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Volume 74**UNITED STATES
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[86th Cong., 2d Sess.]

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 10981

INSPECTION OF INCOME, EXCESS- PROFITS, ESTATE, AND GIFT TAX RETURNS BY THE SENATE COMMIT- TEE ON THE JUDICIARY

By virtue of the authority vested in me by section 55(a) of the Internal Revenue Code of 1939, as amended (53 Stat. 29, 54 Stat. 1008; 26 U.S.C. (1952 Ed.) 55(a)) and by section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, excess-profits, estate, or gift tax return for the years 1950 to 1961, inclusive, shall, during the Eighty-seventh Congress, be open to inspection by the Senate Committee on the Judiciary, or any duly authorized subcommittee thereof, in connection with its investigation of the administration, operation, and enforcement of the Internal Security Act of 1950 and other internal security laws pursuant to Senate Resolution 49, Eighty-seventh Congress, agreed to January 31, 1961, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

JOHN F. KENNEDY

THE WHITE HOUSE,
December 28, 1961.

[F.R. Doc. 61-12436; Filed, Dec. 29, 1961;
11:46 a.m.]

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Announcement CN-EX-10, Amdt. 4]

PART 482—COTTON

Subpart—Cotton Products Export Program

NEW CLASSES OF COTTON PRODUCTS AND CLARIFICATIONS

In order to establish new classes of cotton products in line with new trends in textile production and to clarify certain provisions relating to eligibility of cotton products, the Cotton Products Export Program Regulations (Announcement CN-EX-10) dated April 19, 1960 (25 F.R. 3544), as amended, are hereby further amended as follows:

1. Section 482.351 is revised to read as follows:

§ 482.351 General statement.

Commodity Credit Corporation (referred to in this subpart as "CCC") will, upon the terms and conditions stated in this subpart, carry out a Cotton Products Export Program (referred to in this subpart as "the program") under which equalization payments will be made to exporters in connection with the exportation of cotton products which are made from upland cotton grown and wholly processed in the United States (referred to in this subpart as American upland cotton) and which have not been previously exported and returned to the United States. The program is administered through the ASCS Cotton Products and Export Operations Office, 80 Lafayette Street, New York 13, N.Y. (referred to in this subpart as the "New York office"). Additional information pertaining to the operation of the program may be obtained from the Director of the New York office.

2. Section 482.352(b) is revised to read as follows:

§ 482.352 Definitions.

(b) *Cotton textiles*. "Cotton textiles," as used herein, means any new product or article which contains not less than 50 percent by weight of American upland cotton (not including cotton linters) and is processed or manufactured from lint cotton, card strips, or comber noil, including slivers, laps, rovings, yarns, fabrics, and manufactured articles processed or manufactured from any processed form thereof. (The phrase "new product or article" means—and

has always been interpreted by CCC to mean—a product or article which is undamaged, unimpaired, and in its original condition, which has not been used or worn, which has not been salvaged from a fire or other calamity, and which is not so old as to have deteriorated in strength, condition, or quality.) Fabrics must be at least one yard in length. The term "cotton textiles," as used herein includes such products only when exported as the principal product and does not include such products when used as containers, wrappers, packing, or protective coverings, or for similar purposes.

3. Section 482.357 is amended to add four new classes and is revised to read as follows:

§ 482.357 Classes of cotton products and related equalization payment rates.

The classes of cotton products eligible for payment under this subpart and the percentage of the base equalization payment rate applicable to each such class are shown below. This percentage will be used in calculating the rate of payment for each class. CCC's determination as to the class in which a cotton product belongs shall be final.

Class	Principal item of export	Percent of base equalization payment
A.....	Card strips, comber noil, spinners laps, and roving waste.	90.0
B.....	Picker laps and cotton batting.	106.0
C.....	Silver, silver laps, ribbon laps, roving and drawing silver.	112.0
D.....	Yarn, thread, twine, cordage, and rope. ¹	114.0
E.....	Gray fabrics and absorbent cotton. ²	112.0
F.....	Knitted articles. ¹	119.0
G.....	Finished fabrics (printed, dyed, bleached, mercerized, or similar full finish, including fabric woven from colored yarn). ^{2,3}	118.0
H.....	Articles (excluding bags) manufactured from finished fabrics. ³	135.0
I.....	Coated, rubberized, and impregnated yarns and coated, rubberized, and impregnated fabrics, other fabrics, absorbent cotton, yarn, thread, twine, cordage, and rope, containing not less than 50 percent by weight of American upland cotton. ³	70.0
J.....	Coated, rubberized, and impregnated articles, articles manufactured from fabrics, knitted articles, and mops, containing not less than 50 percent by weight of American upland cotton.	83.0
K.....	Gray or finished fabrics 1 yard or more but less than 10 yards in length. ⁴ or ⁵	85.0
L.....	Coated, rubberized, and impregnated fabrics, and other fabrics, containing not less than 50 percent by weight of American upland cotton, 1 yard or more but less than 10 yards in length.	53.0
M.....	Articles manufactured from gray fabrics; bags; and mops. ³	120.0
N.....	Finished fabrics (printed, dyed, bleached, mercerized, or similar full finish, including fabric woven from colored yarn). ^{2,4}	111.0

See footnotes at end of table.

Class	Principal item of export	Percent of base equalization payment
O.....	Finished fabrics (printed, dyed, bleached, mercerized, or similar full finish, including fabric woven from colored yarn). ^{2,4}	116.0
P.....	Articles (excluding bags) manufactured from finished fabrics. ³	133.0
Q.....	Coated, rubberized, and impregnated yarns and coated, rubberized, and impregnated fabrics, other fabrics, absorbent cotton, yarn, thread, twine, cordage, and rope, containing not less than 70 percent by weight of American upland cotton. ³	91.0
R.....	Coated, rubberized, and impregnated articles, articles manufactured from fabrics, knitted articles, and mops, containing not less than 70 percent by weight of American upland cotton.	105.0

¹ Can have (a) a noncotton (i.e., manmade fibers, cotton linters, buttons, fasteners, etc.) and non-American upland cotton (i.e., foreign-grown and extra long staple cotton) content, other than material used in sizing and finishing, of not to exceed five percent, and (b) a total noncellulosic content (i.e., sizing, finishing, the noncellulosic content of cotton, etc.), other than anything contained in (a) above, of not to exceed 8 percent.

² No payment will be made on any fabric less than ten yards in length, except as provided in Classes K and L.

³ Can have (a) a noncotton (i.e., manmade fibers, cotton linters, buttons, fasteners, etc.) and non-American upland cotton (i.e., foreign-grown and extra long staple cotton) content, other than material used in sizing and finishing, of not to exceed five percent, and (b) a total noncellulosic content (i.e., sizing, finishing, the noncellulosic content of cotton, etc.), other than anything contained in (a) above, of not to exceed 13 percent.

⁴ Can have (a) a noncotton (i.e., manmade fibers, cotton linters, buttons, fasteners, etc.) and non-American upland cotton (i.e., foreign-grown and extra long staple cotton) content, other than material used in sizing and finishing, of not to exceed five percent, and (b) a total noncellulosic content (i.e., sizing, finishing, the noncellulosic content of cotton, etc.), other than anything contained in (a) above, of not to exceed 20 percent.

⁵ Can have (a) a noncotton (i.e., manmade fibers, cotton linters, buttons, fasteners, etc.) and non-American upland cotton (i.e., foreign-grown and extra long staple cotton) content, other than material used in sizing and finishing, of not to exceed seven percent, and (b) a total noncellulosic content (i.e., sizing, finishing, the noncellulosic content of cotton, etc.), other than anything contained in (a) above, of not to exceed 11 percent.

If an article contains two or more cotton products, it shall be considered as being within the class of the cotton product constituting the largest portion by weight of such article. No payments will be made in connection with any products containing less than 50 percent by weight of American upland cotton, and except as otherwise provided, all cotton products must be composed entirely of American upland cotton.

(Sec. 4, 5, 62 Stat. 1070, as amended, 15 U.S.C. 714b, 714c)

Effective date. This amendment is effective as to export sales made on or after the date this amendment is published in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 27, 1961.

ROBERT C. TETRO,
Vice President,
Commodity Credit Corporation.

[F.R. Doc. 61-12414; Filed, Dec. 29, 1961; 8:46 a.m.]

Title 7—AGRICULTURE

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

CHANGES IN CODIFICATION

The heading of Chapter IX of Title 7 is changed to read as set forth above. This chapter will contain the general regulations affecting all marketing agreements and orders (Part 900) and orders for fruits, vegetables, and specialty crops. Existing parts of the Code of Federal Regulations containing material affecting these commodities are hereby renumbered as indicated in the following table:

MARKETING ORDERS FOR FRUITS, VEGETABLES, AND SPECIALTY CROPS

New part or section No.	Old part No.	Commodity and area
900	900	General Regulations.
FRUITS		
905	933	Oranges, Grapefruit, Tangerines, Tangelos—Florida.
906	1031	Oranges, Grapefruit—Texas.
907	914	Navel Oranges—California, Arizona.
908	922	Valencia Oranges—California, Arizona.
909	955	Grapefruit—California, Arizona.
910	953	Lemons—California, Arizona.
911	1001	Limes—Florida.
915	969	Avocados—Florida.
916	937	Nectarines—California.
917	936	Bartlett Pears, Plums, Elberta Peaches—California.
918	962	Peaches—Georgia.
919	940	Peaches—Colorado.
920	950	Peaches—Utah.
921	934	Peaches—Washington.
922	1020	Apricots—Washington.
923	1022	Sweet Cherries—Washington.
924	1029	Fresh Prunes—Washington, Oregon.
925	1030	Fresh Prunes—Idaho, Oregon.
926	951	Tokay Grapes—California.
927	939	Winter Pears—Oregon, Washington, California.
944.1	1067	Avocados—Import Regulation.
944.100	1068	Grapefruit—Import Regulation.
944.200	1069	Limes—Import Regulation.
944.300	1072	Oranges—Import Regulation.
VEGETABLES		
945	957	Potatoes—Idaho, Eastern Oregon.
946	992	Potatoes—Washington.
947	959	Potatoes—Oregon, California.
948	958	Potatoes—Colorado.
949	938	Potatoes—Red River Valley of North Dakota and Minnesota.
950	970	Potatoes—Maine.
951	920	Potatoes—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont.
952	979	Potatoes—Eastern South Dakota.
953	981	Potatoes—Southeastern States.
958	1017	Onions—Idaho, Eastern Oregon.
959	1033	Onions—South Texas.
965	1021	Tomatoes—Rio Grande Valley of Texas.
966	945	Tomatoes—Florida.
970	1032	Carrots—South Texas.
971	1034	Lettuce—Rio Grande Valley of Texas.
972	910	Vegetables—Colorado.
980.1	1066	Irish Potatoes—Import Regulation.
980.100	1070	Onions—Import Regulation.
SPECIALTY CROPS		
981	909	Almonds—California.
982	997	Filberts—Oregon, Washington.
984	984	Walnuts—California, Oregon, Washington.
987	1003	Domestic Dates—California.
989	989	Raisins—California.
990	1026	Grapes for Crushing—Central California.
993	993	Dried Prunes—California.
999.1	1073	Dates—Import Regulation.
999.100	1071	Walnuts—Import Regulation.

This renumbering will be effective as of January 1, 1962. All issuances subse-

quent to that date should follow the new numbering system.

Dated: December 21, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.P. Doc. 61-12274; Filed, Dec. 29, 1961;
8:45 a.m.]

CHANGES IN CODIFICATION

CROSS REFERENCE: For changes in codification affecting certain parts in this chapter, see F.R. Document 61-12275, Chapter X of this title, *infra*.

[Navel Orange Reg. 221]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.521 Navel Orange Regulation 221.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested per-

sons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 28, 1961.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., December 31, 1961, and ending at 12:01 a.m., P.s.t., January 7, 1962, are hereby fixed as follows:

- (i) District 1: 375,000 cartons;
- (ii) District 2: 200,000 cartons;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: December 29, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Market-
ing Service.

[F.R. Doc. 61-12434; Filed, Dec. 29, 1961;
11:25 a.m.]

[Lemon Reg. 931, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public

interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 953.1038 (Lemon Reg. 931, 26 F.R. 12279) are hereby amended to read as follows:

- (i) District 1: 32,550 cartons;
- (ii) District 2: 153,450 cartons.

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

Dated: December 28, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 61-12432; Filed, Dec. 29, 1961;
8:49 a.m.]

[Lemon Reg. 932]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.1039 Lemon Regulation 932.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current

week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such Committee meeting was held on December 26, 1961.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., December 31, 1961, and ending at 12:01 a.m., P.s.t., January 7, 1962, are hereby fixed as follows:

- (i) District 1: 27,900 cartons;
- (ii) District 2: 139,500 cartons;
- (iii) District 3: 27,900 cartons.

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

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

Dated: December 28, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 61-12433; Filed, Dec. 29, 1961;
8:49 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

CHANGES IN CODIFICATION

In order to regroup the material appearing in Chapter IX in a manner which will more precisely conform with the organizational structure of the Department of Agriculture and to permit the publication of future volumes of the Code of Federal Regulations in five geographical groupings of the orders regulating the handling of milk, the following reassignment of Part and Order numbers to orders regulating the handling of milk which now appear in Chapter IX will become effective January 1, 1962.

A new chapter is added to Title 7, designated "Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders),

Department of Agriculture." This chapter will contain all orders affecting milk, arranged by geographical areas affected. All milk orders are hereby renumbered and recodified as indicated in the following table. On and after the effective date thereof, all published references to the Part numbers or Order numbers heretofore in effect shall be deemed to be references to the reassigned Part or Order numbers as set forth herein:

MILK ORDERS

Geographical Grouping of Markets, Part and Order Numbers

EASTERN				Market and group
New		Old		
Part No.	Order No.	Part No.	Order No.	
1001	1	904	4	Boston.
1002	2	927	27	New York-New Jersey.
1003	3	902	2	Washington, D.C.
1004	4	961	61	Philadelphia.
1005	5	972	72	Tri-State.
1006	6	996	96	Springfield, Mass.
1007	7	999	99	Worcester.
1008	8	1002	102	Wheeling.
1009	9	1009	109	Charksburg.
1010	10	1010	110	Wilmington.
1011	11	923	23	Appalachian.
1012	12	-----	-----	(Reserved.)
1013	13	1018	118	Southeastern Florida.
1014	14	990	90	Southeastern New England.
1015	15	1019	119	Connecticut.
1016	16	1027	127	Upper Chesapeake Bay.
1017-1029	17-29	-----	-----	(Reserved.)

EAST NORTH CENTRAL				Market and group
Part No.	Order No.	Part No.	Order No.	
1030	30	941	41	Chicago.
1031	31	967	67	South Bend-LaPorte-Elkhart.
1032	32	947	47	Suburban St. Louis.
1033	33	965	65	Cincinnati.
1034	34	971	71	Dayton-Springfield.
1035	35	974	74	Columbus.
1036	36	975	75	Northeastern Ohio.
1037	37	995	95	North Central Ohio.
1038	38	991	91	Rockford-Freepport.
1039	39	907	7	Milwaukee.
1040	40	924	24	Southern Michigan.
1041	41	930	30	Toledo.
1042	42	985	85	Muskegon.
1043	43	916	16	Upstate Michigan.
1044	44	1011	111	Michigan Upper Peninsula.
1045	45	1016	116	Northeastern Wisconsin.
1046	46	1024	124	Ohio Valley.
1047	47	932	32	Fort Wayne.
1048	48	960	60	Youngstown-Warren.
1049	49	1025	125	Indianapolis.
1050-1059	50-59	-----	-----	(Reserved.)

WEST NORTH CENTRAL				Market and group
Part No.	Order No.	Part No.	Order No.	
1060	60	-----	-----	(Reserved.)
1061	61	915	15	St. Joseph, Missouri
1062	62	903	3	St. Louis
1063	63	944	44	Quad Cities-Dubuque
1064	64	913	13	Kansas City
1065	65	935	35	Nebraska-Western Iowa
1066	66	948	48	Sioux City
1067	67	921	21	Ozarks
1068	68	973	73	Minneapolis-St. Paul
1069	69	954	54	Duluth-Superior
1070	70	931	31	Cedar Rapids-Iowa City
1071	71	928	28	Neosho Valley
1072	72	956	56	Sioux Falls-Mitchell
1073	73	968	68	Wichita
1074	74	919	19	Southwest Kansas
1075	75	917	17	Black Hills
1076	76	929	29	Eastern South Dakota
1077	77	-----	-----	(Reserved.)
1078	78	1005	105	North Central Iowa
1079	79	1023	123	Des Moines
1080-1089	80-89	-----	-----	(Reserved.)

MILK ORDERS—Continued
Geographical Grouping of Markets, Part and
Order Numbers—Continued

SOUTH CENTRAL

New		Old		Market and group
Part No.	Order No.	Part No.	Order No.	
1090	90	1000	100	Chattanooga.
1091-1093	91-93			(Reserved.)
1094	94	942	42	New Orleans.
1095	95	946	46	Louisville-Lexington.
1096	96	966	66	Northern Louisiana.
1097	97	918	18	Memphis.
1098	98	978	78	Nashville.
1099	99	977	77	Paducah.
1100	100			(Reserved.)
1101	101	988	88	Knoxville.
1102	102	976	76	Fort Smith.
1103	103	987	87	Central Mississippi.
1104	104	986	86	Red River Valley.
1105	105	905	5	Mississippi Delta.
1106	106	906	6	Oklahoma Metro-
				politan.
1107	107	1014	114	Mississippi Gulf
				Coast.
1108	108	908	8	Central Arkansas.
1109-1119	109-119			(Reserved.)

WESTERN

1120-1124	120-124			(Reserved.)
1125	125	925	25	Puget Sound.
1126	126	943	43	North Texas.
1127	127	949	49	San Antonio.
1128	128	982	82	Central West Texas.
1129	129	952	52	Austin-Waco.
1130	130	998	98	Corpus Christi.
1131	131	1004	104	Central Arizona.
1132	132	911	11	Texas Panhandle.
1133	133	1008	108	Inland Empire.
1134	134	980	80	Western Colorado.
1135	135	994	94	Colorado Springs-
				Pueblo.
1136	136	963	63	Great Basin.
1137	137	901	1	Eastern Colorado.
1138-1159	138-159			(Reserved.)

Effective date: January 1, 1962.

Signed at Washington, D.C., Decem-
ber 19, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-12275; Filed, Dec. 29, 1961;
8:45 a.m.]

[Milk Order 64]

PART 1064—MILK IN THE GREATER
KANSAS CITY MARKETING AREA

Order Amending Order

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1064.92 Continuing obligations.
1064.93 Liquidation.

MISCELLANEOUS PROVISIONS

1064.100 Agents.
1064.101 Separability of provisions.

AUTHORITY: §§ 1064.0 to 1064.101 Issued
under secs. 1-19, 48 Stat. 31, as amended;
7 U.S.C. 601-674.

§ 1064.0 Findings and determinations.

The findings and determinations here-
inafter set forth are supplementary and
in addition to the findings and determi-
nations previously made in connection
with the issuance of the aforesaid order
and of the previously issued amendments
thereto; and all of the said previous find-
ings and determinations are hereby rati-
fied and affirmed, except insofar as such
findings and determinations may be in
conflict with the findings and determi-
nations set forth herein.

(a) *Findings upon the basis of the
hearing record.* Pursuant to the provi-
sions 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 govern-
ing the formulation of marketing agree-
ments and marketing orders (7 CFR
Part 900), public hearings were held
upon certain proposed amendments to
the tentative marketing agreement and
to the order regulating the handling of
milk in the Greater Kansas City market-
ing area. Upon the basis of the evidence
introduced at such hearings and the
records 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 de-
clared policy of the act;

(2) The parity prices of milk, as de-
termined 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 mini-
mum prices specified in the order as
hereby amended, are such prices as will
reflect the aforesaid factors, insure a
sufficient quantity of pure and whole-
some 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 speci-
fied in, a marketing agreement upon
which a hearing has been held;

(4) All milk and milk products han-
dled by handlers, as defined in the order
as hereby amended, are in the current
of interstate commerce or directly bur-
den, obstruct, or affect interstate com-
merce in milk or its products; and

(5) It is hereby found that the neces-
sary 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, 2 cents per hundred-
weight or such amount not to exceed 2
cents per hundredweight as the Secre-
tary may prescribe, with respect to the
quantities of milk specified in §§ 1064.61
and 1064.88.

(b) *Additional findings.* It is neces-
sary in the public interest to make this
order amending the order effective not
later than January 1, 1962. Any delay
beyond that date would tend to disrupt
the orderly marketing of milk in the
marketing area.

The provisions of the said order are
known to handlers. The recommended
decisions of the Assistant Secretary and
the Acting Secretary were issued Sep-
tember 1, 1961, and December 6, 1961,
and the decision of the Assistant Secre-
tary containing all amendment provi-
sions of this order was issued December
22, 1961. The changes effected by this
order will not require extensive prepara-
tion or substantial alteration in method
of operation for handlers. In view of the
foregoing, it is hereby found and deter-
mined that good cause exists for making
this order amending the order effective
January 1, 1962, 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 (sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011).

(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 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 Greater Kansas City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 1064.1 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.).

§ 1064.2 Secretary.

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

§ 1064.3 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1064.4 Person.

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

§ 1064.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers as defined in § 1064.7, which the Secretary determines after application by the association:

(a) Is qualified under the provisions of the act of Congress of February 8, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has its entire activities under the control of its members; and

(c) Has and is exercising full authority in the sale of milk of its members.

§ 1064.6 Greater Kansas City marketing area.

"Greater Kansas City marketing area" hereinafter called "marketing area" means all of the territory in Jackson, Cass, Bates, Lafayette, Johnson, Henry, and St. Clair Counties, all in Missouri; those portions, excluding Platte City, Mo., of Platte and Clay Counties in Missouri, south of a line extending in an easterly direction from the Missouri River on the west along State Highway 92 to the intersection of State Highway 92 and U.S. Highway 69, thence north to the north section line of section 26 in Washington Township in Clay County, thence east along the north section lines of sections 26 and 25 in Washington Township to the boundaries of Clay and Ray Counties; all of the counties of Wyandotte, Leavenworth, Johnson, Douglas, Shawnee, Lyon, Morris, and Miami in the State of Kansas, and Geary and Riley counties, Kans., including the Fort Riley military reservation.

§ 1064.7 Producer.

"Producer" means any person, other than a producer-handler, who (a) produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk in the marketing area which: (1) Is received at a pool plant, or (2) is caused to be diverted during any of the months of January through August or to the extent of not more than 16 days' production during the months of September through December, from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association, or (b) produces milk acceptable to agencies of the U.S. Government for fluid consumption in its institutions or bases which is received at a pool plant supplying Class I milk to such an institution or base in the marketing area. Milk diverted pursuant to paragraph (a) (2) of this section shall be considered as having been received at the plant from which it is diverted.

§ 1064.8 Route.

"Route" means any delivery (including a sale from a plant or plant store) of a fluid milk product other than a delivery to any milk processing plant.

§ 1064.9 Approved plant.

"Approved plant" means any milk plant which is:

(a) Approved by a duly constituted health authority for the handling of milk for consumption as Grade A milk in the marketing area; or

(b) Approved for the supplying of milk to any agency of the U.S. Government located within the marketing area.

§ 1064.10 Pool plant.

"Pool plant" means any approved plant other than that of a producer-handler or a plant exempt pursuant to § 1064.62:

(a) From which during the current or immediately preceding delivery period:

(1) There is disposed of as Class I milk on routes in the marketing area, an amount equal to 15 percent or more of such plant's total receipts of milk from

dairy farmers qualified to become producers (as defined in § 1064.7) including receipts from a cooperative association in its capacity as a handler pursuant to § 1064.11(c) and in bulk from other approved plants; and also

(2) During the same delivery period there is disposed of as Class I milk an amount not less than the applicable percentage of such receipts, as follows:

(i) March through June, 35 percent;

(ii) July through February, 45 percent;

(3) For the purposes of calculating the percentages specified in subparagraphs (1) and (2) of this paragraph:

(i) Milk in packaged form transferred from one approved plant to another approved plant shall be credited as Class I disposition on routes by the transferor plant and an equal volume shall be excluded from the Class I disposition of the transferee plant; and

(ii) The combined receipts and disposition of the multiple plant operation shall be used in the case of each handler who disposes of any milk on a route in the marketing area and also operates more than one approved plant;

(b) From which during the month not less than 50 percent of its supply of milk from dairy farmers qualified to become producers, less any milk disposed of as Class I on routes is moved to a plant(s) described in paragraph (a) of this section: *Provided*, That any plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentage of its supply of milk from dairy farmers qualified to become producers during each of the months of August through December, shall be a pool plant for each of the following months of January through July unless a written request for nonpool status is furnished to the market administrator; or

(c) Which is operated by a cooperative association and 65 percent or more of the milk delivered during the delivery period by producers who are members of such association is received at the pool plants of other handlers.

(d) For the purpose of this section milk diverted to a nonpool plant shall be deemed to have been received at the pool plant from which it was diverted.

§ 1064.11 Handler.

"Handler" means:

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

(b) Any person in his capacity as the operator of a nonpool plant from which fluid milk products are disposed of on a route(s) in the marketing area;

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler or to the plant of a producer-handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. (Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.);

(d) Any cooperative association which chooses to report as a handler with respect to the milk of its member-pro-

ducers which is delivered in cans to the pool plants of two or more handlers in a single delivery period (such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered); or

(e) Any cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted from a pool plant to a non-pool plant for the account of such cooperative association.

§ 1064.12 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm(s) of such person or from a cooperative association pursuant to § 1064.11(c) but from no other dairy farm;

(b) Fluid milk products are disposed of on routes to retail or wholesale outlets in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of a fluid milk product does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of a fluid milk product from pool plants of other handlers or from a cooperative association pursuant to § 1064.11(c); and

(d) Such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.

§ 1064.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant directly from producers; (b) received by a cooperative association in its capacity as a handler pursuant to § 1064.11 (c) or (d); or (c) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1064.7.

§ 1064.14 Other source milk.

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

(a) Receipts during the delivery period of fluid milk products except:

(1) Fluid milk products received from other pool plants and cooperative associations acting in the capacity of handler pursuant to § 1064.11 (c) and (d), or

(2) Producer milk; 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.

§ 1064.15 Delivery period.

"Delivery period" means a calendar month or the portion thereof during which this part or any amendment thereto is in effect.

§ 1064.16 Base milk.

"Base milk" means the amount of milk received by a handler from a producer during each of the delivery periods of February through July which is not in excess of such producer's daily base computed pursuant to § 1064.65 multiplied by the number of days in such delivery period on which such milk was received by the handler: *Provided*, That with respect to any producer on "every-other-day" delivery to a pool plant the days of nondelivery shall be considered as days of delivery for purposes of this section and of § 1064.65.

§ 1064.17 Excess milk.

"Excess milk" means the amount of milk received by a handler from a producer during each of the delivery periods of February through July which is in excess of base milk received from such producer during such delivery period, and shall include all milk received from a producer for whom no daily base can be computed pursuant to § 1064.65.

§ 1064.18 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, fortified milk or skim milk, reconstituted milk or skim milk, sweet or sour cream and any mixture of such cream and milk or skim milk (including such mixtures containing less than the required butterfat standard for cream but not including any cultured sour mixtures to which cheese or any food substance other than a milk product has been added in an amount not less than 3 percent by weight of the finished product) and concentrated (frozen or fresh) milk, flavored milk, or flavored milk drinks which are neither sterilized nor in hermetically sealed cans.

§ 1064.19 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

MARKET ADMINISTRATOR

§ 1064.20 Designation.

The agency for the administration hereof 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.

§ 1064.21 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.

§ 1064.22 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 45 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 such 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 funds provided by § 1064.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1064.87) 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 herein, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Audit all reports and payments by each handler by inspection 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;

(h) 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, within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 1064.30 through 1064.32,

(2) Maintained adequate records and facilities pursuant to § 1064.33, or

(3) Made payments pursuant to §§ 1064.80 through 1064.86,

(i) On or before the 14th day after the end of each delivery period, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 12th day of each month the minimum price for Class I milk pursuant to § 1064.51(a) and the Class I butterfat differential pursuant to § 1064.52(a), both for the current delivery period; and on or before the 5th day

of each month the minimum price for Class II milk pursuant to § 1064.51(b) and the Class II butterfat differential pursuant to § 1064.52(b), both for the delivery period immediately preceding; and

(2) On or before the 12th day of each month the applicable uniform price(s) computed pursuant to §§ 1064.71 and 1064.72 and the producer butterfat differential computed pursuant to § 1064.82, both applicable to milk delivered during the previous delivery period;

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

(l) On or before February 1 of each year in writing notify: (1) Each producer who made deliveries of milk during the previous September through December of his daily base computed pursuant to § 1064.65, (2) each cooperative association of the daily base of each member of such association, and (3) each handler of the daily base of each producer from whom such handler received milk.

REPORTS, RECORDS, AND FACILITIES

§ 1064.30 Reports of receipts and utilization.

On or before the 7th day after the end of each delivery period each handler, except a producer-handler or a handler making payments pursuant to § 1064.61 (a), shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The receipts at each plant of milk from each producer, the average butterfat test, the pounds of butterfat contained therein, the number of days on which milk was received from such producer, and for each of the delivery periods of February through July, the total pounds of base milk and excess milk received from each producer.

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

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

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of fluid milk products on routes wholly outside the marketing area;

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe; and

(g) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the delivery period.

§ 1064.31 Payroll reports.

On or before the 23d day of each delivery period, each handler except a producer-handler or a handler making payments pursuant to § 1064.61(a) shall submit to the market administrator his producer payroll for receipts during the preceding delivery period which shall show:

(a) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer and cooperative association, and the number of days on which milk was received from such producer, including, for each of the delivery periods of February through July, such producer's deliveries of base milk and excess milk,

(b) The amount of payment to each producer and cooperative association, and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 1064.32 Other reports.

(a) Each producer-handler and each handler making payments pursuant to § 1064.61(a) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

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

(c) Each handler who receives from producers, milk for which payment is to be made to a cooperative association pursuant to § 1064.80(c) shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 23d day of the delivery period, the total pounds of milk received during the first 15 days of the delivery period;

(2) On or before the 7th day after the end of the delivery period;

(i) The pounds per shipment, the total pounds of milk (base milk and excess milk separately for February through July) and the average butterfat test of milk received from such producer during the delivery period;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1064.86.

§ 1064.33 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 and such facilities as are necessary or the market administrator to verify or establish the correct data with respect to:

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each delivery period.

§ 1064.34 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 three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified 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

§ 1064.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the delivery period by a handler which is required to be reported pursuant to § 1064.30 shall be classified by the market administrator pursuant to the provisions of §§ 1064.41 through 1064.46.

§ 1064.41 Classes of utilization.

Subject to the conditions set forth in §§ 1064.43 and 1064.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of for consumption in the form of fluid milk products except those classified pursuant to paragraph (b) (5) of this section, or (2) not specifically accounted for as Class II utilization;

(b) Class II milk shall be all skim milk and butterfat: (1) Used to produce any products other than fluid milk products; (2) used for starter churning, wholesale baking and candy making purposes; (3) disposed of as livestock feed; (4) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (5) in inventory of fluid milk products on hand at the end of the month;

(6) In shrinkage allocated to receipts specified in § 1064.42(b) (1) but not to exceed the following:

(i) 2 percent of receipts of skim milk and butterfat in milk received from producers, including that which is received by a cooperative association in its capacity as a handler pursuant to § 1064.11 (c) or (d) but not including producer milk diverted in cans to a nonpool plant(s) pursuant to § 1064.7; plus

(ii) 1.5 percent of skim milk and butterfat, respectively, received in bulk tank lots from other pool plants; plus

(iii) 1.5 percent of skim milk and butterfat, respectively, received directly from a cooperative association which is a handler pursuant to § 1064.11(c) except that if the handler operating the pool plant files with the market administrator notice that the purchase of such milk is

on the basis of farm weights determined by farm bulk tank calibrations, the applicable percentage shall be 2 percent; less

(iv) 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots from pool plants to other milk plants; and less

(v) 1.5 percent of skim milk and butterfat, respectively, disposed of to plants by a cooperative association which is the handler pursuant to § 1064.11(c) unless the exception provided in (iii) of this § 1064.41(b) (6) applies in which case the applicable percentage shall be 2 percent; and

(7) In shrinkage allocated to receipts of other source milk.

§ 1064.42 Shrinkage.

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

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

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 1064.11(c) and (d) and in bulk tanks from pool plants of other handlers, and (2) the receipts of skim milk and butterfat in other source milk.

§ 1064.43 Responsibility of handlers and reclassification of milk.

(a) 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.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1064.44 Transfers.

Skim milk or butterfat transferred from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of milk, skim milk, or cream, to the pool plant of another handler unless utilization in Class II is mutually indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the delivery period within which such transfer occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 1064.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further*, That if either or both plants have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant located

more than 200 miles from the City Hall in Kansas City, Mo., Manhattan, Kans., or Emporia, Kans., whichever is closest by the shortest highway distance as determined by the market administrator, except that (1) cream so transferred may be classified as Class II milk if its utilization as Class II milk is established through the operation of another Federal order for another milk marketing area; or (2) cream so transferred with prior notice to the market administrator, and with each container labeled or tagged with a certificate of the transferor that such cream is sold as "Grade C cream for manufacturing only", may be classified as Class II milk, subject to such verification of alternate utilization as the market administrator may make.

(d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant located not more than 200 miles from the City Hall in Kansas City, Mo., Manhattan, Kans., or Emporia, Kans., whichever is closest by shortest highway distance as determined by the market administrator, unless the market administrator is permitted to audit the records of receipts and utilization at such nonpool plant, in which case the classification of all skim milk and butterfat received at such nonpool plant shall be determined and the skim milk and butterfat transferred from the pool plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I Grade A milk, receipts of skim milk and butterfat at such nonpool plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for Grade A usage of such nonpool plant in markets supplied by such plant.

(e) If any skim milk or butterfat is transferred to a second nonpool plant under paragraph (d), the same conditions of audit, classification, and allocation shall apply.

§ 1064.45 Computation of skim milk and butterfat in each class.

For each delivery period, the market administrator shall correct mathematical and other obvious errors in the report of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 1064.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1064.45 the market administrator shall determine the classification of milk received from producers at the pool plant(s) of each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk allocated to shrinkage in skim milk received from producers pursuant to § 1064.41(b) (6);

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract the pounds of skim milk in other source milk received from a plant(s) fully regulated under another order issued pursuant to the act, as specified:

(i) If such product was not processed or packaged in the pool plant during the month, subtract from the pounds of skim milk in Class I milk the pounds of skim milk in sour cream or yogurt packaged in consumer or institutional size packages, classified and priced either as Class I milk pursuant to another order issued pursuant to the act or as Class II milk pursuant to Order No. 30, regulating the handling of milk in the Chicago, Illinois, marketing area (Part 1030 of this chapter), and disposed of in the same packages as received;

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk, other than that subtracted pursuant to (i) of this subparagraph, received from such a plant(s), and classified and priced as Class I milk under such other order(s).

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

(5) Add to the pounds of skim milk remaining in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) Subtract from the pounds of skim milk remaining in each class the skim milk received from other pool plants or from a cooperative association pursuant to § 1064.11(c) according to its classification as determined pursuant to § 1064.44 (a);

(7) Subtract from the pounds of skim milk remaining in each class any amount by which the pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers in series beginning with Class II. Such excess shall be called "overage".

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

(c) Determine the weighted average butterfat content of the Class I milk and of the Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 1064.50 Basic formula price.

The basic formula price to be used in determining the price per hundredweight of Class I milk for the delivery period shall be the higher of the prices computed pursuant to paragraphs (a) or (b) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
 Carnation Co., Sparta, Mich.
 Pet Milk Co., Wayland, Mich.
 Pet Milk Co., Coopersville, Mich.
 Borden Co., Orfordville, Wis.
 Borden Co., New London, Wis.
 Carnation Co., Richland Center, Wis.
 Carnation Co., Oconomowoc, Wis.
 Pet Milk Co., New Glarus, Wis.
 Pet Milk Co., Belleville, Wis.
 White House Milk Co., Manitowoc, Wis.
 White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) To the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period, add 20 percent thereof and multiply by 3.5.

(2) To the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 7.

§ 1064.51 Class prices.

Subject to the provisions of §§ 1064.52 and 1064.53, and rounded to the nearest cent, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the delivery period shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding delivery period plus \$1.10 during each of the delivery periods of April, May, June, and July, and plus \$1.40 during all other delivery periods plus or minus a supply-demand adjustment of not more than 45 cents, computed as follows:

(1) Divide the amount computed pursuant to subdivision (i) of this subparagraph by the amount computed pursuant to subdivision (ii), multiply the result by 100 and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(i) Add to the total receipts of producer milk in the second and third months preceding, the total receipts of producer milk reported for the same months by handlers regulated under the St. Joseph, Missouri Federal milk order.

(ii) Add to the total gross volume of Class I milk at pool plants in the second and third months preceding the total gross volume of Class I milk during the same period at pool plants under the St. Joseph, Missouri Federal milk order. Interhandler transfers which duplicate Class I sales are excluded from the total gross volume in each market and for the two markets.

(2) Compute a "net deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero;

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage";

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage".

Delivery period for which price applies	Delivery period used in computation	Percentages	
		Minimum	Maximum
January.....	October-November.....	132	140
February.....	November-December.....	133	141
March.....	December-January.....	131	139
April.....	January-February.....	126	134
May.....	February-March.....	124	132
June.....	March-April.....	128	136
July.....	April-May.....	138	146
August.....	May-June.....	143	151
September.....	June-July.....	134	142
October.....	July-August.....	128	136
November.....	August-September.....	124	132
December.....	September-October.....	124	132

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One-half cent times each such percentage point of net deviation; plus

(ii) One-half cent times the lesser of:

(a) Each such percentage point of net deviation, or

(b) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One-half cent times the least of:

(a) Each such percentage point of net deviation;

(b) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding, or

(c) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

(iv) Less one-half cent, if necessary, to round down to the nearest whole cent.

(b) *Class II milk.* The higher of:

(1) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for ungraded milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants for which prices have been reported to the market administrator, plus 19 cents:

Present Operator and Location

Borden Co., Fort Scott, Kans.
 Carnation Co., Girard, Kans.
 Kraft Foods Co., Nevada, Mo.
 Pet Milk Co., Iola, Kans.
 Swift & Co., Parsons, Kans.

or

(2) The price per hundredweight computed as follows:

(i) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the Department; and

(iii) From the sum of the results arrived at under subdivisions (i) and (ii) of this subparagraph, subtract 74 cents.

§ 1064.52 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to either class pursuant to § 1064.46(c) is more or less than 3.5 percent there shall be added to the respective class price computed pursuant to § 1064.51 for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 3.5 percent, an amount equal to the butterfat differential computed as follows:

(a) For Class I milk, multiply the butter price specified in § 1064.50(b)(1) by 1.2, divide the result by 10; and round to the nearest one-tenth of a cent.

(b) For Class II milk, multiply the butter price specified in § 1064.50(b)(1) by 1.15, divide the result by 10, and round to the nearest one-tenth of a cent.

§ 1064.53 Location adjustments to handlers.

(a) For milk which is received from producers at a pool plant located more than 50 miles by shortest highway distance, as determined by the market administrator, from the City Hall in Kansas City, Mo., Lawrence, Kans., Topeka, Kans., Manhattan, Kans., Council Grove, Kans., or Emporia, Kans., whichever is closest, and which is classified as Class I milk the prices computed pursuant to § 1064.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such City Hall, by 16 cents if such plant is located 60 to 80 miles from such City Hall, and by an additional one cent for each 10 miles or fraction thereof that such distance exceeds 80 miles.

(b) Milk moved in bulk from a plant as defined in § 1064.10 (b) or (c) to a plant as defined in § 1064.10(a) shall be considered to be Class I milk to the extent that the Class I milk disposed of from the transferee plant exceeds receipts of milk from producers' farms: *Provided*, That if milk is received by a plant defined in § 1064.10(a) from more than one plant, the milk so classified as Class I shall be deemed to have been transferred from the transferor plants in the order of their lowest applicable location adjustment.

§ 1064.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1064.60 Exempt handlers.

Sections 1064.40 through 1064.45, 1064.50 through 1064.53, 1064.61, 1064.70, 1064.71, and 1064.80 through 1064.88 shall not apply to a producer-handler or to a handler operating a plant from which less than an average of 600 pounds of Class I milk per day is distributed on routes in the marketing area.

§ 1064.61 Handlers operating a non-pool plant.

In lieu of the payments required pursuant to §§ 1064.80 through 1064.89, each handler, other than a producer-handler or one exempt pursuant to § 1064.62, who operates during the month a nonpool plant, shall pay to the market administrator on or before the 25th day after the end of the delivery period the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 1064.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts:

(1) For the producer-settlement fund, an amount equal to the value of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area at the Class I price applicable at the location of such handler's plant, less the value of such skim milk and butterfat at the Class II price; and

(2) As his share of the expense of administration, the rate specified in § 1064.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) For the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 1064.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the delivery period from dairy farmers whose milk was approved for fluid use; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1064.88 had such plant been a pool plant.

§ 1064.62 Milk subject to other orders.

Milk received at the plant of a handler at which the handling of milk is fully subject during the delivery period to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Greater Kansas City marketing area shall be exempted for such delivery period from all provisions of this part except that he shall make reports to the market administrator at such time and in such manner as the market administrator may require.

DETERMINATION OF BASE

§ 1064.65 Computation of daily base for each producer.

The daily base for each producer applicable during each of the delivery periods of February through July, inclusive, shall be determined by the market administrator as follows:

Divide the total pounds of milk received by a handler(s) at a pool plant from such producer during the immediately preceding delivery periods of September through December by the number of days during such period on which milk was received from such producer, or by 90, whichever is greater: *Provided*, That, in the case of producers delivering milk to a plant which first became a pool plant during any of the months of October through July, a daily average base for each such producer shall be calculated pursuant to this section on the basis of his deliveries of milk to such plant during the period September through December immediately preceding.

§ 1064.66 Daily base rules.

(a) Except as provided in paragraph (b) of this section, a daily base shall apply only to milk produced by the producer in whose name such milk was delivered to the handler(s) during the base forming period.

(b) A producer may transfer his daily base during the period of February through July by notifying the market administrator in writing before the last day of any delivery period that such base is to be transferred to the person named in such notice but under the following conditions only:

(1) In the event of the death or entry into military service of a producer, the entire daily base may be transferred to a member of such producer's immediate family who carries on the dairy operation on the same farm;

(2) If a base is held jointly and such joint holding is terminated on the basis of written notice to the market administrator from the joint holders the entire daily base may be transferred to one of the joint holders, or divided in accordance with such notice between the former joint holders if they continue dairy operations.

DETERMINATION OF UNIFORM PRICE

§ 1064.70 Computation of the value of milk received from producers by each handler.

The value of milk received during each delivery period by each handler from

producers shall be a sum of money computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 1064.46(c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 1064.46(a) (7) by the applicable respective class prices;

(c) Add an amount computed by multiplying the hundredweight of skim milk and butterfat pursuant to subparagraph (1) or (2) of this paragraph, whichever is less, by a rate equal to the difference between the Class II price for the preceding delivery period and the Class I price for the current delivery period: (1) that remaining in Class II after the computations pursuant to § 1064.46(a) (4) and the corresponding step of § 1064.46 (b) for the preceding delivery period, or (2) that subtracted from Class I milk pursuant to § 1064.46 (a) (4) and (b); and

(d) Add an amount computed by multiplying the hundredweight of skim milk and butterfat specified in subparagraphs (1) and (2) of this paragraph by a rate computed at the difference between the Class II price and the Class I price applicable at the location of the nearest non-pool plant(s) from which an equivalent volume of such other source milk was received: *Provided*, That such calculation shall not apply if the total receipts of producer milk at pool plants during the delivery period are not more than 120 percent of the total Class I utilization of such plants for the delivery period.

(1) That subtracted from Class I pursuant to § 1064.46 (a) (2) and (b); and

(2) That subtracted from Class I pursuant to § 1064.46 (a) (4) and (b), which is in excess of the sum of (i) skim milk and butterfat applied pursuant to paragraph (c) of this section; and (ii) the skim milk and butterfat subtracted from Class II pursuant to § 1064.46 (a) (3) (ii), and (b) in the preceding month.

§ 1064.71 Computation of uniform price.

For each of the delivery periods of August through January the market administrator shall compute the uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1064.70 for all handlers specified in § 1064.11 (a), (c), or (d) and who made the payments pursuant to §§ 1064.80 and 1064.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1064.81;

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

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add for each one-tenth percent that such average butterfat content is less than 3.5 percent, an amount computed by multiplying the butterfat dif-

ferential computed pursuant to § 1064.82 by the total hundredweight of such milk;

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

(f) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for milk of 3.5 percent butterfat content received at pool plants f.o.b. marketing area.

§ 1064.72 Computation of uniform price for base milk and excess milk.

For each of the delivery periods of February through July the market administrator shall compute uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Combine into one total the values computed pursuant to § 1064.70 for all handlers who filed reports pursuant to § 1064.30 and who make the payments pursuant to §§ 1064.80 and 1064.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1064.81;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement funds;

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add for each one-tenth percent that such average butterfat content is less than 3.5 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 1064.82 by the total hundredweight of such milk.

(e) Compute the total value of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 3.5 percent butterfat content, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat received from producers;

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the aggregate value of milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations; and

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers at pool plants, f.o.b. marketing area.

PAYMENTS

§ 1064.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each delivery period during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) pursuant to § 1064.71 or § 1064.72, adjusted by the butterfat differential computed pursuant to § 1064.82, subject to the location adjustment to producers pursuant to § 1064.81, and less the following amounts (1) the payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 1064.87, and (3) any deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1064.85 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each delivery period to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section and (2) who had not discontinued shipping milk to such handler before the 18th day of the delivery period, an advance payment with respect to milk received from such producer during the first 15 days of the delivery period at the approximate value of such milk, not to be less than the Class II price for 3.5 percent milk for the preceding delivery period, without deduction for hauling;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 20th day of the delivery period, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each delivery period an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to milk for which such association is acting in the capacity of a handler pursuant to § 1064.11 (c) and/or (d):

(1) On or before the 20th day of the delivery period an amount equal to the rate specified in paragraph (b) times the volume received during the first 15 days of the delivery period; and

(2) On or before the 14th day after the end of each delivery period an

amount equal to not less than the value of such milk as classified pursuant to § 1064.44(a) at the applicable respective class price(s) less payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1064.80, 1064.81 and 1064.82;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1064.87 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(f) Nothing in this section shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

§ 1064.81 Location adjustment to producers.

In making payments pursuant to § 1064.80(a), the applicable uniform prices for all milk received during the months of August through January and for base milk received during the months of February through July shall be adjusted according to the location of the pool plant where such milk was received (or from which it was diverted) at the rate provided pursuant to § 1064.53.

§ 1064.82 Producer butterfat differential.

In making payments pursuant to § 1064.80, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 3.5 percent, an amount computed by adding 4 cents to the butter price specified in § 1064.50(b)(1) dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 1064.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) and (b) of this section and out of which he shall make all payments required pursuant to paragraph (c) of this section.

(a) Payments made by handlers pursuant to § 1064.61 (a) (1) and (b) (1), and §§ 1064.84 and 1064.86.

(b) Payments received from the administrator of another order issued pur-

suant to the act which have been required under such order with respect to milk distributed in the marketing area regulated by such other order from pool plants regulated by this order.

(c) Payments due handlers pursuant to §§ 1064.85 and 1064.86: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.61, 1064.84, 1064.86, 1064.87 and 1064.88.

§ 1064.84 Payments to the producer-settlement fund.

On or before the 14th day after the end of each delivery period, each handler shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 1064.70 is greater than the amount required to be paid producers by such handler pursuant to § 1064.80 before deductions (a) for marketing services pursuant to § 1064.87 and (b) authorized by the producer.

§ 1064.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each delivery period during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 1064.70 is less than the amount required to be paid producers by such handler pursuant to § 1064.80 before deductions (a) for marketing services pursuant to § 1064.87 and (b) authorized by the producer: *Provided*, That if at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

§ 1064.86 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1060.80, 1060.84, 1060.85, 1060.86(a), 1060.87, and 1064.88 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each

month thereafter until such obligation is paid.

§ 1064.87 Marketing service.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1064.80 (a), shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1064.80(a), as are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

§ 1064.88 Expense of administration.

(a) *Payments by handlers.* As his pro rata share of the expense of the administration hereof, each handler shall pay the market administrator, on or before the 12th day after the end of each delivery period, 2 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received from producers during such delivery period.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro rata share of expenses set forth in this section.

§ 1064.89 Termination of obligation.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this order 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 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice 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 order, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the 2-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 2-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 obligations 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 under payment 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

§ 1064.90 Effective time.

The provisions of this part or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1064.91.

§ 1064.91 Suspension or termination.

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

§ 1064.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations under this part the

final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1064.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1064.100 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 hereof.

§ 1064.101 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.

Effective date: January 1, 1962.

Signed at Washington, D.C., on December 27, 1961.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 61-12417; Filed, Dec. 29, 1961;
10:37 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 152; Amdt. 40-33; Supp. 35]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

Carriage of Cargo in Passenger Compartments

On November 27, 1961, the Federal Aviation Agency issued Amendment 40-32 to Part 40 of the Civil Air Regulations (26 F.R. 11354), to become effective on January 2, 1962.

Subsequent to the issuance of this amendment, certain air carriers requested reconsideration of those provisions of the amendment restricting the height of the cargo bins which may be approved for the carriage of cargo in the passenger compartments. A preliminary reevaluation of this request indicates that the height restriction may be relaxed or eliminated without adversely affecting safety. Accordingly, in order to provide sufficient time for the completion of this reevaluation and to make other required clarifying changes, the effective date of Amendment 40-32 is being postponed from January 2, 1962, until January 20, 1962.

In view of the foregoing, I find that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, Part 40 of the Civil Air Regulations (14 CFR Part 40) is hereby amended, effective January 2, 1962:

By amending the January 2, 1962, effective date of Amendment 40-32 and Supplement No. 34 to read January 20, 1962.

(Secs. 313(a), 601, 604, 605; 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424, 1425)

Issued in Washington, D.C., on December 28, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-11873; Filed Dec. 29, 1961;
8:48 a.m.]

[Reg. Docket No. 152; Amdt. 41-41]

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

Carriage of Cargo in Passenger Compartments

On November 27, 1961, the Federal Aviation Agency issued Amendment 41-40 to Part 41 of the Civil Air Regulations, (26 F.R. 11355) to become effective on January 2, 1962.

Subsequent to the issuance of this amendment, certain air carriers requested reconsideration of those provisions of the amendment restricting the height of the cargo bins which may be approved for the carriage of cargo in the passenger compartments. A preliminary reevaluation of this request indicates that the height restriction may be relaxed or eliminated without adversely affecting safety. Accordingly, in order to provide sufficient time for the completion of this reevaluation and to make other required clarifying changes, the effective date of Amendment 41-40 is being postponed from January 2, 1962, until January 20, 1962.

In view of the foregoing, I find that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, Part 41 of the Civil Air Regulations (14 CFR Part 41) is hereby amended, effective January 2, 1962:

By amending the January 2, 1962, effective date of Amendment 41-40 to read January 20, 1962.

(Secs. 313(a), 601, 604, 605; 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424, 1425)

Issued in Washington, D.C., on December 28, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-12122; Filed, Dec. 29, 1961;
8:48 a.m.]

[Reg. Docket No. 152; Amdt. 42-36]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

Carriage of Cargo in Passenger Compartments

On November 27, 1961, the Federal Aviation Agency issued Amendment 42-35 to Part 42 of the Civil Air Regulations, (26 F.R. 11356) to become effective on January 2, 1962.

Subsequent to the issuance of this amendment, certain air carriers requested reconsideration of those provisions of the amendment restricting the height of the cargo bins which may be approved for the carriage of cargo in the passenger compartments. A preliminary reevaluation of this request indicates that the height restriction may be relaxed or eliminated without adversely affecting safety. Accordingly, in order to provide sufficient time for the completion of this reevaluation and to make other required clarifying changes, the effective date of Amendment 42-35 is being postponed from January 2, 1962, until January 20, 1962.

In view of the foregoing, I find that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, Part 42 of the Civil Air Regulations (14 CFR Part 42) is hereby amended, effective January 2, 1962:

By amending the January 2, 1962, effective date of Amendment 42-35 to read January 20, 1962.

(Secs. 313(a), 601, 604, 605; 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424, 1425)

Issued in Washington, D.C., on December 28, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-12422; Filed, Dec. 29, 1961;
8:48 a.m.]

[Reg. Docket No. 531; Supp. 60-32]

PART 60—AIR TRAFFIC RULES

Special Airport Traffic Area Rules and Traffic Patterns; Revocation; Correction

In F.R. Doc. 61-12194, appearing on page 12283 of the issue for Saturday, December 23, 1961, that part of the heading which is enclosed in brackets should read as set forth above.

JAMES B. WATSON,
Acting Director.
Air Traffic Service.

[F.R. Doc. 61-11622; Filed, Dec. 29, 1961;
8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Programs, Department of Commerce

CHANGES IN CODIFICATION

Title 15, Commerce and Foreign Trade, is amended in the following particulars:

1. The heading of Chapter III, now designated as the Bureau of Foreign Commerce, Department of Commerce, is redesignated to read as set forth above.

2. Part 360, Requisitioned Property, and Part 362, Awards for Training in the Field of International Trade for Qualified Citizens of Other American Republics, are revoked.

3. Part 364, Trade Fairs in the United States, is transferred from Chapter III to Chapter IX and redesignated as Part 901. See new Chapter IX added in this issue, *infra*.

(R.S. 161, as amended; 5 U.S.C. 22)

WILLIAM RUDER,
Assistant Secretary for
Administration and Public Affairs.

[F.R. Doc. 61-12425; Filed, Dec. 29, 1961;
8:48 a.m.]

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Revision of Export Regs., Amdt. 56]

PART 381—ENFORCEMENT PROVISIONS

PART 382—DENIAL OF EXPORT PRIVILEGES

PART 385—EXPORTATIONS OF TECHNICAL DATA

Miscellaneous Amendments

1. Part 381, Enforcement Provisions, is amended by adding a new § 381.11 to read as follows:

§ 381.11 Record keeping.

(a) *Transactions subject to this regulation.* This section applies to transactions involving exportations of commodities or technical data from the United States and any known reexportations, transshipments or diversions of commodities or technical data originally exported from the United States, regardless of whether the exportation or reexportation is made, or proposed to be made, by any person with or without authorization by a validated license, a general license, or any other export authorization. It includes all negotiations connected with such transactions, except that a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction which a reasonably prudent exporter would believe likely to lead to a violation of Export Orders or Regulations. It includes as well any exportations to Canada, if, at any stage in the transaction, it appears that a person in

a country other than the United States or Canada has an interest therein or that the commodity or technical data involved is to be reexported, transshipped, or diverted from Canada to another foreign country.

(b) *Persons subject to this regulation.* Any person in the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in paragraph (a) of this section, and any person in the United States or abroad who is required to make and keep records pursuant to any provisions of the Export Regulations, shall keep all the records described in paragraph (c) of this section which are made or obtained by such person, and shall produce them in the manner provided in paragraph (d) of this section.

(c) *Records to be kept.* The records to be kept pursuant to this section shall include memoranda, notes, correspondence, books, export control documents, and other written matter pertaining to the transactions described in paragraph (a) of this section, which may be made or obtained by a person described in paragraph (b) of this section. In addition to the records required to be kept by this section, the provisions of §§ 368.1, 371.8, 372.4, 372.9, 373.3, 373.4, 373.51, 376.3, 377.3, 379.10, and 380.1 of this subchapter require certain records to be made and kept by persons in the United States or abroad in connection with export transactions. The revocation or revision of any such provision of the Export Regulations which requires the making and keeping of records shall not be retroactive in effect unless specifically provided and shall not affect the original requirement to keep such records for the prescribed period.

(d) *Production and inspection.* Every person, whether in the United States or abroad, required to keep records by any provision of the Export Regulations or of any Order, shall produce all records required to be kept and make them available for inspection and copying upon request by any authorized agent, official, or employee of the Bureau of International Programs, the Bureau of Customs, or a United States Foreign Service post, or by any other accredited representative of the U.S. Government.

(e) *Period of retention.* Records required to be kept under this section shall be kept for a period of three years from, whichever is later, the time of: (1) The exportation from the United States; or (2) Any known reexportation, transshipment, or diversion; or (3) Any other termination of the transaction, whether formally in writing or by any other means.

2. Section 382.7 *Hearings* is amended to read as follows:

§ 382.7 Hearings.

(a) A respondent who has not filed a written answer is not entitled to a hearing, and the case against him in such instance shall be considered by the Compliance Commissioner as provided in paragraph (a) of § 382.4. If an answer has been filed and no oral hearing has

been demanded, the same shall be deemed waived, and the Compliance Commissioner shall proceed to consider the case upon all the pleadings and evidence available and shall provide for the making of the record in such manner as he deems appropriate. If an answer has been duly filed and an oral hearing has been demanded, the Compliance Commissioner shall set the case for such hearing, and due notice thereof shall be given to the respondent. A respondent is not entitled to notice of hearing unless he has answered, raised issues to be determined as provided in § 382.5 and has made demand for hearing. If neither the respondent nor anyone on his behalf shall attend a hearing which has been set after due notice given the hearing shall nevertheless proceed in his absence, and such absence shall not affect the validity of the hearing or any proceedings or action thereafter.

(b) Hearings shall be conducted by the Compliance Commissioner in a fair and impartial manner. The rules of evidence prevailing in courts of law shall not apply, but all evidentiary material relevant and material to the inquiry shall be received and given appropriate weight.

(c) Because the Export Control Act of 1949, as amended, is concerned with national security and foreign policy, relevant and material evidentiary materials, bearing on the enforcement of the act, whether classified or not, must be considered by those making decisions in proceedings under the export regulations. Diligent effort shall be made, however, to declassify such classified materials or to secure unclassified summaries of or extracts from such classified materials, when not contrary to any statute or security regulations. Whenever an unclassified summary or extract of classified evidentiary materials shall be offered, the Compliance Commissioner shall compare it with the related classified materials. If he finds that the summary or extract is supported by the classified materials and omits only so much as remains classified, he may, subject to the right of the respondent to object on grounds of relevancy and materiality, admit the unclassified summary or extract as part of the open record, to the extent he deems said summary or extract relevant and material. Thereafter, the respondent may submit evidence in explanation or contradiction thereof. In no case shall the respondent or his attorney be entitled to inspect the classified materials.

(d) The Compliance Commissioner may administer oaths and affirmations. Respondent may be represented by counsel but need not be. The proceeding shall be taken by a reporter, transcribed, and filed with the Compliance Commissioner. Respondent shall have an opportunity to examine the transcript and to obtain a copy upon payment of proper costs.

§ 385.2 [Amendment]

3. Section 385.2 *General licenses*, paragraph (b) *General license GTDU*; un-

classified technical data either unpublished or not generally available in published form, subparagraph (4) is amended to read as follows:

(4) Except as provided in subdivision (iii) of this subparagraph, this general license is not applicable to any exportation of technical data of the kind described in subdivision (i) or (ii) of this subparagraph unless, prior to the exportation, the exporter has received written assurance from the importer that neither the technical data nor the direct product¹ thereof is intended to be shipped, either directly or indirectly, to a Subgroup A destination, Poland (including Danzig), or Cuba. Where such assurance is not obtained, the exportation of the technical data may be made only under a validated license. An application for such validated license shall include an explanatory statement setting forth the reason(s) why such assurance cannot be obtained. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement which restricts disclosure of the technical data for use only in a country not in Subgroup A, Poland (including Danzig), or Cuba, and prohibits shipment of the direct product¹ thereof by the licensee to a Subgroup A country, Poland (including Danzig), or Cuba. An assurance included in a licensing agreement will be acceptable for all exportations made during the life of the agreement. In addition this general license is not applicable to any exportation of technical data of the kind described in subdivision (i) or (ii) of this subparagraph if, at the time of exportation of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported directly or indirectly to a Subgroup A destination, Poland (including Danzig), or Cuba.

(i) Technical data and services listed in (a) of this subdivision for the plants, processes, and equipment listed in (b) of this subdivision:

(a) Types of technical data and services:

(1) Proprietary research and the results therefrom;

(2) Processes developed pursuant to research (including technology with regard to component equipment items);

¹ The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that if the immediate product is a petroleum or chemical product it is not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products.

(3) Catalyst production, activation, utilization, reactivation and recovery;

(4) Plant and equipment design and layout to implement the processes; and

(5) Construction and operation of plant and equipment.

(b) Types of plants, equipment, and processes: The following plants, equipment or processes usable in the treatment of petroleum or natural gas fractions or of products derived directly or indirectly therefrom;

alkylation	nitration
aromatization	oxidation
cracking	oco process
dehydrogenation	ozonolysis
desulfurization	polymerization
halogenation	reduction
hydrogenation	reforming
isomerization	

(ii) Technical data relating to the following materials and equipment:

(a) Steel line pipe of a size greater than 19" o.d. and having a yield strength greater than 40,000 psi as determined by API test (Schedule B Nos. 60627 and 60630);

(b) Forged steel pipe fittings having a pipe size connection greater than 19" o.d. and having a yield strength greater than 40,000 psi as determined by API test (Schedule B No. 61857);

(c) Centrifugal pumps designed for an internal pump-case working pressure of over 300 psi and a power input greater than 1,000 hp and specially fabricated parts and accessories (Schedule B Nos. 77101 and 77119);

(d) Air and gas compressors, reciprocating, centrifugal, axial flow and mixed flow types, capable of receiving a power input greater than 2,000 hp and designed for a discharge greater than 300 psi and specially fabricated parts and accessories (Schedule B Nos. 77046, 77073, 77076, and 77078);

(e) Steel valves, with an inlet or outlet dimension greater than 19" and designed for a working pressure of over 300 psi and specially fabricated parts and accessories (Schedule B Nos. 77450, 77460, and 77465);

(f) O-ing and U-ing presses specially designed for the manufacture of steel pipe of a size greater than 19" o.d. and specially fabricated parts and accessories (Schedule B Nos. 74459 and 74468);

(g) Straightener-expander for pipes or tubes of a size greater than 19" o.d. and specially fabricated parts and accessories (Schedule B Nos. 74459 and 74469).

(iii) The limitations set forth in this subparagraph do not apply to the exportation of technical data included in an application for the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Post Office.

§ 385.4 [Amendment]

4. Section 385.4 *Exportation under a validated license*, paragraph (c) *Completion of application form and application*

² This includes plants, equipment or processes for the production, and purification of petroleum products, petrochemical products, and products derived therefrom. Examples of petrochemical products include methane, ethane, propane, butane and other aliphatics, as well as olefins, aromatics, naphthenes, and elements and other compounds.

processing card is amended to read as follows:

(c) *Completion of application form and application processing card*—(1) *General instructions for completing Application Form, FC-419.* Form FC-419 shall be completed as provided in § 372.5 of this subchapter, except that the items for producer or supplier, quantity to be shipped, Schedule B number, and price, shall be left blank. The commodity description item shall contain a general statement which specifies the form(s) of the technical data (blue prints, manuals, etc.). In addition, the words "TD License" shall be entered across the top of Form FC-419 immediately above the printed words "United States of America."

(2) *Special provisions for certain commodities.* These special provisions are applicable to technical data relating to the following commodities:

(i) Civil aircraft, civil aircraft equipment, parts, accessories, or components listed on the Positive List of Commodities (§ 399.1 of this subchapter).

(ii) The following electronic commodities listed on the Positive List of Commodities (§ 399.1 of this subchapter):

(a) Electrical and electronic instruments, Schedule B Nos. 70372 and 70379, specially designed for testing or calibrating the airborne direction finding, navigational and radar equipment described in Schedule B Nos. 70797 and 70867.

(b) Airborne transmitters, receivers, and transceivers, Schedule B No. 70779.

(c) Airborne direction finding equipment, Schedule B No. 70797.

(d) Airborne electronic navigation apparatus and airborne radar equipment, Schedule B No. 70867.

(iii) For all license applications covering technical data relating to any of the commodities in subdivision (i) or (ii) of this subparagraph for export to any destination other than Poland (including Danzig), a Subgroup A destination, Cuba, the Republic of the Congo (Leopoldville), or the Dominican Republic, an applicant shall attach to the license application a written statement of assurance from his foreign consignee that the technical data will not be re-exported directly or indirectly to any country without prior authorization from the Office of Export Control; and that the direct product¹ produced by use of the technical data will not be exported directly or indirectly to Poland (including Danzig), a Subgroup A destination, Cuba, the Republic of the Congo (Leopoldville), or the Dominican Republic, without prior authorization

¹ The term "direct product" used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data. The coverage of the term does not extend to the results of the use of such "direct product". For example, if the technical data relate to the design of a new or improved airborne transmitter, the airborne transmitter produced from such data is a direct product of the data. However, if the technical data relate to the design of equipment which will be used for the production of airborne transmitters, then the equipment rather than the transmitter is the direct product of the technical data.

from the Office of Export Control. For a license application for a shipment of such technical data to the Republic of the Congo (Leopoldville), or to the Dominican Republic, the same written statement is required except that the list of destinations set forth thereon to which the direct product¹ may not be exported shall omit, as appropriate, the Republic of the Congo (Leopoldville), or the Dominican Republic. However, if the United States exporter is not able to obtain the required statement, or the consignee is unwilling to furnish assurances with respect to all of the requirements, the exporter may attach an explanatory statement to his license application setting forth the reasons therefor.

(3) *Completion of Application Processing Card Form FC-420.* The Application Processing Card, Form FC-420, shall be completed as provided in § 372.5 of this subchapter except that the Schedule B number, processing code, related commodity group number and commodity description shall be omitted and the symbol "TD" shall be entered in the space provided for the processing code.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023, E.O. 10945, 26 F.R. 4487)

F. D. HOCKERSMITH,
Acting Director,
Office of Export Control.

[F.R. Doc. 61-12284; Filed, Dec. 29, 1961;
8:47 a.m.]

Chapter IX—Bureau of International Business Operations, Department of Commerce

ADDITION OF CHAPTER AND TRANSFER OF REGULATIONS

Title 15, Commerce and Foreign Trade, is amended in the following particulars:

1. A new Chapter IX, headed Bureau of International Business Operations is added.

2. Part 364, Trade Fairs in the United States is transferred from Chapter III to Chapter IX and redesignated as Part 901.

(R.S. 161, as amended; 5 U.S.C. 22)

WILLIAM RUDER,
Assistant Secretary for
Administration and Public Affairs.

[F.R. Doc. 61-12426; Filed, Dec. 29, 1961;
8:48 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 34-6691]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Net Capital Exemption

The Securities and Exchange Commission today announced that, at the re-

quest of the Salt Lake Stock Exchange, it has amended paragraph (b) (2) of Rule 15c3-1 (§ 240.15c3-1) under the Securities Exchange Act of 1934 to delete the exemption previously available to members of the Salt Lake Stock Exchange. On and after January 22, 1962, members of that exchange will be subject to Rule 15c3-1.

Rule 15c3-1 (§ 240.15c3-1) provides that no broker or dealer shall permit his aggregate indebtedness to exceed 2,000 percent of his net capital. Paragraph (c) of the rule defines the terms "aggregate indebtedness", "net capital" and other terms used in the rule. Paragraph (b) (2) thereof exempts from the rule the members of specified exchanges whose rules and settled practices were deemed by the Commission to impose requirements more comprehensive than the requirements of the rule. However, a condition precedent to the continuation of any such exemption is that the exchange conduct such inspections and maintain such other procedures as are necessary to be reasonably sure that members are complying with the capital requirements of the exchange. The Salt Lake Stock Exchange has indicated that it requested termination of the exemption for its members because it was burdensome for it to conduct the inspections and other procedures necessary to a continuation of the exemption.

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 15(c) (3) and 23(a) thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act, hereby amends paragraph (b) (2) of Rule 15c3-1 (§ 240.15c3-1) to read as stated below. The Commission for good cause finds that the notice and public procedure specified in sections 4 (a) and (b) of the Administrative Procedure Act are not necessary since the action was taken at the request of the exchange.

(b) *Exemptions.* The provisions of this section shall not apply to:

(2) Any member of the American Stock Exchange, Boston Stock Exchange, Midwest Stock Exchange, New York Stock Exchange, Pacific Coast Stock Exchange, Philadelphia-Baltimore Stock Exchange, or Pittsburgh Stock Exchange, all of whose rules and settled practices are deemed by the Commission to impose requirements more comprehensive than the requirements of this rule: *Provided*, That the exemption as to the members of any exchange may be suspended or withdrawn by the Commission at any time, by sending at least ten (10) days written notice to such exchange, if it appears to the Commission necessary or appropriate in the public interest or for the protection of investors so to do.

(Secs. 15, 23, 48 Stat. 895, 901 as amended, 15 U.S.C. 78o, 78w)

This amendment shall be effective January 22, 1962.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

DECEMBER 20, 1961.

[F.R. Doc. 61-12421; Filed, Dec. 29, 1961;
8:47 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Codification Statement for 4th Amendment to Statement of General Policy No. 61-1]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Initial Service Rates; Louisiana

Section 2.56 by its Fourth Amendment issued October 31, 1961, to the Statement of General Policy No. 61-1, issued September 28, 1960, as amended, the Commission in pertinent part stated:

* * * On October 25, 1960, the Commission issued its first amendment to Statement of Policy [No. 61-1] announcing a price level of 21.5¢ per Mcf (at 15.025 psia) (not including state taxes) for initial sales from Southern Louisiana. * * * Since that date, four Courts of Appeals have passed upon the proper level for initial rates in Southern Louisiana in light of the Supreme Court's decision in the case of *Atlantic Refining Co. v. Public Service Commission of New York*, 360 U.S. 378 (Catco); they have unanimously viewed this price level for initial sales in the area as being "out-of-line."

It is apparent that it would be contrary to the public interest for us to maintain a price level in Southern Louisiana which the courts have ruled out-of-line. Indeed, apart from the fact that we are necessarily guided by decisions of the courts, it is the present opinion of the Commission that the order of October 25, 1960, fixed the price at a level which afforded inadequate assurance of protection to customer and consumer interests.

Our guiding purpose has been to arrive at a revised price which will enable the Commission to hold the line on new sales in the area at a level consistent with the public interest and, at the same time, to enable producers to obtain authorizations which provide them a reasonable basis for proceeding with their operations and furnishing needed supplies of gas. We conclude that, effective this date (October 31, 1961), the ceiling price level for initial sales in Southern Louisiana, inclusive of State taxes, shall be 21.25¢ per Mcf (at 15.025 psia).

[Also] * * * We conclude that, effective this date, the level for initial off-shore sales not subject to the taxing jurisdiction of the State of Louisiana [i.e. solely within the Federal domain] shall be 19.5¢ per Mcf (at 15.025 psia). The differential (1.75¢) between this price and the price set for sales which fall within the State's taxing jurisdiction is less than the amount of the State's taxes (2.3¢ per Mcf). This differential provides producers with an additional incentive to explore for and extract natural gas of great value to the Nation's economy in areas beyond the limits of the State's jurisdiction.

The table at the end of this § 2.56 setting forth the various area price levels is amended by deleting the Initial service rates/Mcf for Louisiana; Southern, viz., 20.96 (21.5 cents at 15.025 psia) and inserting the following:

Area	Initial service rates/Mcf
Louisiana:	
Southern:	
(a) Within the State taxing jurisdiction-----	20.72
(b) Within the Federal Domain---	19.01
* 21.25 cents at 15.025 psia; tax inclusive.	
* 19.5 cents at 15.025 psia.	

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-12420; Filed; Dec. 29, 1961;
8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. Section 3.952 is revised to read as follows:

§ 3.952 Protected ratings.

Ratings under the Schedule of Disability Ratings, 1925, which were the basis of compensation on April 1, 1946, are subject to modification only when a change in physical or mental condition would have required a reduction under the 1925 schedule, or an increased evaluation has been assigned under the Schedule for Rating Disabilities, 1945 (loose-leaf edition), after which time all evaluations will be under the 1945 schedule (loose-leaf edition) only. Such increased evaluations must be of an other than temporary nature (due to hospitalization, surgery, etc.). When a temporary evaluation is involved, the 1925 schedule evaluation will be restored after the period of increase has elapsed unless the permanent residuals would have required reduction under that schedule, or unless an increased evaluation would be assignable under a 1945 schedule (loose-leaf edition) rating. In any instance where the changed condition represents an increased degree of disability under either rating schedule but the evaluation provided by the 1945 schedule (loose-leaf edition) is less than the evaluation in effect under the 1925 schedule on April 1, 1946, the 1925 schedule evaluation and award are protected.

2. In § 3.953, paragraph (c) is amended to read as follows:

§ 3.953 Public Law 85-56 and Public Law 85-857.

* * * * *

(c) *Service connection established under prior laws.* In the absence of fraud, misrepresentation of material facts or clear and unmistakable error, all cases where compensation was pay-

able on December 31, 1957, for disability service connected under prior laws, repealed by Public Law 85-56, including those service connected under the second proviso of section 200 of the World War Veterans' Act, 1924, as amended, are protected by section 2316(b), Public Law 85-56 and section 10, Public Law 85-857 as to both service connection and rate of compensation, so long as the conditions warranting such status and rate continue. Any disability so service connected may be evaluated under the Schedule for Rating Disabilities, 1945 (loose-leaf edition) and benefits awarded on the basis thereof, as well as special monthly compensation under 38 U.S.C. 314, provided such action results in compensation payable at a rate equal to or higher than that payable on December 31, 1957. Where a changed physical condition warrants reevaluation of service-connected disabilities, compensation will be awarded under the provisions of 38 U.S.C. 314.

3. Section 3.955 is revised to read as follows:

§ 3.955 Death pension.

In determining eligibility for pension under laws in effect on June 30, 1960, for the purpose of 38 U.S.C. 541 through 544 it will be considered that the veteran was "receiving or entitled to receive compensation or retirement pay based on a service-connected disability" even though there is a rating decision severing service connection or holding that the service-connected condition was not disabling, if at the time of death the award had not been discontinued.

4. Sections 3.956 and 3.957 are added to read as follows:

§ 3.956 Public Law 86-211.

(a) Any person receiving or entitled to receive pension on June 30, 1960, under title 38, U.S.C. based on service in World War I, World War II, or the Korean conflict may receive pension under all applicable provisions of that title in effect on that date for such period or periods thereafter for which he can qualify under such provisions. This protection ceases when the claimant (or his fiduciary) has elected benefits under Public Law 86-211. (Sec. 9, Public Law 86-211.)

(b) Protection is afforded despite the fact that receipt of pension on June 30, 1960, resulted from mistake of fact or law on the part of the Veterans Administration. Eligibility is not protected, however, if receipt of pension on June 30, 1960, was due to a deliberate act of commission or omission by the payee. Entitlement to protection includes those cases in which:

(1) A veteran in receipt of pension on June 30, 1960, is found to be not permanently and totally disabled after that date.

(2) An award to a person who was in receipt of pension on June 30, 1960, has been discontinued after June 30, 1960, because of income or a change in dependency status.

(3) Pension was being paid on June 30, 1960, and was discontinued retroactively to a date prior to June 30, 1960,

because of failure to timely report additional income, change in rate of income or change in dependency status, if the contingency occurred after June 30, 1960.

(4) Pension was being paid on June 30, 1960, and was discontinued retroactively to a date prior to June 30, 1960, because of failure to timely report additional income, change in rate of income or change in dependency status, if the contingency occurred before July 1, 1960, and the payee was without fault in connection with the overpayment.

§ 3.957 Service connection.

Effective January 1, 1962, service connection for any disability or death granted or continued under title 38, U.S.C. which has been in effect for 10 or more years will not be severed except upon a showing that the original grant was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The 10-year period will be computed from the effective date of service connection. Service connection which has been in effect less than 10 years may not be severed under § 3.105 unless, after compliance with the requirements of § 3.105 (d), the rating decision terminating service connection is signed within the 10-year period. (38 U.S.C. 359.)

(72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective January 1, 1962.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 61-12391; Filed, Dec. 29, 1961;
8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER G—CIVIL DEFENSE

ASSISTANT SECRETARY OF DEFENSE (CIVIL DEFENSE)

Redesignation of Civil Defense Regulations

1. (a) Executive Order 10952 of July 20, 1961 (26 F.R. 6577), transferred major civil defense responsibilities to the Secretary of Defense, with authority to redelegate any such functions delegated to him. The Assistant Secretary of Defense (Civil Defense) has been assigned major civil defense functions and responsibilities (26 F.R. 6604).

(b) No changes have been made in the text of civil defense regulations issued before the effective date of Executive Order 10952. Wherever the terms "Federal Civil Defense Administration" and "Office of Civil and Defense Mobilization" appear in the regulation designated herein as Chapter I, Part 220 et seq. they mean the Department of Defense, Office of Civil Defense. Further, in the redesignated regulations, the terms "Administrator, Federal Civil Defense Administration" and "Director, Office of Civil and Defense Mobilization" mean the Assistant Secretary of Defense (Civil Defense).

zation" mean the Assistant Secretary of Defense (Civil Defense).

2. Those parts of Chapter XVII of Title 32 of the Code of Federal Regulations, which relate to civil defense are redesignated as Parts of Chapter I, Subchapter G—"Civil Defense" of Title 32, of the Code of Federal Regulations, as follows:

Old part	Title of regulation	New part
1700	Definitions.....	220
1701	Contributions for Civil Defense Equipment.....	221
1702	Surplus Property.....	222
1703	Procedure for Stopping or Withholding Payments Under Section 201(i) of the Federal Civil Defense Act of 1950.....	223
1704	Financial Assistance from Reconstruction Finance Corporation for Civil Defense Purposes.....	224
1707	United States Civil Defense Corps.....	225
1708	Official Civil Defense Insignia.....	226
1711	Contributions for Civil Defense Personnel and Administrative Expenses.....	227
1712	Labor Standards for Federally Assisted Contracts.....	228
1713	Reimbursement Toward Expenses of Students Attending OCDM Schools.....	229

3. Parts 1705, "FCDA Survival Plan Projects" and 1706, "Contractual Standards To Be Followed by the Federal Civil Defense Administrator Under Executive Order No. 10243 of May 11, 1951" of Chapter XVII of Title 32 of the Code of Federal Regulations are revoked.

4. This notice shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 401, 64 Stat. 1254, 50 U.S.C. App. 2253; Reorg. Plan No. 1 of 1958, 72 Stat. 1799; E.O. 10952, 26 F.R. 6577; Organizational Statement, Assistant Secretary of Defense (Civil Defense), published Sept. 14, 1961, 26 F.R. 8604)

STUART L. PITTMAN,
Assistant Secretary of Defense
(Civil Defense).

DECEMBER 27, 1961.

[F.R. Doc. 61-12399; Filed, Dec. 29, 1961; 8:46 a.m.]

Chapter V—Department of the Army

NATIONAL GUARD AND STATE GUARD REGULATIONS

CROSS REFERENCE: For transfer of National Guard and State Guard regulations of the Department of the Army to this chapter, see editorial note to Title 32, Chapter XI, *infra*.

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

Miscellaneous Amendments

1. The citation of authority is revised to read as follows:

AUTHORITY: §§ 725.101 to 725.907 issued under R.S. 161, secs. 1216, 5031, 70A Stat. 100, 278, as amended; 5 U.S.C. 22, 10 U.S.C. 1216, 5031. Interpret or apply sec. 15, 56 Stat. 367, as amended, sec. 104, 68A Stat. 30, secs. 266, 270, 1004, 1163, 1201-1215, 1217-1221, 1372, 1373, 1554, 6011, 6148, 6331, 6485, 70A Stat. 11, 79, 89, 91-100, 105, 375, 383, 397, 417, as amended; 37 U.S.C. 115, 26 U.S.C. 104, 10 U.S.C. 266, 270, 1004, 1163, 1201-1215,

1217-1221, 1372, 1373, 1554, 6011, 6148, 6331, 6485.

2. Section 725.229 is revised to read as follows:

§ 725.229 Areas of responsibility.

As used in Subpart E of this part, the terms, "Areas of responsibility," "technical specialty" and "Secretary's Advisor" shall be construed to refer to the duties and responsibilities and technical control aspects of the Commandant of the Marine Corps or the cognizant Bureau or Office as set forth in chapters 3 and 4, section 1, subsections A, B, and F, U.S. Navy Regulations.

3. Section 725.402(a) is revised to read as follows:

§ 725.402 Convening authorities.

(a) The Secretary of the Navy and such officers as he may designate may convene Physical Evaluation boards. The following officers are hereby designated as empowered to convene such boards:

Chief of Naval Personnel.
Commandant of the Marine Corps.
Commandants of the First, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Eleventh, Twelfth, and Thirteenth Naval Districts.
Commandant, Potomac River Naval Command.
Commandant, Marine Corps Schools, Quantico, Va.
Commanding Generals of Marine Corps Base, Camp Lejeune, N.C. and Camp Pendleton, Oceanside, Calif.
Commanding General, Marine Corps Recruit Depot, Parris Island, S.C.

§§ 725.413, 725.414 [Amendments]

4. The cross-references in §§ 725.413 and 725.414 to "§ 719.3" are changed to read "§ 719.135".

5. Section 725.416 is revised to read as follows:

§ 725.416 Proceedings.

The proceedings of Physical Evaluation boards shall be conducted in accordance with instructions set out in this part and in accordance with chapters II through XI of the Manual of the Judge Advocate General (JAG Instruction P5800.7) insofar as practicable except that an oath or affirmation need not be administered to the members of the Board or the Counsel.

6. Section 725.436 is revised to read as follows:

§ 725.436 Preparation and authentication of proceedings.

The record of proceedings of a Physical Evaluation Board shall be prepared in accordance with sections 0210-0212, 0429, 0435, and 1104 of the Manual of the Judge Advocate General (JAG Instruction P5800.7) insofar as practical and shall be authenticated as provided in § 725.411.

7. Section 725.623 is revised to read as follows:

§ 725.623 Preparation of record of proceedings.

The record of proceedings of the Physical Disability Review Board shall be prepared in accordance with sections 0210-0212, 0429, 0435, and 1104 of the

Manual of the Judge Advocate General (JAG Instruction P5800.7) insofar as practicable. The record shall include a verbatim transcript of the testimony of all witnesses and shall contain a copy of all documentary evidence before the Board. The registered mail receipt and notification shall be appended to the record. The record of proceedings shall be signed by the Senior Member sitting as Chairman of the Board acting on the particular case, and by the recorder. If the Senior Member is absent or otherwise unavailable to sign the record, it shall be signed by the next Senior Member available of the said Board.

8. Section 725.703(b) is revised to read as follows:

§ 725.703 Effective date of retirement.

(b) *Poor prognosis cases.* When an individual is to be retired for a disability which will almost certainly result in his death in the near future, a special situation is encountered. The survivors of such a member may benefit if retirement antedates death. Benefits under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431-1446) can not accrue until retirement. In addition when death occurs within a period of 120 days following release from active duty, the death gratuity may be paid. In order to insure that the beneficiaries of members having a poor prognosis may be eligible for maximum benefits under the law, it is the responsibility of the Counsel of the Physical Evaluation Board, the Physical Review Council, or the Counsel of the Physical Disability Review Board, as appropriate, to insure that the case is handled in the most expeditious manner and that the reviewing authorities are informed at the earliest date practicable that the prognosis is poor in the case and whether the member concerned has made an election under the Retired Serviceman's Family Protection Plan.

(R.S. 161, secs. 1216, 5031, 70A Stat. 100, 278, as amended; 5 U.S.C. 22, 10 U.S.C. 1216, 5031)

By direction of the Secretary of the Navy.

[SEAL] ROBERT D. POWERS, Jr.,
Rear Admiral, U.S. Navy, Acting
Judge Advocate General
of the Navy.

DECEMBER 27, 1961.

[F.R. Doc. 61-12398; Filed, Dec. 29, 1961; 8:46 a.m.]

Chapter XI—National Guard and State Guard, Department of the Army

PART 1101—NATIONAL GUARD REGULATIONS

Transfer and Redesignation of Regulations

EDITORIAL NOTE: Part 1101—National Guard Regulations (§§ 1101.1-1101.58) is hereby transferred to Chapter V, Subchapter E, of this title, and redesignated Part 564 (§§ 564.1-564.58).

Because of this transfer, this Chapter XI is vacated and reserved.

Chapter XVII—Office of Emergency Planning

CHANGES IN REGULATIONS

1. The Office of Civil Defense of the Department of Defense has removed the civil defense regulations to a new chapter of Title 32 of the Code of Federal Regulations, and Parts 1705 and 1706 have been revoked. Parts 1709 and 1710 are the only parts that remain in Chapter XVII of Title 32 of said Code.

2. The heading of Chapter XVII of Title 32 of the Code of Federal Regulations is changed as set forth above.

3. On the basis of Reorganization Plan No. 1 of 1958 (23 F.R. 4991), Executive Order 10773 of July 1, 1958 (23 F.R. 5061), as amended (23 F.R. 6971; 26 F.R. 6577), Public Law 85-763 and Public Law 87-296, wherever the terms "Federal Civil Defense Administration" and "Office of Civil and Defense Mobilization" appear in the regulations in Parts 1709 and 1710 of Chapter XVII of Title 32 of the Code of Federal Regulations, they shall be replaced by "Office of Emergency Planning," except in paragraphs (d) and (e) of § 1710.13. Similarly, in these two parts, the terms "Administrator" of the Federal Civil Defense Administration and "Director" of the Office of Civil and Defense Mobilization shall be replaced by "Director" of the Office of Emergency Planning, and the terms "Regional Administrator" of the Federal Civil Defense Administration and "Regional Director" of the Office of Civil and Defense Mobilization shall be replaced by "Area Office Director" of the Office of Emergency Planning.

4. These changes shall be effective upon publication in the FEDERAL REGISTER.

FRANK B. ELLIS,
Director,
Office of Emergency Planning.

[F.R. Doc. 61-12407; Filed, Dec. 29, 1961;
8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

FURTHER EXTENSION OF EFFECTIVE DATE OF STATUTE FOR CERTAIN SPECIFIED FOOD ADDITIVES

The Commissioner of Food and Drugs, pursuant to the authority provided in the Federal Food, Drug, and Cosmetic Act (sec. 6(c), Public Law 85-929, as amended, sec. 2, Public Law 87-19; 72 Stat. 1788, as amended, 75 Stat. 42; 21 U.S.C., note under sec. 342) and delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), hereby authorizes the use of the following substances,

under the conditions prescribed in this § 121.90 Further extensions of effective date of statute for certain specified food additives as direct additives to food.

1. Section 121.90 (21 CFR 121.90) is amended by adding thereto the following new items:

* * * * *

MISCELLANEOUS

Product	Specified uses or restrictions	Effective date of statute extended to—
Mineral oil: The standard reference absorption shall be the absorption of a solution of naphthalene (Nat. Bur. of Standards Standard Material No. 577 or naphthalene of equivalent purity) at a concentration of 7 mg. per liter in purified iso-octane measured against iso-octane of the same spectral purity in a 10-mm. cell at 275m μ . (This absorption as reported is 0.30). The absorption of the mineral oil measured under the same instrumental conditions as the standard reference absorption shall not exceed any of the following limits: 1. The standard reference absorption when the absorption of the oil is measured in a 1-mm. cell against water at 275m μ . 2. 75% of the standard reference absorption when the absorption of the oil is measured in a 10-mm. cell against water in the range 295 m μ to 299m μ inclusive. 3. 60% of the standard reference absorption when the absorption of the oil is measured in a 10-mm. cell against water in the range 300 m μ to 400m μ inclusive. Petrolatum, N.F. and U.S.P. Ultraviolet absorptivity (as defined in ASTM E-131) at 290m μ /liters per gram centimeter: 2.0 maximum. Wax, microcrystalline and paraffin: Type I: A congealing point of 160° F. maximum (ASTM D-938), an absorptivity at 290 m μ of 0.04 liter per gram centimeter maximum (ASTM E-131), an oil content of 1.5% maximum (ASTM D-721), and a Saybolt color of 20 minimum (ASTM D-156). Type II: Absorptivity at 290m μ of 1.0 liter per gram centimeter maximum, an oil content of 5.0% maximum, and a color of 3.0 maximum (ASTM D-1500).	In coatings for fresh fruits and vegetables; limited to 35 p.p.m. in food on which used. Defoamer used in food processing; limited to 150 p.p.m. in food. Lubricant and binder for capsules and tablets supplying small quantities of flavor, spice, condiment, and vitamins. In animal feed, 600 p.p.m. in total daily ration; zero in tissues of slaughtered animals, milk, and eggs. Sealant in food production to prevent access of air and retard evaporation; limit 50 p.p.m. in food.	* * * Jan. 1, 1963 ¹ Do. ¹ Do. ¹ Do. ¹
	Component of coating for fruits and vegetables. Component of defoamer in yeast and beet sugar production; limit 5 p.p.m. in final product.	Do. ¹ Do. ¹
	Component of a defoamer used in yeast and beet sugar production; limit 5 p.p.m. in final product. Component of coating on fresh fruits and vegetables. In matrix formation or external application to vitamin products.	Do. ¹ Do. ¹

¹ Progress report due July 1, 1962.

2. Section 121.91 (21 CFR 121.91) is amended by adding thereto the following items:

§ 121.91 Further extensions of effective date of statute for certain specified food additives as indirect additives to food.

* * * * *

MISCELLANEOUS

Product	Specified uses or restrictions	Effective date of statute extended to—
Mineral oil meeting the following specifications: Virgin distillate from petroleum; no cracked products present. Percent boiling below 700° F. (50% minimum). Percent boiling below 775° F. (95% minimum). Mineral oil: The standard reference absorption shall be the absorption of a solution of naphthalene (Nat. Bur. of Standards Standard Material No. 577 or naphthalene of equivalent purity) at a concentration of 7 mg. per liter in purified iso-octane measured against iso-octane of the same spectral purity in a 10-mm. cell at 275m μ . (This absorption as reported is 0.30.) The absorption of the mineral oil measured under the same instrumental conditions as the standard reference absorption shall not exceed any of the following limits: 1. The standard reference absorption when the absorption of the oil is measured in a 1-mm. cell against water at 275m μ . 2. 75% of the standard reference absorption when the absorption of the oil is measured in a 10-mm. cell against water in the range 295m μ to 299m μ inclusive. 3. 60% of the standard reference absorption when the absorption of the oil is measured in a 10-mm. cell against water in the range 300m μ to 400 m μ inclusive.	As a secondary plasticizing agent in rubber articles having food contact. As a component of packaging materials.	* * * Jan. 1, 1963 ¹ Do. ¹
	Dough divider oil, pan oil, and trough grease; limit 1,500 parts per million in bakery products. Lubricant in meat-packing plants; limit 60 p.p.m. in meat. Release agent in drying pans in preparing dried egg albumin; limit 1,000 p.p.m. in dried egg albumin. Lubricant in tableted, encapsulated or extruded food, excluding confectionery; limit 10 p.p.m. in food. Release agent in drying pans in preparing dried fruits and vegetables; limit 200 p.p.m. in dried fruits and vegetables. Component of an impregnant in tissue paper used for wrapping fruits and vegetables; limit 150 p.p.m. on food.	Do. ¹ Do. ¹ Do. ¹ Do. ¹ Do. ¹
	As an impregnant of butcher paper for meat packing; limit 150 p.p.m. on food. Used in manufacture of molded pulp apple trays; limit 150 p.p.m. on food.	Do. ¹ Do. ¹

See footnote at end of table.

§ 121.90 Further extensions of effective date of statute for certain specified food additives as direct additives to food.

Product	Specified uses or restrictions	Effective date of statute extended to—
Dittany of Crete, <i>Oriogonum dictamnus</i> L.	Flavoring substance.	Jan. 1, 1963 ¹
Gardenia, stemless, <i>Gentiana acaulis</i> L.	do.	Do. ¹
Pine needles, <i>Pinus</i> spp.	do.	Do. ¹
Sodium nitrite.	On smoked, cured shad; limit 200 p.p.m. expressed as nitrite.	Do. ¹
Sorbitan monooleate.	Adjuvant in special dietary products; limit 360 mg. per day based on recommended dosage of product.	July 1, 1962

¹ Progress report required by July 1, 1962.

2. Section 121.91 (21 CFR 121.91) is amended by adding thereto the following items:

§ 121.91 Further extensions of effective date of statute for certain specified food additives as indirect additives to food.

* * * * *

Product	Specified uses or restrictions	Effective date of statute extended to—
Aldol- β -naphthylamine condensate.	Antioxidant and/or antiozonant as a protective agent component of rubber and rubber products for food-handling equipment.	Jan. 1, 1963 ¹
Diphenylamine-acetone-formaldehyde resin of average mol. wt. 550, and 6.3% nitrogen content.	Antioxidant as a protective agent component of rubber and rubber products for food-handling equipment.	Do. ¹
Ethoxylated isomeric decyl alcohols, phosphate salts.	Surface active agents in pulp suspensions used in manufacture of paper and paperboard.	Nov. 1, 1962 ¹
4-Methoxy-4-methyl pentanone-2.	Component of spray adjuvant on fresh fruits and vegetables; limit 1 p.p.m. residue on food.	July 1, 1962
Petroleum oil, aromatic, sp. gr. 0.98, to 1.032, viscosity 47 SSU to 150 SSU at 210° F., aniline point 90° F. — 120° F.	Used in the manufacture of rubber and rubber products for food-handling equipment.	Jan. 1, 1963 ¹
Silicone basic polymers as described in ASTM code D-1418-61:	Elastomer used in the manufacture of rubber and rubber products used for food-handling equipment.	Do. ¹
Si-Silicone elastomer (only methyl containing groups in polymer chain).		
Pst-Silicone elastomer methyl and phenyl groups.		
Fst-Silicone elastomer methyl and fluorine groups.		
Pst-Silicone elastomer phenyl, methyl, vinyl groups.		
Sodium decylbenzene sulfonate.		
Asphalt, steam-refined:	Component of coatings used in food packaging.	July 1, 1963 ¹
1. The asphalt is steam-refined asphalt meeting the following requirements: Softening point, 175° F. minimum; flashpoint, 500° F. minimum; penetration at 77° F., 28 maximum; loss of heating at 325° F. (for five hours), 0.1% maximum; loss by volatilization when held at 212° F. for 1 hour, 0.01% maximum.		* * *
2. There is no transfer of odor from asphalt to the food.		* * *
Asphalt steam refined, air blown with softening point of 240° F. minimum, 245° F. maximum; penetration at 77° F., 4 minimum, 6 maximum; flashpoint, 410° F. minimum.	Internal sizing agent in manufacture of food packaging material for dry and aqueous food.	Jan. 1, 1963 ¹
Carbon black (furnace)	Component of a protective coating for beverage tanks.	Do. ¹
	Component of inks for outside printing of burlap and cotton textile bags for dry food packaging.	July 1, 1962

¹ Progress report required by July 1, 1962.

Product	Specified uses or restrictions	Effective date of statute extended to—
Petrolatum, N.F. and U.S.P. Ultraviolet absorptivity (as defined in ASTM E 131) at 290m μ /liters per gram centimeter: 2.0 maximum.	As a secondary plasticizing agent in rubber articles having food contact. As a component of packaging materials. Dough divider oil, pan oil, and trough grease; limit 1,500 p.p.m. in bakery products. Lubricant in meat-packing plants; limit 50 p.p.m. in meat. Release agent in drying pans in preparing dried egg albumin; limit 1,000 p.p.m. in dried egg albumin. Lubricant in tableted, capsulated or extruded food, excluding confectionery; limit 10 p.p.m. in food. Release agent in drying pans in preparing dried fruits and vegetables. Constituent of foodpackaging materials and protective coatings; lubricant or release agent.	Jan. 1, 1963 ¹ Do. ¹ Do. ¹ Do. ¹ Do. ¹ Do. ¹ Do. ¹

Wax, microcrystalline and paraffin:

Type I: Absorptivity at 290m μ of 1.0 maximum (ASTM D-438), an absorptivity at 290m μ of 0.04 liter per gram centimeter maximum (ASTM E-131) and oil content of 1.5% maximum (ASTM D-720) and a Saybolt color of 20 minimum (ASTM D-156).

Type II: Absorptivity at 290m μ of 1.0 liter per gram centimeter maximum, an oil content of 5.0% maximum, and a color of 3.0 maximum (ASTM D-1500).

¹ Progress report due July 1, 1962.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by Public Law 87-19 as a relief of restrictions on the food processing industry.

Effective date. This order shall become effective as of the date of signature. (Sec. 6(c), Public Law 85-929, as amended sec. 2, Pub. L. 87-19; 72 Stat. 1788, as amended 75 Stat. 42; 21 U.S.C., note under sec. 342)

Dated: December 21, 1961.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 61-12281; Filed, Dec. 29, 1961; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

EXTENSION OF EFFECTIVE DATE OF STATUTE FOR CERTAIN SPECIFIED FOOD ADDITIVES

The Commissioner of Food and Drugs, pursuant to the authority provided in the Federal Food, Drug, and Cosmetic Act (sec. 6(c), Public Law 87-19; 72 Stat. 1788, as amended 75 Stat. 42; 21 U.S.C., note under sec. 342) and delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), hereby authorizes the use of certain additives for which tolerances have not yet been established or petitions therefor denied.

1. Section 121.90 (21 CFR 121.90) is amended by adding thereto the following items:

MISCELLANEOUS—Continued

Product	Specified uses or restrictions	Effective date of statute extended to—
2-Ethylhexyl acrylate polymer..... Do.....	Component of film for food packaging. Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Jan. 1, 1963 ¹ Do. ¹
Formaldehyde.....	do.....	Do. ¹
Hexane.....	do.....	Do. ¹
Hexylene glycol (2-methyl-2,4-dihydroxy-pentane).....	do.....	Do. ¹
N-Hydroxyethyl-lauramide.....	do.....	Do. ¹
N-N-bis (Hydroxyethyl) lauramide.....	do.....	Do. ¹
Isobutyl oleate, sulfated.....	do.....	Do. ¹
Itaconic acid.....	Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages and paperboard. Component of sizings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹ Do. ¹
Lignin sulfonates, calcium and sodium salts.....	do.....	Do. ¹
Methacrylic acid polymer.....	do.....	Do. ¹
Oleic acid, sulfated.....	do.....	Do. ¹
Polyoxyethylene (1-15 mols) ether of p-isooctyl-phenol (1 mol).....	do.....	Do. ¹
Polyoxyethylene (1-15 mols) ether of p-nonyl-phenol (1 mol).....	do.....	Do. ¹
Polyoxyethylene (20) ether of oleyl alcohol.....	do.....	Do. ¹
Polyoxyethylene (1.5-15 mols) ether of triethyl alcohol (1 mol).....	do.....	Do. ¹
Polyoxyethylene (20) sorbitan monolaurate.....	do.....	Do. ¹
Polyoxyethylene (20) sorbitan tristearate.....	do.....	Do. ¹
Polyoxypropylene (16-30 mols)-polyoxyethylene (17-400 mols)-glycol.....	do.....	Do. ¹
Polysorbate 80 (polyoxyethylene (20) sorbitan monooleate).....	In films used in food packaging. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Rapeseed oil, sulfated.....	do.....	Do. ¹
Ricebran oil, sulfated.....	Component of sizing and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Sodium diamylsulfosuccinate.....	Component of food-packaging material. do.....	Do. ¹ Do. ¹
Sodium diisooctylsulfosuccinate.....	Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹
Sodium dodecylbenzenesulfonate.....	do.....	Do. ¹
Sodium lauryl sulfate.....	Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Sodium mercaptobenzoethiazole.....	do.....	Do. ¹
Sodium N-methyl-N-oley l taurate.....	do.....	Do. ¹
Sodium o-phenyl-phenate.....	Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Sodium salt (tri- or tetra-) of ethylenediamine tetraacetate.....	do.....	Do. ¹
Sorbitan tristearate.....	do.....	Do. ¹
Sperm oil, sulfated.....	do.....	Do. ¹
Styrene polymer.....	Component of sizings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Styrene-methacrylic acid copolymer, potassium salt.....	do.....	Do. ¹
Tallow, sulfated.....	Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Tetrasodium-N (1,2-dicarboxyethyl) - octadecylsulfosuccinate.....	do.....	Do. ¹
Triethanolamine.....	do.....	Do. ¹
Trisopropanolamine.....	do.....	Do. ¹
Vinyl acetate polymer.....	Component of sizings of paper and paperboard for food-packaging materials. do.....	Do. ¹ Do. ¹
Vinylidene chloride-itaconic acid copolymer.....	Component of film for food packaging. do.....	Do. ¹ Do. ¹
Vinylidene chloride-methyl acrylate copolymer.....	do.....	Do. ¹
Vinylidene chloride-methyl acrylate-itaconic acid terpolymer.....	do.....	Do. ¹

¹ Progress report due July 1, 1962.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by Public Law 87-19 as a relief of restrictions on the food-processing industry.

Effective date. This order shall become effective as of the date of signature.

(Sec. 6(c), Public Law 87-19; 72 Stat. 1788, as amended, 75 Stat. 42; 21 U.S.C., note under sec. 342)

Dated: December 21, 1961.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 61-12280; Filed, Dec. 29, 1961; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

FURTHER EXTENSION OF EFFECTIVE DATE OF STATUTE FOR CERTAIN SPECIFIED FOOD ADDITIVES

The Commissioner of Food and Drugs, pursuant to the authority provided in the Federal Food, Drug, and Cosmetic Act (sec. 6(c), Public Law 85-929, as amended, sec. 2, Public Law 87-19; 72 Stat. 1788, as amended, 75 Stat. 42; 21 U.S.C., note under sec. 342) and delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), hereby authorizes the use of the following substances, under the conditions prescribed in this order:

Section 121.91 (21 CFR 121.91) is amended by adding thereto the following new items:

§ 121.91 Further extensions of effective date of statute for certain specified food additives as indirect additives to food.

Product	Specified uses or restrictions	Effective date of statute extended to—
Alcohols: Butyl, tert-butyl, isobutyl, myristyl.....	* * * * *	* * * * *
Butoxypolypropylene (20) glycol, mol. wt. 1,200.....	* Paper coating adjuvant used in manufacture of food packages. do.....	Jan. 1, 1963 ¹ Do. ¹
Butoxypolypropylene (40) glycol, mol. wt. 2,400.....	do.....	Do. ¹
Butoxypolypropylene (20) glycol monooleate.....	do.....	Do. ¹
Butoxypolypropylene (4) glycol monooleate.....	do.....	Do. ¹
tert-Butylhydroperoxide.....	Component of sizings and coatings of paper and paperboard for food-packaging materials. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Castor oil, hydrogenated.....	do.....	Do. ¹
Castor oil, potassium soap.....	do.....	Do. ¹
Castor oil, sulfated.....	do.....	Do. ¹
Castor oil, sulfated, potassium soap.....	do.....	Do. ¹
p-Chloromercresol.....	do.....	Do. ¹
Cyclohexanol (hexahydrophenol).....	Paper coating adjuvant used in manufacture of food packages. Paper coating adjuvant used in manufacture of food packages. do.....	Do. ¹ Do. ¹ Do. ¹
Diethanolamine.....	do.....	Do. ¹
tert-Dodecyl mercaptan and ethylene oxide condensation product having a ratio of ethylene oxide to mercaptan of 1.6:1.8.....	Component of calender sizings for paper and paperboard for food packaging, limit not more than 0.5% of coating. do.....	Do. ¹ Do. ¹
Ethyl acrylate polymer.....	Component of sizings of paper and paperboard for food-packaging materials. do.....	Do. ¹ Do. ¹

See footnote at end of table.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by Public Law 87-19 as a relief of restrictions on the food-processing industry.

Effective date. This order shall become effective as of the date of signature.

(Sec. 6(c), Public Law 85-929, as amended sec. 2, Pub. L. 87-19; 72 Stat. 1788, as amended 75 Stat. 42; 21 U.S.C., note under sec. 342)

Dated: December 21, 1961.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 61-12279; Filed, Dec. 29, 1961; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

DELETION OF OBSOLETE MATERIAL FROM EXTENSION LIST

Effective as of the date of the publication of this order in the FEDERAL REGISTER, the following items are deleted from § 121.90 (21 CFR 121.90; 26 F.R. 5502, 7544, 8390, 8441, 9337, 11210, 11241):

Mineral oil.
Petrolatum, N.F. and U.S.P.
Wax, microcrystalline and paraffin Type I and Type II.

(Sec. 6(c), Pub. L. 85-929, as amended, sec. 2, Pub. L. 87-19; 72 Stat. 1788, as amended 75 Stat. 42; 21 U.S.C., note under sec. 342)

Dated: December 28, 1961.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 61-12423; Filed, Dec. 29, 1961; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

DELETION OF OBSOLETE MATERIAL FROM EXTENSION LIST

Effective as of the date of the publication of this order in the FEDERAL REGISTER, the following items are deleted from § 121.91 (21 CFR 121.91; 26 F.R. 5221, 6271, 6323, 6831, 7087, 7580, 7963, 8173, 8393, 8508, 8509, 9410, 9715, 11210, 11242):

Alcohols: Butyl, *tert*-butyl, isobutyl, myristyl, polyvinyl.
Butoxypolypropylene (20) glycol, mol. wt. 1,200.
Butoxypolypropylene (40) glycol, mol. wt. 2,400.
Butoxypolypropylene (20) glycol monooleate.
Butoxypolypropylene (40) glycol mono-stearate.
tert-Butylhydroperoxide.
Castor oil, hydrogenated.
Castor oil, potassium soap.

No. 251—4

Castor oil, sulfated.
Castor oil, sulfated, potassium soap.
p-Chlorometacresol.
Cyclohexanol (hexahydrophenol).
Diethanolamine.
tert-Dodecyl mercaptan and ethylene oxide condensation product having a ratio of ethylene oxide to mercaptan of 1.6:1.8.
Ethyl acrylate polymer.
2-Ethylhexyl acrylate polymer.
Formaldehyde.
Hexane.
Hexylene glycol (2-methyl 1-2, 4-dihydroxypentane).
N-Hydroxyethyl-lauramide.
N-*N*-bis (Hydroxyethyl) lauramide.
Isobutyl oleate, sulfated.
Itaconic acid.
Lignin sulfonates, calcium and sodium salts.
Methacrylic acid polymer.
Mineral oil.
Oleic acid, sulfated.
Petrolatum, N.F. and U.S.P.
Petroleum oil, aromatic.
Polyoxyethylene (1-15 mols) ether of *p*-isooctylphenol (1 mol).
Polyoxyethylene (1-15 mols) ether of *p*-nonylphenol.
Polyoxyethylene (20) ether of oleyl alcohol.
Polyoxyethylene (1.5-15 mols) ether of tridecyl alcohol (1 mol).
Polyoxyethylene (20) sorbitan monolaurate.
Polyoxyethylene (20) sorbitan tristearate.
Polyoxypropylene (16-30 mols)-polyoxyethylene (17-400 mols)-glycol.
Polysorbate 80 (polyoxyethylene (20) sorbitan monooleate).
Rapeseed oil, sulfated.
Ricebran oil, sulfated.
Silicone basic polymer.
Sodium diamylsulfosuccinate.
Sodium diisooctylsulfosuccinate.
Sodium dodecylbenzenesulfonate.
Sodium lauryl sulfate.
Sodium mercaptobenzothiazole.
Sodium *N*-methyl-*N*-oleyl taurate.
Sodium *o*-phenyl-phenate.
Sodium salt (tri- or tetra-) of ethylenediamine tetraacetate.
Sorbitan tristearate.
Sperm oil, sulfated.
Styrene polymer.
Styrene-methacrylic acid copolymer, potassium salt.
Tallow, sulfated.
Tetrasodium-*N*-(1,2-dicarboxyethyl)-octadecyl-sulfosuccinate.
Triethanolamine.
Triisopropanolamine.
Vinyl acetate polymer.
Vinylidene chloride-itaconic acid copolymer.
Vinylidene chloride-methyl acrylate copolymer.
Vinylidene chloride-methyl acrylate-itaconic acid terpolymer.
Wax, microcrystalline and paraffin Type I and Type II.

(Sec. 6(c), Pub. L. 85-929, as amended sec. 2, Pub. L. 87-19; 72 Stat. 1788, as amended 75 Stat. 42; 21 U.S.C., note under sec. 342)

Dated: December 28, 1961.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 61-12424 Filed, Dec. 29, 1961; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department REVISED PROCEDURES

A notice of proposed revision, effective December 31, 1961, in the procedures of

the Post Office Department, in Subparts A and L of Part 201, and Parts 202, 203, and 204 of Title 39, Code of Federal Regulations, was published in the FEDERAL REGISTER of December 2, 1961, at pages 11426 through 11435. Interested persons were given twenty days in which to submit written comments.

No adverse comments were received by the Department with respect to the proposed procedures.

Therefore, the Department has reached the conclusion to adopt the proposal as so published, subject to the addition of a new section to Subpart A of Part 201 with respect to procedures relating to fraud, lottery, and obscenity orders. This section includes a provision for filing a motion for reconsideration of a final Departmental decision.

In view of the foregoing, the Procedures of the Post Office Department in Subpart A of Part 201 as so published are amended by redesignating §§ 201.27 through 201.32 as §§ 201.28 through 201.33 and by inserting a new § 201.27.

Accordingly, the procedures of the Post Office Department in Subparts A and L of Part 201 and Parts 202, 203, and 204 are hereby adopted, effective December 31, 1961, to read as follows:

PART 201—PROCEDURES OF THE POST OFFICE DEPARTMENT

Subpart A—Rules of Practice in Proceedings Relative to Fraud, Lottery and Obscenity Orders Under 39 U.S.C. 4003, 4005, and 4006

Sec.	
201.1	Authority for rules.
201.2	Scope of rules.
201.3	Informal dispositions.
201.4	Office, business hours.
201.5	Complaints.
201.6	Interim impounding.
201.7	Notice of hearing.
201.8	Service.
201.9	Filing documents for the record.
201.10	Answer.
201.11	Default.
201.12	Amendment of pleadings.
201.13	Continuances and extensions.
201.14	Hearings.
201.15	Change of place of hearing.
201.16	Appearances.
201.17	Presiding officers.
201.18	Evidence.
201.19	Subpoenas.
201.20	Witness Fees.
201.21	Depositions.
201.22	Transcript.
201.23	Proposed findings and conclusions.
201.24	Decisions.
201.25	Exceptions to initial decisions or tentative decision.
201.26	Judicial Officer.
201.27	Motion for reconsideration.
201.28	Orders.
201.29	Modification or revocation of orders.
201.30	Supplemental orders.
201.31	Computation of time.
201.32	Official record.
201.33	Public information.

§ 201.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the Post Office Department (See § 201.26) pursuant to authority delegated by the Postmaster General.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501, 74 Stat. 554 (Public Law 86-676), Headquarters Circular 61-45 (26 F.R. 10813))

§ 201.2 Scope of rules.

These rules of practice shall be applicable in all formal proceedings before the Post Office Department initiated under or pertaining to 39 U.S.C. 4003, 4005, and 4006, including such cases instituted under prior rules of practice pertaining to these or predecessor statutes, unless timely shown to be prejudicial to the respondent.

§ 201.3 Informal dispositions.

These rules do not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

§ 201.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the Post Office Department, 12th and Pennsylvania Avenue NW., Washington 25, D.C., and are open Monday through Friday from 8:45 a.m. to 5:15 p.m.

§ 201.5 Complaints.

When the General Counsel of the Post Office Department or his designated representative believes that a person (1 U.S.C. 1) is using the mails in a manner requiring formal administrative action under 39 U.S.C. 4005 or 4006, he shall prepare and file with the Docket Clerk a complaint which names the person involved; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; and recommends the issuance of an appropriate order. The person so named in the complaint shall be known as the respondent.

§ 201.6 Interim impounding.

In preparation for or during the pendency of a proceeding initiated under 39 U.S.C. 4005 or 4006, mail addressed to a respondent may be impounded upon obtaining an appropriate order from a United States District Court, as provided in 39 U.S.C. 4007, as amended by 74 Stat. 553 (Public Law 86-673).

§ 201.7 Notice of hearing.

When a complaint is filed the Docket Clerk shall issue a notice of hearing stating the time and place of the hearing and the date for filing an answer which shall not exceed 15 days from the service of the complaint, and a reference to the effect of failure to file an answer or appear at the hearing. (See §§ 201.10 and 201.11.) Whenever practicable, the hearing date shall be within 30 days of the date of the notice.

§ 201.8 Service.

(a) The Docket Clerk shall cause a notice of hearing and a copy of the complaint to be transmitted to the postmaster at any office of address of the respondent or to the inspector in charge of any division in which the respondent is doing business, which shall be delivered to the respondent or his agent by said postmaster or a supervisory employee of his post office or a postal inspector. A receipt acknowledging delivery of the

notice shall be secured from the respondent or his agent and forwarded to the Docket Clerk, Room 3350, Post Office Department, Washington 25, D.C., to become a part of the official record.

(b) In the event no person can be found to accept service of the notice of hearing and complaint pursuant to paragraph (a) of this section, the notice may be delivered in the usual manner as other mail addressed to the respondent. A statement, showing the time and place of delivery, signed by the postal employee who delivered the notice of hearing shall be forwarded to the Docket Clerk and constitute evidence of service.

§ 201.9 Filing documents for the record.

(a) Each party shall file with the Docket Clerk pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be delivered promptly to other parties to the proceeding and to the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date shall be delivered to the Docket Clerk on or before such date. The date of filing shall be entered thereon by the Docket Clerk.

§ 201.10 Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by an individual respondent, or in the case of a partnership by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(d) The answer shall set forth the respondent's address and the name and address of his attorney.

(e) The answer shall affirmatively state whether the respondent will appear in person or by counsel at the hearing.

(f) If the respondent does not desire to appear at the hearing in person or by counsel he may request that the matter be submitted for determination pursuant to paragraph (b) of § 201.11.

§ 201.11 Default.

(a) If the respondent fails to file an answer within the time specified in the notice of hearing, he shall be deemed in default, and to have waived hearing and further procedural steps. The Judicial Officer shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the presiding officer shall receive com-

plainant's evidence and render an initial decision.

§ 201.12 Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Docket Clerk. Amendments proposed thereafter shall be filed with the presiding officer.

(b) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the presiding officer shall make such ruling on the motion as he deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 201.13 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 201.14 Hearings.

Hearings are held in Room 5241, Post Office Department, Washington 25, D.C., or other locations designated by the presiding officer.

§ 201.15 Change of place of hearings.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify;

(c) The reasons why such evidence cannot be produced at Washington, D.C.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 201.16 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Department in accordance with applicable rules issued by the Judicial Officer. See Part 202 of this chapter.

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.

(d) A respondent must promptly file a notice of change of attorney.

§ 201.17 Presiding officers.

(a) The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 1010) or the Judicial Officer (74 Stat. 553, P.L. 86-676). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence and matters of procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order pre-hearing conferences for the purpose of the settlement or simplification of issues by the parties;

(8) Order the proceeding re-opened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision, which becomes the final Departmental decision unless a timely appeal is perfected; the Judicial Officer may issue a tentative or a final decision.

§ 201.18 Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the presiding officer deems proper to insure a fair hearing. The presiding officer shall exclude irrelevant, immaterial or repetitious evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) Authoritative writings of the medical or other sciences, may be admitted in evidence but only through the testimony of expert witnesses or by stipulation.

(f) Lay testimonials will not be received in evidence as proof of the efficacy or quality of any product or thing sold through the mails.

(g) The written statement of a competent witness may be received in evidence provided that such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

(h) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the presiding officer are unnecessary.

§ 201.19 Subpoenas.

The Post Office Department is not authorized by law to issue subpoenas requiring the attendance or testimony of witnesses.

§ 201.20 Witness fees.

The Post Office Department does not pay fees and expenses for respondent's witnesses or for depositions requested by respondent.

§ 201.21 Depositions.

(a) Not later than five days after the filing of respondent's answer, any party may file application with the Docket Clerk for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the

oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 201.22 Transcript.

(a) Hearings shall be stenographically reported by a contract reporter of the Post Office Department under the supervision of the assigned presiding officer. Argument upon any matter may be excluded from the transcript by order of the presiding officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Post Office Department and the reporter. Copies of parts of the official record other than the transcript may be obtained by the respondent from the reporter upon the payment to him of a reasonable price therefor.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon

the official transcript, or copies thereof, which have been filed with the record. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the presiding officer shall by order specify the corrections to be made in the transcript. The presiding officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the Hearing Examiner other than by agreement of the parties shall be subject to objection and exception.

§ 201.23 Proposed findings and conclusions.

(a) Each part to a proceeding, except one who fails to answer the complaint or having answered, either fails to appear at the hearing or indicates in the answer that he does not desire to appear, may, unless at the discretion of the presiding officer such is not appropriate, submit proposed findings of fact, conclusions of law and supporting reasons either in oral or written form in the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Docket Clerk who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 201.24 Decisions.

(a) *Initial decision by hearing examiner.* A written initial decision shall be rendered with all due speed. The initial decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The initial decision shall become the final Departmental decision unless an appeal is perfected in accordance with § 201.25.

(b) *Tentative or final decision by the Judicial Officer.* When the Judicial Officer presides at the hearing he shall issue a final or a tentative decision. Such decision shall include findings and conclusions, with the reasons therefor, upon

all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The tentative decision shall become the final Departmental decision unless exceptions are filed in accordance with § 201.25.

(c) *Oral decisions.* The presiding Officer may render an oral decision (an initial decision by a hearing examiner, or a tentative or final decision by the Judicial Officer) at the close of the hearing when the nature of the case and the public interest warrant. A party who desires an oral decision shall notify the presiding officer and the opposing party at least 5 days prior to the date set for the hearing. Either party may submit proposed findings and conclusions either orally or in writing at the conclusion of the hearing.

§ 201.25 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by a hearing examiner, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the examiner's initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's tentative decision.

(c) If an initial or tentative decision is rendered orally by the presiding officer at the close of the hearing, he may then orally give notice to the parties participating in the hearing of the time limit within which an appeal must be filed.

(d) Upon receipt of the brief on appeal from an initial decision of a hearing examiner, the docket clerk shall promptly transmit the record of the proceedings to the Judicial Officer. The date for filing the reply to an appeal brief or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(e) Briefs upon appeal or in support of exceptions to a tentative decision by the Judicial Officer shall be filed in triplicate with the Docket Clerk and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings and conclusions of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of each exception taken, together with specific references to the parts of the record and the legal or other authorities relied upon.

(f) Unless permission is granted by the Judicial Officer no brief shall exceed fifty printed or one hundred typewritten pages double spaced.

(g) The Judicial Officer will extend the time to file briefs only upon written application for good cause shown. The Docket Clerk shall promptly notify the applicant of the decision of the Judicial Officer on the application. If the appeal brief or brief in support of exceptions is not filed within the time prescribed, the defaulting party will be deemed to have abandoned the appeal or waived the exceptions, and the initial or tentative decision shall become the final Departmental decision.

§ 201.26 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings, (b) to render tentative decisions, (c) to render final Departmental decisions, (d) to issue Departmental orders for the Postmaster General, (e) to refer the record in any proceeding to the Postmaster General or the Deputy Postmaster General for final Departmental decision and (f) to revise or amend these rules of practice. The entire official record will be considered before a final Departmental decision is rendered. Before rendering a final Departmental decision, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 201.27 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Departmental decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion.

§ 201.28 Orders.

If an order is issued which prohibits delivery of mail to a respondent it shall be incorporated in the record of the proceeding. The Docket Clerk shall cause the order to be published in the Postal Bulletin and transmitted to such postmasters and other officers and employees of the postal service as may be required to place the order into effect.

§ 201.29 Modification or revocation of orders.

A party against whom an order has been issued may file an application for modification or revocation thereof. The Docket Clerk shall transmit a copy of the application to the General Counsel, who shall file a written reply. A copy of the reply shall be sent to the applicant by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 201.30 Supplemental orders.

When the General Counsel or his designated representative shall have reason to believe that a person is evading or attempting to evade the provisions of any such order by conducting the same or a similar enterprise under a different name or at a different address he may file a petition with accompanying evidence setting forth the alleged evasion or attempted evasion and requesting the issuance of a supplemental order against the name or names allegedly used.

Notice shall then be given by the Docket Clerk to the person that the order has been requested and that an answer may be filed within ten days of the notice. The Judicial Officer, for good cause shown, may hold a hearing to consider the issues in controversy, and shall, in any event, render a final decision granting or denying the supplemental order.

§ 201.31 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday or legal holiday, in which event the period runs until the close of business on the next business day.

§ 201.32 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 201.33 Public information.

The Law Librarian of the Post Office Department maintains for public inspection in the Law Library copies of all initial, tentative and Departmental decisions. The Docket Clerk maintains the complete official record of every proceeding.

Subpart L—Rules of Procedure for the Board of Contract Appeals

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§ 201.101 Authority for rules.

These rules of practice are issued by the Judicial Officer of the Post Office Department pursuant to authority delegated by the Postmaster General.

(R.S. 161, as amended, 5 U.S.C. 22, 39 U.S.C. 309, 501, 74 Stat. 554 (Public Law 86-676), Headquarters Circular 61-45 (26 F.R. 10813))

§ 201.102 Purpose.

This subpart prescribes the functions and rules of procedure of the Board of Contract Appeals.

§ 201.103 Membership.

The Board of Contract Appeals consists of three members: (a) the Judicial Officer of the Post Office Department who is the Chairman; (b) the Chief Hearing Examiner; and (c) one of the hearing examiners assigned to the Department to be designated by the Judicial Officer. An alternate may be appointed by the

Deputy Postmaster General for any absent or disqualified member. No member of the Board may consider an appeal if he has participated in the formulation or administration of, or has any interest, directly or indirectly, in the contract in dispute.

§ 201.104 Office.

The Office of the Board of Contract Appeals shall be in the Office of the Judicial Officer in the Post Office Department Building, Washington 25, D.C. A suitable docket of contract appeals cases shall be maintained for public inspection at that office.

§ 201.105 Jurisdiction of the board.

As the duly authorized representative of the Postmaster General, the Board is authorized to exercise the full authority of the Postmaster General in all cases in which, by the terms of a contract, the contractor may appeal from findings of fact or decisions of a contracting officer to the Postmaster General or his representative. The Board has the authority to conduct hearings, dismiss proceedings, and take official notice of facts within general knowledge and decide all questions of fact and law raised by the appeal. Decisions of the Board are by a majority of the Board except as herein-after provided. There is no further administrative appeal from the decision of the Board.

§ 201.106 Decision of the contracting officer.

The Contracting Officer shall be required to promptly make a written decision in which he shall decide every material fact in dispute or other matter from which an appeal to the Board may be taken. A copy of the decision shall be furnished to the contractor.

§ 201.107 Appeal.

(a) *Notice.* An appeal from a finding of fact or decision of the Contracting Officer may be made by notice of appeal in writing, addressed to the Postmaster General within 30 days from the date of receipt of the written decision of the Contracting Officer unless otherwise provided in the contract. The notice shall be delivered to the Contracting Officer and shall identify the contract and the Contracting Officer and specify the portion of the findings of fact or decision from which the appeal is taken. The notice shall be signed by the contractor or his attorney.

(b) *Petition.* A petition in support of the appeal shall be filed by the appellant with the Board within 30 days after the mailing or filing of the notice of appeal. The petition should set forth:

(1) A copy of the decision of the Contracting Officer from which the appeal is taken.

(2) A simple, concise and direct statement of each claim upon which the contractor relies and the reasons why the findings or decision are deemed erroneous.

(3) Documentary evidence when applicable in support of claims as exhibits to the petitioner.

(c) *Reply.* The contractor may file a reply within 15 days after receipt of the

answer of Department counsel provided in § 201.109(b).

(d) *Contracting Officer.* The Contracting Officer shall forward any notice of appeal received by him immediately to the Chairman of the Board. In any case in which the original notice of appeal is filed directly with the Board, the Chairman shall immediately forward two copies to the Contracting Officer. Within 15 days from the date of receipt of the notice of appeal or copies thereof, the Contracting Officer shall furnish one copy of the notice of appeal to the General Counsel for use of the Department counsel together with an appeal file consisting of: (1) The decision from which the appeal is taken, (2) any and all findings of fact that may have been made in connection with the dispute, (3) all documents relied upon in making findings or decision, (4) the contractor's claim in connection with the dispute, (5) a copy of the contract and pertinent plans, specifications, amendments and change orders, (6) all correspondence between the parties relating to the dispute, (7) transcripts of any testimony taken in connection with the dispute in addition to any affidavits or statements of any witnesses that were made prior to the notice of appeal and (8) any other information which the Contracting Officer may consider material. True copies may be substituted for originals in this file.

§ 201.108 Reconsideration.

The Contracting Officer may reconsider his decision during the period allowed for appeal and should the decision be modified or changed during that period the time for appeal shall be computed from the date the modification or change is served on the contractor.

§ 201.109 Duties of department counsel.

(a) The Department counsel, designated by the General Counsel, shall upon receipt of the appeal file, notify the contractor, or his attorney, of his designation, furnish him with a copy of these rules and inform him that the appeal file is available at his office for inspection by the contractor or his attorney.

(b) Within 30 days after receipt of the petition by the Board, the Department counsel shall transmit to the Board an answer stating the Government's position on each claim asserted and if desired, or requested by the Board, a supporting brief. The appeal file shall be transmitted in duplicate with the answer. It shall thereafter be available for inspection by either party in the offices of the Board.

§ 201.110 Practice.

Any contractor may appeal in person, through an officer of the corporation or any attorney eligible to practice before the Post Office Department in accordance with Part 202 of this chapter.

§ 201.111 Prehearing conference.

(a) The Chairman may direct the parties to appear before the Board or a member designated by the Chairman at a specified time and place for a conference to consider:

(1) Simplification of issues;

(2) Possibility of obtaining stipulations as to admissions of fact and introduction of documents;

(3) Limitation of the number of expert witnesses, if a hearing is to be held, and

(4) Such other matters as may aid in the disposition of the matter.

(b) The results of the conference shall be reduced to writing by the Board or the member designated by the Chairman and made a part of the record.

§ 201.112 Settlement.

A dispute may be settled at any time

(a) by the contractor filing written notice withdrawing his appeal, (b) by written stipulation between the contractor and the Contracting Officer approved by the Board settling either the entire dispute or any part thereof. The appeal shall continue as to any issues remaining in dispute.

§ 201.113 Depositions.

(a) Depositions upon oral examination or upon written interrogatories may be taken by either party and used as evidence at the hearing when relevant and material to the case.

(b) Depositions may be taken before any person authorized by laws of the United States or by the laws of the place where they are taken to administer oaths.

(c) Either party may take a deposition of a witness by giving the opposite party at least 15 days notice in writing of the time and place where such deposition will be taken. The notice shall contain: The name, address and official title of the officer before whom it is proposed to take the deposition; the name of the witness and the address; whether the deposition will be taken on oral examination or written interrogatories. The parties may stipulate in writing the requirements of the notice in which case the notice can be dispensed with. If the deposition is to be taken on written interrogatories, two copies thereof should accompany the notice or stipulation. The opposing party may serve cross interrogatories to be propounded to the witness within 10 days after receipt of the interrogatories, by forwarding them to the officer designated to take the deposition and simultaneously forwarding a copy to his opponent.

(d) A deposition taken under the provisions of this rule may be offered in whole or in part by either party. Depositions will not be considered as evidence until they have been offered and received as such. All objections made at the time of the taking of the deposition will be passed on at the hearing by the Board which may exclude any part determined to be irrelevant, immaterial or otherwise not admissible as evidence in the proceedings.

§ 201.114 Stipulations.

The parties or their attorneys may stipulate in writing as to any facts that are relevant and material to the issues involved and what documents or facts may be received in evidence without formal proof subject to relevance and materiality.

§ 201.115 Hearing.

The parties may submit the case on the record or request a hearing. The Board shall, at the request of either party within 15 days after the answer is filed, grant a hearing. In the absence of a request, the Board may, in its discretion, order a hearing on any appeal. The parties will be given a minimum of 15 days' notice in writing of the time and place of the hearing. The hearing may be conducted by the entire Board or one member of the Board in the discretion of a majority of the Board. If the hearing is conducted by one member at least one other member must concur in the decision of the member who conducted the hearing before it shall become a decision of the Board of Contract Appeals. All hearings shall be held in Washington, D.C., unless upon motion of either party the Board shall determine for good cause shown that the hearing shall be held elsewhere.

§ 201.116 Continuance.

Any time after notice of appeal is filed, the Board may grant a continuance for good cause shown.

§ 201.117 Procedure.

(a) Insofar as possible hearings shall be informal. Both parties may offer oral and written evidence, subject to the exclusion by the Board or the presiding member of any irrelevant, immaterial or repetitious evidence. The general procedure as to the introduction of evidence and the calling of witnesses shall be in the discretion of the Chairman or the presiding member.

(b) Attention of the witnesses shall be invited to 18 U.S.C. 1621. Testimony shall be under oath or affirmation. All witnesses may be examined or cross-examined by the Board, the parties, or counsel.

(c) The Board shall make provision for a transcript of the hearing which ordinarily shall be a verbatim transcript. But the Board with the consent of the parties may in its discretion direct a summary of the transcript to be prepared in lieu of the verbatim transcript. If at the direction of the Board a summary is prepared, the contractor and Department counsel shall either indicate in writing that it is accurate or file specific written objections for resolution by the Board.

§ 201.118 Service.

The parties shall file with the Board an original and two copies of all pleadings, except the notice of appeal, and shall at the same time serve a copy on the opposing party or his representative of record. The appeal file shall be filed in duplicate. Service of papers shall be made in person or by certified mail.

§ 201.119 Decisions.

Decision of the Board shall be by a majority of the members. A copy of the decision shall be furnished to both parties and shall be available for public inspection in the Post Office Department Library.

§ 201.120 Reconsideration by the board.

A request for reconsideration by the Board may be filed within 30 days after

the date of the decision. Reconsideration of any decision may be granted if, in the judgment of the Board, sufficient reason therefor appears.

§ 201.121 Conflicts.

Any conflict between these rules and specific provisions of any contract in dispute shall be resolved in favor of the provisions of the contract.

II. In Part 202 redesignate Subpart C—Procedure to Adjudicate Claims for Personal Injury or Property Damage Arising Out of the Operation of the Postal Service—as new Subpart O of Part 201; and strike out the title heading and the remainder of Part 202 and insert in lieu thereof the following:

PART 202—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POST OFFICE DEPARTMENT

Sec.

- 202.1 Authority for rules.
- 202.2 Eligibility to practice.
- 202.3 Persons ineligible to practice.
- 202.4 Authorization of appearance may be required.
- 202.5 Complaint of misconduct.
- 202.6 Censure, suspension or disbarment; grounds.
- 202.7 Notice of disbarment; exclusion from practice.

§ 202.1 Authority for rules.

The Judicial Officer promulgates these rules pursuant to authority delegated by the Postmaster General.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501, 74 Stat. 554 (Public Law 86-676), Headquarters Circular 61-45 (26 F.R. 10813))

§ 202.2 Eligibility to practice.

(a) Any individual who is a party to any proceeding before the Judicial Officer, the Board of Contract Appeals or a hearing examiner may appear for himself or by an attorney at law.

(b) The head of any bureau or office may establish such special rules and regulations pertaining to eligibility to practice before such bureau or office as he may deem to be necessary or desirable.

(c) Generally, except as provided in § 202.3, any attorney at law who is a member in good standing of the Bar of the Supreme Court of the United States or of the highest court of any State, District, Territory, Protectorate or Possession of the United States, or of the District of Columbia, and is not under any order of any court or executive department of one of the foregoing governmental entities suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law may represent others before the Post Office Department.

(d) When any person acting in a representative capacity appears in person or signs a paper in practice before the Post Office Department his personal appearance or signature shall constitute a representation to the Post Office Department that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Post Office Department does not generally take formal action or issue any certifi-

cate to show that an individual is eligible to practice before the Department. (But see § 202.4.)

§ 202.3 Persons ineligible for admission to practice.

(a) No person disbarred from practice in this Department or in any other executive department of any of the governmental entities mentioned in § 202.2(d) will be eligible to practice before the Post Office Department until said order of disbarment shall have been revoked.

(b) Any person who, subsequently to being admitted to practice before the Post Office Department, is disbarred by any governmental entity mentioned in § 202.2(d) shall be deemed suspended from practice in this Department during the pendency of said order of disbarment.

(c) No person who has been an attorney, officer, clerk, or employee in this Department will be recognized as attorney for prosecuting before this Department or any office thereof any case or matter which he was in anywise connected while he was such attorney, officer, clerk, or employee.

(d) No person coming within the prohibitions of 5 U.S.C. 99, 18 U.S.C. 281, or 18 U.S.C. 283, will be recognized as attorney before this Department or any office thereof.

§ 202.4 Authorization of appearance may be required.

The Judicial Officer, the head of any bureau or office or any hearing examiner may require any person to present satisfactory evidence of his authority to represent the person for whom he appears.

§ 202.5 Complaint of misconduct.

(a) If the head of any bureau or office of the Department has reason to believe, or if complaint be made to him, that any person is guilty of conduct subjecting him to suspension or disbarment, the head of such office shall report the same to the Judicial Officer.

(b) Whenever any person submits to the Judicial Officer a complaint against any person who has practiced, is practicing or holding himself out as entitled to practice before the Post Office Department, the Judicial Officer may refer such complaint to the Chief Inspector for a complete investigation and report.

(c) At any time, the Judicial Officer may refer the complaint to the General Counsel for the preparation of formal charges to be lodged against and served upon the person against whom the complaint has been made.

§ 202.6 Censure, suspension or disbarment; grounds.

(a) The Judicial Officer may censure, suspend or disbar any person against whom a complaint has been made and upon whom charges have been served as provided in § 202.5 if he finds that such person:

(1) Does not possess the qualifications required by § 203.1;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Represents, as an associate, an attorney who, known to him, solicits practice by means of runners or other unethical methods;

(4) By use of his name, personal appearance, or any device, aids or abets an attorney to practice during the period of his suspension or disbarment, such suspension or disbarment being known to him;

(5) Displays towards the Judicial Officer, Board of Contract Appeals or any hearing examiner assigned to the Department, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, cases relating to the censure, suspension or disbarment of attorneys will be governed as herein provided, except that the hearing will be conducted by a hearing examiner appointed pursuant to the provisions of the Administrative Procedure Act or by some other disinterested member of the headquarters staff of the Post Office Department who shall be appointed by the Deputy Postmaster General.

§ 202.7 Notice of disbarment; exclusion from practice.

Upon the disbarment of any person, notice thereof will be given to the heads of the bureaus and offices of this Department and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Post Office Department or any bureau or office thereof.

III. Amend Part 203 to read as follows:

PART 203—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

Sec.	
203.1	Authority for rules.
203.2	Limitation.
203.3	Initiation.
203.4	Complaint.
203.5	Notice of hearing; service.
203.6	Compromise and informal dispositions.
203.7	Answer.
203.8	Default.
203.9	Hearing.
203.10	Change of place of hearing.
203.11	Presiding officers.
203.12	Proposed findings of fact.
203.13	Initial decision.
203.14	Appeal.
203.15	Departmental decision.
203.16	Expedition.
203.17	Disposition.

§ 203.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the Post Office

Department pursuant to authority delegated by the Postmaster General.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501, 74 Stat. 554 (Public Law 86-676), Headquarters Circular 61-45 (26 F.R. 10813))

§ 203.2 Limitation.

The rules shall be applicable only to cases where the matter offered for mailing shall be of substantial value or quantity. The initial determination of this question by the General Counsel may be appealed to the Judicial Officer.

§ 203.3 Initiation.

Upon receipt of mail matter of doubtful mailability under the provisions of 18 U.S.C. 1302, 1461, 1463, 1717 or 1718 (see also 39 U.S.C. 4001) submitted by a postmaster pursuant to § 14.9(b) of this chapter (§ 124.92 of the Postal Manual), the General Counsel shall: (a) File a complaint with the Docket Clerk of the Post Office Department or (b) instruct the postmaster to accept such matter for mailing.

§ 203.4 Complaint.

The complaint shall: (a) State statutory and/or regulatory authority for withholding the matter from the mails; (b) specify the character or content of the matter which the Complainant believes to be nonmailable; and (c) request the issuance of a notice of hearing by the Docket Clerk.

§ 203.5 Notice of hearing; service.

Upon receipt of the complaint the Docket Clerk shall issue a notice setting the time and place for the hearing. The date set for the hearing shall be within ten days of the date of the filing of the complaint. The notice, together with copies of the complaint and these rules, shall be sent promptly to the postmaster at the place of mailing to be served upon the mailer or his agent. A receipt therefor shall be obtained and forwarded immediately to the Docket Clerk. If personal service cannot be made, the notice of hearing shall be deposited in the mails for delivery in the regular course which shall constitute valid service. A report of such delivery shall be promptly forwarded to the Docket Clerk.

§ 203.6 Compromise and informal dispositions.

The mailer may request a conference with the Complainant to consider informal disposition of any question of mailability or apply to the Complainant for the withdrawal of the matter from the mails. When such a request is received, the scheduled hearing date will be postponed for such period of time as may be necessary but in no event longer than five days unless specifically requested by the mailer. If no agreement is reached, the proceeding shall promptly be rescheduled for hearing.

§ 203.7 Answer.

The mailer may file an answer to the complaint and appear in person or by counsel at the hearing. The answer shall contain a reply to each allegation in the complaint and shall be filed in triplicate with the Docket Clerk in Room

202.2

(Correction)

3350, Post Office Department, Washington 25, D.C., at least three days prior to the date set for the hearing. Each allegation not answered shall be deemed admitted.

§ 203.8 Default.

If no answer to the complaint is filed, the mailer shall be deemed in default and the Judicial Officer shall instruct the postmaster of the disposition to be made of the matter in accordance with § 203.17. If the mailer files an answer but fails to appear at the hearing, the Hearing Examiner shall receive the evidence of the Complainant and render an initial decision pursuant to § 203.13.

§ 203.9 Hearing.

Unless otherwise ordered by the presiding officer, the hearing shall be held in Room 5241, Post Office Department, 12th and Pennsylvania Avenue NW., Washington 25, D.C., on the date set in the notice.

§ 203.10 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining: (a) The evidence to be offered in such place; (b) the names and addresses of the witnesses who will testify; (c) the reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 203.11 Presiding officers.

The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 1010) or the Judicial Officer (74 Stat. 554, Public Law 86-676). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.

§ 203.12 Proposed findings of fact.

Unless otherwise ordered, proposed findings of fact and conclusions of law shall be submitted orally or in writing at the conclusion of the hearing.

§ 203.13 Initial decision.

Unless given orally at the conclusion of the hearing, the Hearing Examiner shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the departmental decision if an appeal is not perfected.

§ 203.14 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within five days after receipt of the initial decision unless additional time is granted. A reply brief may be filed

within five days after the receipt of the appeal brief by the opposing party.

§ 203.15 Departmental decision.

The Judicial Officer shall render a Departmental decision or refer the matter to the Postmaster General for decision. The decision shall be served upon the parties and the postmaster.

§ 203.16 Expedition.

For the purposes of further expedition the parties may, with the concurrence of the Judicial Officer, agree to waive any of these procedures. When the Judicial Officer presides at the hearing, he shall render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 203.14.

§ 203.17 Disposition.

Matter found to be nonmailable shall be held at the post office where detained for a period of fifteen days from the date of the Departmental decision, unless extended by the Judicial Officer. During that time the mailer may make application for the withdrawal of the matter. The Judicial Officer shall order the matter returned to the mailer or otherwise disposed of in accordance with 39 U.S.C. 4001(b).

IV. Amend Part 204 to read as follows:

PART 204—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

Sec.	
204.1	Authority for rules.
204.2	Scope of rules.
204.3	Informal dispositions.
204.4	Office, business hours.
204.5	Application.
204.6	Revocation or suspension.
204.7	Failure to appeal proposed action.
204.8	Pleading.
204.9	Default.
204.10	Intervention.
204.11	Hearings.
204.12	Change of place of hearing.
204.13	Appearances.
204.14	Presiding officers.
204.15	Judicial Officer.
204.16	Procedure.
204.17	Transcript.
204.18	Proposed findings and conclusions.
204.19	Initial decision.
204.20	Appeal and final decision.
204.21	Motion for reconsideration.
204.22	Continuances.
204.23	Computation of time.
204.24	Official record.
204.25	Public information.

§ 204.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the Post Office Department pursuant to authority delegated by the Postmaster General.

(R.S. 161, as amended; 5 U.S.C. 22; 39 U.S.C. 309; 501; 74 Stat. 554 (Public Law 86-676), Headquarters Circular 61-45 (26 F.R. 10813))

§ 204.2 Scope of rules.

The rules of practice shall apply to all Post Office Department proceedings concerning applications, denials, suspensions and revocations of second-class mailing privileges arising under 39 U.S.C. 4351, 4352, 4353, 4354, 4355, 4356, and 4369.

§ 204.3 Informal dispositions.

These rules do not preclude the informal disposition of second-class mailing privilege matters before or after institution of proceedings.

§ 204.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the Post Office Department, 12th and Pennsylvania Avenue NW., Washington 25, D.C., and are open Monday through Friday from 8:45 a.m., to 5:15 p.m.

§ 204.5 Application.

A publisher may file an application for second-class mailing privileges. (See Part 22 of this chapter.) An authorized official of the Bureau of Operations, Post Office Department (hereinafter called "the Director") rules upon all applications. If he denies the application he shall notify the publisher specifying the reasons for his denial and attaching a copy of these rules. Before taking action on an application, the Director may call upon the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish such information or evidence may be cause for the Director to deny the application as incomplete or, on its face, not fulfilling the requirements for entry.

§ 204.6 Revocation or suspension.

When the Director determines that a publication is no longer entitled to second-class mailing privileges, he shall issue a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons and attaching a copy of these rules.

§ 204.7 Failure to appeal proposed action.

A ruling of the Director shall become final upon failure of the publisher to file a petition in accordance with the requirements of § 204.8.

§ 204.8 Pleading.

(a) *Place of filing.* Parties shall file documents of record in triplicate, unless otherwise ordered by the presiding officer after intervention pursuant to § 204 with Docket Clerk of the Post Office Department, who shall cause copies to be delivered to the other parties and to the presiding officer. The Docket Clerk shall maintain a docket and the files in all proceedings.

(b) *Petition.* A publisher may appeal from a ruling of the Director by filing a petition within 15 days of the receipt of the ruling unless the time is extended by the Director. The petition shall state the reasons why the publisher believes the ruling of the Director is erroneous. The petition shall also allege facts showing compliance with each provision of law or regulation on which the publisher's claim to second-class mail privileges is based. The publisher shall attach to his petition a copy of the letter of the Director denying, suspending or revoking second-class mail privileges.

(c) *Notice of hearing.* Upon receipt of the petition the Docket Clerk shall set a date for the hearing and issue a notice of hearing to the parties stating the time

corr. → 204.10

and place of the hearing, the date for filing an answer, and the name of the presiding officer.

(d) *Answer.* The director shall answer the petition within 15 days after filing and admit or deny each allegation of the petition.

(e) *Amendment.* An amendment of a pleading may be offered by any party at any time prior to the close of the hearing. If the presiding officer deems it appropriate to permit the amendment of a pleading, he may impose such conditions, by way of continuance of the hearing date or otherwise, as he considers necessary to assure a fair hearing.

§ 204.9 Default.

If a publisher fails to appear at the hearing, the presiding officer may: (a) Dismiss the petition; (b) order the petitioner to show cause within 30 days from the date of the order why an order of dismissal should not be entered, and thereafter enter such order as the presiding officer deems to be appropriate. If the petition is dismissed by order of a Hearing Examiner, the dismissal may be appealed to the Judicial Officer within 15 days from the date of the order.

§ 204.10 Intervention.

To intervene a person not a party to the proceeding shall file an application in writing not less than three days before the time fixed for hearing. The application shall state whom the potential intervenor represents, his interest, the extent to which he desires to participate, and the evidence he seeks to introduce. The presiding officer shall grant an application to intervene upon a proper showing of interest. Participation of an intervenor shall be limited to the filing of a brief before the presiding officer.

§ 204.11 Hearings.

Hearings are held in Room 5241, Post Office Department, Washington 25, D.C., or other locations designated by the presiding officer.

§ 204.12 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement setting forth:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify;

(c) The reasons why such evidence cannot be produced at Washington, D.C.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 204.13 Appearances.

(a) The General Counsel of the Post Office Department or a member of his staff designated by him shall represent the Director.

(b) A publisher or intervenor may appear and be heard in person or by attorney. Attorneys may practice before the Department in accordance with applicable rules issued by the Judicial

Officer. See Subpart A of Part 202 of this chapter.

(c) An attorney representing a publisher or intervenor shall file a written authorization from the publisher or intervenor before he may participate in the proceeding. The publisher or intervenor must promptly file a notice of change of attorneys.

(d) When a publisher or intervenor is represented by an authorized attorney all subsequent pleadings shall be served upon the attorney.

§ 204.14 Presiding officers.

(a) The Chief Hearing Examiner shall assign a case to a Hearing Examiner, so far as practical in rotation, to preside over the hearing. The Hearing Examiner shall be qualified pursuant to the Administrative Procedure Act (5 U.S.C. 1010).

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon matters of evidence and procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs on any matter upon which he is required to rule;

(7) Order prehearing conferences for the settlement or simplification of issues by consent of the parties;

(8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision.

§ 204.15 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings and (b) to render a final Departmental Decision for the Postmaster General. On appeal from an Initial Decision of a Hearing Examiner, the Judicial Officer will consider the entire record including the initial decision and the exceptions to that decision. Before any final agency decision has been rendered, the Judicial Officer may order the hearing reopened for the presiding officer to take additional evidence.

§ 204.16 Procedure.

(a) *Evidence.* The general rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States apply. The rules may be relaxed to the extent that the presiding officer may deem proper to insure an adequate and fair hearing. The presiding officer may exclude irrelevant or repetitious evidence.

(b) *Subpoenas.* The Post Office Department is not authorized to issue subpoenas.

(c) *Fees.* The Post Office Department does not pay fees and expenses for witnesses of, or depositions requested by, the publisher or intervenor.

(d) *Depositions.* Depositions may be taken as follows:

(1) Not later than five days after the filing of Director's answer, any party

may file application with the presiding officer for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(2) If the application is granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(3) Each witness testifying upon deposition shall be duly sworn by the deposition officer and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the deposition officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(4) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(5) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(6) Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United

States, or any other person designated in the order for the taking of a deposition.

(7) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the deposition officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 204.17 Transcript.

(a) A contract reporter of the Post Office Department under the supervision of the presiding officer shall report hearings. The reporter shall supply the parties with copies of the transcript at rates not to exceed those fixed by contract between the Department and the reporter.

(b) Changes in the official transcript may be made only when they involve substantial errors. A party may file a motion for correction of the official transcript within 10 days after his receipt of the transcript or any part thereof. Other parties shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing if they object to the requested corrections. Failure of a party to interpose timely objection to a proposed correction may be considered by the presiding officer to be concurrence. The presiding officer shall then specify the corrections to be made in the transcript. He may on his own initiative order corrections in the transcript after notice to the parties subject to their objection.

§ 204.18 Proposed findings and conclusions.

(a) A party to a proceeding may submit proposed findings of fact and conclusions of law to the presiding officer. The presiding officer shall determine whether they shall be oral or written. The presiding officer may require parties to a proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. When the proposed findings and conclusions are not submitted orally they shall be filed within 15 days after delivery of the official transcript to the Docket Clerk. The Docket Clerk shall notify the parties of the filing date which shall be the same for both parties. If not submitted by that date, the findings and conclusions will not be considered or included in the record.

(b) Except when presented orally, proposed findings of fact and conclusions of law shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits relied upon to support the conclusions proposed. Each proposed conclusion shall be separately stated.

§ 204.19 Initial decision.

(a) Upon request of either party the presiding officer may render an oral initial decision at the close of the hearing when the nature of the case and the public interest warrant. If a party desires an oral initial decision he shall notify the presiding officer and the opposing party at least 5 days prior to the date set for hearing. Parties may then submit proposed findings and conclusions orally or in writing at the conclusion of the hearing.

(b) If an oral initial decision is not rendered, the presiding officer shall render a written initial decision with all due speed after the parties have submitted all post-hearing material. The initial decision shall become the final Departmental Decision unless it is appealed.

(c) The initial decision shall include findings upon all material issues of fact and law presented on the record and the reasons for those findings.

§ 204.20 Appeal and final decision.

(a) A party may appeal to the Judicial Officer from an initial decision by filing exceptions in a brief on appeal within 15 days from the receipt of a written or oral initial decision.

(b) Upon receipt of the appeal brief the Judicial Officer shall set the date for the filing of the reply brief. No additional briefs shall be received unless requested by the Judicial Officer.

(c) Appeal briefs shall contain the following matter in the order indicated:

(1) A subject index of the matters presented with page references;

(2) A table of cases alphabetically arranged;

(3) A list of statutes and texts cited with page references;

(4) A concise abstract or statement of the case;

(5) Numbered exceptions to the findings and conclusions of the presiding officer and the reasons for the exceptions.

§ 204.21 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Departmental decision.

§ 204.22 Continuances.

For good cause shown, continuances or extensions may be granted by the presiding officer. Similar action may be taken by the Judicial Officer when the proceeding is on appeal.

§ 204.23 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or holiday, in which event the period runs until the close of business on the next working day.

§ 204.24 Official record.

The pleadings, orders, exhibits, transcript of testimony, briefs, decisions and other documents filed in the proceeding constitute the official record of the proceeding.

§ 204.25 Public information.

The Law Librarian of the Post Office Department maintains for public inspection in the Law Library copies of all Initial and Departmental Decisions. The Docket Clerk of the Post Office Department maintains a complete official record of every proceeding. A person may examine a record upon authorization by the Judicial Officer.

LOUIS J. DOYLE,
General Counsel.

The foregoing are hereby adopted as rules of procedure for the Post Office Department.

REVA BECK BOSONE,
Judicial Officer.

[F.R. Doc. 61-12390; Filed, Dec. 29, 1961;
8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 9—AVIATION SERVICES

Microwave Operation

In the matter of amendment of Part 9, Aviation Services of the Commission's rules for the purpose of making editorial changes therein concerning microwave operation.

The Commission, having under consideration the amendment of Part 9 Aviation Services, to effect the editorial changes described below; and

It appearing, that the Commission, by report and order (FCC 61-764) docket No. 14029, in the matter of amendment of Parts 7, 9, 10, 11, 16, and 19 of the Commission's rules for licensing of private microwave systems on a regular basis on certain bands above 952 Mc and to provide type acceptance requirements for such systems, released June 23, 1961, published in the FEDERAL REGISTER June 29, 1961 (26 F.R. 5798), amended the above enumerated parts to provide, inter alia, special provisions for stations operating above 952 Mc and type acceptance requirements, the formal codification of such changes to be accomplished by subsequent order; and

It further appearing, that the Commission, by report and order (FC 61-952), docket No. 13953, in the matter of amendment of Parts 7, 8, 9, 10, 11, and 16 of the Commission's rules to provide frequency pairing in the 952-960 Mc frequency band, and to make the channel 952.5 Mc available to public safety licensees for omnidirectional operations, released July 27, 1961, published in FEDERAL REGISTER August 1, 1961 (26 F.R. 6849), amended the above enumerated parts to provide omnidirectional operation for other than traffic signal control and certain paired frequencies to be available on a regular grant basis rather than developmental, the formal codification of such changes to be accomplished by subsequent order; and

It further appearing, that some of the band limits for the microwave frequencies set forth in Part 2 of the Commission's rules differ somewhat from those appearing in Part 9 of the rules; and

It further appearing, that the formal codification of the changes herein ordered conform without any substantive change to the terms in the above-described orders and, being editorial in nature, the prior public notice and effective date provisions of section 4 of the Administrative Procedure Act are not applicable; and

It further appearing, that the amendments adopted herein are issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.341(a) of the Commission's Statement of Delegations of Authority;

It is ordered, This 27th day of December 1961, that, effective December 27, 1961, Part 9 is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: December 27, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

In § 9.447, paragraphs (b), (c), and (d) are amended and paragraphs (e), (f), and (g) are deleted. As amended, paragraphs (b), (c), and (d) read as follows:

§ 9.447 Frequencies available.

(b) The frequencies listed in the table in this paragraph may be assigned for operational fixed microwave operation subject to the conditions set forth in paragraph (d) of this section and the limitations contained in the footnotes to the table.

BAND (Mc/s)

952-960 ¹	10550-10680
1850-1990	12200-12700
2110-2200	13200-13250 ²
2450-2500 ²	17700-13900 ²
2500-2690	19400-19700 ²
6575-6875	27525-31300 ²
8400-8500 ³	38600-40000 ³

¹ Available for assignment in accordance with the frequency pairing plan as contained in paragraph (c) of this section.

² Subject to no protection from interference due to the operation of industrial, scientific, and medical devices in this band.

³ Limited to developmental operation only with the assigned frequency and particulars of operation specified in each authorization.

(c) The frequencies between 952 and 960 Mc/s will be assigned as follows:

Paired frequencies

959.9-956.3 ¹	958.1-954.5
959.8-956.2 ¹	958.0-954.4
959.7-956.1	957.9-954.3
959.6-956.0	957.8-954.2
959.5-955.9	957.7-954.1
959.4-955.8	957.6-954.0
959.3-955.7	957.5-953.9
959.2-955.6	957.4-953.8
959.1-955.5	957.3-953.7
959.0-955.4	957.2-953.6
958.9-955.3	957.1-953.5
958.8-955.2	957.0-953.4
958.7-955.1	956.9-953.3
958.6-955.0	956.8-953.2
958.5-954.9	956.7-953.1
958.4-954.8	956.6-953.0
958.3-954.7	956.5-952.9 ¹
958.2-954.6	956.4-952.8 ¹

Unpaired frequencies

952.4 ^{1,2}	952.3 ^{1,2}	952.2 ^{1,2}	952.1 ^{1,2}
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¹ Available on developmental basis only for omnidirectional operation, and for other than the control of traffic signals.

² The maximum rated power output of transmitters for omnidirectional operations authorized to operate on this frequency is 100 watts.

(d) Operation on frequency pairs authorized prior to July 20, 1961, which are not in accordance with the plan of frequency pairing set forth in paragraph (c) of this section may continue provided interference is not caused to the operation of systems which are utilizing channels in accordance with that plan.

[F.R. Doc. 61-12413; Filed, Dec. 29, 1961; 8:46 a.m.]

PART 10—PUBLIC SAFETY RADIO SERVICES

Miscellaneous Amendments

The Commission, having under consideration the amendment of Part 10 of the rules governing the Public Safety Radio Services, to effect the editorial changes described below; and

It appearing, that the explanations of assignment limitations appearing in §§ 10.255(h) (12), 10.305(g) (7), and 10.355(e) (12) are now meaningless since they refer to the Atlantic City Table of Frequency Allocations; and

It further appearing, that the Atlantic City Radio Regulations have been super-

seded by the Geneva (1959) Radio Regulations; and

It further appearing, that the Table of Frequency Allocations appearing in Part 10 of the Rules conform to the Geneva allocations; and

It further appearing, that the deletion herein ordered make no substantive change, and, being editorial in nature, the prior public notice and effective date provisions of the Administrative Procedures Act are not applicable; and

It further appearing, that the amendments adopted herein are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.341(a) of the Commission's Statement of Delegations of Authority;

It is ordered, This 27th day of December 1961, that effective December 27, 1961, Part 10 is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: December 28, 1961.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

1. Section 10.255 is amended as follows:

a. In paragraph (g), limitation 12 is deleted wherever it appears in column 3 of the frequency table.

b. In paragraph (h), the text of subparagraph (12) is deleted and the word [Reserved] inserted in lieu thereof.

2. Section 10.305 is amended as follows:

a. In paragraph (f) limitation 7 is deleted wherever it appears in column 3 of the frequency table.

b. In paragraph (g), the text of subparagraph (7) is deleted and the word [Reserved] inserted in lieu thereof.

3. Section 10.355 is amended as follows:

a. In paragraph (d), limitation 12 is deleted wherever it appears in column 3 of the frequency table.

b. In paragraph (e), the text of subparagraph (12) is deleted and the word [Reserved] inserted in lieu thereof.

[F.R. Doc. 61-12431; Filed, Dec. 29, 1961; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 922]

[Docket No. AO-290-A1]

HANDLING OF APRICOTS GROWN IN DESIGNATED COUNTIES IN STATE OF WASHINGTON

Notice of Hearing With Respect to Proposed Amendment of the Marketing Agreement and Order

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Pacific Power and Light Auditorium, 7 North Third Street, Yakima, Wash., beginning at 10 a.m., P.s.t., January 18, 1962, with respect to proposed amendments to the marketing agreement and Order No. 922 (7 CFR Part 922), hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of apricots grown in designated counties in Washington. The proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the proposed amendments, which are hereinafter set forth, and appropriate modifications thereof.

The amendments to the marketing agreement and order, which have been proposed by the Washington Apricot Marketing Committee, are as follows:

1. Revise § 922.4 to read as follows:

§ 922.4 Production area.

"Production area" means the counties of Okanogan, Chelan, Kittitas, Yakima, and Klickitat in the State of Washington and all the counties in Washington lying east thereof.

2. Revise § 922.13 to read as follows:

§ 922.13 Handle.

"Handle" or "ship" means to sell, consign, deliver, or transport apricots within the production area or between the production area and any point outside thereof: *Provided*, That the term "handle" shall not include the transportation

within the production area of apricots from the orchard where grown to a packing facility located within such area for preparation for market.

§ 922.14 [Amendment]

3. Revise § 922.14(a) to read as follows:

(a) "District 1" shall include all counties within the production area not included in District 2.

§ 922.52 [Amendment]

4. Amend subparagraph (3) of paragraph (a) of § 922.52 by inserting the word "markings" immediately following the word "dimensions."

The Fruit and Vegetable Division, Agricultural Marketing Service, has proposed that consideration be given to making such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Office of the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or the Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1218 Southwest Washington Street, Portland 5, Oreg.

Dated: December 27, 1961.

FLOYD F. HEDLUND,

Director,

Fruit and Vegetable Division.

[F.R. Doc. 61-12389; Filed, Dec. 29, 1961; 8:45 a.m.]

[7 CFR Part 936]

HANDLING OF FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Proposed Changes in Representation of Certain Districts on Bartlett Pear Commodity Committee

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations; 7 CFR 936.100, 24 F.R. 469, 25 F.R. 403) currently in effect pursuant to the applicable provisions of Marketing Agreement No. 85, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in California.

This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment to the said rules and regulations was proposed by the Control Committee, established under the said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The amendment changes the representation of certain districts on the Bartlett Pear Commodity Committee.

The said amendment is as follows:

Delete § 936.116 and substitute therefor the following:

§ 936.116 Changes in representation of certain districts on Bartlett Pear Commodity Committee.

The representation or membership on the Bartlett Pear Commodity Committee is changed to provide for:

- (a) One (1) member to represent the North Sacramento Valley District and the Central Sacramento Valley District;
- (b) Three (3) members to represent the Sacramento River District, Stockton District, Contra Costa District, Santa Clara District, and Solano District;
- (c) Two (2) members to represent the Placer District and the Colfax District;
- (d) Three (3) members to represent the Lake District;
- (e) One (1) member to represent the North Coast District and the North Bay District;
- (f) Two (2) members to represent the El Dorado District; and all of the area not included in the North Sacramento Valley District, Central Sacramento Valley District, Colfax District, Placer District, Sacramento River District, Stockton District, Solano District, Contra Costa District, Santa Clara District, Lake District, North Coast District, and North Bay District.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment should do so by forwarding same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, Room 2077, South Building, Washington 25, D.C., not later than the 10th day after publication of this notice in the FEDERAL REGISTER.

Dated: December 27, 1961.

PAUL A. NICHOLSON,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-12416; Filed, Dec. 29, 1961; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary
ALEXANDER H. WADE, JR.

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 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of December 14, 1961.

Dated: December 14, 1961.

ALEXANDER H. WADE, JR.

[F.R. Doc. 61-12383; Filed, Dec. 29, 1961; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 311]

MARKET AGENCIES AT KANSAS CITY STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on September 29, 1961 (20 A.D. 939), continuing in effect to and including October 31, 1963, an order issued on October 29, 1959 (18 A.D. 1168), authorizing the respondents, Market Agencies at Kansas City Stock Yards, Kansas City, Mo., to assess the current temporary schedule of rates and charges.

On December 13, 1961, a petition was filed on behalf of the respondents requesting authority to modify, as soon as possible, the current temporary schedule of rates and charges by adding the following provision to section B-2 thereof:

Item 3. *Branding of sheep.* A charge of 5 cents per head will be assessed the buyer to brand sheep and lambs when necessary to conform with State livestock health requirements.

The proposed modification involves a new rate or charge for services not heretofore covered by order. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the

Hearing Clerk, U.S. Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D.C., this 26th day of December 1961.

CLARENCE H. GIRARD,
Director, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-12360; Filed, Dec. 29, 1961; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Byproduct Material License No. 42-7236-1 (G-63)]

MISTROT M. SULLIVAN AND SOUTHWESTERN RADIOLOGICAL SERVICE CO.

Order To Show Cause and Order Suspending License

Correction

In F.R. 61-11916 appearing at page 12089 of the issue for Saturday, December 16, 1961, the material appearing in the first column of page 12090 beginning with the line reading: "(c) On October 16, November 3, 4, and" and ending with the third line of the center column of that page reading "Fabricating Company, Houston, Texas", is corrected by transferring it to immediately follow paragraph 2. (b) in the center column of page 12090.

CIVIL AERONAUTICS BOARD

[Docket No. 13150]

AEROVIAS INTERNACIONAL BALBOA, S.A.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held January 4, 1962, 10 a.m., e.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., December 27, 1961.

[SEAL] JAMES S. KEITH,
Hearing Examiner.

[F.R. Doc. 61-12403; Filed, Dec. 29, 1961; 8:45 a.m.]

[Docket No. 13308]

INSPIRATION HELICOPTERS LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act

of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 4, 1962, at 10 a.m., e.s.t., in Room 1029, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 26, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 61-12404; Filed, Dec. 29, 1961; 8:45 a.m.]

[Docket No. 13267]

SWISSAIR, SWISS AIR TRANSPORT COMPANY LTD.

Notice of Prehearing Conference

In the matter of the application of Swissair, Swiss Air Transport Company Limited for amendment of its foreign air carrier permit to read as follows: "between a point or points in Switzerland, the intermediate points Frankfurt, Germany; Cologne, Germany; Manchester, England; Shannon, Eire; Lisbon, Portugal; Santa Maria, Azores; and Gander, Newfoundland, Canada and the coterminal points New York, N.Y. and Chicago, Ill."

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on January 8, 1962, at 10 a.m., e.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Chief Examiner Francis W. Brown.

Dated at Washington, D.C., December 27, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 61-12405; Filed, Dec. 29, 1961; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14458]

CLIFFORD C. HAYES

Order To Show Cause

In the matter of Clifford C. Hayes, Charleston, South Carolina, Docket No. 14458; order to show cause why there should not be revoked the license for Radio Station 6Q1601 in the citizens radio service.

The Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Communications Act of 1934, as amended, by the captioned radio station licensee;

It appearing that, on September 7, 1961, the Commission, pursuant to section 308(b) of the Communications Act of 1934, as amended, directed a letter to the licensee by Certified Mail—Return Receipt Requested (No. 97414) requesting that he respond to certain interrogatories contained therein under oath or affirmation within fifteen days of receipt of such letter; and

It further appearing that the Commission's letter of September 7, 1961, was received on September 13, 1961, but no reply thereto was made; and

It further appearing that the Commission, on November 2, 1961, again directed a letter by Certified Mail—Return Receipt Requested (No. 97309) to the licensee pursuant to section 308(b) of the Communications Act of 1934, as amended, requesting that he reply to certain interrogatories contained therein within ten days of his receipt of such letter; and

It further appearing that, the Commission's letter of November 2, 1961, was received on November 14, 1961, but that no reply thereto was made; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated section 308(b) of the Communications Act of 1934, as amended;

It is ordered, This 22d day of December 1961, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291 (b) (8) of the Commission's Statement of Delegations of Authority that the licensee show cause why the license for Citizens Radio Station 6Q1601 should not be revoked and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this Order by Certified Mail (Air Mail)—Return Receipt Requested to Clifford C. Hayes, 353 Grove Street, Charleston, S.C.

Released: December 26, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-12408; Filed, Dec. 29, 1961;
8:46 a.m.]

[Docket Nos. 14097-14100; FCC 61-1497]

LINDSAY BROADCASTING CO. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Richard E. Lindsay, tr/as Lindsay Broadcasting Company, Punta Gorda, Florida, Docket No. 14097, File No. BP-12914; Peace River Broadcasting Corporation, Punta Gorda, Florida, Docket No. 14098, File No. BP-13336; William H. Martin, Fort Myers, Florida, Docket No. 14100, File No. BP-13997; for construction permits.

1. The Commission has before it for consideration (1) a petition to enlarge issues, filed October 25, 1961, by Richard E. Lindsay; (2) an opposition filed by William H. Martin on November 1, 1961; (3) Lindsay's reply, filed November 13, 1961; (4) the Broadcast Bureau's com-

ments, filed November 17, 1961; and (5) Lindsay's reply to the Bureau, filed November 30, 1961.

2. Lindsay and Martin each request that an issue be added to determine what efforts have been made by the other to ascertain the programing needs of the area he proposes to serve and the manner in which he proposes to meet such needs. In support of these requests, each relies upon the fact that the programing proposals of the other are substantially identical with program proposals contained in other applications with which the other is, or has been, associated. Lindsay and Martin oppose each other's request; each of them asserts that he is familiar with the community he proposes to serve, and supports these assertions with allegations that he has visited the community on numerous occasions and has talked with several civic and business leaders concerning the proposed operation. The assertions of each in this regard are disputed by the other.

3. The identity of programing proposals for different communities raises a substantial question as to whether, or the extent to which, the programing proposals have been tailored to meet the needs of the area proposed to be served, particularly where, as here, it is not clear to what extent either Lindsay or Martin based his programing proposals on the previously ascertained needs of the community proposed to be served. The Commission is, therefore, of the view that both Martin and Lindsay should be required to show at an evidentiary hearing the manner in which, and when, each of them ascertained these needs, and to show that their respective programing proposals were designed to meet these needs.

4. Martin also requests that the issues be enlarged to determine whether Lindsay can be relied upon to carry out his programing proposals. In support of this request, Martin alleges that on May 26, 1954, Lindsay signed as secretary an application of Chronicle Publishing Company, Inc., for a new standard broadcast station at Marion, Ind. This application was subsequently granted, and the call letters WMRI were assigned to it. Lindsay was also a director of this applicant and its largest (16 percent) single stockholder. Martin alleges that although this applicant proposed a balanced program schedule, its 1958 renewal application discloses that in its first license period, WMRI departed from its programing proposals in the following respects: 46 percent of its time, as against 16.3 percent as proposed, was devoted to news; no time was devoted to educational programs, although 3.5 percent had been proposed; the time devoted to religious programs was reduced from the proposed 8.4 percent to 4 percent; and that there was a reduction from 60.8 percent to 36 percent in the time devoted to entertainment. However, as pointed out by Lindsay in his opposition to Martin's request, this stock interest was not sufficient to vest in him legal control over the operation of Station WMRI, and Martin has made no showing that Lindsay was responsible for the program changes. Under the circumstances, the request for this issue will be denied.

5. Both Lindsay and Martin contend that the other did not have good cause for the late filing of his request for enlargement of the issues. In view of the importance of the questions raised by the pleadings before us, we have considered them on our own motion, and the question of whether there was good cause thus becomes academic.

Accordingly, it is ordered, This 20th day of December 1961, That the petition to enlarge issues, filed October 25, 1961, by Richard E. Lindsay, tr/as Lindsay Broadcasting Company, and the request for alternate relief, filed November 1, 1961, by William H. Martin, are granted to the extent indicated herein and in all other respects are denied;

It is further ordered, That the issues in this proceeding are amended by renumbering issues 6 and 7 as issues 7 and 8, and that the issues in this proceeding are enlarged by the addition of the following issue:

6. To determine what efforts have been made by William H. Martin and Richard E. Lindsay, respectively, to determine the programing needs of the area he proposes to serve and the manner in which he proposes to meet such needs.

Released: December 27, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-12409; Filed, Dec. 29, 1961;
8:46 a.m.]

[Docket Nos. 14453-14454; FCC 61-1503]

WILLIAM B. NEAL AND JAMES R. WILLIAMS

Memorandum Opinion and Order Designating Applications for Con- solidated Hearing on Stated Issues

In re applications of William B. Neal, Joplin, Missouri, requests: 1560 kc, 250 w, Day, Docket No. 14453, File No. BP-13695; James R. Williams, Lamar, Missouri, requests: 1560 kc, 250 w, Day, Docket No. 14454, File No. BP-14087.

1. The Commission has before it for consideration the above captioned applications for new standard broadcast stations and a "Petition by William B. Neal for Reconsideration of the Commission's Memorandum and Order Released October 13, 1961." The background of this proceeding has been fully set forth in the Commission's Order of October 13, 1961, and will not be repeated here. In substance, the Commission, at that time, refused to grant a joint request by the subject applicants for approval of an agreement whereby Williams would withdraw his subject application and Neal would reimburse Williams for the expenses incurred in connection with preparing and filing his application. Instead, the Commission found that a prime factor in any choice between these two mutually exclusive applications would be determination, pursuant to section 307(b) of the act, as to which proposal would better provide a fair, effi-

¹ Commissioner Hyde dissenting in opinion.

cient, and equitable distribution of radio service; that since Joplin has three existing stations and Lamar has none a strong presumption of need for first service arises in the case of the latter application; and that the public interest would not be served by approving a removal of the demand for service at Lamar without allowing other prospective applicants a chance to file for similar facilities. Accordingly, the Commission invoked § 1.316(b) of the rules and directed Williams to publish local notice, at Lamar, of his intention to withdraw and of the fact that any new application for a broadcast station for Lamar, on 1560 kc, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn would be entitled to comparative consideration with other mutually exclusive applications if filed no later than 30 days following the last date of publication of the notice required.

2. On October 18, 1961, following release of the Order noted above, the Commission received another letter from James R. Williams. Mr. Williams stated that he wished to "reinstate" his application and that he had not received any payment from William B. Neal for its withdrawal. On October 30, 1961, William B. Neal filed the present subject petition. In seeking reconsideration of the Commission's Order of October 13, Neal advances numerous substantive contentions to support his position that the Commission's action, upon the then facts, was an improper application of § 1.316(b) of the rules. It is unnecessary for us to consider these contentions, however, since they are rendered moot by petitioner's further statement, supported by letters submitted with the petition, that he has now rescinded his agreement with Mr. Williams.

3. Since no agreement to withdraw the Williams application for Lamar now exists—and lacking any indication that either party has attempted to abuse the Commission processes—the state of facts as between the two subject applicants must revert to that existing prior to the submission of the joint request for Williams' dismissal on March 29, 1961.

4. Petitioner contends, further, that if the state of facts prior to March 29, 1961, is restored, the Williams application should be dismissed immediately for failure to file the revised section V-A of the application Form 301. It is true that James R. Williams had not, on March 29, 1961, filed an acceptable revised section V-A, nor has Williams yet filed that section. It is equally true that failure to file the section V-A prior to January 10, 1961—as provided by Commission Public Notice—rendered the Williams application subject to dismissal. However, two factors persuade us that the public interest would not here be served through dismissal of the Williams application. First, the Commission had completed its study of the application, without the revised section V-A, prior to the listed

"cut-off" date of the application. Additionally, the unique circumstances of this case—in which dismissal of the Lamar application would remove the only demand for service for a city having no local service—weigh strongly against dismissal of the Williams application.

5. Accordingly, the subject applications must be designated for hearing to determine which, if either, should be granted. Prior to the necessary determination, pursuant to section 307(b) of the act, as to which proposal would better provide a fair, efficient, and equitable distribution of radio service, it will be necessary to examine the efforts made by James R. Williams to determine the programming needs of the area he seeks to serve and the manner in which he proposes to meet those needs. Williams has proposed no programming in the "Discussion" or "Talks" categories and has submitted a skeletal program schedule giving but scant indication of the actual content of the broadcasts to occur.

6. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below. Accordingly: *It is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the subject proposals and the availability of other primary service to such areas and populations.

2. To determine the efforts made by James R. Williams to ascertain the programming needs and interests of the area to be served and the manner in which James R. Williams proposes to meet such needs and interests.

3. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the instant applications should be granted.

It is further ordered, That the aforementioned petition filed October 30, 1961, by William B. Neal is granted to the ex-

tent heretofore indicated and is denied in all other respects.

It is further ordered, That this order shall supersede, in all respects, the Commission's Memorandum Opinion and Order released October 13, 1961, pertaining to the two subject applicants.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission rules, give notice of the hearing (either individually or, if feasible, jointly), within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(g) of the rules.

It is further ordered, That the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Adopted: December 20, 1961.

Released: December 26, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-12410; Filed, Dec. 29, 1961;
8:46 a.m.]

[List No. ON-2]

CANADIAN BROADCASTING STATIONS

Outstanding Notifications to OIR of Stations Which Are Not Yet in Corresponding Operation Because of Difficulties Beyond Control of the Administration

AUGUST 1, 1961.

Call letters	Location	Power kw	Frequency kc	Operation time class	
New CHLP	Port St. John, B.C. Montreal, P.Q.	1 10	590 1410	DA-1 DA-1	U III U III

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-12411; Filed, Dec. 29, 1961; 8:46 a.m.]

[List No. ON-3]

CANADIAN BROADCASTING STATIONS

Outstanding Notifications to OIR of Stations Which are Not Yet in Corresponding Operation Because of Difficulties Beyond Control of the Administration

NOVEMBER 1, 1961.

Call letters	Location	Power kw	Frequency kc	Operation time class	
New	Langley Prairie, Manitoba	1	850	DA-2	U II
New	Winnipeg, Manitoba	5	1470	DA-1	U III
New	New Westminster, B.C.	5	1480	DA-1	U III
New	Calgary, Alta	10	1550	DA-1	U II

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-12412; Filed, Dec. 29, 1961; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Project No. 1971]

IDAHO

Notice of Land Withdrawal
(Modification)

DECEMBER 26, 1961.

In the matter of Idaho Power Company, Boise-Brady No. 2, 230 kv Transmission Line, Project No. 1971.

Conformable to the provisions of section 24 of the Act of June 10, 1920 (41 Stat. 1063), as amended, this Commission, on September 19, 1960, gave notice of the reservation of approximately 2,030 acres of United States land pursuant to the filing on July 8, 1960, of map exhibits for this right-of-way.

On October 30, 1961, The Idaho Power Company filed revised maps Exhibits "J", sheets 1 and 2, and Exhibit K sheet 2, (FPC Nos. 1971-192, 193, and 194 respectively) of the "as built" Boise-Brady No. 2 transmission line and location changes.

A re-examination of the project land, in accordance with the above mentioned revised maps filed October 30, 1961, indicates the realignment of the transmission line affects United States land not previously included in a land withdrawal notice.

Therefore, in accordance with section 24 of the act of June 10, 1920 (41 Stat. 1063), as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 1971 and are, from the date of filing of revised map exhibits, October 30, 1961, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

BOISE MERIDIAN

All portions of the following described subdivisions lying within 75 feet, on either side of the center line survey of the transmission line right-of-way location as delimited on map Exhibit "K" sheet 2 (FPC No. 1971-194).

T. 5 S., R. 12 E.,
sec. 23: S $\frac{1}{2}$ N $\frac{1}{2}$;
sec. 24: S $\frac{1}{2}$ N $\frac{1}{2}$.

T. 5 S., R. 13 E.,
sec. 19: Lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
sec. 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
sec. 30: NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The general determination made by the Commission at its meeting of April 17, 1922 (2d Ann. Report 128), with respect to lands reserved for power transmission line purposes only, is applicable to those portions of the above-described land occupied for that purpose only.

The additional project land reserved by this notice is approximately 63.60 acres.

Copies of revised maps, FPC Nos. 1971-192, 193, and 194, are being transmitted to the Bureau of Land Management, Bureau of Reclamation and Geological Survey.

JOSEPH H. GUTRIDE,
Secretary.[F.R. Doc. 61-12400; Filed, Dec. 29, 1961;
8:45 a.m.]

[Docket No. CP62-126]

TRUNKLINE GAS CO.

Notice of Application and Date of
Hearing

DECEMBER 22, 1961.

Take notice that on November 21, 1961, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston 1, Tex., filed in docket No. CP62-126 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 field facilities to enable applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1962, at a total cost not to exceed \$2,500,000, with no single project to exceed a cost of \$500,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its existing pipeline system new supplies of

natural gas which will be purchased from producers thereof in various areas generally coextensive with said system.

Applicant proposes to finance the subject facilities 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 January 24, 1962, 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 19, 1962. 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.

JOSEPH H. GUTRIDE,
Secretary.[F.R. Doc. 61-12401; Filed, Dec. 29, 1961;
8:45 a.m.]

[Docket No. CP62-124]

SOUTH TEXAS NATURAL GAS
GATHERING CO.Notice of Application and Date of
Hearing

DECEMBER 28, 1961.

Take notice that on November 20, 1961, South Texas Natural Gas Gathering Company (Applicant), P.O. Box 521, Corpus Christi, Tex., filed in docket No. CP62-124 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 approximately 65 miles of 16-inch and 6 miles of smaller diameter pipeline, a 2,500 horsepower addition to Applicant's existing Compressor Station No. 10, and appurtenant facilities, and authority to sell and deliver an additional volume of up to 70,000 Mcf of natural gas per day through the aforesaid facilities to Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application and exhibits which are on file with the Commission and open to public inspection.

The purpose of the subject application is to effectuate that provision in Applicant's basic contract dated February 17, 1959, with Transco, on file with the Commission as Applicant's FPC Gas Rate Schedule No. 2, which provides for an increase in deliveries from the presently authorized maximum of 140,000 Mcf per day to 210,000 Mcf per day commencing with the 1961-62 winter heating season. The increased volumes of gas proposed to be made available to Transco are intended to augment Transco's supply for its existing customers. No new markets are proposed to be supplied by Transco from these volumes.

The estimated total cost of the facilities proposed under this application is \$3,243,000 which will be financed by the private sale of new securities.

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 January 25, 1962, 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 19, 1962. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-12377; Filed, Dec. 29, 1961;
8:47 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATORS

Delegation of Authority With Respect
to Loans for Housing for the Elderly

Each Regional Administrator of the Housing and Home Finance Agency, in carrying out the program of loans for housing for the elderly on behalf of the Housing and Home Finance Administration through the Community Facilities Administration, is hereby authorized un-

der section 202 of the Housing Act of 1959, as amended (73 Stat. 667, as amended, 12 U.S.C. 1701q):

1. To execute loan agreements;
2. To amend or modify any such loan agreement;
3. To redelegate to the Regional Director of Community Facilities Activities the authority delegated herein; and
4. In the case of the Regional Administrator, Region VI (San Francisco), to redelegate to the Director for Northwest Operations, Region VI, at Seattle, Wash., any of the authority delegated herein.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 22d day of December 1961.

[SEAL] ROBERT C. WEAVER,
Housing and Home
Finance Administrator.

[F.R. Doc. 61-12406; Filed, Dec. 29, 1961;
8:45 a.m.]

OFFICE OF EMERGENCY PLANNING

REQUEST TO PARTICIPATE IN VOLUNTARY AGREEMENT RELATING TO FOREIGN PETROLEUM SUPPLY, AS FURTHER AMENDED TO CREATE A SPECIAL SUBCOMMITTEE OF THE FOREIGN PETROLEUM SUPPLY COMMITTEE

Pursuant to section 708 of the Defense Production Act of 1950, as amended, the request set forth below to participate in the Voluntary Agreement Relating to Foreign Petroleum Supply, as amended, was approved by the Attorney General, after consultation with respect thereto between the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Office of Emergency Planning. The companies listed below have accepted the request to participate in the voluntary agreement as amended.

The existing Voluntary Agreement Relating to Foreign Petroleum Supply is further amended to authorize the creation of a special subcommittee of the Foreign Petroleum Supply Committee to be composed of technical experts from the oil companies who are capable of making petroleum studies needed by the Government for national defense preparedness. This amended voluntary agreement has been approved by the Director of the Office of Emergency Planning and found to be in the public interest as contributing to the national defense.

The request and original list of members were published in 21 F.R. 5703, July 28, 1956; and additional acceptances were published in 21 F.R. 6687, Sept. 5, 1956; 21 F.R. 6964, Sept. 14, 1956; 21 F.R. 7640, Oct. 4, 1956; 22 F.R. 1162, Feb. 27, 1957, and 25 F.R. 4937, June 3, 1960.

CONTENTS OF REQUEST

The Secretary of the Interior has recommended that the existing Voluntary Agreement Relating to Foreign Petroleum Supply be further amended to authorize the creation

of a special subcommittee of the Foreign Petroleum Supply Committee to be composed of technical experts from the oil companies who are capable of making the complex petroleum studies needed by the Government for national defense preparedness. You are requested to participate in the activities of the Voluntary Agreement Relating to Foreign Petroleum Supply, as so amended. Copies of the agreement and the amendment are enclosed herewith.

The Attorney General has approved this request after consultation with respect thereto between his representatives, representatives of the Chairman of the Federal Trade Commission and my representatives, pursuant to section 708 of the Defense Production Act of 1950, as amended.

I have approved the voluntary agreement, as amended, and have found it to be in the public interest as contributing to the national defense. You will become a participant therein upon notifying me in writing of your acceptance of this request. Will you kindly also send two copies of your acceptance to the Director, Office of Oil and Gas, Department of the Interior, Washington 25, D.C.

Immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act will be given upon such acceptance, provided that the activities of the Foreign Petroleum Supply Committee and its subcommittees and your participation therein are within the limits set forth in the voluntary agreement, as amended. The earlier requests for your participation in the activities of this committee are superseded and withdrawn.

Your cooperation in this matter will be appreciated.

Sincerely,

FRANK B. ELLIS,
Director.

The following companies have agreed to participate in the amended voluntary agreement and this list supersedes previous publications in the FEDERAL REGISTER of membership in the Voluntary Agreement Relating to Foreign Petroleum Supply, as amended.

American Independent Oil Company, New York, N.Y.
Arabian American Oil Company, New York, N.Y.
California Transport Corporation, San Francisco, Calif.
Caltex Oil Products Company, New York, N.Y.
Cities Service Company, Inc., New York, N.Y.
Continental Oil Company, Houston, Tex.
Gulf Oil Corporation, Pittsburgh, Pa.
Phillips Petroleum Company, Bartlesville, Okla.
Plymouth Oil Company, Pittsburgh, Pa.
Signal Oil and Gas Company, Los Angeles, Calif.
Sinclair Oil Corporation, New York, N.Y.
Socony Mobil Oil Company, Inc., New York, N.Y.
Standard Oil Company of California, San Francisco, Calif.
Standard Oil Company (Indiana), Chicago, Ill.
Standard Oil Company, Inc. (New Jersey), New York, N.Y.
The Standard Oil Company (Ohio), Cleveland, Ohio.
Standard-Vacuum Oil Company, White Plains, N.Y.
Sunray Mid-Continent Oil Company, Tulsa, Okla.
The Atlantic Refining Company, Philadelphia, Pa.
The Frontier Refining Company, Denver, Colo.
The Ohio Oil Company, Findlay, Ohio.
Texaco, Incorporated, New York, N.Y.
Tidewater Oil Company, Los Angeles, Calif.

(Sec. 708, 64 Stat. 818, as amended; 50 U.S.C. App. Sup. 2158; E.O. 10480, Aug. 14, 1953; 18 F.R. 4939; Reorg. Plan No. 1 of 1958; 23 F.R. 4991, as amended; E.O. 10773, July 1, 1958, 23 F.R. 5061; E.O. 10782, Sept. 6, 1958, 23 F.R. 6971)

Dated: December 26, 1961.

FRANK B. ELLIS,
Director,
Office of Emergency Planning.

[F.R. Doc. 61-12402; Filed, Dec. 29, 1961;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3848]

APEX MINERALS CORP.

Order Summarily Suspending Trading

DECEMBER 26, 1961.

The common stock, \$1.00 par value, of Apex Minerals Corp., being listed and registered on the San Francisco Mining Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934, and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in said security on the San Francisco Mining Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, December 27, 1961 to January 5, 1962, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 61-12388; Filed, Dec. 29, 1961;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 27, 1961.

Protests to the granting of an application must be prepared in accordance

with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37491: *Sand to Crossville and Harrisburg, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-8122), for interested rail carriers. Rates on sand, noibn, in carloads, from Van Buren, Ark., Joe, Kengle, Price, Shirk, and Tulsa, Okla., to Crossville and Harrisburg, Ill. Grounds for relief: Market competition.

Tariff: Supplement 142 to Southwestern Freight Bureau tariff I.C.C. 4319.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-12392; Filed, Dec. 29, 1961;
8:46 a.m.]

[Notice 18]

APPLICATIONS FOR LOAN GUARANTIES

DECEMBER 26, 1961.

Notice is hereby given of the filing of the following application under Part V of the Interstate Commerce Act:

Finance docket No. 21888 filed December 21, 1961, by Boston and Maine Railroad, 150 Causeway Street, Boston 14, Mass., for guaranty by the Interstate Commerce Commission of a loan in amount not exceeding \$5,845,348. Applicant's representative: G. F. Glacy, Vice President—Accounting and Finance, Boston and Maine Railroad, 150 Causeway Street, Boston 14, Mass. Loan is for the purpose of the refinancing of certain additions and betterments and other capital improvements made after January 1, 1957.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-12393; Filed, Dec. 29, 1961;
8:46 a.m.]

[Sec. 5a, Application 3]

EASTERN RAILROADS

Application for Approval of Amendments to Agreement

DECEMBER 27, 1961.

The Commission is in receipt of an application in the above-entitled and numbered proceeding for approval of amendments to the agreement therein approved under the provisions of section 5a of the Interstate Commerce Act.

Filed December 20, 1961, by J. W. Grady, General Commerce Counsel, The New York, New Haven and Hartford Railroad Co., 54 Meadow Street, New Haven 6, Conn.

Amendments involved: Change the agreement (1) by abolishing the New England Passenger Committee and the

Trunk Line-Central Passenger Committee and combining their functions in the new General Passenger Committee-Eastern Railroads, and making such other incidental changes as are necessary in this connection; and (2) by adding "(Richard Joyce Smith, William J. Kirk and Harry W. Dorigan, Trustees)" to the name of The New York, New Haven and Hartford Railroad Co.

The application may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-12394; Filed, Dec. 29, 1961;
8:46 a.m.]

[Rev. S.O. 562, Amdt. 1 to Taylor's I.C.C. Order 133]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND SOUTHERN RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 133 (the Louisville and Nashville Railroad Co. and the Southern Railway Co.) and good cause appearing therefor:

It is ordered, That Taylor's I.C.C. Order No. 133 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1962, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p.m., January 8, 1962, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 26, 1961.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 61-12395; Filed, Dec. 29, 1961;
8:46 a.m.]

[Rev. S.O. 562, Amdt. 4 to Taylor's I.C.C. Order 136]

RUTLAND RAILROAD CORP.

Rerouting or Diversion of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 136 (Rutland Railroad Corp.) and good cause appearing therefor:

It is ordered, That Taylor's I.C.C. Order No. 136 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1962, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 31, 1961, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 26, 1961.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 61-12396; Filed, Dec. 29, 1961; 8:46 a.m.]

FINANCE REVIEW BOARD

Specification of Types of Cases in Respect of Which Determinations May Be Made

It appearing, that Item 7.6(d) of the Organization Minutes of the Commission (26 F.R. 4773, 5167, 8434, and 10991) delegates to the Finance Review Board authority to determine matters in proceedings under the provisions of law set forth in Item 4.4 thereof in cases or types of cases specified from time to time by the Chairman of Division 3 of the Commission, which have involved (other than by the board) the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits:

It is ordered, That the following types of cases, limited to those which have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, are specified in respect of which determinations may be made by the said Finance Review Board:

(a) Proceedings under section 1 (18) to (20), inclusive, relating to certificates of public convenience and necessity;

(b) Proceedings under section 5(2) involving (1) acquisition by a carrier by railroad of trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned by any other such carrier, or (2) transactions which do not involve any carrier whose operating revenues, in the last calendar year for which data are contained in the record exceed \$1 million;

(c) Proceedings under sections 207 and 209 directly related to proceedings specified in paragraph (b) above;

(d) Proceedings under section 20a (2) to (4), inclusive, and section 214, relating to securities;

(e) Proceedings under sections 212(b), 312, and 410(g), relating to the transfer of certificates and permits:

Provided, however, That the aforesaid specification shall be effective in respect to particular cases of the classes named on and after the date of service of a recommended order of a hearing examiner or joint board, in such a case, or the effective date of this order, whichever date is later: *And provided further*, That this specification shall not apply to (a) cases which on the effective date hereof are under active consideration by a Commissioner, a Division, or the Commission, or (b) any case which has been consolidated for the purpose of an examiner's report and recommended order with a case not delegated to the said board.

It is further ordered, That this order shall be effective on January 1, 1962.

Dated at Washington, D.C., this 20th day of December A.D. 1961.

By the Commission, Commissioner Tuggle.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-12211; Filed, Dec. 29, 1961; 8:47 a.m.]

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