FEDERAL REGISTER

VOLUME 24 NUMBER 5

Washington, Thursday, January 8, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Office of Civil and Defense Mobilization

Effective upon publication in the FEDERAL REGISTER, paragraph (c) of § 6.123 is revoked, and § 6.163 (a) is added as set out below.

§ 6.163 Office of Civil and Defense Mobilization.

(a) Eight Assistant Regional Directors for Women's Activities.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 59-177; Filed, Jan. 7, 1959; 8:48 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

United States Information Agency

Effective upon publication in the FEDERAL REGISTER, paragraph (f) of § 6.324 is revoked.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 59-179; Filed, Jan. 7, 1959; 8:48 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Housing and Home Finance Agency

Effective upon publication in the FEDERAL REGISTER, subparagraph (21) is added to § 6.342 (a) as set out below.

§ 6.342 Housing and Home Finance Agency.

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

(21) Assistant Commissioner for Technical Standards and Services, Urban Renewal Administration.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 59-178; Filed, Jan. 7, 1959; 8:48 a. m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 68 — REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Supplemental Instructions and Procedures for Inspection of Cargo Wheat for Protein Content, Fees and Charges for Inspection Service

Pursuant to §§ 68.4 and 68.42 of the regulations for inspection and certification of certain agricultural commodities and products thereof (7 CFR 68.4, 68.42) under the Agricultural Marketing Act of 1946, as amended (7 U. S. C. 1621 et seq.), instructions and procedures for inspection of cargo wheat for protein content are hereby issued to appear in 7 CFR 68.4a and the provisions in 7 CFR 1958 Supp. 68.42a relating to fees and charges are hereby amended as follows:

A. New § 68.4a is issued to read:

§ 68.4a Instructions and procedures; inspection of cargo wheat for protein content.

(a) Inspection and certification of cargo wheat for protein content may be performed in accordance with subparagraph (1) or (2) of this paragraph.

(Continued on next page)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

(1) *Sample inspection and certification.* Inspection and certification of the protein content of a sample of cargo wheat which has been inspected under the United States Grain Standards Act will be performed as follows:

(i) The Supervising Inspector will obtain from the inspector licensed under the United States Grain Standards Act who inspected the wheat a portion of the composite sample used by the inspector in inspection and grading of the wheat under said act.

(ii) The Supervising Inspector will, as instructed by the Director, submit the sample to a Federal laboratory or to a State or commercial laboratory approved by the Director, for protein analysis.

(iii) The results of the protein analysis calculated on a 14.0 percent moisture basis (or other moisture basis as requested by the applicant) will be furnished by the laboratory to the Supervising Inspector.

(iv) A Federal inspection certificate will be issued by the Supervising Inspector showing the identity of the sample, the quantity of wheat in the sample, and the results of the protein analysis and the moisture basis on which calculated, and containing the following statement in the space provided for remarks:

Sample identified by licensed inspector _____as a portion of the sample
(Name of Inspector)
used in the inspection and grading of the wheat as loaded aboard the_____.
(Name of Vessel)

(v) The inspection and certification under this paragraph will apply only to the sample described.

(2) *Lot inspection and certification.* Inspection and certification of the protein content of a cargo, or an identified part of a cargo of wheat, will be performed as follows:

(i) An official sample will be drawn from the cargo of wheat, or identified portion thereof, by or under the supervision of the Supervising Inspector. If the wheat is wheat on which an appeal was taken under the United States Grain Standards Act, a portion of the appeal sample will be used as the sample for purposes of inspection and certification under this paragraph.

(ii) The Supervising Inspector will, as instructed by the Director, submit the sample to a Federal laboratory or to a State or commercial laboratory approved by the Director, for protein analysis.

(iii) The results of the protein analysis calculated on a 14.0 percent moisture basis (or other moisture basis as requested by the applicant) will be furnished by the laboratory to the Supervising Inspector.

(iv) A Federal inspection certificate will be issued by the Supervising Inspector, showing the quantity of wheat in the cargo, the identity of the wheat by name of vessel and place of stowage in the vessel, and the results of the protein analysis and the moisture basis on which calculated.

(v) Two or more samples may be drawn from definite identified parts of a cargo and separately analyzed and the results shown on one certificate, upon request of the applicant.

(b) Fees will be charged to cover the cost of the inspection and certification service under this section in accordance with the provisions of § 68.42a.

(c) Inspection and certification under this section is not required by, and does not meet the requirements of, the United States Grain Standards Act. Such services will be performed only upon request. Application for such services may be filed with the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C. Such application should be made, if possible, at least 48 hours before loading of the grain into the vessel is expected to begin.

(d) The definitions in § 68.2 shall apply to the provisions in this section.

§ 68.42a [Amendment]

B. Section 68.42a (c) is amended by changing the introductory portion thereof to read:

(c) Fees for the inspection of commodities and products under instructions and procedures prescribed by the Director or to determine one or more factors of quality covered by specifications when not inspected for compliance with complete quality specifications, or involving laboratory tests other than those required by the usual specifications, or tests for one or more factors of grade when not inspected for grade shall be computed in accordance with subparagraphs (1), (2) and (3) of this paragraph, except as otherwise provided in subparagraph (4) of this paragraph for the inspection of cargo wheat for protein content.

C. Section 68.42a (c) is further amended by adding thereto a new subparagraph (4) to read:

(4) Fees for inspection and certification of cargo wheat for protein content: The fee for sample inspection and certification will be $25.00 which covers protein and moisture (oven) tests, certification and record, and preparation and handling of the sample. The fees for lot inspection and certification will be $4.25 for protein and moisture (oven) tests and $1.00 for certification and record, plus a fee to cover the cost of sampling (including preparation and handling of the sample) on the basis of time and overtime, per diem, and travel expenses, if any, at rates prescribed in paragraph (a) of this section, except that if the lot inspection and certification service is based on an appeal sample obtained under the United States Grain Standards Act in an appeal for which the appeal fee is not refunded, the fees will be the same as provided in this paragraph for sample inspection and certification service.

(Sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624)

The foregoing provisions of § 68.4a formalize procedures for voluntary inspection services and should be made effective as soon as possible in order to be of maximum benefit to persons who wish to receive such services. The amendments of § 68.42a are for purposes of clarification and coordination with § 68.4a, and relate to costs of inspection, a matter on which the Department of Agriculture has complete information. They should be made effective at the same time as the provisions in § 68.4a. Therefore under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public rule-making procedure on the provisions in § 68.4a and the amendments of § 68.42a would be impracticable and unnecessary and good cause is found for making the provisions and amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Section 68.4a and the amendments of § 68.42a set forth above shall become effective on the 10th day of January 1959.

Done at Washington, D. C. this 5th day of January 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 59-189; Filed, Jan. 7, 1959; 8:50 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 4]

PART 728—WHEAT

Subpart—Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years

SUBSTITUTION OF WHEAT IN STORAGE

Basis and purpose. The amendment herein is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended and supplemented, and is for the purpose of requiring that wheat which is to be substituted for excess wheat in storage must be placed in storage and properly secured prior to release of the excess wheat for which substitution is made. Prior to preparing the regulations in this subpart, public notice (23 F. R. 6797) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). Such notice stated that it was proposed to provide, beginning with the 1959 crop of wheat, that substitution of stored excess wheat in non-licensed storage would not be permitted. The data, views, and recommendations pertaining to the regulations which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended, and it has been determined not to eliminate the substitution provision, but to modify it in accordance with the amendment herein. Language has also been added to make it clear that the substitution provisions do not permit the substitution of warehouse receipts deposited in escrow to postpone or avoid the penalty.

Section 728.879 (b) is amended to read as follows:

(b) *Kinds of storage; commingling and substitution.* Excess wheat shall be stored either in an elevator or warehouse duly licensed and authorized to issue warehouse receipts under Federal or State laws, hereinafter referred to as "licensed storage", or in any other place adapted to the storage of wheat, hereinafter referred to as "non-licensed storage". Commingling and substitution of wheat shall be permissible in the case of licensed storage, but this shall not be construed to permit the substitution of warehouse receipts deposited in escrow with the county committee to postpone or avoid payment of penalty under para-

graph (c) of this section. In the case of non-licensed storage, excess wheat may, with the prior written approval of the county committee, be commingled with stored excess wheat from any other year, and any or all stored excess wheat may be replaced by wheat from any other year produced by the same producer on the same or any other farm if (1) the county committee gives prior written approval of such replacements; (2) the wheat to be used for substitution is in storage; (3) the county committee determines that the wheat to be used for substitution is of a quality equal to or better than the excess wheat in storage and for which substitution is to be made; and (4) the requirements of this section with respect to furnishing a bond or depositing funds in escrow are complied with. The removal of stored excess wheat from storage without compliance with all conditions precedent or subsequent to such removal shall constitute unauthorized depletion of the storage amount and shall be subject to penalty as provided in paragraph (g) of this section. Wheat in which the producer has an interest produced on any farm may be stored in any location to postpone the penalty on any excess wheat in which the same producer has an interest, provided the wheat so stored is determined by the county committee to be of a quality equal to or better than the wheat produced on the farm with the excess. The storage of wheat in non-licensed storage shall be effective only if the producer submits a written statement showing the exact location of the stored wheat by quarter section or other comparable descriptive location in areas where description is not by quarter sections. Excess wheat for any year which was properly stored in non-licensed storage in order to postpone the payment of a penalty or with a view to avoiding such penalty may be moved to licensed storage if, prior to the movement of the wheat, a written request to do so is filed with the county committee and approval of such committee is granted in writing and if the wheat is moved and stored in licensed storage in accordance with paragraph (c) of this section within 15 days after approval is granted. When all requirements for licensed storage have been met in accordance with the foregoing provisions, the bond or escrow funds held in connection with the non-licensed storage may be released. The penalty on any stored wheat removed from non-licensed storage without the prior written authorization from the county committee shall be due on such removal. Wheat produced on a farm by any producer may be placed in non-licensed storage and substituted for excess wheat of any crop which was properly stored in order to postpone or avoid payment of a penalty, if a written request to do so is filed with the county committee and approval of such committee is granted in writing upon the determination of the county committee that the wheat to be stored in non-licensed storage is of a quality equal to or better than the wheat in licensed storage, and the wheat in an amount equal to the amount in licensed storage for which substitution is desired is stored in non-licensed storage in accordance with this paragraph and paragraph (d) of this section and is secured by a good and sufficient bond of indemnity or the deposit of funds in escrow, as provided in paragraph (d) of this section. When all requirements for non-licensed storage have been met in accordance with this section, the warehouse receipt covering the wheat in licensed storage shall be returned to the person who deposited it. Wheat stored in non-licensed storage shall be subject to inspection at all times by officers or employees of the Department, or members, officers or employees of the appropriate State or county committees.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies 55 Stat. 203, as amended; 7 U. S. C. 1340)

Issued at Washington, D. C., this 2d day of January 1959.

[SEAL] E. L. PETERSON,
Acting Secretary.

[F. R. Doc. 59-174; Filed, Jan. 7, 1959; 8:47 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 912—MILK IN DUBUQUE, IOWA MARKETING AREA

Order Amending Order

AUTHORITY: §§ 912.0 to 912.101 issued under sec. 5, 49 Stat. 753 as amended; 7 U. S. C. 608c.

§ 912.0 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 upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 Dubuque, Iowa, marketing area. 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, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant that is allocated to Class I milk pursuant to § 912.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than February 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued October 23, 1958 and the decision of the Acting Secretary containing all amendment provisions of this order, was issued December 12, 1958. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective February 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) *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 Dubuque, Iowa, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 912.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 912.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 912.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 912.4 Person.

"Person" means any individual, partnership, corporation, association, or other business unit.

§ 912.5 Cooperative association.

"Cooperative association" means any cooperative association of producers that the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act".

§ 912.6 Dubuque, Iowa, marketing area.

"Dubuque, Iowa, marketing area", hereinafter called the "marketing area", means the territory within the boundaries of the city of Dubuque, the township of Dubuque, sections 1, 2, 3, 11, and 12 of the township of Table Mound, and sections 5 and 6 of the township of Mosalem, all in Dubuque County, Iowa, and the city of East Dubuque, Illinois, including territory within such boundaries that is occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 912.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

§ 912.8 Distributing plant.

"Distributing plant" means a plant in which any Grade A fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plans) located in the marketing area.

§ 912.9 Supply plant.

"Supply plant" means a plant from which Grade A milk, skim milk or cream is shipped during the month to a pool plant.

§ 912.10 Pool plant.

"Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 10 percent of such receipts are so disposed of to such outlets in the marketing area: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month or during the 12-month period immediately preceding such month are more than the total pounds of Grade A milk received at its plant from dairy farmers during the respective corresponding period: *Provided,* That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months: *And provided further,* That such plant shall be a nonpool plant during any month in which it would be subject to the classification and pricing provisions of another order issued pursuant to the act unless a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and pool plants in the Dubuque marketing area than in the marketing area regulated pursuant to such other order.

§ 912.11 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant that receives

milk from dairy farmers or is a milk manufacturing, processing or bottling plant.

§ 912.12 Handler.

"Handler" means: (a) Any person in his capacity as the operator of one or more pool plants or in his capacity as the operator of a distributing plant that is not a pool plant, or (b) any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 912.13 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from sources other than pool plants.

§ 912.14 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk received at a pool plant directly from producers: *Provided*, That milk diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association shall be deemed to have been received by the diverting handler at the plant from which diverted: *And provided further*, That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler at the plant from which diverted on such days.

§ 912.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except frozen cream, aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 912.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 912.17 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 912.25 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 912.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 912.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 912.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 912.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 912.30 and 912.31, or payments pursuant to §§ 912.62, 912.80, 912.84, 912.86, 912.87 and 912.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 912.50 (a) and the Class I butterfat differential pursuant to § 912.51 (a), both for the current month; and the minimum price for Class II milk pursuant to § 912.50 (b) and the Class II butterfat differential pursuant to § 912.51 (b), both for the preceding month; and

(2) The 10th day after the end of each month, the uniform price pursuant to § 912.71 and the producer butterfat differential pursuant to § 912.81; and

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 912.30 Report of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in or represented by fluid milk products received from other pool plants;

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

(d) The quantities of skim milk and butterfat contained in or represented by producer milk diverted to nonpool plants pursuant to § 912.14;

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

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

(g) Such other information with respect to the utilization of butterfat and skim milk as the market administrator may prescribe.

§ 912.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool

plants his producer payroll for such month which shall show for each producer:

(1) His name and address,

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

(3) The number of days, if less than the entire month, for which milk was received from such producer,

(4) The average butterfat content of such milk, and

(5) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

§ 912.32 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations including the amount and nature of any deductions and the disbursement of money so deducted.

§ 912.33 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 912.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 912.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 912.41 through 912.46.

§ 912.41 Classes of utilization.

Subject to the conditions set forth in § 912.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) (2) of this section) and (2) not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be (1) skim milk and butterfat used to produce any product other than a fluid milk product; (2) skim milk disposed of for livestock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping; (3) skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month; and (4) skim milk and butterfat in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 912.14) and other source milk but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively.

§ 912.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and other source milk.

§ 912.43 Responsibility of handlers and reclassification of milk.

All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 912.44 Transfers.

Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to another pool plant unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator pursuant to § 912.30; *Provided:* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after making the calculations prescribed in § 912.46 (a) (6) and the corresponding step in (b) for such plant and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further*, That if other source milk was received at either or both plants the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product;

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 300 miles, by the shortest highway distance as determined by the market administrator, from the Dubuque, Iowa, Post Office; and

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the Dubuque, Iowa, Post Office, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 912.30 for the month within which such transactions occurred;

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

(3) The skim milk and butterfat in the fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month directly from Grade A farms that the market administrator determines constitute the regular source of supply for such plant: *Provided*, That any skim milk or butterfat in fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farms shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further*, That if the total skim milk and butterfat which were transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this order and other orders issued pursuant to the Act is more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso hereof, the skim milk and butterfat assigned to Class I milk at a pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the Act.

§ 912.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for each pool plant and shall compute the pounds of butterfat and skim milk in each class at each such plant: *Provided*, That 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 disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water reasonably associated with such solids in the form of whole milk.

§ 912.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 912.45, the market administrator shall determine the classification of producer milk received at the pool plants of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 912.41 (b) (4);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk that were received in the form of fluid milk products in containers not larger than a gallon, that are subject to the Class I pricing provisions of another order issued pursuant to the Act, and that are disposed of as Class I in the same form as received.

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products that are not subject to the Class I pricing provisions of an order issued pursuant to the act;

(5) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk that were received in the form of fluid milk products that are subject to the Class I pricing provisions of another order issued pursuant to the act and that were not subtracted pursuant to subparagraph (2) of this paragraph;

(6) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from other pool plants according to the classification of such products as determined pursuant to § 912.44 (a); and

(8) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds in skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 912.50 Class prices.

Subject to the provisions of §§ 912.51 and 912.52 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the price for Class I milk established under Federal Order No. 44, as amended, regulating the handling of milk in the Quad Cities marketing area, minus 10 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Company, Dixon, Ill.
Carnation Company, Morrison, Ill.
Carnation Company, Oregon, Ill.
Carnation Company, Waverly, Iowa.
United Milk Products Co., Argo Fay, Ill.

§ 912.51 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month pursuant to § 912.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.110.

§ 912.52 Location differentials to handlers.

For that milk which is received from producers at a pool plant located 50 miles or more from the Dubuque, Iowa, Post Office, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 912.50 (a) shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Dubuque, Iowa, Post Office: *Provided,* That for the purpose of calculating the location differential adjustment applicable pursuant to this section, fluid milk products which are transferred in bulk between pool plants shall be assigned to any remainder of Class II milk in the transferee plant after making the calculations prescribed in § 912.46 (a) (6) and the comparable step in (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable to each plant, beginning with the plant having the largest differential.

§ 912.53 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 912.60 Producer-handler.

Sections 912.40 through 912.46, 912.50 through 912.52, 912.70, 912.71 and 912.80 through 912.88 shall not apply to a producer-handler.

§ 912.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 912.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Dubuque, Iowa marketing area than in the marketing area regulated pursuant to such other order: *Provided,* That the operator of a distributing plant, or a supply plant that is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 912.30) and allow verification of such reports by the market administrator.

§ 912.62 Handlers operating nonpool plants.

Each handler in his capacity as the operator of a nonpool plant shall, on or before the 12th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount obtained by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month by the rate determined pursuant to § 912.63.

§ 912.63 Rate of payment on unpriced milk.

The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I shall be any plus amount obtained by subtracting from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk;

(a) During the months of December through July, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of August through November, the uniform price pursuant to § 912.71 adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICE

§ 912.70 Computation of value of milk for each handler.

The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 912.46 (a) (8) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of producer milk classified in Class II less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 912.46 (a) (6) and the corresponding step of (b); and

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 912.46 (a) (3) and (4) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 912.63 at the nearest nonpool plant(s) from which an equivalent amount of such other source skim milk or butterfat was received: *Provided*, That if the source of any Class I products at a pool plant is not clearly established or if such skim milk is in the form of nonfat dry milk, they shall be considered to have been received from a source at the location of the pool plant where they are classified.

§ 912.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content, f. o. b. pool plants located within 50 miles of the Dubuque, Iowa, Post Office, as follows:

(a) Combine into one total the values computed pursuant to § 912.70 for all handlers who made the reports prescribed in § 912.30 for such month, except those in default of payments required pursuant to § 912.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of such producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 912.82;

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section.

§ 912.72 Notification of handlers.

On or before the 10th day of each month the market administrator shall notify each handler with respect to his pool plants:

(a) The amount and value of milk in each class computed pursuant to §§ 912.46 and 912.70 and the totals of such amounts and values;

(b) The uniform price computed pursuant to § 912.71;

(c) The amount due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 912.80 and 912.84; and

(e) The amounts to be paid by such handler pursuant to §§ 912.87 and 912.88.

PAYMENT FOR MILK

§ 912.80 Time and method of payment for producer milk.

(a) On or before the 15th day after the end of each month each handler shall pay to each producer for producer milk received from him during such month for which payment is not made to a cooperative association pursuant to paragraph (b) of this section an amount computed at not less than the uniform price adjusted pursuant to §§ 912.81, 912.82 and 912.87.

(b) On or before the 12th day after the end of each month each handler shall make payment to a cooperative association for producer milk that it caused to be delivered to such handler during such month, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk.

(c) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, that shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from each producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate that 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 or cooperative association.

§ 912.81 Butterfat differentials to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in the producer milk allocated to Class I and Class II milk during the month pursuant to § 912.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 912.82 Location differentials to producers.

The uniform price pursuant to § 912.71 for producer milk received at a pool plant located 50 miles or more from the Dubuque, Iowa, Post Office, by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Dubuque, Iowa, Post Office.

§ 912.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 912.62, 912.84, 912.85, and 912.86: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 912.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount by which the obligation pursuant to § 912.80 of such handler to producers for milk received at a pool plant during the month is less than the value of such producer milk pursuant to § 912.70: *Provided*, That to this amount shall be added one-half of 1 percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue.

§ 912.85 Payments out of the producer-settlement fund.

On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation pursuant to § 912.80 of such handler for producer milk received during the month exceeds the value of such producer milk pursuant to § 912.70: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 912.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 912.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors re-

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

§ 912.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 912.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 12th day after the end of each month, pay over such deductions to the association rendering such services.

§ 912.88 Expense of administration.

As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant that is allocated to Class I milk pursuant to § 912.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 912.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 912.90 Effective time.

The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 912.91 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 912.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 912.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 912.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 912.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Issued at Washington, D. C., this 2d day of January 1959, to be effective on and after the 1st day of February 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F. R. Doc. 59-170; Filed, Jan. 7, 1959; 8:47 a. m.]

Title 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board-Federal Aviation Agency

SUBCHAPTER A—CIVIL AIR REGULATIONS

[Civil Air Regs., Amdt. 41-22]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

Scheduled United States—Alaska and Intra-Alaska Operations

By virtue of the provisions of the Alaska Statehood Act (P. L. 85-508, 72 Stat. 339), adopted on July 7, 1958, the former Territory of Alaska will be admitted into the Federal Union upon the issuance of the Presidential Proclamation contemplated by section 8 (c) of that Act. Accordingly, it is necessary to amend § 41.0 of the Civil Air Regulations in order to insure that the provision of scheduled air services between the 48 states on the Continental mainland, and the new State of Alaska as well as the provision of such service to pairs of points within the boundaries of the new state will continue to be governed by the safety regulatory provisions of Part 41.

Since the provisions of Part 41 are presently applicable to such operations, the amendment does not impose any additional burden upon any person and is purely technical in nature. For these reasons, the Administrator finds that compliance with the notice, public participation and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the Federal Aviation Agency hereby amends Part 41 of the Civil Air Regulations (14 CFR Ch. I), effective upon the date when the State of Alaska is admitted to the Union, as follows:

1. Amend § 41.0 by adding the following sentence at the end of that section: "The regulations in this part shall also apply to scheduled air transportation operations conducted by air carriers between a place in any State in the United States and the State of Alaska and to such operations conducted between points within the State of Alaska."

2. Amend § 41.1 (a) by changing the phrase "Territory of Alaska" to "State of Alaska."

This amendment shall be effective upon the date when the State of Alaska is admitted to the Union.

(Sec. 313 (a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply secs. 601, 604; 72 Stat. 775, 778)

Adopted: January 2, 1959.

E. R. QUESADA,
Administrator.

[F. R. Doc. 59-176; Filed, Jan. 7, 1959; 8:48 a. m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 47—REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Pursuant to the act of August 21, 1957 (71 Stat. 374), a proposed regulation to govern the revision of the membership roll of the Eastern Band of Cherokee Indians of North Carolina prepared and approved pursuant to the act of June 4, 1924 (43 Stat. 376), as amended by the act of March 4, 1931 (46 Stat. 1518), was published in the FEDERAL REGISTER on September 3, 1958, under the procedures for proposed rule making. All interested persons were given an opportunity to submit to the Commissioner of Indian Affairs, Washington 25, D. C., written comments, suggestions, or objections with respect to the proposed regulation within thirty days after the date of publication in the FEDERAL REGISTER of the notice of proposed rule making.

No comments, suggestions or objections were received by the Commissioner of Indian Affairs and the regulation as set forth below is hereby adopted.

ELMER F. BENNETT,
Acting Secretary of the Interior.

DECEMBER 31, 1958.

Sec.

AUTHORITY: §§ 47.1 to 47.17 issued under sec. 2, 71 Stat. 374.

§ 47.1 Definitions.

As used in this part:

(a) "Band" means the Eastern Band of Cherokee Indians in North Carolina.

(b) "Reservation" means the lands of the Eastern Band of Cherokee Indians in the counties of Jackson, Swain, Graham, Cherokee and Haywood in North Carolina.

(c) "Tribal Council" means the Tribal Council of the Eastern Band of Cherokee Indians in North Carolina.

(d) "Announcement" means the announcement of the revision of the membership roll issued as required in § 47.3.

§ 47.2 Purpose.

The regulations in this part are to govern the revision, as authorized by the Act approved August 21, 1957 (71 Stat. 374), of the membership roll of the Eastern Band of Cherokee Indians, North Carolina, prepared and approved in accordance with the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518).

§ 47.3 Announcement of revision of roll.

When the Tribal Council has authorized the expenditure of tribal funds to supply sufficient staff to perform the work necessary to revise the membership roll of the Band and such staff has been employed and when the application forms and other necessary documents have been devised and printed, the Principal Chief, or in his absence the Vice Chief or the Chairman of the Tribal Council shall announce that a revision of the membership roll of the Band shall commence on a specified date. The date specified shall be not less than 15 days nor more than 30 days from the date of issuance of the announcement. A press release should be prepared announcing the date the revision of the roll shall begin, together with other pertinent information such as the membership requirements and where application forms may be obtained. The press release should be distributed to all newspapers and radio stations within the region of the Reservation with a request that it be given wide publicity. Copies of the press release should also be posted in the Agency Office and at various other public places throughout the Reservation as well as in Post Offices of the towns adjacent to the Reservation.

§ 47.4 Basic membership roll.

All persons whose names appear on the roll of the Eastern Band of Cherokee Indians of North Carolina, prepared and approved pursuant to the act of June 4, 1924 (43 Stat. 376), and the act of March 4, 1931 (46 Stat. 1518), shall be members of the Band.

§ 47.5 Removal of deceased persons from the roll.

The name of any person who was not alive as of midnight August 21, 1957, shall be stricken from the basic membership roll by the Enrollment Committee upon receipt of a death certificate or other evidence of death acceptable to the Committee.

§ 47.6 Additions to the roll.

There shall be added to the roll of the Band the names of persons living on August 21, 1957, who meet the following qualifications:

(a) Persons born during the period, beginning on or after June 4, 1924, and

ending midnight August 21, 1957, who are direct descendants of persons whose names appear on the roll prepared and approved pursuant to the act of June 4, 1924 (43 Stat. 376), and the act of March 4, 1931 (46 Stat. 1518); provided, such persons:

(1) Possess 1/32 degree of Eastern Cherokee Indian blood, except that persons who also possess Indian blood of another tribe shall not be enrolled if they are enrolled as members of the other tribe.

(2) Have actually lived at sometime during the period from June 4, 1924, through August 21, 1957, on the lands of the Eastern Band of Cherokee Indians in the counties of Swain, Jackson, Graham, Cherokee, and Haywood in North Carolina, except that this specific part of this section shall not apply to those persons and members of their families who were temporarily away from the Reservation due to one or both parents being in the United States Armed Services or who were employed by the United States Government and neither shall it apply to those individuals who were in mental or penal institutions during this period of time.

(3) Have filed an application for enrollment with the Band in accordance with the procedures set forth in this part.

(b) A child born out of wedlock to a mother who is either an enrolled member of the Band, or who meets the qualifications for enrollment as a member, may be enrolled if such child otherwise meets the requirements for enrollment as set forth in this section.

(c) A child born out of wedlock to a mother who is not a member of the Band may be enrolled if the mother files with the Enrollment Committee proof established in accordance with the laws of North Carolina as to the paternity of the child and the person adjudged to be the father is either an enrolled member of the Band, or meets the requirements for enrollment as a member, and if the child otherwise meets the requirements for enrollment as set forth in this section.

§ 47.7 Applications for enrollment.

Each adult person who believes he meets the requirement for enrollment established herein may within one hundred twenty (120) days from the date specified in the announcement submit to the Enrollment Committee an application for enrollment as a member of the Eastern Band of Cherokee Indians, except that persons who are in the Armed Forces of the United States shall have one hundred twenty (120) days from the date of discharge from the Armed Forces to submit applications for enrollment.

§ 47.8 Applications for minors and incompetents.

Applicants for enrollment of minors may be filed within one hundred twenty (120) days from the date specified in the announcement, by the parent, next of kin, recognized guardian, or other person responsible for their care, except that applications for the enrollment of minor children of persons in the Armed Forces of the United States may be filed within one hundred twenty (120) days from the date of discharge of such persons from the Armed Forces. Applications for enrollment of persons known to be in mental or penal institutions may be filed by the Principal Chief of the Eastern Band of Cherokee Indians within one hundred twenty (120) days from the date specified in the announcement.

§ 47.9 Application form.

The form of application for enrollment will be prepared by the Enrollment Committee and, in addition to whatever information the committee may deem necessary, shall contain the following:

(a) The name and address of the applicant. If the application is filed on behalf of a minor, the name and address of the person filing the application and his relationship to the minor.

(b) The name, relationship, tribe and roll number of the ancestor or ancestors through whom enrollment rights are claimed, and whether applicant is enrolled with another tribe.

(c) The date of the death of such ancestor, if deceased.

§ 47.10 Where application forms may be obtained.

Application forms will be supplied by the Enrollment Committee of the Eastern Band of Cherokee Indians, Council House, Cherokee, North Carolina, upon request, either in person or by mail.

§ 47.11 Proof of relationship.

If the applicant's parents or other Eastern Cherokee ancestors through whom the applicant claims enrollment rights are unknown to the Enrollment Committee, the Enrollment Committee may request the applicant to furnish such additional information and evidence as it may deem necessary to determine the applicant's eligibility for enrollment. Failure of the applicant to furnish the information requested may be deemed sufficient cause for rejection.

§ 47.12 Enrollment Committee.

The Tribal Council shall appoint either from within or without the membership of the Council, but not from without the membership of the Band, a committee of three (3) persons to serve as the Enrollment Committee. The Enrollment Committee shall review all applications for enrollment filed in accordance with the regulations in this part and shall determine the qualifications of the applicant for enrollment with the Band. The Enrollment Committee may perform such other functions relating to enrollment and membership in the Band as the Tribal Council may from time to time direct.

§ 47.13 Tenure of Enrollment Committee.

The members of the first Enrollment Committee after the approval and publication in the FEDERAL REGISTER of the regulations in this part shall be appointed to serve as follows: One member for one year, one member for two years, and one member for three years.

At the expiration of each term of office thereafter all appointments shall be made for three years.

§ 47.14 Appeals.

Any person whose application for enrollment has been rejected by the Enrollment Committee shall have the right to appeal to the Tribal Council from the determination made by the Enrollment Committee: *Provided*, That such appeal shall be made in writing and shall be filed within sixty (60) days from the date on which the Enrollment Committee issues notice to the applicant of his rejection. The applicant may submit with his appeal any additional data to support his claim to enrollment not previously furnished. The decision of the Tribal Council as to whether the applicant meets the requirements for enrollment set forth in this part shall be final. The Tribal Council shall review no applications for enrollment except in those cases where the rejected applicant appeals to the Council in writing from the determination made by the Enrollment Committee.

§ 47.15 Current membership roll.

The membership roll of the Eastern Band of Cherokee Indians shall be kept current by striking therefrom the names of persons who have relinquished their membership in the Band as provided in § 47.17 and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Enrollment Committee, and by adding thereto the names of children who meet the qualifications for membership in the Band as set forth in this part.

§ 47.16 Eligibility for enrollment of children born after August 21, 1957.

Children possessing 1/32 or more degree Eastern Cherokee Indian blood born between midnight August 21, 1957, and midnight of the date specified in the announcement may be enrolled as provided in § 47.8. Thereafter, children possessing 1/32 or more degree Eastern Cherokee Indian blood born to any member of the Eastern Band of Cherokee Indians may be enrolled: *Provided*, That the parent, next of kin, recognized guardian, or person responsible for their care indicates a willingness for the child to maintain tribal affiliation and to participate in tribal affairs by filing with the Enrollment Committee within ninety (90) days after the birth of the child an application to have the child enrolled. The application shall be accompanied by the child's birth certificate or by any other evidence as to the eligibility of the child for enrollment as the Enrollment Committee may require. If the certificate, other evidence, and application are not filed within the designated time the child shall not be enrolled.

§ 47.17 Relinquishment of membership.

Any member of the Eastern Band of Cherokee Indians may relinquish his membership in the Band by filing notice in writing that he no longer desires to be enrolled as a member of the Band. On receipt of such notice the name of the member shall be stricken from the roll and he shall no longer be considered as a member of the Band and shall not be entitled to share in any use or in any distribution of tribal assets which may

be made in the future to the enrolled members of the Band.

[F. R. Doc. 59-158; Filed, Jan. 7, 1959; 8:45 a. m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 2—GENERAL REGULATIONS

Employee Welfare or Pension Benefit Plans

The enactment of the Welfare and Pension Plans Disclosure Act (72 Stat. 997 et seq.), to become effective January 1, 1959, makes it necessary, (1) to prepare and to make available forms for the required publication of the description of such plans and of each annual report thereon, (2) to establish procedures governing the required filing by administrators of copies of the description of such plans and of such annual reports with the Secretary of Labor, and (3) to provide for the public examination of such filed copies of descriptions and annual reports in the Public Document Room of the Department of Labor.

Therefore, in accordance with section 3 of the Administrative Procedure Act (60 Stat. 238, 5 U. S. C. 1002), and under authority of section 8 of the Welfare and Pension Plans Disclosure Act (72 Stat. 1002), and R. S. 161 (5 U. S. C. 22), Part 2 of 29 CFR is hereby amended by adding a new § 2.11 to read as follows:

§ 2.11 Filing of copies of the description of employee welfare or pension benefit plans and copies of each annual report thereon under section 8 of the Welfare and Pension Plans Disclosure Act, and examination thereof in the Public Document Room of the U. S. Department of Labor.

(a) The administrator of any employee welfare benefit plan, or of any employee pension benefit plan, or of any plan combining benefits of both types, which plan is subject to the provisions of the Welfare and Pension Plans Disclosure Act (hereinafter referred to as the Act), shall file with the Welfare and Pension Reports Division, Bureau of Labor Standards, U. S. Department of Labor, Washington 25, D. C., two copies of the description of each such plan, and two copies of each annual report thereon.

(1) The description of each plan shall contain the information and documents required by section 6 of the Act, and each annual report thereon shall contain the information and documents required by section 7 of the Act. Each of the copies of the description of each such plan submitted to the Welfare and Pension Reports Division for filing, shall be signed and sworn to by the administrator of the plan. Each copy of each annual report with respect to each such plan shall be signed by the administrator thereof, and also shall be sworn to by the administrator, or certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. No audit is required of the books or records of any bank, insurance company, or other institution providing an insurance, investment or related function for the plan, if such books or records are subject to examination by any agency of the Federal Government, or the government of any State.

(2) The required publication of the description of each such plan, and of each amendment or modification thereto, may be made on U. S. Department of Labor Form D-1,[1] entitled "Employee Welfare or Pension Benefit Plan Description Form."

(3) Copies of U. S. Department of Labor Form D-1, together with instructions and a guide for its use, are available to administrators of plans and will be furnished upon request directed to the Welfare and Pension Reports Division, Bureau of Labor Standards, U. S. Department of Labor, Washington 25, D. C., or may be obtained in quantities of 50 or less from the following offices of the Wage and Hour and Public Contracts Divisions: U. S. Department of Labors:

Boston 10, Mass	18 Oliver Street.
New York 1, N. Y	900 U. S. Parcel Post Building, 341 Ninth Avenue.
Chambersburg, Pa	Wolf Avenue and Commerce Street.
Birmingham 5, Ala	1401 South 20th Street.
Cleveland 14, Ohio	216 Engineers Building, 1365 Ontario Street.
Chicago 3, Ill	105 West Adams Street.
Kansas City 6, Mo	2000 Federal Office Building, 911 Walnut Street.
Dallas 2, Tex	Room 222, 1114 Commerce Street.
San Francisco 11, Calif.	630 Sansome Street.
Nashville 3, Tenn	U. S. Courthouse Building, 801 Broad Street.
Raleigh, N. C	State Department Building, Salisbury and Edenton Streets.
Juneau, Alaska	201 Federal Bldg. (P. O. Box 1030).
San Juan 23, P. R	New York Department Store Building, Fortaleza, Corner San Jose (P. O. Box 4361).
Honolulu 2, T. H	345 Federal Bldg., King and Richards Streets.

(4) Copies of the descriptions of such plans shall be filed with and received by the Welfare and Pension Reports Division, Bureau of Labor Standards, U. S. Department of Labor, Washington 25, D. C., not later than April 1, 1959, or within 90 days after the establishment of such plan, whichever is later. Whenever any amendment or modification of any such plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7 of the Act, becomes effective two copies thereof shall be filed with the Welfare and Pension Reports Division.

(5) Copies of each annual report with respect to each such plan, shall be filed with and received by the Welfare and Pension Reports Division, Bureau of Labor Standards, U. S. Department of Labor, Washington 25, D. C., within 120 days after the end of the calendar year, or if the records of the plan are kept on a policy or other fiscal year basis, within 120 days after the end of such policy or fiscal year.

(6) The Welfare and Pension Reports Division will acknowledge in writing the receipt of documents submitted for filing as copies of the description of a welfare or pension benefit plan, and will give such submission an identifying number which will be endorsed on the acknowledgement. This number shall be entered on any documents subsequently submitted for filing relating to such plans and on each annual report thereon, and on any communications directed to the Welfare and Pension Reports Division concerning such plan descriptions or annual reports.

(7) The acknowledgment by the Welfare and Pension Reports Division of the receipt of documents submitted as copies of a description of a plan or of any amendment or modification thereto, or of an annual report, does not constitute approval thereof, or indicate that the content of such documents fulfills the requirements of the Welfare and Pension Plans Disclosure Act.

(b) Copies of the descriptions of welfare or pension benefit plans, amendments or modifications thereto, and annual reports thereon, on file with the Welfare and Pension Reports Division shall be made available for public examination in the Public Document Room of the U. S. Department of Labor, located in the Liberty Loan Building, 14th and D Streets SW., Washington 25, D. C., on regular work days, during regular business hours commencing at 8:15 a. m. and ending at 4:45 p. m.

(R. S. 161; 5 U. S. C. 22. Interprets or applies sec. 8, Pub. Law 85-836, 72 Stat. 1002)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 31st day of December 1958.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 59-195; Filed, Jan. 7, 1959; 8:50 a. m.]

[1] Filed as part of the original document.

Chapter V—Wage and Hour Division, Department of Labor

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1068, as amended; 29 U. S. C. 214), the Admistrator has heretofore issued regulations for the employment of learners, student learners, student workers, apprentices, handicapped persons, and handicapped clients in sheltered workshops, at wages lower than the minimum wage applicable under section 6 of the Act (52 Stat. 1062, as amended; 29 U. S. C. 206) under special certificates. These regulations codified in 29 CFR, 1957 Supp. Parts 520-522 and 524, 525, and 527.

A re-examination of these regulations in the light of administrative experience has indicated need for revision of their provisions concerning participation of interested persons (other than applicants and persons making the requests) in the grant or denial of applications for certificates thereunder and in the reconsideration or review of initial action on applications therefor. As such determinations constitute adjudications, rather than rules, and are not required by statute to be determined on the record after opportunity for an agency hearing, public notice is unnecessary. It is the purpose of these amendments to make uniform provision on this matter for each of these types of certificates, to eliminate any requirement of public notice, and to reserve administrative discretion for exercise on a case by case basis in identifying the persons (other than applicants and persons making the requests) whose interest is such as to warrant participation and the most appropriate means of extending invitations.

Accordingly, notice is hereby given that pursuant to authority under section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1068, as amended; 29 U. S. C. 214), Reorganization Plan No. 6 of 1950 (3 CFR, 1950 Supp., p. 165), and General Order No. 45–A (15 F. R. 3290) of the Secretary of Labor, 29 CFR 520.4 (a), 520.10 (e), 521.10, 521.11 (f), 522.4 (a), 522.9 (e), 524.11, 525.12, 525.13, and 527.4 (a) are hereby amended as follows:

PART 520—EMPLOYMENT OF STUDENT LEARNERS

§ 520.4 [Amendment]

1. Paragraph (a) of § 520.4 is amended to read as follows:

(a) Upon receipt of an application for the employment of a student-learner, the Administrator or his authorized representative shall issue a special certificate or deny the application. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views on the application prior to granting or denying a special student-learner certificate.

§ 520.10 [Amendment]

2. Paragraph (e) of § 520.10 is amended to read as follows:

(e) If a request for reconsideration or review is granted, the Administrator or his authorized representative may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

PART 521—EMPLOYMENT OF APPRENTICES

1. Section 521.10 is amended to read as follows:

§ 521.10 Investigations and hearings.

The Administrator or his authorized representative may conduct an investigation, which may include a hearing, prior to issuing or denying an application for a special certificate. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views on the application prior to granting or denying an apprentice certificate.

§ 521.11 [Amendment]

2. Paragraph (f) of 521.11 is amended to read as follows:

(f) If a request for reconsideration or review is granted, the Administrator or his authorized representative may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

PART 522—EMPLOYMENT OF LEARNERS

§ 522.4 [Amendment]

1. Paragraph (a) of 522.4 is amended to read as follows:

(a) Upon receipt of an application for a certificate or a renewal of a certificate, the Administrator or his authorized representative shall consider all of the relevant facts and, subject to the conditions specified in § 522.5, shall issue or deny a learner certificate. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views on the application prior to granting or denying a learner certificate.

§ 522.9 [Amendment]

2. Paragraph (e) of 522.9 is amended to read as follows:

(e) If a request for reconsideration or review is granted, the Administrator or his authorized representative may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

PART 524—EMPLOYMENT OF HANDICAPPED PERSONS

Section 524.11 is amended to read as follows:

§ 524.11 Review.

Any person aggrieved by an action of an authorized representative of the Administrator taken pursuant to this part may, within 15 days after such action, file with the Administrator a petition for review of the action complained of, setting forth grounds for seeking review. If such review is granted, the Administrator or an authorized representative who took no part in the action under review may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

PART 525—EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

1. Section 525.12 is amended to read as follows:

§ 525.12 Review.

Any person aggrieved by any action of an authorized representative of the Administrator taken pursuant to this part may, within 15 days or such additional time as the Administrator may allow, file with the Administrator a petition for review. Such review, if granted, shall be made either by the Administrator or by an authorized representative who took no part in the action under review, who may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

2. Section 525.13 is amended to read as follows:

§ 525.13 Amendment of this part.

The Administrator or his authorized representative may require at any time the submission of such information, other than that specified elsewhere in this part, as is deemed appropriate, or may conduct an investigation, which may include a hearing prior to taking any action pursuant to this part. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views.

PART 527—EMPLOYMENT OF STUDENT WORKERS

§ 527.4 [Amendment]

Paragraph (a) of 527.4 is amended to read as follows:

(a) Upon receipt of an application for the employment of student workers as learners, the Administrator or his authorized representative shall issue or deny a special certificate. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views on the application prior to granting or denying a student-worker certificate.

(Sec. 14, 52 Stat. 1068, as amended; 29 U. S. C. 214)

As these amendments are rules of agency procedure, rather than substantive rules, no provision is made for public participation or delay in their effective date. They will be effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 31st day of December 1958.

CLARENCE T. LUNDQUIST,
Administrator.

[F. R. Doc. 59–196; Filed, Jan. 7, 1959; 8:50 a. m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 1—GENERAL RULES OF PRACTICE

Filing of Applications By Motor Carriers of Property

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 31st day of December A. D. 1958.

It appearing, that the matter of special rules governing notice of filing of applications by motor carriers of property under section 7 (c) of the Transportation Act of 1958, and certain other procedural matters with respect thereto being under consideration:

It is ordered, That the following special rules be, and they are hereby prescribed:

§ 1.243 Special rules governing notice of filing of applications by motor carriers of property under section 7 (c) of the Transportation Act of 1958 and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the filing and handling of "grandfather" and "interim" applications by motor carriers of property under section 7 (c) of the Transportation Act of 1958. Except as otherwise herein provided, the general rules of practice shall apply.

(b) *Notice to interested persons.* Notice of the filing of such applications to interested persons shall be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries will be prepared by the Commission. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligations to file copies of the applications with State Boards and the District Directors of the Commission's Bureau of Motor Carriers as required by the instructions which are a part of the prescribed form of application.

(c) *Protests.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) Protests should set forth specifically the grounds upon which they are made and contain a concise statement of the interest of the protestant in the proceeding. Protests containing general allegations may be rejected.

(4) A protest filed under these special rules shall be served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER). The original and six copies of the protest shall be filed with the Commission.

(5) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(d) *Notice of hearing, conference, or other proceedings.* Notice of the time and place of any hearing, conference, or other proceeding will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other proceeding.

(e) *Intervention.* Section 1.73 relating to participation without intervention is inapplicable to applications subject to this paragraph. No person who fails to file a protest as provided in this paragraph will be permitted to intervene in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with § 1.72.

(f) *Notice of changes in time or place of hearing, conference, or other proceeding.* The applicant's representative (or applicant if he has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

It is further ordered, That this order shall become effective on the date hereof.

And it is further ordered, That notice of this order shall be given to each motor common and contract carrier of property and each broker of property subject to the jurisdiction of this Commission, and to the general public by depositing a copy in the Office of the Secretary of the Commission and by filing a copy with the Director, Division of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, secs. 204, 205, 49 Stat. 546, as amended, 548, as amended, sec. 304, 54 Stat. 933, sec. 403, 56 Stat. 285; and 49 U. S. C. 12, 17, 304, 305, 904, 1003)

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 59-187; Filed, Jan. 7, 1959; 8:49 a. m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12670; FCC 58-1259]

[Rules Amdt. 15-4]

PART 15—INCIDENTAL AND RESTRICTED RADIATION DEVICES

Radio Receivers

1. The Commission has before it a notice of proposed rule making (23 F. R. 8992) issued in response to a petition submitted by the Electronic Industries Association (EIA). The petition requested that the radiation limit applicable to UHF television receivers, which had been temporarily increased to 1000 microvolts per meter at 100 feet until December 31, 1958, be continued indefinitely. The notice of rule making proposed to grant the petition in part only, by continuing the mentioned temporary limit until December 31, 1960.

2. In its notice of proposed rule making the Commission also made it clear that the increased limit of UHF radiation did not apply to harmonics and other spurious signals radiated by VHF television receivers in the UHF band.

3. A comment was received from Sarkes Tarzian, Inc., which states merely that Sarkes Tarzian supports the original EIA petition for an indefinite extension of time. A comment was also received from the petitioner which supports the Commission's limited extension of time. No objections to the proposed rule making were received.

4. The Commission believes that the public interest will be served by adopting the attached amendment. Authority for such action is contained in section 4 (i), 301 and 303 (f) of the Communications Act of 1934, as amended (47 U. S. C. 154 (i), 301, 303 (f)).

5. Since the amendment herein ordered imposes no new requirement on any person but rather relieves an existing requirement, the amendment may be made effective less than 30 days after publication as provided in section 4 (c) of the Administrative Procedure Act

6. *It is ordered*, That effective January 1, 1959, Part 15 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154)

Adopted: December 30, 1958.

Released: January 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, *Secretary.*

Amend Part 15—Rules Governing Incidental and Restricted Radiation Devices as follows:

Delete present text of paragraph (b) of § 15.68 and substitute the following new text:

(b) UHF television broadcast receivers manufactured after December 1957, shall comply with the certification requirements of this subpart: *Provided, however*, That the limit of 500 uv/m appearing in the table contained in § 15.62 is temporarily increased to 1,000 uv/m for all UHF television receivers until December 31, 1960.

[F. R. Doc. 59-181; Filed, Jan. 7, 1959; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 44]

TAXES ON WAGERING; EFFECTIVE JANUARY 1, 1955

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

The following regulations are hereby prescribed under chapter 35 and certain other provisions of the Internal Revenue Code of 1954, as amended, effective January 1, 1955:

Subpart A—Introduction

Sec.
44.0–1 Introduction.
44.0–2 General definitions and use of terms.
44.0–3 Scope of regulations.
44.0–4 Extent to which the regulations in this part supersede prior regulations.

Subpart B—Tax on Wagers

44.4401 Statutory provisions; imposition of tax.
44.4401–1 Imposition of tax.
44.4401–2 Person liable for tax.
44.4401–3 When tax attaches.
44.4402 Statutory provisions; exemptions.
44.4402–1 Exemptions.
44.4403 Statutory provisions; record requirements.
44.4403–1 Daily record.
44.4404 Statutory provisions; territorial extent.
44.4404–1 Territorial extent.
44.4405 Statutory provisions; cross references.

Subpart C—Occupational Tax

44.4411 Statutory provisions; imposition of tax.
44.4411–1 Imposition of tax.
44.4412 Statutory provisions; registration.
44.4412–1 Registration.
44.4413 Statutory provisions; certain provisions made applicable.
44.4413–1 Certain provision made applicable.
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Subpart A—Introduction

§ 44.0–1 Introduction.

(a) *In general.* The regulations in this part are designated "Wagering Tax Regulations." The regulations relate to the taxes imposed by chapter 35 of the Internal Revenue Code of 1954, as amended, to certain general provisions of chapter 40 of such Code, and to certain related administrative provisions of subtitle F of such Code. Chapter 35 imposes an excise tax on wagers and a special tax to be paid by each person liable for the tax imposed on wagers and by each person engaged in receiving wagers for or on behalf of any person liable for the tax imposed on wagers. References in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into five subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, scope of the regulations, and the extent to which the regulations in this part supersede prior regulations relating to the taxes imposed by chapter 35 of the Internal Revenue Code. Subpart B relates to the tax on wagers. Subpart C relates to the special tax. Subpart D relates to certain miscellaneous and general provisions having application to taxes imposed by chapter 35. Subpart E relates to selected provisions of subtitle F of the Code (Procedure and Administration) which have special application to the taxes imposed by chapter 35 of the Code.

(c) *Arrangement and numbering.* Each section of the regulations in Subparts B, C, D, and E of this part is preceded by the section, subsection, or paragraph of the Internal Revenue Code which it interprets. The section of the regulations can readily by distinguished from sections of the Code since—

(1) The sections of the regulations are printed in larger type;

(2) The sections of the regulations are preceded by a section symbol and the part number, arabic numeral 44, followed by a decimal point (§ 44.); and

(3) The sections of the Code are preceded by "Sec.".

Each section of the regulations setting forth law or regulations is designated by a number composed of the part number followed by a decimal point (44.) and the number of the corresponding provision of the Internal Revenue Code of 1954. In the case of a section setting forth regulations, this designation is followed by a hyphen (-) and a number identifying such section.

§ 44.0–2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indicated—

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68A Stat.), entitled "An Act To revise the internal revenue laws of the United States", as amended.

(c) District director means district director of internal revenue.

(d) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

§ 44.0–3 Scope of regulations.

The regulations in this part apply to wagering activity on and after January 1, 1955.

§ 44.0–4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 132, 26 CFR (1939) Part 325.

Subpart B—Tax on Wagers

§ 44.4401 Statutory provisions; imposition of tax.

SEC. 4401 *Imposition of tax*—(a) *Wagers.* There shall be imposed on wagers, as defined in section 4421, an excise tax equal to 10 percent of the amount thereof.

(b) *Amount of wager.* In determining the amount of any wager for the purposes of this subchapter, all charges incident to the placing of such wager shall be included; except that if the taxpayer establishes, in accordance with regulations prescribed by the Secretary or his delegate, that an amount equal to the tax imposed by this subchapter has been collected as a separate charge from the person placing such wager, the amount so collected shall be excluded.

(c) *Persons liable for tax.* Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery. Any person required to register under section 4412 who receives wagers for or on behalf of another person without having registered under section 4412 the name and place of residence of such other person shall be liable for and shall pay the tax under this subchapter on all such wagers received by him.

[The last sentence of sec. 4401 (c) was added by sec. 151 of the Excise Tax Technical Changes Act 1958 (72 Stat. 1305) and is applicable only to wagers received after September 2, 1958.]

§ 44.4401–1 Imposition of tax.

(a) *In general.* Section 4401 imposes a tax on all wagers, as defined in section 4421. See §§ 44.4421 and 44.4421–1 for definition of the term "wager".

(b) *Rate of tax; amount of wager*—(1) *Rate of tax.* The tax is imposed at the rate of 10 percent of the amount of any taxable wager.

(2) *Amount of wager.* (i) The amount of the wager is the amount risked by the bettor, including any charge or fee incident to the placing of the wager as provided in subdivision (iv) of this subparagraph, rather than the amount which he stands to win. Thus, if a bettor bets $5 against a bookmaker's $7 with respect to the outcome of a prize fight, the amount of the wager subject to tax is $5.

(ii) In the case of a "parlay" wager (i.e., a single wager made by a bettor on the outcome of a series of events, usually horse races), the amount of the taxable wager is the amount initially wagered by the bettor irrespective of whether the parlay is successful. In the case of an "if" wager, the amount of the taxable wager is the total of all amounts wagered on each selection of the bettor. For example, A makes a $10 wager on horse R with the understanding that if horse R wins, $5 is to be wagered on horse S and $5 on horse T. If horse R wins, the taxable wager is $20. If horse R loses, the taxable wager is $10. In determining the amount of a taxable wager involving the features of, or a combination of, "parlay" and "if" bets, such as wagers sometimes referred to as a "whipsaw" or an "if and reverse" bet, the rules set forth above relating to "parlay" and "if" bets are to be followed. For example, assume B wagers $10 on horse R with the understanding that if horse R wins, $5 is to be placed as a parlay wager on horses S and T. In such a case, if horse R loses, the taxable wager is $10; if horse R wins, there are two taxable wagers amounting in the aggregate to $15.

(iii) In the case of punchboards with prizes of merchandise, cash, or free plays listed thereon, the amount of the taxable wager is the cost of all chances taken by the bettor, including additional chances taken by the bettor in lieu of the acceptance of an equivalent amount in cash or merchandise.

(iv) In determining the amount of any wager subject to tax there shall be included any charge or fee incident to the placing of the wager. For example, in the case of a wager with respect to a horse race, any amount paid to a bookmaker for the purpose of guaranteeing the bettor a pay-off based on actual track odds is to be included as a part of the wager. Similarly, in the case of a lottery, any amount paid to the operator thereof by the bettor for the privilege of making a contribution to the pool or bank is also to be included in the amount of the wager. However, the amount of the wager subject to tax shall not include the amount of the tax where it is established by actual records of the taxpayer that such amount of tax was collected from the bettor as a separate charge.

§ 44.4401–2 Person liable for tax.

(a) *In general.* (1) Every person engaged in the business of accepting wagers with respect to a sports event or a contest is liable for the tax on any such wager accepted by him. Every person who operates a wagering pool or lottery conducted for profit is liable for the tax with respect to any wager or contribution placed in such pool or lottery. To be liable for the tax, it is not necessary that the person engaged in the business of accepting wagers or operating a wagering pool or lottery physically receive the wager or contribution. Any wager or contribution received by an agent or employee on behalf of such person shall be considered to have been accepted by and placed with such person.

(2) Any person required to register under section 4412 by reason of having received wagers for or on behalf of another person, but who fails to register the name and place of residence of such other person (hereinafter in this subparagraph referred to as principal), shall be liable for the tax on all wagers received by him during the period he has failed to so register the name and place of residence of such principal. Subsequent compliance with section 4412 by the person receiving wagers for another does not relieve him of his liability and duty to pay such tax, nor will the fact that such person incurs liability with respect to the tax on such wagers, relieve his principal of liability for the tax imposed under section 4401 with respect to such wagers. Accordingly, both the person receiving the wagers and his principal shall be liable for the tax on such wagers until the tax is paid. Payment of the tax on such wagers shall not relieve the person receiving wagers of any penalty for failure to register as required by section 4412. This subparagraph has application only to wagers received after September 2, 1958.

(b) *In business of accepting wagers.* A person is engaged in the business of accepting wagers if he makes it a practice to accept wagers with respect to which he assumes the risk of profit or loss depending upon the outcome of the event or the contest with respect to which the wager is accepted. It is not intended that to be engaged in the business of accepting wagers a person must be either so engaged to the exclusion of all other activities or even primarily so engaged. Thus, for example, an individual may be primarily engaged in business as a salesman, and also for the purpose of the tax be engaged in the business of accepting wagers.

(c) *Lay-offs.* If a person engaged in the business of accepting wagers or conducting a lottery or betting pool for profits lays off all or part of the wagers placed with him with another person engaged in the business of accepting wagers or conducting a betting pool or lottery for profit, he shall, notwithstanding such lay-off, be liable for the tax on the wagers or contributions initially accepted by him. See § 44.6419–2 for credit and refund provisions applicable with respect to laid-off wagers.

§ 44.4401–3 When tax attaches.

The tax attaches when (a) a person engaged in the business of accepting wagers with respect to a sports event or a contest, or (b) a person who operates a wagering pool or lottery for profit, accepts a wager or contribution from a bettor. In the case of a wager on credit, the tax attaches whether or not the amount of the wager is actually collected from the bettor. However, if an amount

equivalent to the amount of the wager is paid to the bettor prior to the close of the calendar month in which such wager was accepted, either because of the cancellation of the event upon which the wager was placed, or because the wager was cancelled or rescinded by mutual agreement, the wager need not be reported on the taxpayer's return for such month. Where such cancellation or rescission takes place in a month subsequent to the month in which the wager was accepted, credit or refund of the tax paid with respect to such wager may be made subject to the provisions of § 44.6419–1.

§ 44.4402 Statutory provisions; exemptions.

SEC. 4402. *Exemptions.* No tax shall be imposed by this subchapter—

(1) *Parimutuels.* On any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law, and

(2) *Coin-operated devices.* On any wager placed in a coin-operated device with respect to which an occupational tax is imposed by section 4461, or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462 (a) (2) (B), if an occupational tax is imposed with respect to such device by section 4461.

[Sec. 4402 as amended by sec. 152 (b), Excise Tax Technical Changes Act, 1958 (72 Stat. 1305), which added to par. (2) material following "imposed by section 4461". Effective January 1, 1959.]

§ 44.4402–1 Exemptions.

(a) *Parimutuel wagering enterprise.* Section 4402 provides that no tax shall be imposed by section 4401 on any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law.

(b) *Wagering machines*—(1) *Coin-operated machines.* Section 4402 provides that no tax shall be imposed by section 4401 on any wager placed in a coin-operated device, such as a slot machine, claw machine, pinball machine, etc., with respect to which an occupational tax is imposed by section 4461.

(2) *Non-coin-operated machines.* Section 4402 provides that no tax shall be imposed by section 4401 on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462 (a) (2) (B) (devices similar to the devices referred to in subparagraph (1) of this paragraph but which are operated without the insertion of a coin, token, or similar object) if an occupational tax is imposed with respect to such device by section 4461. The provisions of this subparagraph apply only with respect to amounts paid on or after January 1, 1959.

§ 44.4403 Statutory provisions; record requirements.

SEC. 4403. *Record requirements.* Each person liable for tax under this subchapter shall keep a daily record showing the gross amount of all wagers on which he is so liable, in addition to all other records required pursuant to section 6001 (a) [6001].

§ 44.4403–1 Daily record.

Every person liable for tax under section 4401 shall keep such records as will clearly show as to each day's operations:

(a) The gross amount of all wagers accepted;

(b) The gross amount of each class or type of wager accepted on each separate event, contest, or other wagering medium. For example, in the case of wagers accepted on a horse race, the daily record shall show separately the gross amount of each class or type of wagers (straight bets, parlays, "if" bets, etc.) accepted on each horse in the race. Similarly, in the case of the numbers game, the daily record shall show the gross amount of each class or type of wager accepted on each number.

For additional provisions relating to records, see §§ 44.6001 and 44.6001–1.

§ 44.4404 Statutory provisions; territorial extent.

SEC. 4404. *Territorial extent.* The tax imposed by this subchapter shall apply only to wagers

(1) Accepted in the United States, or

(2) Placed by a person who is in the United States

(A) With a person who is a citizen or resident of the United States, or

(B) In a wagering pool or lottery conducted by a person who is a citizen or resident of the United States.

§ 44.4404–1 Territorial extent.

(a) *In general.* The tax imposed by section 4401 applies to wagers (1) accepted in the United States, or (2) placed by a person who is in the United States (i) with a person who is a citizen or resident of the United States, or (ii) in a wagering pool or lottery conducted by a person who is a citizen or resident of the United States. All wagers made within the United States are taxable irrespective of the citizenship or place of residence of the parties to the wager. Thus, the tax applies to wagers placed within the United States, even though the person for whom or on whose behalf the wagers are received is located in a foreign country and is not a citizen or resident of the United States. Likewise, a wager accepted outside the United States by a citizen or resident of the United States is taxable if the person making such wager is within the United States at the time the wager is made.

(b) *Examples.* The following examples illustrate the application of paragraph (a) of this section:

Example (1). A syndicate which maintains its headquarters in a foreign country has representatives in the United States who receive wagers in the United States for or on behalf of such syndicate. For the purposes of section 4404, such wagers are considered as accepted within the United States, the syndicate is considered to be in the business of accepting wagers within the United States, and such wagers are subject to the tax. This is true regardless of the nationality or residence of the members of the syndicate.

Example (2). A Canadian citizen employed in Detroit, Michigan, telephones a horse race bet to a bookmaker who is a United States citizen with his place of business located in Windsor, Canada. The wager is taxable since it is made by a person within the United States with a person who is a United States citizen.

Example (3). A United States citizen while visiting Tijuana, Mexico, makes a wager on the outcome of a horse race with a bookmaker who is also a United States citizen located and doing business in Tijuana. The wager is not taxable since both parties to the wager, though United States citizens, were outside the United States at the time the wager was made.

§ 44.4405 Statutory provisions; cross references.

SEC. 4405. *Cross references.* For penalties and other administrative provisions applicable to this subchapter, see sections 4421 to 4423, inclusive; and subtitle F.

Subpart C—Occupational Tax

§ 44.4411 Statutory provisions; imposition of tax.

SEC. 4411. *Imposition of tax.* There shall be imposed a special tax of $50 per year to be paid by each person who is liable for tax under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

§ 44.4411–1 Imposition of tax.

(a) *In general.* A special tax of $50 per year is required to be paid by each person:

(1) Who is liable for the tax imposed by section 4401, or

(2) Who is engaged in receiving wagers for or on behalf of any person who is liable for the tax imposed by section 4401.

(b) *Examples.* The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1). A, who is engaged in the business of accepting horse race bets, employs ten persons to receive on his behalf wagers which are transmitted by telephone. A also employs a secretary and a bookkeeper. A and each of the ten persons who receives wagers by telephone on behalf of A are liable for the special tax. The secretary and bookkeeper are not liable for the special tax unless they also receive wagers for A.

Example (2). B operates a numbers game and has an arrangement with ten persons, who are employed in various capacities, such as bootblacks, elevator operators, news dealers, etc., to receive wagers from the public on his behalf. B also employs C to collect from the ten persons referred to, the wagers received by them on B's behalf and to deliver such wagers to B. C performs no other services for B. B and the ten persons who receive wagers on his behalf are liable for the special tax. C is not liable for the special tax since he is not engaged in receiving wagers for B.

(c) *Cross references.* For provisions relating to the payment of the special tax (computation, manner of payment, etc.), see Subpart D of this part.

§ 44.4412 Statutory provisions; registration.

SEC. 4412. *Registration*—(a) *Requirement.* Each person required to pay a special tax under this subchapter shall register with the official in charge of the internal revenue district—

(1) His name and place of residence;

(2) If he is liable for tax under subchapter A, each place of business where the activity which makes him so liable is carried on, and the name and place of residence of each person who is engaged in receiving wagers for him or on his behalf; and

(3) If he is engaged in receiving wagers for or on behalf of any person liable for tax under subchapter A, the name and place of residence of each such person.

(b) *Firm or company.* Where subsection (a) requires the name and place of residence

of a firm or company to be registered, the names and places of residence of the several persons constituting the firm or company shall be registered.

(c) *Supplemental information.* In accordance with regulations prescribed by the Secretary, he or his delegate may require from time to time such supplemental information from any person required to register under this section as may be needful to the enforcement of this chapter.

§ 44.4412–1 Registration.

(a) *In general.* Every person required to pay the special tax imposed by section 4411 shall register and file a return on Form 11–C. For provisions relating to the general requirement for filing a return, see § 44.6011 (a)–1.

(b) *Information to be reported on Form 11–C.* (1) Every person required to make a return on Form 11–C shall report thereon his full name and place of residence. A person doing business under an alias, style, or trade name shall give his true name, followed by his alias, style, or trade name. In the case of a partnership, association, firm, or company, other than a corporation, the style or trade name shall be given, also the true name of each member and his place of residence. In the case of a corporation, the true name and title of each officer and his place of residence shall be shown.

(2) Each person engaged in the business of accepting wagers on his own account shall report on Form 11–C the name and address of each place where such business will be conducted and the name, address, and number appearing on the special (occupational) stamp of each agent or employee who may receive wagers on his behalf. Thereafter, a return shall be filed on Form 11–C, marked "Supplemental", each time an additional employee or agent is engaged to receive wagers. Such supplemental return shall be filed not later than 10 days after the date such additional employee or agent is engaged to receive wagers and shall show the name, address, and number appearing on the special (occupational) stamp of each such agent or employee. As to a change of address, see § 44.4905–2.

(3) Each agent or employee who receives wagers for or on behalf of a person engaged in the business of accepting wagers on his own account shall report on Form 11–C the name and residence address of each person (i. e., individual, partnership, corporation, etc.) on whose behalf wagers are to be received. Thereafter, the agent or employee shall file a return on Form 11–C, marked "Supplemental", each time he is engaged or employed to receive wagers for a person or persons other than the person or persons previously reported on Form 11–C. Such supplemental return shall be filed not later than 10 days after the date he is engaged to receive wagers and shall show the name, business address, or, if none, the residence address of the person or persons by whom he is engaged to receive wagers. As to a change of address, see § 44.4905–2.

(c) *Time and place for filing Form 11–C.* For provisions relating to the time for filing Form 11–C (other than Form 11–C marked "Supplemental"), see §§ 44.6071 and 44.6071–1. For provisions relating to the place for filing Form 11–C, see §§ 44.6091 and 44.6091–1.

§ 44.4413 Statutory provisions; certain provisions made applicable.

SEC. 4413. *Certain provisions made applicable.* Sections 4901, 4902, 4904, 4905, and 4906 shall extend to and apply to the special tax imposed by this subchapter and to the persons upon whom it is imposed, and for that purpose any activity which makes a person liable for special tax under this subchapter shall be considered to be a business or occupation referred to in such sections. No other provision of sections 4901 to 4907, inclusive, shall so extend or apply.

§ 44.4413–1 Certain provisions made applicable.

For regulations under sections 4901, 4902, 4904, 4905, and 4906, as extended and made applicable to the special tax imposed by section 4411 and to the persons upon whom such tax is imposed, see Subpart D of this part.

§ 44.4414 Statutory provisions; cross references.

SEC. 4414. *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see sections 4421 to 4423, inclusive; and subtitle F.

Subpart D—Miscellaneous and General Provisions Applicable to Taxes on Wagering

MISCELLANEOUS PROVISIONS

§ 44.4421 Statutory provisions; definitions.

SEC. 4421. *Definitions.* For purposes of this chapter—

(1) *Wager.* The term "wager" means—

(A) Any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers,

(B) Any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit, and

(C) Any wager placed in a lottery conducted for profit.

(2) *Lottery.* The term "lottery" includes the numbers game, policy, and similar types of wagering. The term does not include—

(A) Any game of a type in which usually

(i) The wagers are placed,

(ii) The winners are determined, and

(iii) The distribution of prizes or other property is made, in the presence of all persons placing wagers in such game, and

(B) Any drawing conducted by an organization exempt from tax under sections 501 and 521, if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual.

§ 44.4421–1 Definitions.

(a) *Wager.* The term "wager" means—

(1) Any wager placed with a person engaged in the business of accepting wagers upon the outcome of a sports event or a contest;

(2) Any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit; and

(3) Any wager placed in a lottery conducted for profit.

(b) *Lottery*—(1) *In general.* The term "lottery" includes the numbers game, policy, and similar types of wagering. In general, a lottery conducted for profit includes any scheme or method for the distribution of prizes among persons who have paid or promised a consideration for a chance to win such prizes, usually as determined by the numbers or symbols on tickets as drawn from a lottery wheel or other receptacle, or by the outcome of an event: *Provided,* Such lottery is conducted for profit. The term also includes enterprises commonly known as "policy" or "numbers" and similar types of wagering where the player selects a number, or a combination of numbers, and pays or agrees to pay a certain amount in consideration of which the operator of the lottery, policy, or numbers game agrees to pay a prize or fixed sum of money if the selected number or combination of numbers appear or are published in a manner understood by the parties. For example, the winning number or combination of numbers may appear or be published as a series of numbers in the payoff prices of a series of horse races at a certain race track, or in the United States Treasury balance reports, or the reports of a stock or commodity exchange. This description is not intended to be restrictive; hence, the substitution of letters or other symbols for numbers, or a different arrangement for determining the winning number or combination of numbers, does not alter the fundamental nature of a game which otherwise would be considered a lottery. The operation of a punch board or a similar gaming device for profit is also considered to be the operation of a lottery.

(2) *Certain games excluded*—(i) *Cards, dice, etc.* Section 4421 specifically excludes from the term "lottery" any game of a type in which usually (*a*) the wagers are placed, (*b*) the winners are determined, and (*c*) the distribution of prizes or other property is made, in the presence of all persons placing wagers in such game. Thus, for example, no tax would be payable with respect to wagers made in a bingo or keno game since such a game is usually conducted under circumstances in which the wagers are placed, the winners are determined, and the distribution of prizes is made in the presence of all persons participating in the game. For the same reason, no tax would apply in the case of card games, dice games, or games involving wheels of chance, such as roulette wheels and gambling wheels of a type used at carnivals and public fairs.

(ii) *Drawings conducted by an organization exempt from tax under section 501 or 521.* Section 4421 specifically excludes from the term "lottery" any drawing conducted by an organization exempt from tax under section 501 or 521 if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual. For provisions relating to exemption from income tax under section 501 or 521, see the Income Tax Regulations (Part 1 of this chapter).

(c) *Other terms used*—(1) *Wagering pool.* A wagering pool conducted for profit includes any scheme or method for the distribution of prizes to one or more winning bettors based upon the outcome of a sports event or a contest,

or a combination or series of such events or contests, provided such wagering pool is managed and conducted for the purpose of making a profit.

(2) *Sports event.* A sports event includes every type of sports event, whether amateur, scholastic, or professional, such as horse racing, auto racing, dog racing, boxing and wrestling matches and exhibitions, baseball, football, and basketball games, tennis and golf matches, track meets, etc.

(3) *Contest.* A contest includes any type of contest involving speed, skill, endurance, popularity, politics, strength, appearances, etc., such as a general or primary election, the outcome of a nominating convention, a dance marathon, a log-rolling, wood-chopping, weight-lifting, corn-husking, beauty contest, etc.

(4) *Conducted for profit.* A wagering pool or lottery may be conducted for profit even though a direct profit will not inure from the operation thereof. A wagering pool or lottery operated with the expectancy of a profit in the form of increased sales, increased attendance, or other indirect benefits is conducted for profit for purposes of the wagering tax.

§ 44.4422 Statutory provisions; applicability of Federal and State laws.

SEC. 4422. *Applicability of Federal and State laws.* The payment of any tax imposed by this chapter with respect to any activity shall not exempt any person from any penalty provided by a law of the United States or of any State for engaging in the same activity, nor shall the payment of any such tax prohibit any State from placing a tax on the same activity for State or other purposes.

§ 44.4422–1 Doing business in violation of Federal or State law.

Payment of any special tax within the scope of the regulations in this part in nowise authorizes the carrying on of any business in violation of a law of the United States or the law of any State. The special tax stamp is not a license or permit and affords no protection from prosecution for violation of any Federal or State law. See also § 44.4906.

§ 44.4423 Statutory provisions; inspection of books.

SEC. 4423. *Inspection of books.* Notwithstanding section 7605 (b), the books of account of any person liable for tax under this chapter may be examined and inspected as frequently as may be needful to the enforcement of this chapter.

GENERAL PROVISIONS RELATING TO OCCUPATIONAL TAXES

§ 44.4901 Statutory provisions; payment of tax.

SEC. 4901. *Payment of tax*—(a) *Condition precedent to carrying on certain business.* No person shall be engaged in or carry on any trade or business subject to the tax imposed by section 4411 (wagering) * * * until he has paid the special tax therefor.

(b) *Computation.* All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) *How paid*—(1) *Stamp.* All special taxes imposed by law shall be paid by stamps denoting the tax.

(2) *Assessment.* For authority of the Secretary or his delegate to make assessments where the special taxes have not been duly paid by stamp at the time and in the manner provided by law, see subtitle F.

§ 44.4901–1 Payment of special tax.

(a) *Condition precedent to carrying on business.* No person shall engage in the business of accepting wagers subject to the tax imposed by section 4401 until he has filed a return on Form 11–C and paid the special tax imposed by section 4411. Likewise, no person shall engage in receiving wagers for or on behalf of any person engaged in the business of accepting wagers until he has filed a return on Form 11–C and paid the special tax imposed by section 4411. For provisions relating to the tax imposed by section 4401 and the special tax imposed by section 4411, see Subparts B and C of this part, respectively.

(b) *Computation of special tax.* (1) Section 4411 imposes a special tax of $50 per year which is required to be paid by each person who is liable for the tax imposed by section 4401 (tax on wagers) or who is engaged in receiving wagers for or on behalf of any person who is liable for the tax imposed by section 4401. A person engaged both in accepting wagers on his own account and in receiving wagers for or on behalf of some other person is required to purchase but one special tax stamp.

(2) The tax year begins July 1 and ends June 30 of the following calendar year. Persons commencing business between August 1 and June 30 (both dates inclusive) shall pay a proportionate part of the annual tax. "Commencing business" means the initial acceptance by a person of a wager subject to the tax imposed by section 4401 or the initial receiving of a taxable wager by an agent or employee for or on behalf of some other person. Persons in business for only a portion of a month are liable for tax for the full month, i. e., a person first becoming subject to the special tax on, for example, the 20th day of a month, is liable for tax for the entire month.

(c) *Tax payment evidenced by special tax stamp.* (1) Upon receipt of a return on Form 11–C, together with remittance of the full amount of tax due, the district director will issue a special tax stamp as evidence of payment of the special tax.

(2) District directors will distinctly write or print on the stamp before it is delivered or mailed to the taxpayer the following information: (i) The taxpayer's registered name, and (ii) the business or office address of the taxpayer if he has one; if not, the residence address. Special tax stamps will be transmitted by ordinary mail, unless it is requested that they be transmitted by registered mail in which case additional cost to cover registry fee shall be remitted with the return.

(3) District directors and their collection officers are forbidden to issue receipts in lieu of stamps representing the payment of special taxes.

(d) *Cross references.* For provisions relating to registration and information required to be reported on Form 11–C, see § 44.4412–1. For other provisions relating to Form 11–C, see §§ 44.6011 (a)–1 (relating to returns), 44.6071–1 (time for filing returns and other documents), and 44.6091–1 (place for filing returns or other documents).

§ 44.4902 Statutory provisions; liability of partners.

SEC. 4902. *Liability of partners.* Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

§ 44.4902–1 Partnership liability.

Any number of persons doing business in copartnership shall be required to pay but one special tax. The district director may issue a special tax stamp to a copartnership in a firm or trade name, provided the names and addresses of all members of the partnership are disclosed on Form 11–C.

§ 44.4904 Statutory provisions; liability in case of different businesses of same ownership and location.

SEC. 4904. *Liability in case of different businesses of same ownership and location.* Whenever more than one of the pursuits or occupations described in this subtitle are carried on in the same place by the same person at the same time, except as otherwise provided in this subtitle, the tax shall be paid for each according to the rates severally prescribed.

§ 44.4905 Statutory provisions; liability in case of death or change of location.

SEC. 4905. *Liability in case of death or change of location*—(a) *Requirements.* When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided,* That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary or his delegate, under regulations to be prescribed by the Secretary or his delegate.

(b) *Registration.* (1) For registration in case of wagering, * * *, see sections 4412, * * *.

(2) For other provisions relating to registration, see subtitle F.

§ 44.4905–1 Change of ownership.

(a) *Changes through death.* Whenever any person who has paid the special tax imposed by section 4411 dies, the surviving spouse or child, or executor or administrator, or other legal representative, may carry on such business for the remainder of the term for which such special tax has been paid without any additional payment, subject to the conditions hereinafter stated. If the sur-

viving spouse or child, or executor or administrator, or other legal representative of the deceased taxpayer continues the business, such person shall within 30 days after the date of the death of the taxpayer execute a return on Form 11–C. Such return shall show the name of the deceased taxpayer, together with all other data required to be reported on Form 11–C (see § 44.4412–1), and the stamp issued to such taxpayer shall be submitted with the return for proper notation by the district director.

(b) *Changes from other causes.* A receiver or trustee in bankruptcy may continue the business under the stamp issued to the taxpayer at the place and for the period for which the special tax was paid. An assignee for the benefit of creditors may continue business under his assignor's special tax stamp without incurring additional special tax liability. In such cases the change shall be registered with the district director in a manner similar to that required by paragraph (a) of this section.

(c) *Changes in firm.* When one or more members of a firm or partnership withdraw, the business may be continued by the remaining partner or partners under the same special tax stamp for the remainder of the period for which the stamp was issued to the old firm. The change shall, however, be registered in the same manner as required in paragraph (a) of this section. If new partners are taken into a firm, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm shall make a return on Form 11–C and pay the special tax imposed by section 4411 reckoned from the first day of the month in which it began business, even though the name of such firm be the same as that of the old. If the members of a partnership, which has paid the special tax, form a corporation to continue the business, a new special tax stamp must be obtained in the name of the corporation.

(d) *Change in corporation.* If a corporation changes its name, no additional tax is due, provided the change in name is registered with the district director in the manner required by paragraph (a) of this section. An increase in the capital stock of a corporation does not create a new special tax liability if the laws of the State under which it is incorporated permit such increase without the formation of a new corporation. A stockholder in a corporation, who after its dissolution continues the business, incures liability for the special tax imposed by section 4411 unless he already has a special tax stamp obtained in respect of activities conducted as a sole proprietor.

§ 44.4905–2 Change of address.

(a) *Procedure by taxpayer.* Whenever a taxpayer changes his business or residence address to a location other than that specified in his last return on Form 11–C, he shall, within 30 days after the date of such change, register the change with the district director from whom the special tax stamp was purchased by filing a new return, Form 11–C, designated "Supplemental Return", and setting forth the new address and the date of change. The taxpayer's special tax stamp shall accompany the supplemental return for proper notation by the district director. As to liability in case of failure to register a change of address within 30 days, see § 44.4905–3.

(b) *Procedure by district director; removal within district.* When registration of a change of address within the same district is made by a taxpayer in the manner specified in paragraph (a) of this section, the district director, if ncessary, will enter on his records the new address and the date of change. If the information disclosed on the supplemental return is such as to require a change on the face of the special tax stamp, the district director will make the proper change and return the stamp to the taxpayer for posting as provided in § 44.6806–1.

(c) *Procedure by district director; removal to another district.* In case of removal of the taxpayer's office or principal place of business (or residence address, if he has no office or principal place of business) to another district, the district director, after noting the transfer on his records, shall transmit the special tax stamp to the district director for the district to which such office or business was removed. The latter will make an entry on his records, as in the case of an original registration in his district, correct the address on the stamp, if necessary, and note also thereon his name, title, date, and district, and then forward the stamp to the taxpayer for posting as provided in § 44.6806–1.

§ 44.4905–3 Liability for failure to register change or removal.

Any person succeeding to and carrying on a business for which the special tax imposed by section 4411 has been paid, and any taxpayer changing his residence address or his place of business, without registering such change as provided in §§ 44.4905–1 and 44.4905–2 shall be liable to an additional tax, and to the penalty prescribed in section 6651 for failure to make a return. (For regulations under section 6651, see the Regulations on Procedure and Administration (Part 301 of this chapter).)

§ 44.4906 Statutory provisions; application of State laws.

SEC. 4906. *Application of State laws.* The payment of any special tax imposed by this subtitle for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

§ 44.4906–1 Cross reference.

For provisions relating to the applicability of Federal and State laws, see §§ 44.4422 and 44.4422–1.

Subpart E—Administrative Provisions of Special Application to the Taxes on Wagering

§ 44.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

SEC. 6001. *Notice or regulations requiring records, statements, and special returns.* Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

§ 44.6001–1 Record requirements.

(a) *In general.* (1) In addition to all other records required pursuant to § 44.4403–1, every person required to pay tax under section 4401 shall keep such records as will clearly show as to each day's operation:

(i) Separately, the gross amount of wagers—

(*a*) Accepted directly by the taxpayer or at any registered place of business of the taxpayer (other than laid-off wagers),

(*b*) Accepted for his account by agents at any place other than a registered place of business of the taxpayer (other than laid-off wagers), and

(*c*) Accepted as laid-off wagers from persons subject to the tax on wagers;

(ii) With respect to wagers laid off with others, the name, address, and registration number of each person with whom the laid-off wagers were placed, and the gross amount laid off with each such person, showing separately the gross amount of laid-off wagers with respect to each event, contest, or other wagering medium, as, for example, the gross amount laid off on each horse in a race; and

(iii) The gross amount of tax collected from or charged to bettors as a separate item.

(2) If a taxpayer has any agents or employees receiving wagers on his behalf, he shall maintain a separate record showing the name and address of each agent or employee, the period of employment, and the number of the special tax stamp issued to each such agent or employee.

(3) A duplicate copy of each return required by § 44.6011–1 shall be retained as part of the taxpayer's records.

(b) *Records of agent or employee.* Every person who is engaged in receiving for or on behalf of another person (at any place other than a registered place of business of such other person) wagers of a type subject to the tax imposed by section 4401 shall keep a record showing for each day (1) the gross amount of such wagers received by him, (2) the amount, if any, retained as a commission or as compensation for receiving such wagers, and (3) the amount turned

over to the person on whose behalf the wagers were received, and the name and address of such person.

(c) *Record of claimants.* Any person claiming a credit or refund shall keep a complete and detailed record of each overpayment and of each laid-off wager for which credit is taken or refund is claimed, including a copy of the certificate required under paragraph (d) of § 44.6419–2.

(d) *Place for keeping records.* Every person required to pay the tax imposed by section 4401 shall keep or cause to be kept, at his office or principal place of business, or, if he has no office or principal place of business, at his residence or some other convenient or safe location, all such records as are required pursuant to paragraphs (a) and (c) of this section and §§ 44.4403 and 44.4403–1.

(e) *Period for retaining records.* All records required by the regulations in this part shall at all times be available for inspection by internal revenue officers. Records required by paragraph (a) of this section shall be maintained for a period of at least three years from the date the tax became due. Records required by paragraph (b) of this section shall be maintained for a period of at least three years from the date the wager was received. Records required by paragraph (c) of this section shall be maintained for a period of at least three years from the date any credit is taken or refund is claimed.

§ 44.6011 (a) Statutory provisions; general requirement of return, statement, or list; general rule.

SEC. 6011. *General requirement of return, statement, or list*—(a) *General rule.* When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

§ 44.6011 (a)–1 Returns.

(a) *In general.* Every person required to pay the tax on wagers imposed by section 4401 of the Code shall make for each month, from the daily records required by §§ 44.4403–1 and 44.6001–1, a return on Form 730 in accordance with the instructions and regulations applicable thereto. A return shall be made for each month whether or not liability has been incurred for that month. If the taxpayer ceases operations which make him liable for the tax, the last return shall be marked "Final Return".

(b) *Return on Form 11–C.* Every person required to pay the special tax imposed by section 4411 shall make a return on Form 11–C in accordance with the instructions and regulations applicable thereto.

§ 44.6071 Statutory provisions; time for filing returns and other documents.

SEC. 6071. *Time for filing returns and other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the time for filing any return, statement, or other document required by this title or by regulations.

(b) *Special taxes.* For payment of special taxes before engaging in certain trades and businesses, see section 4901.

§ 44.6071–1 Time for filing return.

(a) *Return on Form 730.* Each return required to be made on Form 730 pursuant to § 44.6011 (a)–1 shall be filed on or before the last day of the first calendar month following the period for which it is made. For provisions relating to the time for filing a return when the prescribed due date falls on Saturday, Sunday, or a legal holiday, see the provisions of the Regulations on Procedure and Administration (Part 301 of this chapter) under section 7503.

(b) *Return on Form 11–C.* (1) The first return required to be made on Form 11–C shall be filed to cover the period beginning with the first day of the calendar month in which a person engages (or expects to engage) in activities which make him liable for the special tax imposed by section 4411 and ending with the following June 30. Thereafter, each return required to be made on Form 11–C shall be filed on or before July 1 to cover a 1-year period (beginning July 1 and ending June 30 of the following calendar year) during which taxable activity continues.

(2) For additional provisions relating to the return on Form 11–C, see § 44.4412–1 and §§ 44.4901 to 44.4905–3, inclusive.

§ 44.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Individuals.* Returns (other than corporation returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(2) *Corporations.* Returns of corporations shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

* * * * *

(4) *Exceptional cases.* Notwithstanding paragraph (1), (2), or (3) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

§ 44.6091–1 Place for filing returns.

(a) *In general.* A return on Form 730 or Form 11–C shall be filed with the district director of internal revenue for the district in which is located the legal residence or principal place of business of the person making the return. If such person has no legal residence or principal place of business in any internal revenue district, the return shall be filed with the District Director at Baltimore, Maryland, except as provided in paragraph (b) of this section.

(b) *Returns of individuals outside the United States.* The returns on Form 730 and Form 11–C of individuals (whether citizens of the United States, citizens of possessions of the United States, or aliens) outside the United States having no legal residence or principal place of business in any internal revenue district shall be filed with the Director, International Operations Division, Internal Revenue Service, at Washington 25, D. C.

§ 44.6151 Statutory provisions; time and place for paying tax shown on returns; general rule.

SEC. 6151. *Time and place for paying tax shown on returns*—(a) *General rule.* Except as otherwise provided in this section, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary or his delegate, pay such tax to the principal internal revenue officer for the internal revenue district in which the return is required to be filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

(b) *Exceptions*— * * *

(c) *Date fixed for payment of tax.* In any case in which a tax is required to be paid on or before a certain date, or within a certain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

§ 44.6151–1 Time and place for paying taxes.

The taxes imposed by sections 4401 and 4411 shall, without assessment or notice and demand, be paid to the internal revenue officer with whom the returns are required to be filed at the time fixed for filing the returns. For provisions relating to the time for filing returns, see §§ 44.6071 and 44.6071–1. For provisions relating to the place for filing returns, see §§ 44.6091 and 44.6091–1.

§ 44.6419 Statutory provisions; credit or refund of wagering tax.

SEC. 6419. *Excise tax on wagering*—(a) *Credit or refund generally.* No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary or his delegate, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or unless he files with the Secretary or his delegate written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary or his delegate, that the provisions of the preceding sentence have been complied with

both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) *Credit or refund on wagers laid-off by taxpayer.* Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary or his delegate; and no interest shall be allowed with respect to any amount so credited or refunded.

§ 44.6419–1 Credit or refund generally.

(a) *Overpayment of wagering tax; in general.* If a person overpays the tax imposed under section 4401, he may either file a claim for refund on Form 843 or take credit for such overpayment against the tax due on a subsequent monthly return. A complete statement of the facts involving the overpayment shall be attached either to the claim or to the return on which the credit is claimed. Every claim for refund shall be supported by evidence showing the name and address of the taxpayer, the date of payment of the tax, and the amount of such tax. A credit taken on a return shall be supported by evidence of the same character.

(b) *Statement supporting credit or refund.* No credit or refund shall be allowed whether in pursuance of a court decision or otherwise unless the taxpayer files a statement explaining satisfactorily the reason for claiming the credit or refund and establishing (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has either repaid the amount of the tax to the person who placed the wager or has secured the written consent of such person to the allowance of the credit or refund. In the latter case, the written consent of the person who placed the wager shall accompany the statement filed with the credit or refund claim. The statement supporting the credit or refund claim shall also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed. If the overpayment of tax relates to a laid-off wager accepted by the taxpayer, no credit or refund shall be allowed or made unless the taxpayer complies with the provisions of the first sentence of this paragraph, not only as to the person who placed the laid-off wager, but also with respect to the person who placed the original wager.

(c) *Limitation on credit or refund.* No claim for credit or refund of tax shall be allowed unless presented within the period of limitations prescribed in section 6511. (For regulations under section 6511, see the Regulations on Procedure and Administration (Part 301 of this chapter).)

§ 44.6419–2 Credit or refund on wagers laid off by taxpayer.

(a) *Laid-off wagers; in general.* If a taxpayer accepts a wager and lays off all or a part thereof with another person who is liable for tax under section 4401 with respect to such laid-off wager, a credit may be allowed to such taxpayer in the amount of the tax due with respect to the amount of the wager so laid off, provided there is attached to the return for the month during which the wager was accepted and laid off by him the certificate prescribed in paragraph (d) of this section.

(b) *Claim for refund.* If a taxpayer has paid the tax with respect to a wager laid off by him, he may file a claim for refund of such tax on Form 843 or take a credit for the tax paid by him against the tax shown to be due on any subsequent monthly return. If a refund is claimed, Form 843 shall be completed in accordance with the instructions thereon and, in addition, there shall be attached to such form a statement setting forth the reason for claiming the refund, the month in which such tax was paid, the date of payment, and whether any previous claim for refund covering the amount involved or any part thereof has been filed. There shall also be attached to the Form 843 the certificate prescribed below. In the case of a credit, the statement and certificate shall be attached to the monthly return on which the credit is claimed.

(c) *Credit or refund not allowed.* No credit or refund will be allowed under this section if the wager is laid off with a person or organization not liable for tax under section 4401 with respect to such laid-off wager. No interest shall be allowed on any amount of tax credited or refunded under this section.

(d) *Certificate required.* The certificate prescribed for use in support of a credit or refund with respect to a laid-off wager shall be in the following form:

CERTIFICATE

(In support of credit or refund with respect to laid-off wagers under section 6419 (b) of the Internal Revenue Code.)

I hereby certify that I, or the _____ (Corporation, _____ of which I am partnership, or syndicate) an officer or member, doing business at _____, registered with (Address) the District Director of Internal Revenue at _____, _____ under Registration No. _____ as a person accepting wagers within the meaning of section 4401 of the Internal Revenue Code, accepted laid-off wagers, in the amounts and on the dates indicated below, from _____, _____, (Name) (Address) during the month of _____, 19_____.

Date	Amount of laid-off wager	Subject of laid-off wager (Identify horse and track, particular contest, or contestant, etc.)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attach supplemental sheets for additional entries, if necessary.)

The undersigned further certifies that he, or the corporation, partnership, or syndicate of which he is a member will make return of and account for the tax, under section 4401 of the Internal Revenue Code, with respect to the laid-off wagers so accepted.

It is understood by the undersigned that this certificate is given for the purpose of enabling the person from whom the laid-off wagers were accepted to claim credit with respect to the tax due on such laid-off wagers or to claim credit or refund of the tax, if any, paid on such laid-off wagers.

It is further understood that the fraudulent use of this certificate will subject the undersigned and all guilty parties to a fine of not more than $10,000 or to imprisonment for not more than five years, or both, together with costs of prosecution.

(Signed)_____(Date)_____

(Title)_____

(Owner, President, Partner, Member, etc.)

§ 44.6806 (c) Statutory provisions; posting occupational tax stamps; occupational wagering tax.

SEC. 6806. Posting occupational tax stamps— * * *

(c) *Occupational wagering tax.* Every person liable for special tax under section 4411 shall place and keep conspicuously in his principal place of business the stamp denoting the payment of such special tax; except that if he has no such place of business, he shall keep such stamp on his person, and exhibit it, upon request, to any officer or employee of the Treasury Department.

§ 44.6806 (c)–1 Special tax stamp to be posted.

(a) *In general.* The special tax stamp issued to a taxpayer as evidence of the payment of the tax shall be kept posted conspicuously in his principal place of business, except that if he has no such place of business he shall keep such stamp on his person and exhibit it, upon request, to any officer or employee of the Service. For provisions relating to the penalty for failure to post such stamp, see § 44.7273 (b)–1.

(b) *Posting of certificate in lieu of stamp.* When a special tax stamp has been lost or destroyed, such fact shall be reported at once to the internal revenue officer with whom the return on Form 11–C was filed for the purpose of obtaining from him a certificate of payment. Such certificate shall be posted in place of the stamp; otherwise, the penalty referred to in paragraph (a) of this section for failure to post the stamp will be incurred.

§ 44.7262 Statutory provisions; violation of occupational tax laws relating to wagering; failure to pay special tax.

SEC. 7262. *Violation of occupational tax laws relating to wagering—Failure to pay special tax.* Any person who does any act which makes him liable for special tax under subchapter B of chapter 35 without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000.

§ 44.7262–1 Failure to pay special tax.

Any person liable for the special tax who does any act which makes him liable for such tax, without having paid the tax, is, besides being liable for the tax, subject to a fine of not less than $1,000 and not more than $5,000.

§ 44.7272 Statutory provisions; penalty for failure to register.

SEC. 7272. *Penalty for failure to register—*
(a) *In general.* Any person who fails to

register with the Secretary or his delegate as required by this title or by regulations issued thereunder shall be liable to a penalty of $50.

(b) *Cross references.* For provisions relating to persons required by this title to register, see sections * * * 4412 * * *.

§ 44.7273 (b) Statutory provisions; penalties for offenses relating to special taxes; special wagering tax.

SEC. 7273. *Penalties for offenses relating to special taxes.* * * *

(b) *Failure to post or exhibit special wagering tax stamp.* Any person who, through negligence, fails to comply with section 6806 (c) relating to the posting or exhibiting of the special wagering tax stamp, shall be liable to a penalty of $50. Any person who, through willful neglect or refusal, fails to comply with section 6806 (c) shall be liable to a penalty of $100.

§ 44.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

* * * * *

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to any internal revenue tax.

* * * * *

(28) *Other terms.* Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) *Internal Revenue Code.* The term "Internal Revenue Code of 1954" means this title, and the term "Internal Revenue Code of 1939" means the Internal Revenue Code enacted February 10, 1939, as amended.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) *Commonwealth of Puerto Rico.* Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(d) *Cross References*—(1) *Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.
(2) Plural as including singular, section 1.
(3) Masculine as including feminine, section 1.
(4) Officer, section 1.
(5) Oath as including affirmation, section 1.
(6) County as including parish, section 2.
(7) Vessel as including all means of water transportation, section 3.
(8) Vehicle as including all means of land transportation, section 4.
(9) Company or association as including successors and assigns, section 5.

(2) *Effect of cross references.* For effect of cross references in this title, see section 7806 (a).

§ 44.7805 Statutory provisions; rules and regulations.

SEC. 7805. *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

[F. F. Doc. 59-168; Filed, Jan. 7, 1959; 8:46 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD AND WIND RIVER INDIAN IRRIGATION PROJECTS

Operation and Maintenance Charges

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583) 25 U. S. C. 385; (45 Stat. 210) 25 U. S. C. 387, it is proposed to amend 25 CFR 221.20 and 221.96 as set forth below. The purpose of this amendment is to provide uniformity in project regulations by eliminating the penalty charge of one-half of one percent per month assessable against Indian-owned lands not under lease for which annual operation and maintenance charges have not been paid on or before July 1, following the due date of April 1. The amendment also provides for conditions under which water may be delivered to Indian-owned lands without payment of operation and maintenance charges on or before the due date.

The proposed amendment relates to matters which are subject to sec. 4 of the rule making requirements of the Administrative Procedures Act of June 11, 1946 (60 Stat. 238). Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Area Director, Bureau of Indian Affairs, 804 North 29th Street, Billings, Montana, within 30 (thirty) days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,
Assistant Secretary of the Interior.

DECEMBER 30, 1958.

Section 221.20 is amended to read as follows:

§ 221.20 Payment.

The charges as fixed in §§ 221.16 and 221.17 shall become due on April 1 of each year, and are payable on or before that date. To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indian lessees which are not paid on or before July 1 of each year following the due date there shall be added a penalty of one-half of 1 per cent per month or fraction thereof from the due date, April 1, so long as the deliquency continues. No water shall be delivered until such charges have been paid; except that Indian water users who are financially unable to pay the assessment on the due date may be furnished water, provided the Superintendent of the reservation certifies to the Project Engineer or other official in charge of the project that such Indian is not financially able to pay the assessment, or has made satisfactory arrangement to pay the assessments from proceeds of crops or from other sources. Penalty interest charges shall not be assessed against lands owned by an Indian water user, nor against Indian lands under lease to an Indian lessee.

Section 221.96 is amended to read as follows:

§ 221.96 Payment.

The charges as fixed in § 221.95 shall become due on April 1 of each year, and are payable on or before that date. To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indian lessees which are not paid on or before July 1 of each year, following the due date, there shall be added a penalty of one-half of 1 percent per month or fraction thereof from the due date, April 1, so long as the delinquency continues. No water shall be delivered until such charges have been paid; except that Indian water users who are financially unable to pay the assessment on the due date may be furnished water, provided the Superintendent of the reservation certifies to the Project Engineer or other official in charge of the project that such Indian is not financially able to pay the assessment, or has made satisfactory arrangement to pay the assessments from proceeds of crops or from other sources. Penalty interest

charges shall not be assessed against lands owned by an Indian water user, nor against Indian lands under lease to an Indian lessee.

[F. R. Doc. 59–157; Filed, Jan. 7, 1959; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Classification and Accounting Rules and Regulations; Notice of Public Meeting for Consideration of Proposed Amendment

Pursuant to provisions of § 927.36 of the order, as amended (7 CFR Part 927; 22 F. R. 4643), regulating the handling of milk in the New York-New Jersey marketing area, and of the Administrative Procedure Act (5 U. S. C. 1001 et seq.), notice is hereby given of a public meeting to be held on February 17, 1959, at 10 a. m., e. s. t., at the office of the Market Administrator, 205 East 42 Street, New York, New York, for consideration of proposed amendment to the rules and regulations heretofore issued (7 CFR 927.101 et seq.) pursuant to said order. Interested persons will be afforded an opportunity to participate in the meeting through the submission of written data, views, or arguments, or to present the same orally. Copies of said rules and regulations as heretofore issued and of the proposed amendments to be considered at this public meeting may be procured from the Market Administrator, 205 East 42 Street, New York 17, New York.

Interested persons may submit additional proposals for consideration not later than January 16, 1959. Any such proposals which will be considered at the meeting will be included in a supplemental notice of meeting issued after January 16.

The proposed amendments to be considered at said public meeting are as follows:

By Milk Dealers' Association of Metropolitan New York, Inc., and Sealtest Sheffield Farms Division of National Dairy Products Corp.:

1. Amend §§ 927.147, 927.148, 927.149, 927.149 (a), 927.150, 927.151, 927.152, and 927.153, to provide for a loss allowance on packaged products received from another plant.

2. Amend § 927.181 by adding a new paragraph to provide for a deduction from plant loss for products dumped.

3. Amend § 927.163 by adding paragraph (a) to provide for the assignment of storage cream to Class II flavored milk drinks and Class III flavored milk drinks to the extent used, immediately after the assignment of storage cream to sour cream.

4. Amend § 927.231 (In the absence of specific weights or volumetric equivalent determined on an adequate basis, the following table shall be revised): To provide that in the absence of specific weights for homogenized mixtures, weights can be used based on a volumetric equivalent where an adequate basis is made.

5. Amend § 927.121 *Frozen desserts*, by adding the words "Iced Milk" after the parenthesis closing "Nesselrode pudding."

By Norman's Kill Farm Dairy Co., Inc.:

Provide a rule for the classification of butterfat which is accounted for as leaving the plant in the form of modified skim milk.

Issued at New York, New York, this 19th day of December 1958.

[SEAL] C. J. BLANFORD,
Market Administrator.

[F. R. Doc. 59–172; Filed, Jan. 7, 1959; 8:47 a. m.]

[7 CFR Part 943]

[Docket No. AO–231–A11]

MILK IN NORTH TEXAS MARKETING AREA

Decision With Respect to Proposed Amendments to Tentative Marketing Agreement and to Order

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, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Dallas, Texas, on December 15, 1958 (23 F. R. 9457).

In addition to the issues dealt with herein, evidence also was received on proposed amendments involving other issues. Consideration of the latter will be given in a subsequent decision.

The material issues on the record of the hearing dealt with in this decision relate to:

1. Whether a reclassification charge should be applied to fluid milk products in inventory which previously have been classified and priced as Class I milk under this order or another Federal order; and

2. Whether an emergency exists relative to the above issue which warrants omitting a recommended decision of the Deputy Administrator, Agricultural Marketing Service, and the opportunity for the filing of exceptions thereto.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The order should be amended so that milk which has been classified and priced as Class I milk under another order will not be subject to the inventory reclassification charge. Closing inventory is classified as Class II and a charge equal to the difference between the Class I and Class II prices is assessed against the handler if such inventory is allocated to a Class I use in the following month. Such a charge is necessary to insure equity between handlers when the milk in inventory is producer milk or other source milk which has not been priced as Class I milk.

Conditions in the market have changed so that the inventory reclassification charge need not be applicable to milk classified and priced as Class I under another order to insure equity between handlers in the procurement of milk. Recently at least one handler in the market has changed his method of procurement and is securing the greater portion of his milk from plants which are regulated under this or other Federal milk orders. Such milk is classified and priced as Class I milk at the plant of origin. Under the circumstances, § 943.70 (c) should be amended to provide that the charge for inventory reclassification shall not apply with respect to milk which has been classified and priced as Class I milk under either the North Texas order or some other order issued pursuant to the Act.

2. The due and timely execution of the function of the Secretary under the Act imperatively and unavoidably requires omitting a recommended decision by the Deputy Administrator, Agricultural Marketing Service, and the opportunity for exceptions thereto on the above issue.

The conditions complained of are such that it is urgent to take remedial action as soon as possible. Delay beyond the minimum time required to make the attached order effective would result in undue hardship to the parties involved. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision and exceptions thereto would delay unduly the urgently needed accommodation.

It is therefore found that good cause exists for the omission of the recommended decision in order to inform interested parties of the conclusions reached. Uncertainty on the part of interested parties might lead to instability in the market. Knowledge of the action decided upon by the Secretary will permit those affected to adjust their operations promptly in accordance with such decision.

No briefs, proposed findings or conclusions have been filed by interested parties.

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

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

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

Marketing agreement and order amending the order, as amended. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the North Texas marketing area" and "Order amending the order, regulating the handling of milk in the North Texas marketing area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Determination of representative period. The month of October 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order, regulating the handling of milk in the North Texas marketing area, is approved or favored by producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 2d day of January 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

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

§ 943.0 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 upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 North Texas marketing area. 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.

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

1. Delete § 943.70(c) and substitute therefor the following:

(c) Add the amount computed by multiplying the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 943.46 (a) (8) and the corresponding step of § 943.46 (b) for the current month: *Provided,* That such hundredweight of skim milk and butterfat for which an amount is computed shall not exceed the hundredweight of skim milk and butterfat allocated to Class II milk pursuant to paragraph (a) (3) and (4) and the corresponding step of paragraph (b) of § 943.46 plus the hundredweight of skim milk and butterfat in Class II milk after making the calculations for such handler pursuant to § 943.46 (a) (8) and the corresponding step of (b) both for the preceding month;

[F. R. Doc. 59-188; Filed, Jan. 7, 1959; 8:50 a. m.]

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

[7 CFR Part 944]

[Docket No. AO-105-A-12]

MILK IN QUAD CITIES MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Quad Cities marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 5th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Rock Island, Illinois, on October 22, 1958, pursuant to notice thereof which was issued September 30, 1958 (23 F. R. 7672).

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

1. Modifying the qualifications for attaining pool plant status.

2. Prescribing conditions under which transfers and diversions may be classified as Class II.

3. The Class II price.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The means whereby a plant may qualify as a pool plant should be revised to give consideration to current marketing practices and conditions in the Quad Cities market.

As now provided in the order a supply plant may qualify as a pool plant during any month by shipping 35 percent of its receipts from Grade A dairy farms to distributing plants that are pool plants. By shipping 50 percent of its Grade A receipts during the period of September through November to distributing plants that are pool plants a supply plant may obtain pool plant status for the months of March through June.

It was proposed that milk moved in a tank truck from the farm of a producer-member of a cooperative association to a distributing plant that is a pool plant may, at the election of the cooperative, be considered as having been received at any designated supply plant. The purpose of this proposal is to make it easier, generally, for a supply plant to qualify as a pool plant, and, specifically, to obtain continuous designation of the supply plant at Mt. Carroll, Illinois, as a pool plant, irrespective of whether any milk was shipped from that plant to the marketing area during any month. This would, in effect, create a situation whereby the Mt. Carroll plant or any plant similarly situated would continuously participate in the marketwide pool without being required to ship any milk to

the market, even in the months of lowest production. Producers claim that, except during the months of seasonally low production, it has been necessary to ship larger quantities of milk than were needed or desired in the market from the Mt. Caroll plant to pool plants in the marketing area to meet the order's shipping requirements for pool plant status. Although milk from the Mt. Carroll plant or from plants similarly situated is needed to insure an adequate supply of milk for the market during the months of seasonally low production, no purpose is accomplished under current marketing conditions in the Quad Cities market by requiring shipments from a supply plant to the marketing area during the months when such shipments are not needed.

September, October and November are the months of lowest production in relation to the Class I needs of the Quad Cities market. Historically, significantly more than half of the milk received from dairy farmers at the Mt. Carroll plant during these months has been shipped to pool plants in the marketing area. On this basis the Mt. Carroll plant has attained automatic pool plant status during the subsequent months of March through June. It may reasonably be expected that any plant shipping more than half of its receipts to the Quad Cities market during the 3 months of lowest production would be genuinely associated with the market and that the milk from such plant would be available to the market during any of the other months of the year. Accordingly, the best interests of the Quad Cities market, including more efficient marketing by the supply plants under the order, would be achieved by enabling a supply plant to attain pool plant status for the months of December through August by shipping 50 percent of its receipts from Grade A farmers to distributing plants that are pool plants during the preceding period of September through November.

A plant which is owned and operated by a cooperative association and which is located in the marketing area is now designated as a pool plant. A proposal made by a handler and unopposed at the hearing would delete this provision from the order.

Some ungraded milk is received at cooperative plants located in the marketing area. In addition Grade A milk from producers that is not needed by other handlers is moved to these plants for manufacturing purposes. When milk from producers that is customarily delivered to designated pool plants is not needed by such plants, it is delivered directly from the farms of such producers either to the plants operated by the cooperative associations or to nonpool plants. When such milk is moved to a nonpool plant on any day during the months of April through June and on not more than half of the days on which milk was delivered from the farm during any of the other months it is considered as having been received from producers at the plant to which it is customarily delivered.

No testimony was presented for retaining in the order the provision whereby a plant attains pool plant status solely on the basis of its being operated by a cooperative and being located in the marketing area. In fact, this provision is unjustified under present conditions in the Quad Cities market since it could result in uneconomic marketing practices at the expense of the whole market. The existence of a plant in the marketing area, irrespective of whether it represents any significant proportion of the producers on the market, seems insufficient identification for automatic participation in the market pool. In view of the above, the provision whereby a plant obtains pool plant status simply because it is owned and operated by a cooperative and located in the marketing area should be deleted from the order.

To insure that milk that is not needed in the market may be moved by cooperatives and other handlers for manufacturing purposes without causing producer milk regularly associated with the market to lose its status as such the diversion provision of the order should be modified by adding February and March to the months during which producer milk may be diverted for the entire month. This will provide a 5-month period—February through June—during which milk may be diverted from a pool plant to a nonpool any day during the month and retain producer milk status. During the other months of the year diversion of milk from the farms of producers to nonpool plants would be adequately facilitated by providing that milk diverted from such farms to a nonpool plant would be considered as producer milk for any number of days not in excess of the number of days that such milk was delivered to a pool plant during the same month.

When revised pool plant standards were incorporated in the order effective May 1, 1957, it was provided that a plant which was a pool plant in April 1957 could be designated a pool plant through June of that year. This provision, the purpose of which was to facilitate transition to the revised pool plant standards, does not now serve any purpose and should be deleted from the order.

2. Skim milk and butterfat should be classified as Class I if transferred or diverted in the form of a fluid milk product to nonpool plants located more than 300 miles from Rock Island. Fluid milk products transferred or diverted to a nonpool plant located not more than 300 miles from Rock Island should be classified as Class I unless certain conditions are met.

When skim milk or butterfat is transferred or diverted to a nonpool plant the market administrator is required to verify the utilization claimed by such nonpool handler. It may be expected that the market administrator is able to make verification within a reasonable "surplus disposal area" without incurring undue expenses. It would not, however, be administratively feasible or otherwise justifiable to have a surplus disposal area of unlimited expanse or to cover a geographical area which is larger than that within the 300 mile radius from the marketing area as provided herein.

Failing to provide for such a mileage limitation at this time might well make unreasonable demands on the market administrator in connection with the verification of occasional or irregular shipments to nonpool plants located beyond 300 miles from the marketing area. There are adequate facilities within 300 miles of Rock Island to handle seasonal and daily reserve supplies of producer milk. Accordingly, the order should provide that skim milk and butterfat shall be classified as Class I milk if transferred or diverted from a pool plant in the form of a fluid milk product to a nonpool plant located more than 300 miles by the shortest highway distance as determined by the market administrator from the Rock Island, Illinois, Post Office.

The order now provides that transfers of fluid milk products in bulk to nonpool plants may be assigned to any available Class II milk in the receiving nonpool plant. Thus, such transfers now have no priority in the assignment of available Class I milk at the nonpool plant even though they may have been used solely for Class I purposes. The present transfer provisions in this regard give inequitable consideration to the classification of pooled milk that is moved to nonpool plants.

Before transfers or diversions (to nonpool plants located within 300 miles from Rock Island) may be classified as Class II milk, it should be ascertained that the fluid milk products disposed of from the receiving nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month from Grade A dairy farms directly supplying such plant. However, if the fluid milk products disposed of from the receiving nonpool plant exceed the receipts of skim milk and butterfat from Grade A dairy farms regularly supplying such plant, the difference should be assigned to the fluid milk products transferred or diverted from a pool plant and classified as Class I milk. If the transfers and diversions to the nonpool plant during the month are from two or more plants subject to the provisions of this and other orders issued pursuant to the act, the skim milk and butterfat assigned to Class I milk at each such pool plant under the Quad Cities order should be not less than that obtained by prorating the assignable Class I milk at the nonpool plant over the receipts from all plants subject to the provisions of this and other orders issued pursuant to the Act.

The method herein recommended for classifying transfers and diversions from pool plants to nonpool plants accords equitable treatment to Quad Cities order handlers and gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving priority to the graded dairy farms directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool

plants will be classified in an equitable manner.

3. The Class II price is now calculated by averaging the prices paid for ungraded milk by 6 local manufacturing plants from the 16th day of the preceding month through the 15th day of the current month. Payments to farmers at such plants for ungraded milk are made twice monthly. Under present conditions there is a lag of a half month in using the prices paid at these manufacturing plants in computing the Class II price. It is now possible to obtain these prices promptly enough so that the prices paid for both halves of the same month can be used in computing the Class II price for such month. Accordingly, provision should be made to effectuate this more practical procedure.

It was proposed that 3 plants (Kraft Foods at Toulon, Illinois, Quality Milk Association at Mt. Carroll, Illinois, and the Illinois-Iowa Milk Producers Association at Davenport, Iowa) be added to the list of plants whose pay prices are used in computing the Class II price. No testimony was presented regarding the pay prices at the 3 plants proposed to be added or of the availability of such prices in time for announcing the Class II price each month. Moreover, it was not shown that the present Class II price does not reflect the value of manufacturing milk locally or is otherwise inappropriate for the Quad Cities market. Accordingly, the proposal to use the pay prices at the 3 specified plants in the computation of the Class II price is denied.

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

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

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

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

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

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Quad Cities marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 944.7 and substitute therefor the following:

§ 944.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

§ 944.10 [Amendment]

2. Delete the proviso in § 944.10 (b) and substitute therefor the following: "*Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceeding period of September through November, such plant shall be a pool plant for the months of December through August, unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August."

3. Delete paragraphs (c) and (d) of § 944.10.

4. Delete § 944.12 and substitute therefor the following:

§ 944.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants or in his capacity as the operator of a distributing plant that is not a pool plant, or

(b) Any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

5. Delete § 944.14 and substitute therefor the following:

§ 944.14 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk received at a pool plant directly from producers: *Provided*, That milk diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association shall be deemed to have been received by the diverting handler at the plant from which diverted: *And provided further*, That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler at the plant from which diverted on such days.

§§ 944.30, 944.41 [Amendment]

6. In §§ 944.30 (d) and 944.41 (b) delete "§ 944.7" and substitute therefor "§ 944.14".

§ 944.44 [Amendment]

7. Delete § 944.44 (c) and substitute therefor the following:

(c) As Class I milk if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 300 miles from the City Hall, Rock Island, Illinois, by the shortest highway distance as determined by the market administrator; and

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 300 miles from the City Hall, Rock Island, Illinois, by the shortest highway distance as determined by the market administrator, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 944.30 for the month within which such transaction occurred;

(2) The operator of such nonpool 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 the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month directly from Grade A dairy farms that the market administrator determines constitute the regular source of supply for such plant: *Provided*, That any skim milk or butterfat in fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farms shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further*, That if the total skim milk and butterfat which were transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this part and other orders issued pursuant to the Act are more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso hereof, the skim milk and

butterfat assigned to Class I milk at a pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the Act.

§ 944.50 [Amendment]

8. Delete § 944.50 (b) and substitute therefor the following:

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Co., Dixon, Ill.
Carnation Co., Morrison, Ill.
Carnation Co., Oregon, Ill.
Carnation Co., Waverly, Iowa.
United Milk Products Co., Argo Fay, Ill.

Issued at Washington, D. C., this 2d day of January 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 59-171; Filed, Jan. 7, 1959; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 12722; FCC 58-1260]

PRACTICE AND PROCEDURE

Safety and Special Radio Services Applications

1. Notice is given hereby of proposed rule making to amend Subpart F of Part 1 of the Commission's rules by adding a new section thereto. Such new section would govern action on applications for authorizations in the Safety and Special Radio Services which show that an applicant is obtaining or will obtain his communications equipment by a lease-maintenance contract with the American Telephone and Telegraph Company or its subsidiaries.

2. By consent of the parties, the United States District Court for the District of New Jersey entered a Final Judgment on January 24, 1956, in Civil Action No. 17-49, United States of America v. Western Electric Company, Incorporated, and American Telephone and Telegraph Company. Section V of this anti-trust Consent Decree, in part pertinent here, provided as follows:

The defendant A. T. & T. is enjoined and restrained from engaging, either directly, or indirectly through its subsidiaries other than Western and Western's subsidiaries, in any business other than the furnishing of common carrier communications services; provided, however, that this Section V shall not apply * * * (d) for a period of five (5) years from the date of this Final Judgment, [to] leasing and maintaining facilities for private communications systems, the charges for which are not subject to public regulation, to persons who are lessees from defendants or their subsidiaries of such systems forty-five (45) days after the date of this Final Judgment, * * *

3. Pursuant to its obligation to consider relevant anti-trust matters in its general public interest determinations in its licensing functions, the Commission has considered the above-mentioned Consent Decree in connection with action on applications for authorizations in the Safety and Special Radio Services involving equipment lease-maintenance contracts with A. T. & T. or its subsidiaries. The experience gained from such considerations, plus a formal decision based on a protest proceeding concerning the Consent Decree and the Commission's licensing functions, causes the Commission to believe it to be advisable to formulate rules to govern future action on such applications. See In the Matter of the Applications of the Connecticut Water Company and Wooldridge Bros., Inc., Docket Nos. 12323 and 12324, FCC 58-1144.

4. The Commission has assumed no position at this time concerning the effects, if any, on the Consent Decree restrictions if such equipment lease-maintenance activity has been found or may be found, by any jurisdiction, to be "the furnishing of common carrier communications services" and/or if the charges therefor are or may become "subject to public regulation." Comments or arguments on these points are invited herein for the purpose of aiding the Commission in the development of a position thereon.

5. During the interim between the time of issuance of the instant rule making proposal and its finalization, the following policies will govern action on applications where applicants for private mobile communications systems propose to lease their equipment from and have it maintained by a Bell System telephone company:

a. Applications for renewals, modifications, or amendments involving alterations or changes not requiring additional equipment will be granted.

b. Applications involving new or additional equipment will be held in abeyance pending the outcome of the instant proceeding.

c. All grants made will have a termination date of not later than January 24, 1961.

6. The proposed amendment, which is set forth in detail below, is issued under the authority contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

7. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before January 30, 1959, written data, views, or arguments setting forth his comments. Comments in support of the proposed amendments may be filed also on or before the same date. Comments in reply to original comments may be filed on or before the tenth day following the last day for the filing of original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for filing such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

8. In accordance with the provisions of § 1.54 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: December 30, 1958.

Released: January 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Subpart F of Part 1 is amended by adding a new § 1.507 to read as follows:

§ 1.507 Rented communications equipment.

Action on applications for authorizations in the Safety and Special Radio Services which indicate that the equipment therefor will be obtained pursuant to lease-maintenance arrangements with the American Telephone and Telegraph Company or its subsidiaries will be governed as follows: [1]

(a) No authorization shall be granted in response to such applications on or after January 24, 1961.

(b) No authorization shall be granted in response to such applications if an applicant or its predecessor in interest was not the lessee of A. T. & T. or its subsidiaries of the equipment for such communications system on or before March 9, 1956.

(c) No authorization shall be granted in response to such applications requesting authority to enlarge or extend such communications systems so as to require additional equipment, even though the applicant or its predecessor in interest was the lessee of A. T. & T. or its subsidiaries of the equipment for such communications system on or before March 9, 1956.

(d) Authorizations may be granted in response to such applications seeking renewal without change, or a combination renewal and modification conforming to the modification requirements set forth in paragraph (f) of this section, if the applicant or its predecessor in interest was the lessee of A. T. & T. or its subsidiaries of the equipment for such communications system on or before March 9, 1956: *Provided,* That the termination date on any such authorization granted shall not extend beyond January 24, 1961.

(e) Authorizations may be granted in response to such applications seeking to

[1] The terms of the rule proposed herein are not intended to encompass in a negative or affirmative manner, applications involving telephone company lease-maintenance arrangements which have been found or may be found, by any jurisdiction, to be "the furnishing of common carrier communications services" and/or if the charges therefor are or may become "subject to public regulation." See paragraph 4 of the accompanying notice of proposed rule making.

assign or transfer control of an existing authorization, with no changes therein or with such modifications as conform to the modification requirements set forth in paragraph (f) of this section, if the assignor or transferor, or his predecessor in interest, was the lessee of A. T. & T. or its subsidiaries of the equipment for such communications system on or before March 9, 1956; *Provided*, That the termination date on any such authorization shall not extend beyond January 24, 1961.

(f) Authorizations may be granted in response to such applications seeking modification or amendment in the nature of alterations or changes not necessitating the addition of equipment, if the applicant or his predecessor in interest was the lessee of A. T. & T. or its subsidiaries for such communications system on or before March 9, 1956: *Provided*, That the termination date on any such modified or amended authoriation shall not extend beyond January 24, 1961. Modifications or amendments which may be permitted hereunder include the following: Frequency, emission, and power changes; local change of site of base transmitters or control points; change of mailing address, or business name of licensee; substitution of equipment; lowering of antenna height or local change of site for antenna; reduction of number of authorized base and mobile transmitters or control points; extensions of construction periods for authorized modifications or amendments; and change in area in which mobile units may be operated.

NOTE: For the purposes of this rule, subsidiaries of A. T. & T. include the following:

Bell Telephone Co. of Nevada
Citizen Telephone Co., Inc.
Illinois Bell Telephone Co.
Indiana Bell Telephone Co.
Michigan Bell Telephone Co.
New England Telephone and Telegraph Co.
New Jersey Bell Telephone Co.
New York Telephone Co.
Northwestern Bell Telephone Co.
Southern Bell Telephone and Telegraph Co.
Southwestern Bell Telephone Co.
The Bell Telephone Co. of Pennsylvania
The Chesapeake and Potomac Telephone Co.
The Chesapeake and Potomac Telephone Co. of Maryland
The Chesapeake and Potomac Telephone Co. of Virginia
The Chesapeake and Potomac Telephone Co. of West Virginia
The Cincinnati and Suburban Bell Telephone Co.
The Diamond State Telephone Co.
The Mountain States Telephone and Telegraph Co.
The Ohio Bell Telephone Co.
The Pacific Telephone and Telegraph Co.
The Southern New England Telephone Co.
Wisconsin Telephone Co.

[F. R. Doc. 59-182; Filed, Jan. 7, 1959; 8:48 a. m.]

[47 CFR Part 4]

[Docket No. 12116; FCC 58-1255]

EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERVICES

Low Power Television Broadcast Repeater Stations

In the matter of amendment of Part 4 of the Commission's rules and regulations to permit the operation of low power television broadcast repeater stations; Docket No. 12116.

1. The Commission has before it for consideration its notice of proposed rule making (FCC 57-830), issued in this proceeding July 29, 1957, which proposed certain rules considered to be essential to the licensing of low power television broadcast repeater stations in the VHF and UHF television broadcast bands.

2. As background to this proceeding it is appropriate to observe that VHF television broadcast boosters and translators[1] have been in operation in the VHF television band under varying conditions in a number of communities, particularly in mountainous areas of the West, for several years with no authorization having been granted therefor under the licensing provisions of the Communications Act of 1934, as amended. Such operations have, for the most part, been continued during the course of these proceedings. On June 27, 1957, the Commission, by Memorandum Opinion, rejected proposals which had been advanced (in Docket No. 11331) favoring the licensing of VHF boosters. The opinion stated, in part:

> The Commission staff has investigated a number of unauthorized VHF booster installations. Many of these were found to consist of apparatus designed for use in conjunction with community antenna systems, where the amplified signals were transmitted through carefully shielded cable to individual receivers. No particular attention was given, in the design of the apparatus, to such important matters as limiting the overall bandwidth to insure that only the desired channel is transmitted or to the maintenance of linearity in order to minimize the generation of intermodulation products. No automatic circuits were incorporated to render the apparatus inoperative in the event it fails to function properly, nor was any provision made to turn the apparatus off when not in use. In many cases the apparatus is merely connected to a radiating antenna and left unattended. The only form of malfunctioning which would be detected under these arrangements would be one which disrupted reception of the desired signal. Transmissions outside the band interfering with other vital services, would not be detected. Nor would interference to other television stations be detected.
>
> For these important reasons we are compelled to reject the proposals which urge that we authorize the type of operation now being conducted by the unauthorized VHF boosters. Nor would applying the same types of restrictions to the operation of VHF boosters as have been applied to the operation of UHF translators offer a solution. Since translators operate in the upper 14 UHF channels where the spectrum is not congested, it has been possible to reduce the technical and supervisory requirements to the barest minimum. However, it would not be possible, as a practical matter, to relax the requirements for the operation of VHF boosters to the same extent since they would operate in the very congested VHF portion of the spectrum. The VHF channels allocated for the television broadcast service are not in a continuous band and are interspersed with frequencies allocated for other important uses, including services devoted to the protection of life and property. It would be essential, therefore, that boosters operating in the crowded VHF spectrum have more refined equipment and greater technical supervision when in operation. To operate VHF boosters without such safeguards would run the risk of causing harmful interference to other important radio services. On the other hand, applying the same types of restrictions and safeguards to the operation of VHF boosters as those that are applied to translators, would make the operation of VHF boosters impracticable. In view of these serious shortcomings to the use of VHF boosters, the proposals for their authorization must be rejected. However, it should be emphasized that the translator service has been established to provide a low-cost means for bringing television service to small communities and outlying areas beyond the reach of existing stations. We see no necessity for running the risk of causing harmful interference to other radio services by the operation of VHF boosters when translators provide an excellent means for doing the job of providing service.

3. This proceeding was instituted pursuant to a petition of Governor McNichols of Colorado, dated July 2, 1957 requesting that we reconsider the June 27, 1957 action and afford the proponents for VHF boosters an opportunity to demonstrate, by means of engineering evidence in a hearing, that VHF boosters can be operated without causing harmful interference. The petition was granted to the extent that it requested rule making on the use of VHF boosters (FCC 57-829) on July 29, 1957 and this proceeding was commenced simultaneously with that action. The Governor's petition submitted that while UHF translators may be desirable for other sections of the country they are ill-suited for the rugged, mountainous terrain prevalent in the Far West; that there is no reason why both translators and VHF boosters should not be authorized, with each employed where appropriate; that technical advances have been made in the manufacture of booster equipment; and that the operation of VHF boosters can thus be adjusted to meet standards that would be promulgated by the Commission.

4. The Commission proposed for consideration in this proceeding the adoption of rules, as set out in the notice of proposed rule making, which would permit the operation of low power TV repeater stations[2] in the VHF and UHF television bands under conditions relating to the equipment to be used and the operational practices to be followed which were designed to safeguard against the serious deficiencies and potentially dangerous effects of the unauthorized installations. The proposed licensing and operating requirements were reduced to the barest minimum consistent with the need for protection against interference in an effort to keep costs as low as possible. A power limitation of one watt input to the plate of the final radio frequency amplifier was proposed. This amount appeared reasonably adequate for full consideration of the proposal and necessary to insure a minimum amount of interference to other radio services and

[1] As the terms are used herein, a VHF booster comprises apparatus designed to receive, amplify and retransmit TV signals on a single VHF channel and a VHF translator, though similar, transmits on a VHF channel different from that received. The term boosters, used generally, may be considered to include VHF translators.

[2] This term is used to identify equipment designed for operation pursuant to such rules.

to direct reception of television broadcast stations.

5. The majority of the comments filed in this proceeding were in the nature of mere expressions of views favoring the licensing of VHF boosters, but containing no technical data as to the manner of compliance with the proposed rules or whether such compliance would be attempted and achieved. Many of these communications were received from persons currently engaged in the unauthorized operation of TV boosters. Other communications urging licensing were received from citizens of the communities now served by unauthorized booster stations and from a number of federal, state, and local governmental officials. Those comments which did touch upon the subject of compliance indicated, for the most part, that the requirements proposed by the Commission were far too stringent and that none of the existing apparatus could meet such requirements without extensive alterations. Comments were received from the licensees of 28 television broadcast stations, most of whom supported the general idea of licensing boosters and translators in the VHF television broadcast band, but urging that truly adequate safeguards be adopted to avoid electrical interference. Some expressed the views that such devices could be used appropriately to improve coverage of their own stations, but not to bring in competing TV signals. A few manufacturers of electronic apparatus filed comments containing general statements to the effect that suitable apparatus could be designed and manufactured to meet the proposed requirements, but none supplied specific data as to the cost and complexity of such apparatus. The National Community Television Association and individual community antenna operators opposed adoption of the proposed rules generally on the grounds that the use of a large number of these low power devices would pose a serious threat of harmful interference to the reception of VHF television broadcast stations and thereby jeopardize the rather substantial investments in TV distribution systems. They deny the petition's contention that TV translators operating in the UHF television band are in any way unsatisfactory. Educational groups commenting were concerned with the impact of widespread use of low power devices in the VHF television bands on the eventual utility of educational TV channel reservations. They expressed the views that operations of such low power devices would encroach upon educational TV channels, many of which are not yet in use, and that the licensing of such devices by the Commission will make it extremely difficult later to implement educational TV operations.

6. More detailed comments were filed by Colorado Television Repeater Association (CTRA), Washington State TV Reflector Association (WTRA), Prescott TV Booster Club—Peoples Television Inc., Prescott, Arizona, Kanob, Utah, and Fredonia, Arizona Television Organization, Mayor of the City of St. George, Utah, Parowan City Corporation, Radio Communications Service Company, Blonder-Tongue Laboratories, Inc., National Community Television Association, Inc. (NCTA), Video Utility Corporation, Adler Electronics, Inc., Sylvania Electric Products, Inc., Jerrold Electronics Corporation, National Association of Educational Broadcasters (NAEB), Joint Council on Educational Television (JCET), and Aeronautical Radio, Inc. The salient points in these comments are discussed in the following paragraphs.

7. Nowhere in any of the comments filed in support of the proposal to license low power TV repeaters in the VHF television bands do we find any showing that TV translators operating in the UHF television band, as provided in the existing rules, are not suited to the types of terrain encountered in the various areas covered, or that such devices will not perform as well, if not better, than low power devices operating in the VHF television bands. We are convinced that the service being provided by currently licensed TV translators is superior, both in quality of signal and in extent of coverage, to that provided by the majority of the existing unlicensed TV boosters and translators operating in the VHF television bands under similar terrain conditions. Measurements and surveys conducted by Colorado Television Repeater Association (CTRA), proponents of low power TV repeater operation in the VHF bands, and National Community Television Association (NCTA), opponents of the proposed service, both demonstrate clearly that the signal strengths provided by existing unlicensed TV boosters and translators are marginal in most cases, even at locations within a mile or so of the repeater location, and individual viewers must, in such cases, employ elaborate receiving antenna arrays in order to receive a useable picture. CTRA admits this deficiency, but expresses the hope that a modest increase in power would improve the situation. It suggests that maximum power be increased to approximately 10 times that provided under proposed rules. Opinion was divided among most of the proponents of the proposed rules, some indicating that the proposed power would be satisfactory and others feeling that some increase should be permitted. It appears that a TV translator operating in the UHF television band, as provided in existing rules of the Commission, is technically capable of providing satisfactory TV reception in substantially any area where such reception could be provided by a low power TV repeater station operating in the VHF television band, and that the improved interference-free nature of UHF translators operating under the rules [3] affords much more reliable and satisfactory television service than could be afforded by the existing VHF booster installations.

8. None of the comments filed in this proceeding supplied data as to the cost of equipment meeting the technical requirements contained in the rules proposed by the Commission nor were any comments filed to supply data either supporting or contesting the adequacy and necessity of these requirements in order to avoid serious electrical interference. The Washington TV Repeater Association states that the cost of equipment meeting the requirements proposed by the Commission would be prohibitive. CTRA estimated that if some of the proposed requirements were relaxed substantially, suitable equipment could be made for around $2,000 and that equipment such as is presently used in the unlicensed operations, but with a filter added to minimize out-of-band interference, would cost approximately $1,350. Prescott TV Booster Club and Peoples Television, Inc., estimate that equipment meeting some of the technical requirements could be installed in the VHF band for approximately $4,000. The engineering report submitted by NCTA states that the cost of transmitting equipment with one watt input power would be approximately $2,000, that present single channel TV repeaters of the translator type operating in the VHF bands range in cost from $1,000 to $1,500, and that such devices of the on-channel or "booster" type cost between $500 and $1,000. These cost estimates can be compared with the cost of a UHF translator with directive transmitting antenna capable of radiating 500 watts and costing $3,500.[4] Adler Electronics, Inc., estimates that if some of the more stringent requirements of the proposed rules were relaxed the cost of a repeater type transmitter for VHF operation would be approximately two-thirds that of apparatus for operation in the UHF band.

9. For the complete station, the costs of items such as a suitable antenna for receiving the desired primary TV station, poles or other supporting structures for this antenna and the transmitting antenna, a suitable shelter for the apparatus, power supply lines or other sources of primary power, land upon which to make the installation, and access roads, all must be added. A sampling of data on file with the Commission for such installations indicates that these additional costs average at least 1,000 to 2,000 dollars per station. These items are equally necessary to the installation of a station designed to operate in either the VHF or UHF television bands, and little if any additional costs would be necessary in these items to modify an existing installation from VHF to UHF.

10. It was urged by some proponents of low power operation in the VHF band that the difference in cost of the transmitting apparatus is not as significant as the cost differential to individual viewers in equipping their receivers for UHF reception. While this assertion is clearly directed to an important area for consideration it was not supported by any factual data as to the comparative costs of a VHF receiving installation for reception of low powered TV repeaters and a suitable receiving installation for TV translators operating in the UHF

[3] The finding is based upon coverage afforded by a transmitter power of 10 watts. We note that the UHF translator rules have recently been amended to permit transmitter power of 100 watts.

[4] This cost figure is based upon 10 watts radio frequency power. Equipment for 100 watts radio frequency power would require additional cost and afford increased coverage.

band. NCTA, on the other hand, stated that the cost of VHF receiving antenna installations at the homes of individual viewers, needed for reception of the low powered VHF repeaters, is from $40 to $200, whereas UHF converters for receivers not already equipped for UHF reception cost from $19 to $39 and an antenna installation suitable for reception of TV translators operating in the UHF band costs from $10 to $15. On the basis of these figures, in most cases, the individual costs for UHF reception would be substantially less and not greater than the costs for reception of the low power VHF transmissions. An increase in power on the VHF transmitters could of course be used to reduce receiver costs by supplying a stronger signal, however, such would further aggravate the interference problem. It thus appears that the principal disadvantage to the viewing audience and the principal cost item affecting them is the fact that a change from the VHF boosters to UHF translators would require an installation of UHF receiving equipment (receiver, or converter, and antenna) at the locations already equipped to receive VHF signals. On an initial cost basis, however, the UHF installations will in many cases be less expensive and in few or no cases would be expected to be more expensive than were the VHF installations.

11. The notice of proposed rule making stated:

> The Commission has been vitally concerned with the problem of bringing television service to all sectors of the nation, both large cities and sparsely settled regions. Much of our time in the past few years has been spent on this problem. Last year we authorized a new type of service—UHF translators—with a view to serving sparsely settled areas unable to support their own stations and beyond the range of existing stations. Our experience since the adoption of the new translator rules indicates that they offer great promise of making television service available to many areas now lacking it. * * *

The Commission had earlier encouraged experimentation with TV boosters and authorized a sufficient number of experimental operations to explore the feasibility of these devices. The results of these experiments showed that the operation of a TV booster on a single channel posed many complex problems. Such apparatus tends to lose its stability when amplification is high, and extreme care must be exercised in the design and installation of boosters to prevent improper operation and interference to other stations and services. Even when boosters are operated properly, they are inherently a source of interference to the direct signals of the station they are retransmitting. Although TV boosters could be made to work in some instances, extensive engineering and complex apparatus would be required. Because of the costs involved, the Commission did not consider such TV boosters to be an acceptable solution to the problem of inadequate TV reception in small, remote communities. Many of the present unauthorized VHF operations began as TV boosters and found such operation to be impractical. Most of these changed over to a frequency-conversion or TV translator type of operation to escape these problems.

12. The operation of TV translators in the VHF bands retains many of the problems associated with the operation of TV boosters and poses further related problems. Technically refined apparatus must be employed and the installation carefully engineered to prevent improper operation and the attendant hazard of harmful interference to other stations and services. The apparatus uses separate channels for reception of the desired TV station and its own retransmission and thus reduces the total channel availability in any given area. This area may be quite extensive since the characteristics of TV signals are such that a signal many times weaker than the desired signal is capable of causing severe interference to the desired signal. This factor is recognized in the engineering assignment standards applied to regular TV broadcast stations and is minimized by using adequate physical separation between TV stations operating on or near the same channel and by requiring a high degree of stability of the carrier frequencies transmitted by TV broadcast stations. Such criteria, if applied to TV translators operating in the VHF television bands, would add substantially to the cost and complexity of the apparatus and would limit the availability of channels to such an extent that the 12 VHF channels would prove entirely inadequate to meet the needs of the many small communities desiring to operate such apparatus.

13. In this proceeding we have given most careful consideration to the adoption of appropriate standards designed to avoid serious problems. While we believe such standards could be used to eliminate substantially the serious extra-band interference hazards of the boosters, which amplify and retransmit on a single channel, the proposed standards could not alleviate the allocation deficiencies which would be caused nor eliminate the other problems of in-band interference to the television service.

14. As we have stated, the Commission is vitally concerned with the problem of bringing television service to all sections of the nation, both large cities and sparsely settled regions. We have considered most carefully the matters urged in the petition and other related matters which have been considered appropriate to this proceeding. There is no substantial evidence that repeaters would be installed and operated in accordance with the standards proposed. The evidence, to the contrary, is that few, if any, existing operations would be reconstructed to meet the standards due to the necessary costs, although such standards have not been shown to be unduly stringent. We conclude here in view of the foregoing considerations and the entire record in this proceeding that adoption of rules amendments as considered herein would not serve the public interest.

15. *Accordingly, it is ordered,* That the above referenced petition is denied; the amendments of the rules appended to the notice of proposed rule making are not adopted; and the rule making proceedings herein are terminated.

Adopted: December 30, 1958.

Released: January 5, 1959.

FEDERAL COMMUNICATIONS COMMISSIONS,[*]

[SEAL] MARY JANE MORRIS, *Secretary.*

[F. R. Doc. 59-183; Filed, Jan. 7, 1959; 8:49 a. m.]

NOTICES

DEPARTMENT OF LABOR

Office of the Secretary

[General Order 97]

DELEGATION OF FUNCTIONS UNDER THE WELFARE AND PENSION PLANS DISCLOSURE ACT

By virtue of and pursuant to the authority vested in me by the Act of March 4, 1913 (5 U. S. C. 611), the Welfare and Pension Plans Disclosure Act (72 Stat. 997), Reorganization Plan No. 6 of 1950 (5 U. S. C. 611, note), and R. S. 161 (5 U. S. C. 22), the Director of the Bureau of Labor Standards or his authorized representative, under the general direction and control of Assistant Secretary Gilhooley, is hereby authorized to perform those functions vested in the Secretary of Labor by the Welfare and Pension Plans Disclosure Act, including the issuance of advisory opinions on the advice of the Solicitor, but not including the preparation and submission of annual and other reports and recommendations to the Congress.

This order shall become effective January 1, 1959 and shall supersede all prior orders, instructions, regulations, or memoranda of the Secretary of Labor to the extent that they are inconsistent herewith.

JAMES P. MITCHELL, *Secretary of Labor.*

DECEMBER 31, 1958.

[F. R. Doc. 59-194; Filed, Jan. 7, 1959; 8:50 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-8]

NEW ENGLAND TANK CLEANING CO.

Issuance of Amendment to Byproduct Material License

Please take notice that the Atomic Energy Commission has issued the following Amendment (No. 3) to License No. 20-3541-1 authorizing the New England Tank Cleaning Company, as re-

[*] Concurring statement of Commissioner Cross filed as part of original document.

quested in its application for license amendment dated December 10, 1958, to receive, possess, package and dispose of source and special nuclear material in the Atlantic Ocean. License No. 20–3541–1, issued on October 9, 1958, previously authorized the receipt, possession, packaging and disposal of byproduct material in the Atlantic Ocean.

It appears that the receipt, possession, packaging and disposal of source and special nuclear material in accordance with the terms and conditions of License No. 20–3541–1, as amended, will be conducted in such a manner as to protect the health and safety of the public and minimize danger to life or property.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. The notice of receipt of an application for amendent to License No. 20–3541–1 was published in the FEDERAL REGISTER on December 25, 1958. For further details see the application for amendment at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Maryland, this 31st day of December 1958.

For the Atomic Energy Commission.

JAMES R. MASON,
Chief, Isotopes Branch, Division of Licensing and Regulation.

[License No. 20–3541–1 (I60), Amdt. 3]

In addition to activities previously authorized by License No. 20–3541–1, and pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Code of Federal Regulations, Chapter 1, Part 40, "Control of Source Material", and Title 10, Code of Federal Regulations, Chapter 1, Part 70, "Special Nuclear Material", License No. 20–3541–1 is amended to authorize the New England Tank Cleaning Company to receive, possess, package and dispose of source and special nuclear material in the Atlantic Ocean and to:

A. Add new Conditions 11 and 12 to read as follows:

11. The licensee shall not receive possession of more than 50 pounds of source material and 5 grams of special nuclear material during the term of this license.

12. Packaged radioactive waste containing special nuclear material shall be transported aboard vessels of American registry.

B. Amend Conditions 2, 3, 4, 5, 7, 8, and 10 to insert after the words byproduct material, source and special nuclear material.

C. Amend Condition 9 to read as follows:

9. The licensee shall notify the Chief, Isotopes Branch, Division of Licensing and Regulation, Atomic Energy Commission, at least 20 days prior to each disposal, by letter deposited in the United States mail properly stamped and addressed, of the proposed date for disposal, the total number of containers, the total activity of byproduct material in millicuries, the amount of source material in pounds, the amount of special nuclear material in grams, and the most hazardous radioisotope contained in each container.

This amendment is effective as of the date of issuance.

Date of issuance: December 31, 1958.

For the Atomic Energy Commission.

JAMES R. MASON,
Chief, Isotopes Branch, Division of Licensing and Regulation.

[F. R. Doc. 59–156; Filed, Jan. 7, 1959; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

CORN

Proclamation of Results of the Referendum

In the "Notice of Referendum and Regulations Pertaining Thereto" published in 23 F. R. 7470, it was announced that a referendum would be held on November 25, 1958, pursuant to section 104 (a) of the Agricultural Act of 1949, as amended by section 201 of the Agricultural Act of 1958 (72 Stat. 993) to determine whether such producers favor (1) a price support program as provided in section 105 (a) of the Agricultural Act of 1949, as amended, for the 1959 and subsequent crops in lieu of (2) acreage allotments as provided in the Agricultural Act of 1938, as amended, and price support as provided in section 101 of the Agricultural Act of 1949, as amended.

Of the 357,169 votes cast, 254,262 voted in favor of the alternative program as provided for in (1) above, and 102,907 voted in favor of continuing the program as provided for in (2) above. Since 71.2 percent of the producers voting, voted in favor of (1) above, which represented a majority of the producers voting in the referendum, that program will be in effect for 1959 and subsequent years.

The following is a tabulation of the votes cast by producers of the respective States of the 1958 Commercial Corn-Producing Area:

RESULTS OF CORN REFERENDUM

(November 25, 1958)

State	Votes cast for—			Percent for—		Estimate of eligible voters	
	Proposal 1	Proposal 2	Total	Proposal 1	Proposal 2	No.	Percent voting
Alabama	7,558	665	8,223	91.9	8.1	61,247	13.4
Arkansas	826	378	1,204	68.6	31.4	13,537	8.9
Delaware	269	159	428	62.9	37.1	7,115	6.0
Florida	1,290	29	1,319	97.8	2.2	6,680	19.7
Georgia	6,640	503	7,143	93.0	7.0	36,338	19.7
Illinois	50,701	11,268	61,969	81.8	18.2	342,125	18.1
Indiana	39,202	8,454	47,656	82.3	17.7	244,108	19.5
Iowa	43,019	16,981	60,000	71.7	28.3	296,384	20.2
Kansas	4,928	1,556	6,484	76.0	24.0	50,110	12.9
Kentucky	2,033	4,574	6,607	30.8	69.2	89,445	7.4
Maryland	801	386	1,187	67.5	32.5	19,573	6.1
Michigan	8,085	2,155	10,240	79.0	21.0	120,915	8.5
Minnesota	13,906	13,339	27,245	51.0	49.0	165,101	16.5
Missouri	11,406	6,380	17,786	64.1	35.9	174,137	10.2
Nebraska	24,414	10,114	34,528	70.7	29.3	132,816	26.0
New Jersey	239	152	391	61.1	38.9	7,123	5.5
North Carolina	4,979	10,932	15,911	31.3	68.7	103,646	15.4
North Dakota	241	218	459	52.5	47.5	3,465	12.2
Ohio	14,713	4,263	18,976	77.5	22.5	191,654	9.9
Pennsylvania	2,067	567	2,634	78.5	21.5	68,000	3.9
South Carolina	2,105	66	2,171	97.0	3.0	10,575	20.5
South Dakota	6,672	4,718	11,390	58.6	41.4	62,467	18.2
Tennessee	2,702	2,427	5,129	52.7	47.3	57,386	8.9
Virginia	902	687	1,589	56.8	43.2	15,192	10.4
West Virginia	136	13	149	91.3	8.7	1,137	13.1
Wisconsin	4,428	1,923	6,351	69.7	30.3	131,508	4.8
Total	254,262	102,907	357,169	71.2	28.8	2,411,784	14.8

Done at Washington, D. C., this 2d day of January 1959.

[SEAL] E. L. PETERSON,
Acting Secretary.

[F. R. Doc. 59–173; Filed, Jan. 7, 1959; 8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

COLUMBIA BASIN PROJECT, WASHINGTON

Order of Revocation; Amendment

DECEMBER 12, 1958.

The Order of the Commissioner of Reclamation dated February 17, 1956, concurred in by the Bureau of Land Management on November 10, 1958 (23 F. R. 8966) is amended to the extent necessary to describe the "Departmental order" of June 13, 1947, referred to in the first paragraph thereof, as in fact an order of the Commissioner of Reclamation of June 13, 1947, concurred in by the Director, Bureau of Land Management, on June 18, 1947.

FLOYD E. DOMINY,
Acting Commissioner.

[71106]

DECEMBER 31, 1958.

I concur.

E. J. THOMAS,
Acting Director, Bureau of Land Management.

[F. R. Doc. 59–159; Filed, Jan. 7, 1959; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

JOHN ROBERT JONES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

A. Deletions: None.
B. Additions: None.

This statement is made as of December 14, 1958.

Dated: December 15, 1958.

JOHN ROBERT JONES.

[F. R. Doc. 59-180; Filed, Jan. 7, 1959; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7984 et al.]

SOUTHERN TRANSCONTINENTAL SERVICE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that public hearings will be held in the above-entitled proceeding at the following times and places before Examiner Edward T. Stodola:

April 14, 1959, at 10 o'clock a. m. (local time), in the Grecian Room, Shamrock Hilton Hotel, Houston, Tex.;

April 27, 1959, at 10 o'clock a. m. (local time), in Room 535, United States Post Office and Court House Building, 312 North Spring Street, Los Angeles, Calif.;

May 11, 1959, at 10 o'clock a. m. (local time), in Room 209, Federal Building, 300 N. E. First Street, Miami, Fla.;

May 26, 1959, at 10 o'clock a. m. (local time), in the Universal Building, Florida and Connecticut Avenues NW., Washington, D. C.

Without limiting the scope of the issues presented by Docket No. 7984 et al., and the applications and inquiries consolidated for hearing therewith, particular attention will be directed to the following matters:

1. Whether the public convenience and necessity require single-carrier service between Houston and San Diego, Long Beach, Los Angeles, and San Francisco/Oakland, via San Antonio, El Paso, Albuquerque, Tucson, Phoenix, and Las Vegas; single-carrier service between the points of Miami, Fort Lauderdale, Orlando, Jacksonville, Tampa/St. Petersburg-Clearwater, Pensacola, and Mobile, on the one hand, and San Diego, Long Beach, Los Angeles, and San Francisco/Oakland, on the other, via New Orleans, Houston, San Antonio, El Paso, Dallas, Fort Worth, Lubbock, Albuquerque, Tucson, Phoenix, and Las Vegas; and single-carrier service between Miami, Jacksonville, Atlanta, Birmingham, Jackson, and Shreveport, on the one hand, and San Diego, Los Angeles, and San Francisco/Oakland, on the other, via New Orleans, Houston, San Antonio, El Paso, Dallas, Fort Worth, Lubbock, Albuquerque, Tucson, Phoenix, and Las Vegas;

2. Whether the public convenience and necessity require the additional trunkline air service proposed by applications considered in the Dallas to the West Service Case, Docket No. 7596 et al., as consolidated with the above-entitled proceeding by Board Orders Nos. E-12861 and E-13132;

3. Whether the public convenience and necessity require and whether the Board should order that the authority of National Airlines, Inc., to serve Houston, Texas, as granted by Order No. E-10635, be renewed, altered, amended, and/or modified;

4. Whether the public convenience and necessity require and whether the Board should order that authority of Continental Airlines, Inc., to serve Houston, Texas, as granted by Order No. E-10082, be renewed, altered, amended, and/or modified;

5. Whether the public convenience and necessity and the public interest require the provision of through service as authorized by the Continental-American, Braniff-TWA, National-Delta-American, and Delta-American interchange arrangements and whether the continuation, termination, or modification of any one or each of the foregoing equipment interchange authorizations would be in the public interest; and

6. Whether the applicants are fit, willing, and able to conduct the air transportation proposed above and whether said applicants are able to conform to the provisions of the law and the regulations of the Board thereunder.

For further details of this proceeding and the issues involved, interested persons are referred to the applications consolidated in this proceeding, to Orders of the Board Nos. E-10600, E-11020, E-11179, E-11323, E-12279, E-12861, E-13132, and E-13342 and to the Reports of Prehearing Conference in this consolidated matter on file with the Civil Aeronautics Board.

Notice is hereby further given that any person not a party of record to this consolidated proceeding desiring to be heard in support of or in opposition to questions involved in this case must have on file with the Board on or before April 14, 1959, a statement setting forth the matters of fact or law which he desires to advance. Any person filing such a statement may appear at the hearing and participate in the proceeding in accordance with the provisions of Rule 14 of the Board's rules of practice in economic proceedings.

Dated at Washington, D. C., January 2, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 59-190; Filed, Jan. 7, 1959; 8:50 a. m.]

[Docket No. 10108]

ONTARIO CENTRAL AIRLINES, LTD.

Notice of Hearing

In the matter of the application of Ontario Central Airlines Ltd. for a foreign air carrier permit, issued pursuant to section 402 of The Federal Aviation Act of 1958, to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958 that a hearing in the above-entitled matter is assigned to be held on January 14, 1959, at 10:00 a. m., e. s. t., in Room 1064, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C. before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., January 2, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 59-191; Filed, Jan. 7, 1959; 8:50 a. m.]

[Docket No. 10075]

SOCIEDADES AERONAUTICA MEDELLIN, S. A.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on January 19, 1959, at 10:00 a. m., e. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner John A. Cannon.

Dated at Washington, D. C., January 2, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 59-192; Filed, Jan. 7, 1959; 8:50 a. m.]

[Docket No. 9961]

RENEWAL OF TRANS-TEXAS AIRWAYS' TEMPORARY INTERMEDIATE POINTS

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that the hearing in the above-entitled proceeding, now assigned for January 12, 1959, is postponed to January 19, 1959, at 10:00 a. m., c. s. t., in The Adolphus Hotel, Dallas, Texas, before Examiner Thomas L. Wrenn.

Dated at Washington, D. C., January 2, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 59-193; Filed, Jan. 7, 1959; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12533; FCC 58M-1524]

PAUL A. BRANDT

Order Cancelling Hearing and Scheduling Prehearing Conference

In re application of Paul A. Brandt, Gladwin, Michigan, Docket No. 12533, File No. BP-11361; for construction permit.

The Hearing Examiner having under consideration a petition for continuance of hearing filed on December 30, 1958 by the applicant;

It appearing that the hearing is now scheduled to commence on January 5, 1959, but that counsel for the applicant is involved with another commitment and that a hearing conference is first desirable; and

It further appearing that counsel for the Broadcast Bureau has indicated he has no objection to the requested continuance;

It is ordered, This 31st day of December 1958, that the hearing scheduled for January 5, 1959, is cancelled and that a hearing conference will be held on January 23, 1959.

Released: December 31, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 59-184; Filed, Jan. 7, 1959; 8:49 a. m.]

[Docket Nos. 12608, 12610; FCC 58M-1528]

VENICE - NOKOMIS BROADCASTING CO. AND MELODY MUSIC, INC. (WGMA)

Order Continuing Hearing and Scheduling Conference

In re applications of Venice-Nokomis Broadcasting Company, Venice, Florida, Docket No. 12608, File No. BP-11375; Melody Music, Inc. (WGMA), Hollywood, Florida, Docket No. 12610, File No. BP-12121; for construction permits.

At the oral request of counsel for Melody Music, Inc., made on December 30, 1958, and without objection from any other party to the proceeding: *It is ordered*, This 31st day of December 1958, that hearing in the above-entitled proceeding now scheduled for January 5, 1959, is continued to a date to be determined at pre-hearing conference which is here ordered to be held on January 28, 1959.

Released: January 2, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 59-185; Filed, Jan. 7, 1959; 8:49 a. m.]

[Docket No. 12669; FCC 58M-1506]

TUCUMCARI TELEVISION CO., INC.

Order Continuing Hearing

In re application of Tucumcari Television Company, Inc., San Jon, New Mexico, Docket No. 12669, File No. BPTT-170; for a construction permit to construct a television broadcast translator station.

The Hearing Examiner having under consideration an oral request for a continuance of the currently scheduled date for commencing hearing;

It appearing that an informal conference was held on December 23, 1958, at which the applicant agreed to prepare his direct case in writing and furnish it to the Broadcast Bureau in advance of hearing; and

It further appearing that in order to accommodate both parties it was decided that a later hearing date was desirable;

It is ordered, This 24th day of December 1958, that the hearing now scheduled for January 15 is continued to January 28, 1959.

Released: December 29, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 59-186; Filed, Jan. 7, 1959; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-16743]

CITIES SERVICE GAS CO.

Notice of Application and Date of Hearing

DECEMBER 31, 1958.

Take notice that on October 20, 1958, as supplemented on November 10, 1958, Cities Service Gas Company (Applicant) filed in Docket No. G-16743 an application, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the delivery and sale of gas to Western Missouri Gas Company, Inc. (Western Missouri), for resale to The Gas Service Company (Gas Service) for distribution in the communities of Friestatt and Verona, Missouri, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The proposed facilities consist of a tap on Applicant's existing 16-inch Springfield pipeline in Lawrence County, Missouri, with meter and regulating facilities at that point, approximately one mile south of Friestatt, for service to Friestatt. Sale for distribution in the town of Verona, Missouri, will be made by Applicant to Western Missouri through the existing facilities now being used to sell gas for ultimate service in the town of Mt. Vernon, Missouri.

The estimated cost of Applicant's facilities under this application is $3,575, which will be paid out of treasury cash and reimbursed in full by Western Missouri.

The estimated natural gas requirements to serve both towns hereunder are:

	Year of Service		
	First	Second	Third
Annual (Mcf)	15,750	19,950	25,650
Peak day (Mcf)	210	265	340

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 on February 5, 1959, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 23, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 59-160; Filed, Jan. 7, 1959; 8:45 a. m.]

[Docket No. G-16912]

CITIES SERVICE GAS CO.

Notice of Application and Date of Hearing

DECEMBER 30, 1958.

Cities Service Gas Company (Applicant), a Delaware corporation with a principal place of business in Oklahoma City, Oklahoma, on November 3, 1958 filed pursuant to section 7 of the Natural Gas Act an application for (1) a certificate of public convenience and necessity to construct and operate certain metering and regulating facilities, and (2) authority to abandon 5.4 miles to transmission pipeline subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission, and open to public inspection.

Applicant proposes that its existing Independence, Missouri, town border station (serving Gas Service Company) be moved approximately 5.4 miles south and an additional meter and regulator be installed 1½ miles farther south, near the junction of its existing 12-inch and 16-inch pipelines with a proposed 20-inch pipeline of Gas Service Company south of Independence. Applicant proposes to abandon by transfer to Gas Service Company the 5.4 miles of 12- and 16-inch transmission pipeline extending south from the existing Independence town border station, to the point where the station is to be relocated.

The Applicant states the proposed rearrangement of facilities will enable Gas Service Company to operate the line it will acquire as part of its distribution system at a reduced pressure. The line is located in a heavily congested suburban residential area where the safety of the inhabitants requires that it be operated at substantially reduced pressures. The additional meter station will be used to measure gas to be delivered to Gas Service's proposed new line at a new delivery point in the Independence area which will improve service. In connection with the proposal Applicant will sell some used pipe (from stock) to Gas Service to assist the latter in building its new line.

The application recites that Gas Service Company has indicated it is willing to accept the delivery of gas at the relocated, and new meter stations, and to own and operate the facilities to be abandoned. It has also agreed to buy the used pipe at the "estimated depreciated cost" and to construct and operate the facilities necessary to serve the Independence area at the reduced pressures.

Applicant estimates the cost of building the relocated and new meter and regulator facilities at $47,000. The pipeline to be abandoned by Cities Service will be transferred to Gas Service at no cost. The original cost of these facilities is estimated by Cities Service at $137,040. Gas Service will pay $72,240 for the used pipe it will purchase from Applicant for building its new distribution line.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 January 29, 1959, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10 on or before January 20, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 59-161; Filed, Jan. 7, 1959; 8:46 a. m.]

[Docket No. G-16410]

SUN OIL CO.

Order for Hearing and Suspending Proposed Change in Rates

DECEMBER 30, 1958.

In the Order For Hearing And Suspending Proposed Change In Rates, issued October 6, 1958, and published in the FEDERAL REGISTER on October 10, 1958 (23 F. R. 7870), under "Rate Schedule Designations" change "Supplement No. 8 to Bayou's FPC Rate Schedule No. 63" to read "Supplement No. 8 to Sun's FPC Gas Rate Schedule No. 63."

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 59-163; Filed, Jan. 7, 1959; 8:46 a. m.]

[Docket No. G-17367, etc.]

HAWKINS AND KELLY ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

DECEMBER 31, 1958.

In the matters of Hawkins and Kelly, Docket No. G-17367; Texas Gulf Producing Company (Operator) et al., Docket No. G-17372; Texas Gulf Producing Company, Docket No. G-17373.

The proposed changes hereinafter designated, which constitute increased rates and charges in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission, have been tendered for filing by the above-named Respondents. In each filing, the purchaser is Trunkline Gas Company and the Respondents have proposed January 1, 1959, as the effective date of the changes.[1]

Respondent	Rate schedule No.	Supplement No.	Notice of change dated	Date tendered	Rates in effect subject to refund docket number
Hawkins and Kelly	1	6	Nov. 26, 1958	Dec. 1, 1958	G-17066.
Texas Gulf Producing Co. (operator) et al. (Texas Gulf).	23	4	Undated	Dec. 1, 1958	G-15760, G-14112.
Texas Gulf Producing Co. (Texas Gulf)	22	4	Undated	Dec. 1, 1958	G-15839, G-14069.

In support of the proposed periodic rate increase, Hawkins and Kelly cite the contract provisions and state the proposed rate is less than others being paid to operators for gas less favorably situated as to location, reserves, and deliverability. Texas Gulf, in each case, states that the proposed rate is part of the entire contract consideration arrived at through arm's-length bargaining and the rate is fair, reasonable, and just.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of said supplements be and it is hereby suspended and the use thereof deferred until June 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) None of the several supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until the relevant proceeding has been disposed of or until the applicable period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 or 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 59-162; Filed, Jan. 7, 1959; 8:46 a. m.]

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

[Docket No. G-8288 etc.]

SUN OIL CO. ET AL.

Notice of Severance and Postponement of Hearing

DECEMBER 31, 1958.

In the matters of Sun Oil Company, Docket No. G-8288; E. J. Hudson, et al., Docket No. G-4335; Maracaibo Oil Exploration Corporation, Docket No. G-6279; Sohio Petroleum Company, Docket Nos. G-8488 and G-12660; Maracaibo Oil Exploration Corporation (Operator), et al., Docket No. G-13032.

Upon consideration of the requests filed by all of the parties in the above-designated matters for severance and continuance of the hearing now scheduled to commence on January 19, 1959;

The above-designated matters are hereby severed from each other and the hearing now scheduled for January 19, 1959 is postponed to dates to be hereafter fixed by further notice.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 59-164; Filed, Jan. 7, 1959; 8:46 a. m.]

[Docket No. 7-16552]

PACIFIC NORTHWEST PIPELINE CORP.

Notice of Application and Date of Hearing

DECEMBER 31, 1958.

Take notice that on October 13, 1958, as supplemented on November 10, 1958, Pacific Northwest Pipeline Corporation (Applicant) filed in Docket No. G-16552 an application, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a measuring and regulating station to supply natural gas to Eastern Oregon Natural Gas Company (Eastern Oregon) for initial resale service in the community of Hermiston, Oregon, and environs, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The proposed tap would be located on Applicant's existing 22-inch main pipeline in Umatilla County, Oregon, at a point two miles northwest of Hermiston, where connection between Applicant and Eastern Oregon would be made.

The estimated requirements for the Hermiston area are as follows:

	Year of service		
	First	Second	Third
Annual (Mcf)	40,576	51,962	70,314
Peak day (Mcf)	394	538	785

Applicant estimates the cost of the facilities proposed herein at $9,200, to be defrayed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 on February 5, 1959, at 9:30 a. m., (e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 23, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 59-197; Filed, Jan. 7, 1959; 8:50 a. m.]

[Docket No. G-17400]

HUNT OIL CO.

Order for Hearing, Suspending Proposed Changes in Rates, and Allowing Increased Rates to Become Effective

JANUARY 2, 1959.

Hunt Oil Company (Respondent) tendered for filing proposed changes in its presently effective [1] rate schedules for sales of natural gas subject to the jurisdiction of the Commission. In each instance the purchaser is Arkansas Louisiana Gas Company. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Respondent's FPC gas rate schedule No.	Supp. No.	Notice of change dated	Date tendered	Effective date
44	2	Nov. 14, 1958	Dec. 5, 1958	Jan. 5, 1959 [2]
14	5	Dec. 5, 1958	Dec. 8, 1958	Jan. 10, 1959 [2]
25	6	Undated	Dec. 4, 1958	Jan. 4, 1959 [2]

[2] The stated effective date is the first day after expiration of the required thirty days' notice.
[2] The stated effective date is the date proposed by Respondent.

In support of the proposed increased rates and charges, Respondent has interpreted the tax provisions of each of the rate schedules to the effect that the tax reimbursement for the increase in the Louisiana severance tax will be at the same reimbursement level that Respondent received for the Louisiana gathering tax. Such interpretation is contrary to the purchaser's interpretation. In addition, Respondent gives no explicit explanation of its interpretation of the contract provisions, but merely states that its claimed reimbursement is in accordance with the meaning of the contract when originally executed.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Respondent's proposed increased rates be made effective as hereinafter provided and that Respondent be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements to Respondent's FPC Gas Rate Schedules.

(B) Pending such hearing and decision thereon, said supplements are each hereby suspended and the use thereof deferred, for one day, beyond the above-designated effective dates, and until such further time as each is made effective in the manner hereinafter prescribed.

(C) The rates, charges, and classifications set forth in the above-designated supplements to Respondent's FPC Gas Rate Schedules shall be effective on January 6, 11, and 5, 1959, respectively: *Provided, however,* That within 20 days from the date of this order, Respondent shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Respondent shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the

[1] Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 14 and Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 25 are in effect subject to refund in Docket No. G-15572.

increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Respondent until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates or charges allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Respondent so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the date upon which the increased rates allowed by this order become effective, and under the rates allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Respondent shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the board of directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedules involved, as follows:

Agreement and Undertaking of _____ to comply with the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes.

In conformity with the requirements of the order issued _____, in Docket No. G-____, _____ hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this ____ day of _____.

_____

Attest: By _____

_____

(Secretary)

Unless Respondent is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Respondent shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 59-198; Filed, Jan. 7, 1959; 8:50 a. m.]

[Docket Nos. G-16841, G-16842]

MIDWESTERN GAS TRANSMISSION CO. AND TENNESSEE GAS TRANSMISSION CO.

Order Reconvening Hearing and Denying Motion

JANUARY 2, 1959.

In the matters of Midwestern Gas Transmission Company, Docket No. G-16841; Tennessee Gas Transmission Company, Docket No. G-16842.

On December 3, 1958, we issued an order in these proceedings fixing date of hearing and specifying procedure. Pursuant to said order, a hearing was convened on December 17, 1958, and the above-named applicants were afforded an opportunity to present their direct evidence as to all matters and issues presented by their applications. Thereafter Staff Counsel and other parties conducted as much of their cross-examination of a preliminary nature of the various witnesses as they were prepared to undertake.

On December 19, 1958, at the conclusion of such direct evidence and preliminary cross-examination, the Presiding Examiner recessed the hearing until a date to be fixed by further order of the Commission. Before the hearing was recessed, counsel for applicants moved orally on the record that the hearing be reconvened on January 5, 1959.

We take cognizance of the fact that during the month of January 1959 an extremely large number of cases have been scheduled for hearing. These cases include, insofar as they relate to the Natural Gas Act, the disposition of applications for certificates of public convenience and necessity and matters pertaining to requests for rate increases. The task of preparing these cases for hearing poses a problem of major proportion for the Staff of the Commission. It is self-evident that to further add to an already heavy schedule of hearings in January 1959, as requested by the applicants, would not be in the public interest. It should also be borne in mind that under the Natural Gas Act the disposition of applications for rate increases takes priority over other matters pending before the Commission.[1]

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and in the public interest that the motion made on behalf of the applicants should be denied and the hearing reconvened as hereinafter ordered.

The Commission orders:

(A) 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, the hearing herein will be reconvened on February 16, 1959, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington 25, D. C.

(B) The motion above described, made on behalf of the applicants in these proceedings is denied.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 59-199; Filed, Jan. 7, 1959; 8:50 a. m.]

[1] Subsection (e) of section 4.

[Docket No. G-14871 etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Order Denying Motion and Fixing Date of Hearing

JANUARY 2, 1959.

In the matters of Transwestern Pipeline Company, Docket No. G-14871; Gulf Oil Corporation, Docket No. G-14925; Gulf Oil Corporation, Docket No. G-14940; Gulf Oil Corporation, Docket No. G-14950; Pure Oil Company, Docket No. G-15040; Monsanto Chemical Company, Docket No. G-15318; Pan American Petroleum Corp., Docket No. G-15389; Humble Oil Refining Co., Docket No. G-15714; Sun Oil Company, Docket No. G-15791; Union Oil Company of California, Docket No. G-15810; Warren Petroleum Company, Docket No. G-16030; Warren Petroleum Company, Docket No. G-16031; British American Oil Producing Company, Docket No. G-16091; British American Oil Producing Company, Docket No. G-16093; British American Oil Producing Company, Docket No. G-16103; Curtis R. Inman, Docket No. G-16106; Richardson & Bass, et al., Docket No. G-16137; Gulf Oil Corporation, Docket No. G-16139; Gulf Oil Corporation, Docket No. G-16141; G. H. Vaughn, Jr., et al., Docket No. G-16195; Cities Service Gas Company, Docket No. G-16216; Gulf Oil Corporation, Docket No. G-16218; Superior Oil Company, Docket No. G-16261; Magnolia Petroleum Co., Docket No. G-16367; Magnolia Petroleum Co., Docket No. G-16368; Magnolia Petroleum Co., Docket No. G-16432; Hunt Oil Company, Docket No. G-16445.

The above proceedings were convened for hearing on December 15, 1958, pursuant to an order of the Commission dated October 31, 1958, which provided, inter alia, that after presentation of the direct evidence by the applicants and such preliminary cross-examination by Staff Counsel and other parties as they may be prepared to undertake, the Presiding Examiner shall recess the hearing until a date to be hereafter fixed by further order of the Commission.

Accordingly, the direct case of the applicants herein was closed on Decem-

ber 18, 1958, and the Presiding Examiner recessed the hearing on that date until further order of the Commission. On December 22, 1958, Transwestern Pipeline Company, on its own behalf, and on behalf of the independent producer applicants in the above-entitled dockets, filed a motion with the Commission to reconvene the hearing on January 26, 1959.

The Commission finds:

Due to the following circumstances and after consideration of the grounds asserted in the applicants' motion, the latter must be denied, as set forth below:

(1) Engineers and other technical personnel who have been assigned to the above proceedings are engaged in conflicting duties on other cases to which they were previously assigned. The service of the aforementioned technical staff is urgently required to complete the preparation and hearing of previously scheduled cases. With the limited technical personnel available to the Commission, the assignment of engineers, geologists and accountants must be arranged with due regard to applications for rate increases which must be given precedence.

(2) During the first three months of 1959 an unusual number of significant rate cases are scheduled for hearing. Both the Office of the Hearing Examiner and the Staff of the Commission will be carrying an extraordinary case load during these months. In a number of rate cases scheduled for hearing during the first three months of 1959 the direct case was heard at a period considerably earlier than the opening of the hearing in the instant proceedings and such cases are now ready for the last phase of cross-examination and have been awaiting conclusion for a considerable length of time. In other rate cases it is urgent that the hearings be opened and moved along as rapidly as possible.

(3) It is necessary in the public interest that further hearings in these proceedings be reconvened on April 13, 1959.

The Commission orders:

(A) For the reasons stated above, the motion of Transwestern Pipeline Company filed on December 22, 1958, is hereby denied.

(B) The above proceedings shall be reconvened for further hearing on April 13, 1959.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 59-200; Filed, Jan. 7, 1959; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 814-53]

CARL M. LOEB, RHOADES & CO ET AL.

Notice of Filing of Application for an Order

DECEMBER 31, 1958.

In the matter of Carl M. Loeb, Rhoades & Co., Stanley R. Grant, Clifford W. Michel, Dominick & Dominick, Gardner D. Stout (File No. 814-53).

Notice is hereby given that Carl M. Loeb, Rhoades & Co. ("Loeb Rhoades"), Stanley R. Grant ("Grant"), Clifford W. Michel ("Michel"), Dominick & Dominick ("Dominick"), and Gardner D. Stout ("Stout") (Loeb Rhoades, Grant, Michel, Dominick and Stout being collectively referred to herein as Applicants) have applied for an order pursuant to section 9 (b) of the Investment Company Act of 1940 (the "Act") exempting each of them, their officers, agents, servants, employees and attorneys and any company of which any of them is an affiliated person from the provisions of section 9 (a) of such Act to the extent that the same may be applicable by reason of the Final Judgment, dated December 12, 1958, hereinafter referred to.

Loeb Rhoades has its principal office at 42 Wall Street, New York, N. Y. It is registered as a broker and dealer under the Securities and Exchange Act of 1934. Grant and Michel are general partners of Loeb Rhoades.

Dominick has its principal office at 14 Wall Street, New York, N. Y. It is registered as a broker and dealer under the Securities and Exchange Act of 1934. Stout is a general partner of Dominick.

Applicants, or partners or employees of Applicant partnerships, act or may act as investment advisers for, or as officers, directors or employees of, certain registered investment companies subject to regulation under the Act.

On December 12, 1958 in an action entitled Securities and Exchange Commission v. Arvida Corporation, et al. (United States District Court for the Southern District of New York, Civil Action No. 138-67) a Final Judgment was entered upon consent against Applicants, among others, which provided in part as follows:

It is ordered, adjudged and decreed that the defendants, Arvida Corporation, Arthur Vining Davis, Milton N. Weir, Carl M. Loeb, Rhoades & Co., Stanley R. Grant, Clifford W. Michel, Dominick & Dominick and Gardner D. Stout, their officers, agents, servants, employees and attorneys, and each of them be and hereby is permanently enjoined from directly or indirectly making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell through the use or medium of any prospectus or otherwise, the common stock of Arvida Corporation or any other security of Arvida Corporation, unless a registration statement has been filed with the Securities and Exchange Commission as to such securities, and such registration statement is not the subject of a refusal order or stop order or (prior to the effective date of such registration statement) any public proceeding or examination under section 8 of the Securities Act; provided, however, that nothing in this injunction shall apply to any security or transaction which is exempt from the provisions of section 5 of the Securities Act of 1933, as amended.

Section 9 (a) of the Act makes it unlawful for any person to serve or act in the capacity of officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9 (b) of the Act makes provision for any person who is ineligible, by reason of subsection (a), to serve or act in the capacities therein enumerated, to file with the Commission an application for an exemption from its provisions and further provides that this Commission shall by order grant such application, either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of subsection (a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants assert that the prohibitions of section 9 (a) of the Act if applicable by reason of said Final Judgment, would be unduly and disproportionately severe if applied to Applicants and that the conduct of Applicants has been such as to make it not against the public interest or protection of investors to grant the requested application.

In this connection Applicants cite the Findings of Fact and Conclusions of Law supporting the Order dated December 12, 1958 where the United States District Court for the Southern District of New York found that in connection with the transactions in question Applicants "were represented by counsel and had no intention of violating the Securities Act" of 1933. Said Court concluded that "* * * it appears that defendants acted in good faith, [and] had no intention of violating the Securities Act" of 1933. Applicants further cite the order dated December 12, 1958 discontinuing proceedings (File Nos. 8-279 and 8-563) instituted against Applicants pursuant to sections 15 (b) and 15A of the Securities and Exchange Act of 1934, where this Commission determined that it was not necessary in the public interest or for the protection of investors to revoke the registration of Loeb Rhoades or Dominick as brokers and dealers or to expel either of them from membership in the National Association of Securities Dealers, Inc.

Notice is further given that any interested person may, not later than January 16, 1959 at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington, D. C. At any time after said date, the application may be granted as provided in Rule

N–5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 59–165; Filed, Jan. 7, 1959; 8:46 a. m.]

[File No. 70–3751]

AMERICAN NATURAL GAS CO.

Notice of Proposed Issuance and Sale of Common Stock Pursuant to Rights Offering

DECEMBER 31, 1958.

Notice is hereby given that American Natural Gas Company ("American Natural"), a registered holding company, has filed a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 7 of the Act as applicable to the transactions therein proposed, which are summarized as follows:

American Natural proposes to issue to holders of its 4,863,246 outstanding shares of common stock (par value $25 per share) transferable subscription warrants to purchase 486,325 additional shares of its common stock. The warrants will evidence a number of rights equal to the number of shares outstanding, and 10 rights will be required to purchase each share of the additional common stock. Each holder of outstanding shares of American Natural's common stock will also be given the privilege of subscribing at the purchase price for any number of shares of the additional common stock not purchased through the exercise of rights, subject to allotment if sufficient shares are not available to meet the demand. Prior to the offering of any shares, American Natural proposes, in accordance with the competitive bidding requirements of Rule 50, to invite sealed written proposals for the purchase of such shares as are not purchased through the exercise of rights or under the conditional purchase privilege.

The price at which the common stock will be offered to stockholders and to be paid by the successful bidders for the unsubscribed shares will be determined prior to the time of the submission of bids for the purchase of unsubscribed shares and will be lower than the market price then prevailing for outstanding shares of common stock of the company on the New York Stock Exchange.

It is proposed to consummate the financing early in 1959. Information as to the subscription price and the timing and duration of the offering, and the full terms with respect thereto, will be supplied by amendment.

The company states that it will make arrangements with its New York City transfer agent, The First National City Bank of New York, whereby the latter will, without a service charge to stockholders, attempt to execute purchase or sale orders of stockholders designed either to (a) round out their interests to multiples of the number of rights required to purchase one additional share of common stock or (b) dispose of rights when they are insufficient to permit purchase of one share.

The company further states that it may stabilize the price of its common stock, by the purchase of shares on the stock exchanges, in the open market or otherwise. Stabilizing activities, if commenced, may be terminated at any time, and in any case not later than one hour after the time fixed for the acceptance of a proposal for the purchase of unsubscribed shares of stock, as referred to above. At no time will the company acquire a long position in excess of 10 percent of the number of additional shares being offered. Any shares so acquired will be sold in ordinary brokerage transactions on the New York Stock Exchange.

American Natural will use the net proceeds from the sale of its common stock to purchase shares of the common stock of system companies, thereby aiding in financing the expansion program upon which the system is engaged. It is contemplated that further filings will be made during 1959 by American Natural and certain subsidiaries covering the purchase and sale of common stock of subsidiaries, as well as other phases of their financing programs.

American Natural estimates the fees and expenses to be incurred in connection with the proposed transactions as follows:

AMERICAN NATURAL

Registration fee, this Commission	$3,100
Federal original issue tax	28,000
Listing fee	1,225
Printing	50,000
Blue Sky expense	2,500
Charges and expenses of subscription agent, transfer agent and registrar	76,000
Arthur Andersen & Co., for accounting services	15,000
Engineering fees:	
Ralph E. Davis	5,000
E. P. Ogier	2,500
Legal fees:	
Sidley, Austin, Burgess & Smith	17,000
Dyer, Meek, Ruegsegger & Bullard	2,500
Fairchild, Foley & Sammond	1,000
Pitney, Hardin & Ward	1,500
System service company (at cost)	5,000
Miscellaneous	1,500
	211,825

The fee of Brown, Wood, Fuller, Caldwell & Ivey, counsel for the prospective underwriters, is estimated at $10,000 and is to be paid by the successful bidders.

In the opinion of company counsel, no approval or consent of any regulatory body other than this Commission is required for the issue and sale of the common stock of American Natural.

Notice is further given that any interested person may, not later than January 19, 1959 at 5:30 p. m., request the Commission 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, if any, raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the declaration, as filed or as amended, may be permitted to become effective, or the Commission may grant an exemption from its rules as provided in Rules 20 (a) and 100 thereof, or take such other action as it deems appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 59–166; Filed, Jan. 7, 1959; 8:46 a. m.]

[File No. 54–224]

AMERICAN NATURAL GAS CO.

Notice of Filing and Order for Hearing on Plan Filed

DECEMBER 31, 1958.

Notice is hereby given that American Natural Gas Company ("American Natural"), a registered holding company, has filed, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("Act"), an application for approval of a plan for the stated purpose of complying with the order of the Commission issued April 7, 1958 (Holding Company Act Release No. 13726) under section 11 (b) (2) of the Act, directing American Natural to eliminate its outstanding 27,481 shares of 6 percent cumulative non-redeemable $25 par value preferred stock. All interested persons are referred to said plan which is on file at the offices of this Commission, or available at the offices of American Natural (Suite 1730, 165 Broadway, New York 6, New York), for a full statement of the transactions and terms proposed therein which are summarized as follows:

1. Each holder of American Natural's preferred stock will be paid, on surrender of his shares, the sum of $32.50 per share in cash plus unpaid dividends accrued on the preferred stock to the effective date of the plan.

2. The plan will be effective as of a date (called the "effective date") which shall be the tenth business day following the day upon which the order of the Commission approving the plan becomes final and is no longer subect to judicial review.

3. After the effective date of the plan the preferred shares shall no longer be considered as being outstanding and shall have no rights other than the right of the holders of such shares, upon the surrender thereof, to be paid in cash the sum of $32.50 per share plus unpaid dividends accrued thereon to the effective date of the plan.

4. Promptly after the date on which the order of the Commission approving the plan is no longer subject to judicial review, American Natural will deposit with The First National City Bank of New York, as Agent, a sum of cash sufficient to retire all the outstanding shares of preferred stock at the price of $32.50 per share including accrued unpaid dividends to the effective date of the plan. Holders of the preferred stock will thereupon be advised by mail at their last known addresses of record of their right to receive the cash payments provided

for in the plan upon surrender of their shares.

5. Six months after the effective date of the plan, all cash held by The First National City Bank of New York for distribution to the preferred stockholders will be returned to American Natural and held by the company for the persons entitled to it.

6. Upon surrender of the preferred stock for the cash payments American Natural will retire and cancel such stock on its books and will take appropriate action to eliminate such stock from its authorized capital.

7. American Natural proposes to record the acquisition of its outstanding preferred stock by a debit of an amount equal to the aggregate par value of the shares so acquired and a debit to its paid-in surplus account of the difference between such par value and the total cash paid for the preferred stock. The total amount paid will be credited to the cash account.

8. The plan also provides that the carrying out of the plan is subject to all necessary approvals by the Commission under the Act, and that all fees and expenses incidental to the consummation of the plan and the proceedings relating thereto will be paid by American Natural.

The Commission being required by the provisions of section 11 (e) of the Act, after notice and opportunity for hearing and before approving any plan filed thereunder, to find that such plan as submitted or as it may thereafter be modified is necessary to effectuate the provisions of section 11 (b) of the Act and is fair and equitable to the persons affected thereby; and the Commission deeming it in the public interest and the interest of investors that a hearing be held concerning the plan to afford all interested persons an opportunity to be heard with respect thereto:

It is hereby ordered, That a hearing in this proceeding be held on the 11th day of February 1959, at 10:00 a. m., at the offices of the Securities and Exchange Commission, 425 Second Street, NW., Washington 25, D. C., in such room as may be designated on such date by the hearing room clerk. Any persons desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before February 6, 1959, a written request relative thereto as provided in Rule XVII of the Commission's rules of practice.

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that, upon the basis of its preliminary study of the plan, the following matters and questions are presented for consideration at the hearing without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the plan complies with the Commission's order of April 7, 1958, issued pursuant to section 11 (b) (2) of the Act.

2. Whether the plan is fair and equitable to the persons affected thereby; and, if not, in what respects the plan should be modified to make it fair and equitable.

3. Whether all expenses incurred or to be incurred in connection with the plan are for necessary services and are reasonable in amount.

4. Whether the plan should be modified to include a provision for the payment to such persons of such fees, expenses, and other remuneration in connection with the proceedings relating to the plan as the Commission may determine, award, or allow.

5. Whether the accounting entries to record the transactions under the plan conform to sound accounting principles.

6. Whether the plan is in all respects in the public interest and the interest of investors and complies with all applicable provisions of the Act and the rules and regulations thereunder.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition, any issue or question which may arise in this proceeding, and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of any matter involved.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this notice and order by registered mail to American Natural, and that said notice of said hearing be given to all other interested persons by a general release of the Commission and by publication of this order in the FEDERAL REGISTER.

It is further ordered, That American Natural mail a copy of this notice and order to all preferred stockholders of record of American Natural at least twenty-five days prior to the date herein fixed for hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 59-167; Filed, Jan. 7, 1959; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 69]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 5, 1959.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. 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 61546. By order of December 23, 1958, The Transfer Board approved the transfer to Nicholas Albano and Dominick Albano, A Partnership, doing business as Nick's Moving & Storage Co., Brooklyn, New York, of Certificate in No. MC 113021, issued April 26, 1955, to George W. Grace, Brooklyn, N. Y., authorizing the transportation of: *Household goods*, between New York, and points in Nassau and Suffolk Counties, N. Y., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Connecticut, and Massachusetts. Henry M. Bressler, 1344 Lakeside Drive, Wantagh, L. I., N. Y., for applicants.

No. MC-FC 61591. By order entered December 29, 1958, The Transfer Board approved the transfer to Ralston's Truck Line, Inc., Ravenwood, Mo., of Certificate No. MC 59100 and MC 59100 Sub 3, issued June 18, 1941 and July 15, 1949, respectively, to Sie Ralston, doing business as Ralston's Truck Lines, Ravenwood, Mo., authorizing the transportation of: General commodities, excluding household goods and other specified commodities, between Sheridan, Mo., and St. Joseph, Mo., serving the intermediate points of Maryville, Mo., and those between Maryville, and Sheridan; and the off-route points of Conception Junction, Clyde, Conception, Rosendale and Rea, Mo., and between points in that part of Nodaway, Gentry, and Worth Counties, Mo., east of U. S. Highway 71, and west of U. S. Highway 169, including points on the indicated portions of the highways specified, on the one hand, and, on the other, Omaha, Nebr., Council Bluffs and Des Moines, Iowa, Kansas City, Kans., Kansas City, Mo., and points in Iowa south of U. S. Highway 34, and west of U. S. Highway 169, including points on the indicated portions of the highways specified. James P. Dalton, Box 100, Maryville, Mo., for applicants.

No. MC-FC 61653. By order of December 22, 1958, Division 4, approved the transfer to Priebe Bros. Oil Co., A Michigan Corporation, Benton Harbor, Mich., of Certificate No. MC 112623 Sub 1, issued August 5, 1958, to Harry Priebe, doing business as Priebe Bros., Benton Harbor, Mich., authorizing the transportation over irregular routes, of petroleum and petroleum products, in bulk, in tank vehicles, from Niles, Mich., and points within five miles thereof, to points in Indiana, with no transportation for compensation on return except as otherwise authorized. James R. Davis, 1400 Michigan National Tower, Lansing 8, Mich., for applicants.

No. MC–FC 61694. By order of December 19, 1958, The Transfer Board approved the transfer to Burnham Van Service, Inc., Columbus, Ga., of Certificate in No. MC 682, issued May 18, 1951, to L. R. Burnham, B. Emerita Reese, B. LeRoy Burnham and Otis B. Burnham, A Partnership, doing business as Burnham's Van Service, Columbus, Ga., authorizing the transportation of: Household goods, between points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, and between points in Georgia on the one hand, and, on the other, points in Minnesota, Wisconsin and Iowa. W. Edward Swinson, 1214 3d Ave., P. O. Box 548, Columbus, Ga., for applicants.

No. MC–FC 61746. By order of December 24, 1959, The Transfer Board approved the transfer to Western Kentucky Stages, Incorporated, doing business as Western Stages, Inc., Sixth and Walnut Streets, Murray, Kentucky, of Certificate No. MC 109880, issued May 25, 1956, to Dagne H. Utter, Harold Bruce Utter (Harold J. Utter, Trustee), Charles S. Utter (Dagne H. Utter, Trustee), Harold J. Utter, J. D. Van Hooser, Jennie W. Van Hooser, Don D. Utter, Dorothy S. Conger and E. G. Herndon, a Partnership, doing business as Western Kentucky Stages, Sixth and Walnut Streets, Murray, Kentucky, authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Paducah, Kentucky, and Paris, Tennessee, between Clarksville, Tenn., and Fulton, Ky., between Tri City, Ky., and Benton, Ky., between Gracey, Ky., and Marion, Ky., between Cadiz, Ky., and junction Kentucky Highway 95 and U. S. Highway 68, and between Paris, Tenn., and Waverly, Tenn.

No. MC–FC 61755. By order of December 24, 1958, The Transfer Board approved the transfer to Jerome S. Lefco doing business as Jerry's Service, Zion, Ill., of Certificate No. MC 115587 issued December 18, 1956, to Jerry's Service Incorporated, Zion, Ill., authorizing the transportation, over irregular routes, of wrecked or disabled motor vehicles (excluding trailers designed to be drawn by passenger automobiles), between points in Racine and Kenosha Counties, Wis., on the one hand, and, on the other, points in Illinois, and Indiana; and, between points in Illinois, on the one hand, and, on the other, points in Indiana. Francis C. Sullivan, 41 East Pearson St., Chicago 11, Ill., for applicants.

No. MC–FC 61794. By order of December 24, 1958, The Transfer Board approved the transfer to Dorothy L. Melton, doing business as Melton Truck Service, Olathe, Kansas, of Certificate No. MC 60518, issued September 7, 1943, in the name of John Pettus Melton, Olathe, Kansas, authorizing the transportation over regular routes, between Olathe, Kans., and Kansas City, Mo., and general commodities, excluding household goods and other specified commodities, from Kansas City to Olathe, household goods, from Kansas City to Olathe, and milk and lumber, hardware, groceries, farm implements, empty milk cans, blacksmith supplies, and building materials, between De Soto, Kans., and Kansas City, Mo.

No. MC–FC 61798. By order of December 23, 1958, The Transfer Board approved the transfer to I. M. K. Express, Inc., Sedalia, Mo., of (1) Certificate No. MC 90144 issued August 26, 1958, to Bracy, Inc., Hutchinson, Kans., authorizing the transportation of general commodities (including household goods), with certain exceptions, over regular routes, between Weston, Nebr., and Omaha, Nebr., serving no intermediate points; household goods as defined by the Commission, grain, and emigrant movables, over irregular routes, between Weston, Nebr., and points within 20 miles thereof and Bradshaw, Nebr., and between Bradshaw, Nebr., and points within 25 miles thereof, on the one hand, and, on the other, points in Iowa, Kansas, Missouri and South Dakota; and various specified commodities, over irregular routes, between specified points in Nebraska and points in Iowa; from specified points in Kansas to points in Iowa, Illinois and Nebraska; and, from points in Iowa to Bradshaw, Nebr.; and (2) of Permit No. MC 111011 issued December 9, 1957, to Bracy, Inc., Hutchinson, Kans., authorizing the transportation over irregular routes, of animal and poultry feed and feed compounds, animal and poultry medicines and tonics, insecticides, and dry earth paint, in quantities of 20,000 pounds or more between Quincy, Ill., on the one hand, and, on the other, specified counties in Kansas; and the same commodities, without weight qualifications between Quincy, Ill., on the one hand, and, on the other, points in specified counties in Kansas; and mineral mixture for livestock or poultry feed, animal and poultry tonics or medicines, animal and poultry feed, insecticides (other than agricultural), dry earth and advertising matter, from Quincy, Ill., to points in Riley County, Kans.; and damaged shipments of those commodities from points in Riley County, Kansas to Quincy, Ill. John R. Miller, 928 Dwight Building, Kansas City 5, Mo., for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 59–175; Filed, Jan. 7, 1959; 8:48 a. m.]