Area #1210]

NEBRASKA

Declaration of Disaster Area

An area located in downtown Freemont, Dodge County, Nebraska, constitutes a disaster area because of damage caused by a gas explosion and resulting fire on January 10, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 19, 1976, and for economic injury until the close of business on November 19, 1976, at:

Small Business Administration, District Office, 215 North 17th Street, Omaha, Nebraska 68102

or other locally announced locations.

Dated: February 18, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-5413 Filed 2-25-76;8:45 am]

OFFICE OF SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the United States International Trade Commission has reported to the President on the case of nonrubber footwear (Investigation No. TA-201-7). The Commission submitted a report containing an affirmative determination that footwear, provided for in TSUS items 700.05 through 700.85 inclusive (except items 700.51, 700.52, 700.53 and 700.60) is being imported in such increased quantities as to be a substantial cause of serious injury to the domestic industry or certain industries producing

articles like or directly competitive with the imported articles.

Three Commissioners find and recommend the imposition of higher duties on the imported articles is necessary to remedy the injury. Two Commissioners find and recommend that tariff rate quotas on the imported articles are necessary to remedy the serious injury. One Commissioner finds and recommends that adjustment assistance can remedy the serious injury.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provisions of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the ITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under Sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects.

Briefs should be submitted in twenty (20) copies to Chairman, Trade Policy Staff Committee, Room 729, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C., 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than 15 days following publication of this notice in the FEDERAL REGISTER.

ALLEN H. GARLAND,
Chairman,
Trade Policy Staff Committee.

[FR Doc.76-5479 Filed 2-25-76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on March 3, 1976, at 10:00 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Gorine College of Cosmetology at 516 South Main Street, Memphis, Tennessee, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: February 18, 1976.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.76-5415 Filed 2-25-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

OPERATING RIGHTS—EXTENSIONS OF TIME

Notice of General Policy

The modified procedure was established by the Commission to handle expeditiously and less expensively a rising caseload. When a case is designated for modified procedure, an order is issued establishing the filing deadlines for parties to submit verified statements and rebuttal statements. There has been an increasing failure by parties to comply with these filing due dates by requesting extensions of time to file. There are those who fail to make any good faith attempts to meet filing due dates by automatically seeking at least one extension of time to file.

Although a need for flexibility is fully recognized because of the occurrence of unusual circumstances, we cannot condone the continued abuse of the privilege of requesting filing time extensions. Each request consumes significant amounts of time, money, and staff effort and, as a result, hundreds of these requests each week substantially interfere with the Commission's case processing system. The situation is further exacerbated by additional telephone requests by interested parties for advance notice of the action taken on their extension requests. Finally, this situation adds to regulatory delays in handling application proceedings.

Accordingly, in the future such requests must be supported by a thorough and detailed explanation of the reasons for the request, with a demonstration of substantial good cause. Any grants of extensions will be strictly limited in time. It is contemplated that no more than one extension on any filing date will be granted, absent a showing of unique circumstances warranting an additional extension.

Telephone requests for advance notice of action on such requests should also be avoided. Abuse of these procedures will not be condoned.

It is hoped that with the implementation of this procedure, the Commission can more expeditiously reduce its case backlog and can more speedily handle operating rights proceedings thus improving the regulatory process.

By the Commission, Division 1.

Dated: February 20, 1976.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-5527 Filed 2-25-76;8:45 am]

[Notice No. 984]

ASSIGNMENT OF HEARINGS

FEBRUARY 23, 1976.

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 57257 Sub 3, Carr Truck Service, Inc., now being assigned April 6, 1976 (4 days), at Baton Rouge, Louisiana, in a hearing room to be later designated.

MC 130335, Barrington Travel Group Association, now assigned March 17, 1976, at Newark, N.J., is canceled and reassigned for March 17, 1976 (3 days), at Camden, N.J., Grand Jury Assembly Room, 2nd Floor, U.S. Post Office and Courthouse, 4th and Market Street.

MC 111231 Sub 193, JONES TRUCK LINES, INC., now being assigned for continued hearing April 21, 1976, at the Offices of the

Interstate Commerce Commission, Washington, D.C.

MC 133916 Sub 3, O'Nan Transportation Company, now being assigned April 26, 1976 (1 week), at Frankfort, Ky., in a hearing room to be later designated.

MC 2860 (Sub No. 144), National Freight, Inc.; MC-F 12190, National Freight, Inc.—Purchase—Northeastern Trucking Co.; MC-F 11343, Towers Transportation, Inc.—Purchase (Portion)—Cross Transportation, Inc.; MC-F 11338, Kenmore Transportation Co.—Purchase (Portion)—Cross Transportation, Inc.; MC-F 11337, Burgmeyer Bros.—Purchase (Portion)—Cross Transportation, Inc.; MC-F 11336, Garton's Express, Inc.—Purchase (Portion)—Cross Transportation, Inc.; MC-F 11332, Boston & Taunton Transportation Co.—Purchase (Portion) Cross Transportation, Inc.; MC-FC 75620, C & F Trucking, Inc. (Transferee), and Towers Transportation, Inc. (Transferor), and MC 1385 (Sub No. 4), Garton's Express, Inc.—Extension of Operations, now being assigned for continued pre-hearing conference on April 5, 1976, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 138146 (Sub No. 1), Olympic Trails Bus Company, now being assigned April 26, 1976, at New York, New York, in a hearing room to be later designated.

MC-FC-75074, American Tank Transport, Inc., Curtis Bay, Maryland, Transferee, and Yale Transport Corp., F. Ralph Nogg, Succesor Trustee, Secaucus, New Jersey, Transferror, now assigned April 12, 1976, at Washington, D.C. is canceled.

MC 59583 (Sub 151), The Mason Dixon Lines, Inc., now being assigned May 20, 1976, at the Offices of the Interstate Commerce Commission, in Washington, D.C.

MC 30844 (Sub 551), Kroblin Refrigerated Xpress, Inc., now being assigned May 20, 1976, at the Offices of the Interstate Commerce Commission, in Washington, D.C.

MC 27817 (Sub 120), H. C. Gabler, Inc., now being assigned May 13, 1976, at the Offices of the Interstate Commerce Commission, in Washington, D.C.

MC 111729 (Sub 557), Purolator Courier Corp., now being assigned May 11, 1976, for prehearing conference at the Offices of the Interstate Commerce Commission, in Washington, D.C.

MC 129759 (Sub 9), Triangle Trucking Co. now being assigned May 11, 1976, at the Offices of the Interstate Commerce Commission, in Washington, D.C.

MC 83539 (Sub-No. 412), C & H Transportation Co., Inc., now assigned March 8, 1976, at Dallas, Tex., is canceled and application dismissed.

MC 107993 (Sub-No. 39), J. J. Willis Trucking Company, now assigned March 8, 1976, at Dallas, Tex., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-5522 Filed 2-25-76;8:45 am]

[Notice No. 188]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 26, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76345. By application filed February 5, 1976, WAREHOUSE & DISTRIBUTION SERVICE, INC., 317 Midland Ave., Garfield, NJ 07026, seeks temporary authority to lease a portion of the operating rights of PETER J. PETRIZZO & SON, INC., also of Garfield, NJ 07026, under section 210a(b). The transfer to WAREHOUSE & DISTRIBUTION SERVICE, INC., of a portion of the operating rights of PETER J. PETRIZZO & SON, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-5525 Filed 2-25-76;8:45 am]

[Notice No. 189]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

FEBRUARY 26, 1976.

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 March 17, 1976. 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-76221. By order of February 11, 1976 the Motor Carrier Board approved the transfer to Motor Truck Corporation, Akron, Ohio, of the operating rights in Certificate No. MC-134570 issued November 5, 1971, to Mayes, Inc., Buckeye, Ohio, authorizing the transportation of tires from Mansfield, Ohio, to points in Pennsylvania, New York, New Jersey, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Indiana, Illinois, and Iowa and materials used in the manufacture of tires, except commodities in bulk, from Chicago, Ill. to Mansfield, Ohio. Paul F. Berry, 8 E. Broad St., Columbus, Ohio 43215, attorney for applicants

No. MC-FC-76296. By order of February 12, 1976 the Motor Carrier Board approved the transfer to Tannahill Transport Ltee, Allan's Corner, Quebec, Canada of Permit No. MC-128702, issued January 26, 1968, to Merrill A. Tannahill, doing business as Tannahill Transport Reg'd, Allan's Corner, Quebec, Canada, authorizing the transportation of specified commodities, from and to specified points in New York, Vermont, New Hampshire, Pennsylvania, and specified ports of entry in New York, under a continuing contract, or contracts with Gravell Brick & Stone Co., Ltd. Neil D. Breslin, Twin Towers, Suite 111, 99 Washington Ave., Albany, N.Y. 12210, attorney for applicants.

No. MC-FC-76338. By order of February 12, 1976 the Motor Carrier Board approved the transfer to Ronald R. Bousquet, Tiverton, R.I., of Certificate No. MC-100770 issued by the Commission October 21, 1949, to Albert Bousquet, North Tiverton, R.I., authorizing the transportation of such equipment, materials, and supplies as are to be used in road building between points in Rhode Island, those points in Connecticut east of Connecticut Highway 32, and those points in Massachusetts within 20 miles of the Rhode Island-Massachusetts State line. J. Cyril LaTulippe, attorney for transferee, 26 Bedford Street, Fall River, MA 02720.

No. MC-FC-76340. By order of February 11, 1976 the Motor Carrier Board approved the transfer to J. J. Maloney Co., a corporation, Pennsauken, N.J., of the operating rights in Certificate No. MC-35485 issued February 21, 1961 to John J. Maloney and Ferdinand F. Maloney, a partnership, doing business as J. J. Maloney Co., Pennsauken, N.J., authorizing the transportation of general commodities, with exceptions, over regular routes, between Philadelphia, Pa. and New York, N.Y., serving specified intermediate and off route points, and the transportation of various commodities between specified points and areas in Pennsylvania, Connecticut, Rhode Island and Massachusetts, over irregular routes. Terrence J. Mullin, 1300 Two Girard Plaza, Philadelphia, Pa. 19102, applicants' representative.

No. MC-76341. By order entered February 11, 1976 the Motor Carrier Board approved the transfer to Samuel J. Lansberry, Inc., Woodland, Pa., of the operating rights set forth in Certificates Nos. MC-129124 (Sub-No. 1), MC-129124 (Sub. No. 3), MC-129124 (Sub-No. 5), MC-129124 (Sub-No. 6), MC-129124 (Sub-No. 8), issued by the Commission March 21, 1968, October 24, 1969, November 29, 1971, October 26, 1972, and September 5, 1975, respectively, in the name of Samuel J. Lansberry, Woodland, Pa., authorizing the transportation of clay, gannister rock, and coal, from specified points in Pennsylvania, to points in Maryland, Ohio, New Jersey, Delaware, New York, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and the District of Columbia; and gannister rock, from Thompson, Geauga County, Ohio, to Claysburg and Sproul, Pa. Herbert R. Nurick, 100 Pine St., P.O. Box 1166, Harrisburg, Pa. 17108, attorney for applicants.

No. MC-FC-76343. By order entered February 13, 1976 the Motor Carrier Board approved the transfer to El Sol De America Express, Inc., Bronx, N.Y., of the operating rights set forth in Certificate No. MC-11037, issued July 11, 1973 to Eileen Lombardi, doing business as

Buckley Van Lines, and acquired by Anthony LaPenta, doing business as Shapiro Movers, Brooklyn, N.Y., pursuant to No. MC–FC–74774, consummated December 17, 1973, authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in New York, Connecticut, New Jersey, Pennsylvania, Massachusetts, and the District of Columbia. John L. Alfano, 550 Mamaroneck Ave., Harrison, N.Y. 10528, attorney for transferee and Morris Honig, 150 Broadway, New York, N.Y. 10038, attorney for transferor.

No. MC–FC–76346. By order entered February 11, 1976 the Motor Carrier Board approved the transfer to Fred's Express & Trucking Co., Inc., New York, N.Y., of the operating rights set forth in Certificate No. MC–94802, issued July 12, 1941, to Fred Devenuto, doing business as Fred's Express & Trucking, New York, N.Y., authorizing the transportation of dentists' supplies and equipment, between New York, N.Y., on the one hand, and, on the other, points in New York, New Jersey, and Connecticut, within 35 miles of New York, N.Y. Bloomberg & Steinberg, 233 Broadway, New York, N.Y. 10007, attorneys for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–5526 Filed 2–25–76;8:45 am]

[Ex Parte No. 307]

DISTRIBUTION AND MANIPULATION OF RAIL ROLLING STOCK TO DEPRESS PRICES ON CERTAIN GRAIN SHIPMENTS FOR EXPORT

Investigation

It appearing, That pursuant to orders of the Administrative Law Judge of May 8 and June 30, 1975, and the notice to the parties dated October 3, 1975, the above-captioned proceeding was assigned for hearing at Chicago, Ill., commencing December 2, 1975;

It further appearing, That hearing for the purpose of having cross-examination of witnesses filing statements on behalf of the Bureau of Enforcement was held at the time and place indicated;

It further appearing, That at the hearing the representative of the Bureau of Enforcement offered into evidence a proposed plan for the distribution of grain cars, together with the advice that the Bureau would, in connection therewith, urge cancellation of the consecutive shipment requirement which appears in certain unit grain train tariffs to the extent they apply to railroad-owned grain cars; and that the witness for the Bureau who sponsored the exhibit, an employee of the Bureau of Operations, was cross-examined at length by parties in attendance at the hearing upon the circumstances giving rise to, as well as on the meaning and significance of the proposed plan;

Upon consideration of the record in the above-entitled proceeding, including the matters discussed in the next preceding paragraph; and good cause appearing therefor:

It is ordered, That on or before April 15, 1976, respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing, with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceeding, and at the same time serve a copy of such prepared material upon the Administrative Law Judge and all parties actively participating in the proceeding.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing to the affiant and his counsel, if any, on or before April 25, 1976, a copy of such notice to be filed simultaneously with the Commission, together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike;

It is further ordered, That a hearing will be held commencing on May 10, 1976, at 9:30 a.m. Local Time, at the Offices of the Interstate Commerce Commission, Washington, D.C., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the Administrative Law Judge deems necessary to complete the record;

And it is further ordered, That a copy of this order be served upon the parties of record; and that notice of the said hearing and of the fact that a plan for the distribution of grain cars has been proposed by the Bureau of Enforcement be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the Federal Register. Interested persons may obtain copies of the proposed plan for the distribution of grain cars by writing to: Bureau of Enforcement, Interstate Commerce Commission, Washington, D.C. 20423. Written comments upon the plan may be submitted in duplicate to the Commission at any time prior to the hearing or orally or in writing at the hearing set for May 10, 1976.

Dated at Washington, D.C., this 21st day of January 1976.

By the Commission, George P. Morin, Administrative Law Judge.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–5523 Filed 2–25–76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 23, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43125—*Sugar from Points in Washington*. Filed by Trans-Continental Freight Bureau, Agent (No. 500), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk or in packages, in carloads, as described in the application, from Scalley, Sugar Spur, and Toppenish, Washington, to points in Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Wisconsin.

Grounds for relief—Return shipments and rate relationship.

Tariff—Supplement 38 to Trans-Continental Freight Bureau, Agent, tariff 2–M, I.C.C. No. 1914. Rates are published to become effective on March 15, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–5524 Filed 2–25–76;8:45 am]

[Notice No. 16]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

FEBRUARY 20, 1976.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) (as amended, 49 FR 37215) published in the FEDERAL REGISTER issue of August 26, 1975, effective September 15, 1975, further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200 (Sub-No. 278), filed January 19, 1976. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Mo. 64106. Applicant's representative: Ivan E. Moody, 903 Grand Avenue, 12th Floor, Temple Bldg., Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and supplies and products*, used in the manufacture and distribution of paper and paper products, between Chester, N.Y., and points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Chicago, Ill.

No. MC 4405 (Sub-No. 531), filed January 21, 1976. Applicant: DEALERS TRANSIT, INC., 2200 E. 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Leonard L. Bennett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements in truckaway and driveaway service, from Tualatin, Oreg., to points in the United States (except Alaska and Hawaii); and (2) *tractors*, in secondary movements in driveaway service only when drawing trailers and trailer chassis in initial movements in driveaway service, from Tualatin, Oreg., to points in Arizona, Nevada, Oregon and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 25869 (Sub-No. 127), filed January 21, 1976. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 7100 West Center Road, Suite 530 Univac Bldg., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, concrete surface hardners, concrete sealers, water reducing admixtures, floor patching compounds*, for concrete, asphalt or other surface materials, *grouts, iron filings*, not ground or powdered, *iron and sand mixtures, and sand mixtures cement*, from North Judson, Ind., and Muskegon, Mich., to points in Colorado, Illinois, Iowa, Kansas, Kentucky (points on and west of Interstate Highway 65), Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wisconsin and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Denver, Colo.

No. MC 27817 (Sub-No. 123), filed January 19, 1976. Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 200, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire bound crates and baskets*, set up, nested and knocked down, from the plantsites of American Timber Products Company, Division of Georgia-Pacific Corporation, located at Murfreesboro and Milwaukee, N.C., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 29910 (Sub-No. 165), filed December 29, 1975. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, P.O. Box 43, Kelley Building, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and building materials*, from Fletcher, N.C., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas and Wisconsin.

NOTE.—Applicant states it can tack the authority requested above with its authorized regular route authority at Fletcher, N.C. in Sub No. 110 to provide service on the requested commodities to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas and Wisconsin. If a hearing is deemed necessary, the applicant requests it be held at either Charlotte, N.C. or Nashville, Tenn.

No. MC 46219 (Sub-No. 15), filed January 19, 1976. Applicant: STERNBERGER MOTOR CORPORATION, 45–50 Court Square, Long Island City, N.Y. 11101. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the plant site of Melville, Inc., located at Miami, Fla., to points in Georgia, North Carolina, South Carolina and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Miami, Fla., or Washington, D.C.

No. MC 51146 (Sub-No. 458), filed January 19, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural lime and gypsum*, in bags, from Knoxville, Iowa and Irvington, Ky., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 87103 (Sub-No. 20), filed January 19, 1976. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: Edward P. Bocko (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas or liquids, *machinery and equipment*, for heating, cooling, conditioning, humidifying, dehumidifying and moving of air, gas or liquids; and (2) *parts, materials, equipment and supplies*, used in the manufacture, distribution, installation or operation of those items named in (1) above (except in bulk), between points in Monroe, Randolph, Perry and St. Clair Counties, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company, located at Monroe, Randoph, Perry, and St. Clair Counties, Ill.

NOTE.—Applicant holds contract carrier authority in MC 119304 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 89684 (Sub-No. 91), filed December 29, 1975. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, P.O. Box 366, Salt Lake City, Utah 84110. Applicant's representative: Harry D. Pugsley, 315 East Second South, Suite 400, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), Between St. George, Utah and Las Vegas, Nev.: From St. George, Utah, over Interstate Highway 15 to Las Vegas, Nev., and return over the same route, serving all intermediate points, restricted to the transportation of packages or articles each weighing not more than 100 pounds, and further restricted against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah or Las Vegas, Nev.

No. MC 95490 (Sub-No. 39), filed December 22, 1975. Applicant: UNION CARTAGE COMPANY, a Corporation, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Baltimore, Md., to Camden, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 99427 (Sub-No. 28), filed January 5, 1976. Applicant: ARIZONA TANK LINES, INC., P.O. Box 855, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Graphite* (water base), in bulk, in tank vehicles, from Buckeye, Ariz., to Cucamonga, Calif.; and (2) *oxygen, nitrogen, and hydrogen*, in bulk, from Maricopa County, Ariz., to points in New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Omaha, Nebr.

No. MC 106497 (Sub No. 128), filed January 16, 1976. Applicant: PARKHILL TRUCK COMPANY, Bus. Rte. I–44 East, P.O. Box 112, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas, or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and (2) *parts, materials, equipment and supplies* used in the manufacture, distribution, installation, or operation of those items named in (1) above (except in bulk), between points in Monroe, Randloph, Perry, and St. Clair Counties, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company, located at Monroe, Randolph, Perry, and St. Clair Counties, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 106775 (Sub-No. 38) (Correction), filed September 8, 1975, published in the FEDERAL REGISTER issue of January 22, 1976, republished as corrected this issue. Applicant: ATLAS TRUCK LINE, INC., P.O. Box 9848, Houston, Tex. 77015. Applicant's Representative: Leory Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum articles, iron and steel tanks, aluminum tanks, and parts, attachments, and accessories*, for iron and steel tanks and aluminum tanks, and contractors equipment, from points in Liberty County, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, restricted to traffic originating at the plantsite and warehouse facilities of Pittsburgh-Des Moines Steel Company.

NOTE.—The purpose of this republication is to indicate that MC 106775 Sub-No. 38 was republished in the FEDERAL REGISTER issue of January 22, 1976 in error. The republication should have been shown in docket number MC 106775 Sub-No. 39. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Houston or Dallas, Tex.

No. MC 108398 (Sub-No. 47), filed January 12, 1976. Applicant: RINGSBY-PACIFIC LTD., 3980 Quebec Street, Denver, Colo. 80207. Applicant's representative: Robert J. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities of unusual value, household goods as defined by the Commission, and those requiring special equipment, except when such commodities are transported in bulk, in tank truck or tank trailer equipment), (1) between San Diego, Calif. and junction Interstate Highways 15E and 10 at or near San Bernardino, Calif.: From San Diego, Calif. over Interstate Highway 15 to junction Interstate Highway 15E (at or near Temecula, Calif.), thence over Interstate Highway 15E to junction Interstate Highway 10 (at or near San Bernardino), and return over the same route, in connection with applicant's presently authorized regular route operations, serving no intermediate points but serving junction Interstate Highways 15E and 10 for purposes of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Los Angeles, Calif.

No. MC 110144 (Sub-No. 17) (Correction), filed December 8, 1975, published in the FEDERAL REGISTER issue of January 22, 1976, republished as corrected this issue. Applicant: JACK C. ROBINSON doing business as ROBINSON FREIGHT LINES, 3600 Paper Mill Road, P.O. Box 10234, Knoxville, Tenn. 37919. Applicant's representative: Warren A. Goff, 5100 Poplar Avenue, Suite 2008, Memphis, Tenn. 38137. 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, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), between points in Tennessee on and east of U.S. Highway 27, on the one hand, and, on the other, points in Hamblen County, Tenn.

NOTE.—The purpose of this republication is to include the tacking statement which was previously omitted. Applicant states the requested authority can be tacked with Sub 7 at Chattanooga, Tenn. to provide service to or from Hamblen County, Tenn. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Morristown, Tenn.

No. MC 113434 (Sub-No. 67), filed January 16, 1976. Applicant: GRA-BELL

TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from the plantsite and warehouse facilities of Heinz U.S.A. located at or near Muscatine and Iowa City, Iowa to points in Ohio, Pennsylvania, and those in New York on and west of Interstate Highway 81; and (2) *empty cans*, from the plantsite and warehouse facilities of Heinz U.S.A. located at Holland, Mich., to the plantsite and warehouse facilities of Heinz U.S.A. located at Muscatine and Iowa City, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Pittsburgh, Pa.

No. MC 114045 (Sub-No. 428), filed January 19, 1976. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* when moving in vehicles equipped with mechanical refrigeration, from Reno, Nev., to points in California, Oregon, and Washington, restricted to the transportation of traffic having a prior movement for purposes of Storage in Transit.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114301 (Sub-No. 87), filed January 16, 1976. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, from the plant site of Perk Foods, located at Lower Allen Township, Cumberland County, Pa., to points in Maryland and New Jersey.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applican requests it be held at Washington, D.C.

No. MC 114457 (Sub-No. 251) (Correction), filed December 8, 1975, published in the FEDERAL REGISTER issue of January 15, 1976, republished as corrected this issue. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. 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 when moving in mixed loads with alcoholic beverages, from Perkin, Plainfield, and Peoria, Ill.; Lawrenceburg, Ind.; Bardstown, Clermont, Frankfort, Lawrenceburg, Louisville, and Owensboro, Ky.; Lynchburg and Tullahoma, Tenn.; Cincinnati, Ohio; Allen Park, Detroit, and Melvindale, Mich.; St. Louis and Weston, Mo., to Minneapolis, Minn.

NOTE.—The purpose of the republication is to indicate the two previously published origin points as being Perkin, Ill. in lieu of "Perkio and Clermont, Ky. in lieu of "Clearmont, Ky." If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn., or Chicago, Ill.

No. MC 115331 (Sub-No. 400), filed December 15, 1975. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid fertilizer*, in bulk, from Kell, Ill., to points in Kentucky, Missouri, and Indiana; and (2) *commodities*, in bulk, from Owensboro, Ky., to points in Illinois, Indiana, Missouri, Kentucky, Ohio, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky. or Indianapolis, Ind.

No. MC 115730 (Sub-No. 9), filed January 19, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), from points in Illinois, Iowa, Kansas, and Missouri, to the facilities of Lumbermans Wholesale Co. located at Des Moines, Iowa, and points in Iowa and Nebraska, restricted to shipments moving for the account of Lumberman's Wholesale Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Washington, D.C.

No. MC 115994 (Sub.-No. 15) (Correction), filed December 29, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as corrected this issue. Applicant: FIDERAK TRUCKING, INC., Lafayette St., R.D. 2, Tamaqua, Pa. 15606. Applicant's representative: Paul B. Kemmerer, 1620 North 19th St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recycled lead*, in bars, blocks, slabs, or ingots, from Nesquehoning, Pa., to points in Connecticut and New Jersey.

NOTE.—The purpose of this republication is to correct the territorial description in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either Allentown, Pa. or Philadelphia, Pa.

No. MC 116763 (Sub.-No. 333), filed January 19, 1976, Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials and supplies*, from the plantsite and storage facilities of Don Products, Inc., located in Medina County, Ohio to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 118039 (Sub-No. 25) (Amendment), filed November 26, 1975, published in the FEDERAL REGISTER issue of January 8, 1976, republished as amended this issue. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner Street SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes, fiberboard, and beverage cartons*, (1) from the plant site and warehouse facilities of the Mead Packaging Division of the Mead Corporation located in Cobb County, Ga., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, and points in Tennessee on and west of a line beginning at the Alabama-Tennessee State line and extending along Tennessee Highway 13 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Tennessee-Kentucky State line; and (2) from the plantsite and warehouse facilities of the Mead Packaging Division of the Mead Corporation located in Fulton and Cobb Counties, Ga., to points in Colorado, Illinois, Kansas, Kentucky, Missouri, and points in Tennessee east of a line beginning at the Alabama-Tennessee State boundary line and extending along Tennessee Highway 13 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Tennessee-Kentucky State Boundary line.

NOTE.—The purpose of this republication is to amend the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 118776 (Sub-No. 16), filed January 19, 1976. Applicant: C. L. CONNORS, INC., 2700 Gardner Expressway, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone, limestone products, trace minerals, and trace mineral ingredients*, from Quincy, Ill., to points in Alabama, Arkansas, Colorado, Delaware, Georgia, Louisiana, Maryland, Mississippi, Montana, New York, Virginia, and West Virginia; and (2) *empty pallets*, from points in Alabama, Arkansas, Colorado, Delaware, Georgia, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Tennes-

see, Texas, Virginia, West Virginia, and Wisconsin to Quincy, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 119118 (Sub-No. 43), filed January 5, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., 15th and New York Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Malt beverages*, in containers, and *related advertising material* moving therewith, from Frankenmuth, Mich., to points in Ohio and Indiana; and (b) *empty used malt beverage containers*, in the reverse direction.

NOTE.—Applicant holds contract carrier authority in MC 116564 and Sub-No. 22, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119118 (Sub-No. 45), filed January 4, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, and *related advertising material* moving therewith, from Belleville, Ill., to points in Alabama, Arkansas, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, Texas, and Wisconsin; and (2) *empty used malt beverage containers* in the reverse direction.

NOTE.—Applicant holds contract carrier authority in MC 116564 and Sub No. 22, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119789 (Sub-No. 279), filed January 19, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from the facilities of Heinz, U.S.A. located at Holland, Mich., to points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Pittsburgh, Pa.

No. MC 119908 (Sub-No. 31), filed January 19, 1976. Applicant: WESTERN LINES, INC., P.O. Box 1145, 3523 McCarty Ave., Houston, Tex. 77029. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cross-ties*, treated and untreated, between points in Alabama and Mississippi, on the one hand, and, on the other, points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Tennessee, and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 110814 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 123048 (Sub-No. 333) (Correction), filed January 8, 1976, published in the FEDERAL REGISTER issue of February 12, 1976, as MC 123048 Sub-No. 33, republished as corrected this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and pipe fittings*, and (2) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk), from Lucas County, Ohio to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to indicate the correct docket number as being MC 123048 Sub-No. 333 in lieu of MC 123048 Sub-No. 33 which was published in error. If a hearing is deemed necessary, the applicant requests it be held at either Toledo, Ohio or Chicago, Ill.

No. MC 123255 (Sub-No. 63), filed January 19, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment and supplies* used in the manufacture of paper and paper products, between the plant site and warehouse facilities of the International Paper Company, located at or near Russellville, Ark., on the one hand, and, on the other, points in Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 282) (amendment), filed December 15, 1975, published in the FEDERAL REGISTER issue of February 5, 1976, republished as amended this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, and accessories and materials* used in the installation and distribution thereof, from the plant and warehouse sites of Abitibi Corporation located in Lucas County, Ohio, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Oklahoma, and Texas.

NOTE.—The purpose of this republication is to include Oklahoma in the territorial description. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 124887 (Sub-No. 22) (Amendment), filed December 16, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, republished as amended this issue. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, accessories and materials* used in the installation and sale thereof, from points in Lucas County, Ohio, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Oklahoma, and Texas.

NOTE.—The purpose of this republication is to include Oklahoma in the territorial description. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 125433 (Sub-No. 68), filed January 16, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: William G. Kos (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas, or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying and moving of air, gas, or liquids; and (2) *parts, materials, equipment and supplies* used in the manufacture, distribution, installation, or operation of those items named in (1) above (except in bulk), between points in Monroe, Randolph, Perry, and St. Clair Counties, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company, located at Monroe, Randolph, Perry, and St. Clair Counties, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 126545 (Sub-No. 8), filed January 14, 1976. Applicant: GLENERY, INC., 173 Hickory Street, Kearny, N.J. 07032. Applicant's representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sanitary tissue paper*, from Milltown, N.J. to Holyoke, Mass.; (2) *plastic film*, from Edison, N.J., to Holyoke, Mass.; and (3) *disposable surgical and clinical paper products*, from

Holyoke, Mass., to points in New Jersey and New York, under a continuing contract or contracts with Cel-Fibe and its Division, Graham Manufacturing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128007 (Sub-No. 86), filed December 31, 1975. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tanks, parts and materials* used in the construction and erection of steel tanks, from the plant site and warehouse facilities of Tec Tank at Parsons, Kans., to points in Arizona, California, Connecticut, Delaware, Florida, Georgia, Idaho, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 133219 (Sub-No. 18), filed January 19, 1976. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, Nebr. 68317. 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: *Vegetable oils*, in bulk, in tank vehicles, from points in Illinois, Iowa, Kansas, Missouri, Minnesota, Tennessee, and Texas, (to the facilities of Archer-Daniels-Midland Co., Inc. located at or near Lincoln and Fremont, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr.

No. MC 133566 (Sub-No. 52), filed January 9, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, 1224 17th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Beverages* (except commodities in bulk), from the plantsite and storage facilities utilized by Champale, Inc., located at or near Trenton, N.J., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Nebraska, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, restricted to traffic originating at the above named facilities and destined to points in the named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Trenton, N.J. or Washington, D.C.

No. MC 133655 (Sub-No. 87), filed January 19, 1976. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and materials and supplies* used in the manufacture of printed matter (except commodities in bulk), between Mattoon, Ill., and Glasgow, Ky., on the one hand, and, on the other, Mobile, Ala., Memphis, Tenn., and points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Nebraska, North Dakota, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 134645 (Sub-No. 11), filed January 19, 1976. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Ave. South, St. Cloud, Minn. 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fargo and West Fargo, N. Dak., to Billings, Mont., Seattle, Wash., and points in Los Angeles, Fresno, and Orange Counties, Calif., restricted to traffic originating at the plantsite and warehouse facilities of Flavorland Industries, located at or near Fargo and West Fargo, N. Dak., and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134653 (Sub-No. 7), filed January 9, 1976. Applicant: STERRITT TRUCKING, INC., P.O. Box 367, West Coxackie, N.Y. 12192. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cast and pre-stressed concrete products*, from Schenectady, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont; (2) *Pre-cast and pre-stressed concrete products and materials, supplies and equipment* used in the manufacture of pre-cast and pre-stressed concrete products, between points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, (1) and (2) under a continuing contract, or contracts, with Spancrete Northeast, Inc., and Schenectady Concrete Products Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albany or Syracuse, N.Y.

No. MC 134922 (Sub-No. 158), filed January 19, 1976. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck parts and compounds* (except commodities in bulk and those which because of size or weight require the use of special equipment), from Marion, Ind., Pottstown, Pa. and Lima, Ohio to Salt Lake City, Utah, Sparks, Nev., and points in California, Oregon, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Little Rock, Ark.

No. MC 135828 (Sub-No. 2), filed January 12, 1976. Applicant: PEACE BRIDGE BROKERAGE LIMITED, 33 Walnut Street, Fort Erie, Ontario, Canada. Applicant's reprecentative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, in express service), between the port of entry on the International Boundary line between the United States and Canada located at or near Wellesley Island, N.Y., on the one hand, and, on the other, Wellesley Island, N.Y., restricted to the transportation of shipments originating at or destined to points in Canada, and further restricted to the transportation of express shipments weighing 50 pounds or less in the same day service, from any one consignor to any one consignee on any one day.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 135839 (Sub-No. 4), filed January 12, 1976. Applicant: B-LINE SERVICES, INC., P.O. Box 24, Greensburg, La. 70441. Applicant's representative: W. Hugh Sibley, P.O. Box 399, Greensburg, La. 70441. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel ball valves, valve parts and rough iron or steel castings and/or forgings*, between Hammond, La., on the one hand, and, on the other, Gulfport, Miss., Tulsa, Okla., and New Orleans, La., under a continuing contract or contracts with T. K. Valve & Mfg. Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Baton Rouge or New Orleans, La.

No. MC 136408 (Sub-No. 33) (Correction), filed November 26, 1975, published in the FEDERAL REGISTER issues of December 31, 1975, and January 15, 1976, republished as corrected this issue. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20,

Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Chemicals and plastics* (except in bulk, in tank vehicles), from Sanford, Maine, to Detroit, Mich.; Chicago, Ill.; Dallas, Tex.; and Los Angeles, Calif., restricted to a transportation service to be performed under a continuing contract or contracts with American Cyanamid Co., at Wayne, N.J.

NOTE.—The purpose of this republication is substitute "Dual operations" in lieu of "Common control" which was previously published in error. Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136539 (Sub-No. 2), filed January 19, 1976. Appliant: RDC TRANSPORTATION, INC., 11948 E. South, Artesia, Calif. 90701. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90608. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber products and rubber and metal products* combined, from Orange, Calif. to Anniston and Holt, Ala.; Marshfield, Mo.; Buffalo, N.Y.; Lansdale, Pa.; Chattanooga, Tenn.; Lynchburg, Va. and Milwaukee, Wis.; and (2) *rubber and rubber compounds*, from Chicago, Ill.; Baton Rouge, La.; Akron, Cleveland and Y ungstown, Ohio; Buffalo and New York, N.Y.; Houston, Tex. and points in New Jersey to Orange, Calif., under a continuing contract or contracts, with West American Rubber Co. of Orange, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 138253 (Sub-No. 2), filed January 16, 1976. Applicant: MONFORT TRANSPORTATION COMPANY, Box G, Greeley, Colo. 80631. Applicant's representative: David R. Parker, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and such commodities as are usually dealt in or used by restaurants and restaurant supply houses, from Fort Morgan, Colo., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment and supplies*, and such commodities as are used or dealt in by persons engaged in the production and distribution of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Fort Morgan, Colo., restricted to traffic originating at or destined to the facilities utilized by Monfort of Colorado, Inc., Monfort Food Distributing Company and Monfort International Sales Corporation and further restricted to transportation under a continuing contract or contracts with Monfort of Colorado, Inc., Monfort Food Distributing Company and Monfort International Sales Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 139468 (Sub-No. 11), filed December 29, 1975. Applicant: INTERNATIONAL CONTRACT CARRIERS, INC., 6534 Gessner, Houston, Tex. 77040. Applicant's representative: David R. Parker, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *buildings, complete, knocked down, and in sections;* (b) *building sections and building panels;* (c) *parts and accessories*, used in the manufacture, installation and completion of the commodities in (a) and (b) above; (d) *machinery, materials, and supplies* used in the manufacturing and storage of the commodities in (a) through (c) above, and (e) *pre-fabricated structural components and panels, and accessories*, used in the installation and completion thereof, between the plantsites and storage facilities of National Steel Products Company, Inc., at or near Houston, Tex., La Grange, Ga., and Terre Haute, Ind.; and (2) (a) *buildings, complete, knocked down, and in sections*, (b) *building sections and building panels;* (c) *parts and accessories*, used in the manufacture, installation and completion of the commodities in (a) and (b) above; and (d) *pre-fabricated structural components and panels, and accessories*, used in the installation and completion thereof, (1) from the plantsites of National Steel Products Company, Inc. at or near La Grange, Ga., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont; and (2) from the plantsites of National Steel Products Company, Inc. at or near Terre Haute, Ind. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Vermont, parts (1) and (2) above are under a continuing contract or contracts with National Steel Products Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 140271 (Sub-No. 3), filed January 16, 1976. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103, East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, hardware, conveyors and conveyor equipment, furniture, power equipment, wheel goods, and bicycles and parts thereof and attachments and accessories therefor and materials, equipment and supplies* used in the manufacture and distribution thereof, between the plantsites and storage facilities of MTD Products, Inc., located at or near Cleveland, Strongsville, Willard, and Shelby, Ohio, on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Oklahoma, New Mexico, and Texas, under a continuing contract with MTD Products, Inc.

NOTE.—Applicant holds common carrier authority in MC 119988 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 140868 (Sub-No. 1), filed January 19, 1976. Applicant: DIXIE LEE TRUCKING COMPANY, Route 5, Lenoir City, Tenn. 37771. Applicant's representative: Robert L. Baker, Hamilton Bank Bldg., Suite 618, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution control equipment, parts and accessories*, from Knoxville, Tenn., to points in the United States (except Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming, Alaska, and Hawaii), under a continuing contract or contracts with The Carborundum Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 141033 (Sub-No. 9), filed January 16, 1976. Applicant: CONTINENTAL CONTRACT CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at or destined to the plant sites, warehouses and branch facilities of NCR.

NOTE.—Applicant holds contract carrier authority in MC 124796 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dayton, Ohio or Washington, D.C.

No. MC 141216 (Sub-No. 2), filed January 19, 1976. Applicant: DARREL K. OAKLEY, doing business as OAKLEY ENTERPRISES, 3502 Elm Avenue, Rapid City, S. Dak. 57701. Applicant's representative: James W. Olson, 821 Columbus, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, sawdust, bark, shavings, and other sawmill products*, treated and untreated (except lumber),

(1) from points in Pennington, Lawrence, Meade, and Custer Counties, S. Dak., to points in Colorado, Iowa, Kansas, Minnesota, Nebraska, North Dakota, and Wyoming; and (2) from the facilities of Stauter Lumber Co. located at Hill City, S. Dak. and the facilities of Mosinee Paper Company located near Sturgis, S. Dak., to Rapid City, S. Dak., for subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, S. Dak. or Denver, Colo.

No. MC 141232 (Sub-No. 2), filed December 15, 1975. Applicant: STATEWIDE TRUCKING CO., a Corporation, 1801 W. Oxford, P.O. Box 1116, Englewood, Colo. 80110. Applicant's representative: Robert G. Shepherd, Jr., 717 Cherry Creek Plaza, 600 South Cherry St., Denver, Colo. 80222. Authority sought sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* in mixed loads consisting of two or more items classified as building materials; and (2) *fence materials and supplies*, between Denver, Colo. and its Commercial Zone, on the one hand, and, on the other, points in Kansas and Nebraska west of U.S. Highway 281, and points in Goshen and Laramie Counties, Wyo. and points in the town of Laramie, Wyo., and its Commercial Zone, restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 141282 (Sub-No. 1), filed January 19, 1976. Applicant: U-CART TRANSPORTATION, INC., 11206 N.E. Rosewood Rd., P.O. Box 4188, Vancouver, Wash. 98662. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete mixing plants, parts, accessories, attachments, tools, devices, and apparatus* used in the manufacture and installation and erection thereof, and *concrete additive* (except in bulk and tank trucks), between the plantsite and storage facilities of U-Cart Concrete Systems, Inc., located at Vancouver, Wash., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with U-Cart Concrete Systems, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 141362 (Sub-No. 3), filed January 19, 1976. Applicant: GEORGE A. SPARKS, doing business as ESCONDIDO TRUCK & EQUIPMENT, 630 Daisy, Escondido, Calif. 92027. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed supplement*, dry, in bulk, from points in Los Angeles, Riverside, San Bernardino, and San Diego Counties, Calif., to points in Maricopa, Pinal, and Yuma Counties, Ariz.; and (2) *animal and poultry feed and feed supplements*, dry, in bulk, from points in Maricopa, Pinal, and Yuma Counties, Ariz., to points in Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Diego or Los Angeles, Calif.

No. MC 141523, filed October 30, 1975. Applicant: C. R. KIDD PRODUCE, INC., P.O. Box 364, Highway 68 West, Springdale, Ark. 72764. Applicant's representative: Franklin H. Waters, 111 Holcomb Street, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed, or replacement vehicles*, between Springdale, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Springdale, Fayetteville, Ft. Smith, or Little Rock, Ark.

No. MC 141602 (Sub-No. 2), filed January 19, 1976. Applicant: AUTO & TRUCK FORWARDING, INC., 1989 Marina Blvd., San Leandro, Calif. 94577. Applicant's representative: Thomas M. Pauszek, 620 West Ireland Road, South Bend, Ind. 46614. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, truck chassis, and truck trailers*, in initial movements, in driveaway and truckaway service, from the plantsite of Mack Western located at Hayward, Calif., to points in the United States, including Alaska but excluding California and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif. or Los Angeles, Calif.

No. MC 141606 (Sub-No. 1), filed January 16, 1976. Applicant: ALERT TRUCKING, INC., 6689 N.W. 16th Terrace, Fort Lauderdale, Fla. 33309. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil, carbon gum, sludge removing compounds, cartridges, elements exceeding 5 lbs. per cubic foot and oil filters*, from Painesville, Ohio to points in Tampa, Fla.; Morrow, Ga.; Chicago and Lake Bluff, Ill.; Evansville, Ind.; Louisville, Ky.; Lowell, Mass.; Baltimore, Md.; Jackson, Miss.; Hillside, N.J.; the New York, N.Y., commercial zone; Charlotte, N.C.; Nashville, Tenn. and Richmond, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Miami, Fla. or Atlanta, Ga.

No. MC 141638, filed December 15, 1975. Applicant: AUTO EXPRESS MEXICANO, a Corporation Division Norte, S. A. de C. V., Calz, Vallejo 1830, Aptd., Mexico, 14, D. F. Applicant's representative; Bernard F. Flynn, Jr., York-Flynn Building, 425 East Blackwell Street, Dover, N.J. 07801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and Classes A and B explosives), between points of entry on the International Boundary line and the Republic of Mexico located at Laredo, Brownsville, Hidalgo, and Eagle Pass, Tex., on the one hand, and, on the other, Dallas, Houston, and San Antonio, Tex., for purpose of interlining with other carriers on traffic whose points of origin of destination are outside of Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Laredo or San Antonio, Tex.

No. MC 141644 (Sub-No. 1), (correction), filed December 4, 1975, published in the FEDERAL REGISTER issue of January 29, 1976 as MC 141660, republished as corrected this issue. Applicant: PRESCOTT TRUCKING CORP., 218 Oak Street, Elizabeth, N.J. 07201. Applicant's representative: Arthur Liberstein, 1 Penn Plaza, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, crystal and porcelain wares*, in containers, between the New York, N.Y., Commercial Zone as defined by the Commission, on the one hand, and, on the other, Millville, N.J., restricted to shipments having a movement by water in foreign commerce, under a continuing contract with J. G. Durand International.

NOTE.—The purpose of this republication is to change docket number MC 141660 to MC 141644 Sub-No. 1, which was published in error. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 141697, filed January 8, 1976. Applicant: HYGIN VEILLEUX, 674 4th Avenue St. George EST, (Beauce), St. George EST (Beauce), Prov. of Quebec, Canada. Applicant's representative: Charles H. Veilleux, P.O. Box 568, 214 Water Street, Skowhengan, Maine 04976. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in enclosed vans, between ports of entry on the International Boundary line between the United States and Canada located at or near Jackman, Maine and Solon, Norridgewock, Wilton, Dryden and Jay, Maine, under a continuing contract or contracts with Guimont & Freres LTEE.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Augusta, Maine.

No. MC 141704, filed January 13, 1976. Applicant: ELMER VAN NEVEL, doing business as VAN NEVEL & CO., 23 N. 591 Overhill Drive, P.O. Box 119, Lake Zurich, Ill. 60047. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Industrial blowers, industrial blower parts, and fabricated metal products*, from Gilberts, Ill., to Cedar Rapids, Iowa and points in Georgia, Pennsylvania, and Tennessee, restricted to a service performed under a continuing contract or contracts with Scott Industrial Blower Co., Gilberts, Ill.; and (2) *washing equipment, interior cleaning equipment, fueling stations, water reclaiming systems, and automatic wheel chocks*, used in the bus, truck and rail industries, including *parts and related equipment*, thereto, from Elk Grove Village, Gilberts, and Wheeling, Ill., to points in the United States (except Alaska and Hawaii), restricted to a service performed under a continuing contract or contracts with Ross and White Company, Wheeling, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 141719, filed January 19, 1976. Applicant: KESSLER INDUSTRIES, INC., 8600 Gateway East, El Paso, Tex. 79907. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Forth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vacuum cleaner parts*, from Cleveland, Ohio, to Andrews, Tex., under a continuing contract or contracts with Kirby Co. a Division of Scott and Fetzer Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either El Paso or Lubbock, Tex.

No. MC 141721, filed January 19, 1976. Applicant: DFC TRANSPORTATION COMPANY, 3600 River Road, Franklin Park, Ill. 60131. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of foods, food products, and animal feeds, and *machinery, materials, equipment, supplies and ingredients* used by manufacturers and distributors of foods, food products and animal feeds, between Conway and Little Rock, Ark.; Lafayette and Rochester, Ind.; Louisville, Ky.; Eaton Rapids and Evart, Mich.; Jackson, Miss.; Heuvelton and Chateaugay, N.Y.; Cleveland and Columbus, Ohio; Memphis, Tenn.; and Franklin Park, Huntley, Chemung, Belvidere, Rockford, Pecatonica, Loves Park, Amboy and Dixon, Ill., and Janesville, Chippewa Falls and Green Bay, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), (a) restricted to traffic originating at or destined to the plant sites and warehouse facilities owned, leased or used by Dean Foods Co., or its wholly owned subsidiary companies, Green Bay Foods Co., Hoffman House Food Products, Dean Food Products Co., Dean Milk Co., Inc., Liberty Dairy, McCadam Cheese Co., Inc., and Bowman Dairy Co.; and (b) and further restricted to service performed under a continuing contract with Dean Foods, Co., of Franklin Park, Ill., and its wholly owned subsidiary companies, Green Bay Foods Co., Hoffman House Food Products, Dean Foods Products Co., Dean Milk Co., Inc., Liberty Dairy, McCadam Cheese Co., Inc., and Bowman Dairy Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 141722, filed January 19, 1976. Applicant: NORM'S DELIVERY SERVICE, INC., 7107 Vineland Avenue, North Hollywood, Calif. 91605. Applicant's representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jet aircraft engines, component parts* for jet aircraft; and *assembled turbojet propellers*, restricted to movements on lowbed trailers equipped with air-ride suspension, between points in California, on the one hand, and, on the other, points in Arizona, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif. or San Francisco, Calif.

No. MC 141733, filed January 12, 1976. Applicant: AMERICAN STANDARD TRUCK SERVICE, INC., 276 Pasco Road, Springfield, Mass. 01151. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tools, forgings, tool boxes, packing containers, and materials, supplies and equipment* used in the manufacture and distribution of such commodities, between Springfield, Mass. and East Windsor, Conn., on the one hand, and, on the other, points in and east of Kansas, Nebraska, Oklahoma, North Dakota, South Dakota and Texas, under a continuing contract or contracts with The Moore Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hartford, Conn., Boston, Mass., or Albany, N.Y.

No. MC 141735, filed January 2, 1976. Applicant: KELMAC TRUCKING, INC., 7720 Fordey Ave., St. Louis, Mo. 63147. Applicant's representative: Patrick Kelly (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, livestock, commodities in bulk and commodities requiring special equipment), between points in the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone and Alton, Belleville and Fairview Heights, Ill. and Arnold, Chesterfield and St. Charles, Mo., under a continuing contract or contracts with Sears, Roebuck and Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., St. Louis, Mo., or Springfield, Ill.

PASSENGER APPLICATIONS

No. MC 141020 (Sub-No. 1), filed January 13, 1976. Applicant: WAYNE TEECE, doing businss as CANADIAN CAMPING TOURS, 250 One Palliser Square, Calgary, Alberta, Canada T2G OP6. Applicant's representative: Wayne Teece (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage, and camping equipment*, in charter operations, a seasonal operation during the months of June to September inclusive, between Calgary, Alberta, Canada and points in Alaska, via points of entry on the International Boundary line between the United States and Canada located in Alaska, under a continuing contract or contracts with Calgary Explorers' Club.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Mont.

No. MC 141667, filed January 2, 1976. Applicant: BUTTE BUS LINES, INC., 1220 E. Front Street, Butte, Mont. 59701. Applicant's representative: James O. Boldt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, from points in Granite, Powell, Deer Lodge, Silver Bow, Beaverhead, Jefferson, and Madison Counties, Mont., to points in Arizona, California, Colorado, Idaho, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Butte, Mont., or the nearest point.

BROKER APPLICATIONS

No. MC 130355, filed January 12, 1976. Applicant: TRAVEL UNLIMITED, INC., P.O. Box 82408, Lincoln, Nebr. 68501. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Lincoln and Grand Island, Nebr., to sell or offer to sell the transportation of *Groups of passengers and their baggage*, in special and charter operations, by motor carriers, beginning and ending at points in Nebraska, and extending to points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 130356, filed January 7, 1976. Applicant: RAY DODD AND CHRISTINE DODD, doing business as DODD TRAVELERS, 2111 Lindbergh, Tyler, Tex. 75701. Applicant's representative: Christine Dodd (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Tyler, Tex., to sell or offer to sell the transportation of *passengers and their baggage,* in charter operations, in sightseeing and pleasure tours, by motor carriers, beginning and ending at Tyler, Tex., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Fort Worth, Tex. or any area within 100 miles of Tyler, Tex.

WATER CARRIER APPLICATION

No. W-547 (Sub-No. 2), filed January 13, 1976. Applicant: THE GREAT LAKES TOWING COMPANY, a Corporation, 1800 Terminal Tower, Cleveland, Ohio 44113. Applicant's representative: Robert J. Ables, 1819 H. Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *General commodities,* by non-self-propelled vessels with the use of separate towing vessels, and by towing vessels in the performance of general towage, (1) between ports and points along (a) the Mississippi River from Minneapolis, Minnesota to Grafton, Illinois. including the ports named, (b) the St. Croix River below and including Stillwater, Minnesota, (c) the Minnesota River, (d) the Missouri River below and including Sioux City, Iowa, (e) the Tennessee River below and including Knoxville, Tennessee, and its tributaries (including the Barkley Canal), (f) the Cumberland River below and including Celina, Tennessee, and its tributaries (including the Barkley Canal), (g) the Yazoo River and its tributaries, (h) the Ouachita River, (i) the White River, (j) the Kentucky River, and (k) the Gulf-Intracoastal Waterway from St. Marks, Florida, to Brownsville, Texas and all tributaries and connecting ship channels, including the Arroyo Colorado to Harlingen, Texas, the Victoria Channel to Victoria, Texas, the Houston Ship Channel, the Trinity River, the Calcasieu River, the Atchafalaya River, the Port Allen route between Baton Rouge, Louisiana and the Gulf-Intracoastal Waterway, the Pearl and West Pearl Rivers, the Alabama River, the Mobile River, the Warrior River, the Black Warrior River (including the Locust and Mulberry Forks of the Black Warrior River and Short Creek), the Tombigbee River, the Apalachicola River, the Chattahoochee River, and the Flint River, including all ports named.

(2) Between ports and points along each of the waterways specified in (1) (a) through (k), inclusive, above on the one hand, and, on the other, ports and points along each other such waterway; (3) on the Gulf of Mexico and connecting waterways between Tampa, Florida (including all points on or reached via Tampa Bay) on the one hand, and, on the other, ports and points along the waterways specified in (1) (a) through (k), inclusive, above and ports and points which applicant is authorized to serve pursuant to its Sixth Amended Certificate and Order No. W-414 served January 25, 1974; and (4) between ports and points along the waterways specified in (1) (a) through (k), inclusive, on the one hand, and, on the other, ports and points which applicant is authorized to serve pursuant to its Sixth Amended Certificate and Order No. W-414 served January 25, 1974.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cleveland, Ohio or Washington, D.C.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-5369 Filed 2-25-76;8:45 am]

federal register

THURSDAY, FEBRUARY 26, 1976

PART II:

INTERSTATE COMMERCE COMMISSION

Rail Service Continuation Subsidies

■

Standards for Determinations

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293 (Sub-No. 2)]

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES

Standards for Determining Rail Service Continuation Subsidies

Section 205 (d) (6) of the Regional Rail Reorganization Act of 1973 (the "Act"), 45 U.S.C. 715 (d) (6), as amended by Section 309 of the Rail Revitalization and Regulatory Reform Act of 1976 (the "Rail Act"), Pub. L. 94–210, directs the Rail Services Planning Office (the "Office") of the Interstate Commerce Commission (the "Commission") to:

> * * * determine and publish, and from time to time revise and reissue, standards for determining, (A) the "revenue attributable to the rail properties" (B) the "avoidable costs of providing service", (C) a "reasonable return on the value", and (D) a "reasonable management fee", as those phrases are used in Section 304 of this Act [as amended by Section 804 of the Rail Act], after a proceeding in accordance with the provisions of Section 553 of Title 5, United States Code.

Standards covering the first three of the four quoted terms have already been established by the Office after a lengthy rulemaking proceeding which was instituted on February 25, 1974, when the Director of the Office issued a notice of proposed rulemaking and order (39 FR 7182), setting forth a proposed Part 1125 to Title 49 of the Code of Federal Regulations. The proposed Part 1125 contained standards for defining the "revenue attributable to the rail properties", the "avoidable costs of providing service", and a "reasonable return on the value".

The Office issued standards on July 1, 1974 (39 FR 2429). On July 30, 1974, the Office announced that petitions seeking amendment of the standards would be accepted (39 FR 28196). After several revisions, the standards were published January 8, 1975 (40 FR 1624). They have since been amended on March 28, 1975 (40 FR 14186) and on January 22, 1976 (41 FR 3402).

By this notice and order, the Office is reopening its rulemaking proceeding to conform to the directive of the Rail Act that it determine and publish standards for determining a "reasonable management fee" to be paid by a subsidizer to the carrier providing service over a subsidized line. Since the parties are now actively negotiating subsidy agreements with a view to an April 1, 1976 conveyance date, it is important that these standards be established as promptly as possible.

In refining the subsidy program established by the Act for the Midwest and Northeast Region, Congress recognized the unique circumstances wherein the lines eligible for subsidy within the Region are owned by railroads in reorganization which on the date of conveyance will have transferred all or substantially all of their rail properties (including equipment) to ConRail or to profitable railroads and thus will not be able to provide rail services over the lines not designated for transfer.

In recognition of this fact, Section 304(d) of the Act (45 U.S.C. 744(d)), has been amended to provide that the person offering a rail service continuation payment for rail freight service shall designate as the operator of such service either (a) ConRail, (b) any other railroad whose rail properties connect with the line to be subsidized, or (c) any responsible person (inculding a government entity) which is willing to operate the service. The designated operator shall be entitled to receive from the subsidizer the difference between the revenue attributable and the avoidable costs of providing the service, plus a reasonable management fee. The owner of the properties over which the service is provided shall receive a reasonable return on the value of the properties.

The question to be determined is what, under these circumstances, is a reasonable basis for computing management fees to be allowed the designated operator? Return on investment considerations obviously are not applicable here, since the operator will have little or no investment. Nor are management costs incurred a basis for determining such a fee since the standards already contain allowances for the operator's avoidable supervisory costs, and further provide one-half of one percent of the total annual revenues attributed to the branch line as an avoidable cost to the railroad to cover the costs of administering the subsidy program. After considering several alternatives including revenues, avoidable costs, net subsidy payment required, and combinations of these, the Office has concluded that the most appropriate basis for a management fee would be one related to the revenues attributable to the line.

Tying the management fee to attributable revenues not only simplifies calculation of the management fee, but also provides an incentive to the operator to increase revenues on the line. Such a management fee would also serve as an inducement to the subsidizers to encourage patronage of the rail services by the shippers and receivers on subsidized lines.

In establishing the proper level for the management fee, the office reviewed the experience of the nation's railroads to determine what return the railroads earn beyond costs on their railroad operations. During the five-year period from 1970 to 1974, the net income, before provision for Federal income taxes, of all Class I railroads in the United States averaged 4.34 percent of operating revenues. This is comparable to ConRail's expected performance; the final system plan projected an average net income, after interest expense but before provision for income taxes, of 4.68 percent of operating revenues for ConRail during its first ten years of operation. In consideration of these factors, the Office has concluded that 4.5 percent of revenues attributable would provide a reasonable management fee. The Office believes that such an approach best conforms to the implicit intent of Congress that the management fee provide an element of profit for the operator, over and above recoupment of avoidable costs, as an inducement to provide economical and efficient service of the quality and frequency desired by the subsidizer.

After reviewing the estimated revenues of those lines identified in the State Rail Plans as lines for which subsidies will be offered, the Office estimates that the 4.5 percent rate would generate over $2 million in management fees.

It is probable that revenues attributable to some of the lines eligible for subsidy under the plan will be in excess of "avoidable costs" plus a "reasonable return on the value" and a "reasonable management fee" as defined by the Standards. In such cases, it would be inequitable for the operator to retain the excess revenues and also receive a management fee since the excess revenues would amount to a windfall gain without any related risk. Accordingly, the standards will provide flexibility for the parties to negotiate this issue but will assure that in operating agreements incorporating management fees the operator shall agree to pay over to the subsidizer any amounts by which the annual revenues attributable to the line exceed the sum of the avoidable costs of providing the service plus the return on the value of the properties and a reasonable management fee. The intention is that the operator shall be allowed to choose, at the time of executing the agreement, whether to receive the guaranteed management fee or to forego it in the expectation of realizing a profit from the operation. Since there is an inherent risk in the latter, any profit realized will not amount to a windfall gain.

Because of the need to formulate a standard for determining a reasonable management fee prior to the conveyance date of April 1, 1976, the Office is publishing herewith a proposed standard for determining a reasonable management fee. This standard will become effective March 26, 1976, unless comments requiring change are received. The Office shall publish, on that date, a report summarizing the comments received and setting forth the changes, if any, in the amendments herein proposed.

All persons interested in filing statements of their views on the amendment which is part of this notice or in proposing an alternative standard for the determination of a reasonable management fee, are invited to do so. Statements should be submitted in writing to the Office on or before March 15, 1976. An original and three copies of any statement should be supplied.

In addition to the amendments concerning the management fee, several technical amendments to the standards, made necessary by the enactment of the Rail Revitalization and Regulatory Reform Act of 1976, are proposed herein. These amendments shall also become effective March 26, 1976.

In light of the foregoing considerations:

It is ordered, That all interested persons be invited to participate in this proceeding by submitting written representations containing statements of fact or views. To be considered, the original and three copies of each representation must be filed on or before March 15, 1976.

It is further ordered, That Part 1125 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations, be amended by making the changes set forth below to the Standards adopted on January 8, 1975, and amended on March 28, 1975 and January 22, 1976.

And it is further ordered, That this order shall become effective March 26, 1976.

[SEAL] ROBERT L. OSWALD,[1]
Secretary.

1. Delete the statement of Authority which precedes § 1125.1 and insert in lieu thereof:

AUTHORITY: Sec. 205 (d) (6), Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat. 985, 994, as amended by sec. 309 Rail Revitalization and Regulatory Reform Act 1976, Pub. L. 94-210, 90 Stat. 31.

2. Delete §1125.1 and insert in lieu thereof:

§ 1125.1 Purpose and scope.

(a) Section 304 (c) (2) of the Act as amended provides that no rail service may be discontinued and no rail properties may be abandoned pursuant to that section if a financially responsible person (including a government entity) offers to provide a rail service continuation payment which is designed to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties, together with a reasonable return on the value of such properties.

(b) Section 205(d)(6) of the Act as amended directs the Rail Services Planning Office to determine and publish standards for determining the "revenue attributable to the rail properties," the "avoidable costs of providing service," a "reasonable return on the value" and a "reasonable management fee" as those phrases are used in section 304 of the Act as amended. This Part sets forth those standards.

(c) The standards set forth herein employ an interim formula for establishing an estimated first year subsidy payment. This estimate will serve as a basis for the subsidy offer within the context of section 304(c)(2) of the Act as amended and provide a framework for the negotiation of a subsidy agreement. The amount a subsidizer must offer under section 304(c)(2)(A) as amended is the amount computed in accordance with the interim formula, or $1.00, whichever is the greater amount. The final payment will be adjusted based on data related to the subsidy period. Where an adjustment results in an increase in the estimated subsidy payment, the amount of such increase in excess of 15 percent of the estimated payment shall be treated as a carry-over avoidable cost in the subsequent subsidy year unless the railroad notifies the subsidizer that the estimate will be exceeded by more than 15 percent in one of the first three quarterly Financial Status Reports required by § 1125.9(f) or the increase results from an expense preapproved by the subsidizer.

3. Add the following new paragraph to § 1125.3:

§ 1125.3 Interim subsidy payment.

* * * * *

(e) *Management Fee.* The estimated management fee shall be based on the standard adopted in § 1125.8 and applied to the revenues determined pursuant to § 1125.3(a).

* * * * *

§ 1125.8 [Redesignated]

4. Redesignate § 1125.8 Submission of information by railroad giving notice of intent to discontinue service on a branch as § 1125.9.

5. Add the following new § 1125.8:

§ 1125.8 Management fee.

Four and one-half percent of the total annual revenues attributable to the branch as determined pursuant to § 1125.4 shall be paid to the designated operator of the subsidized service as a management fee in any case where the operator agrees, by contract, to refund to the person making such payment any amount by which the revenues attributable to the line exceed the sum of the avoidable costs plus the return on the value of the properties and the management fee, as determined annually at the end of each subsidy year.

[FR Doc.76-5379 Filed 2-25-76;8:45 am]

[1] Present: Alan M. Fitzwater, Director, Rail Services Planning Office, to whom the matter under consideration in this docket has been assigned.

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