FEDERAL REGISTER

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Pages 4281–4315

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Atomic Energy Commission
Civil Aeronautics Board
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
General Services Administration
Housing and Urban Development Department
Interim Compliance Panel
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Narcotics and Dangerous Drugs Bureau
Packers and Stockyards Administration
Public Health Service
Securities and Exchange Commission
Small Business Administration

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Volume 82

UNITED STATES STATUTES AT LARGE

[90th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1968, reorganization plans, and Presidential proclamations. Also included are: a subject index, tables of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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Title 7—AGRICULTURE

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 131]

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

Order Terminating Certain Provisions

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Arizona marketing area.

It is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. In § 1131.71(f), "except for the months specified below, shall be"; and
2. Paragraphs (g) through (k) of § 1131.71 in their entirety.

STATEMENT OF CONSIDERATION

This action will terminate the "take-out-payback" plan for paying producers, which provides for withholding from the pool 15 cents per hundredweight of producer deliveries in April, May, and June for distribution to producers in August, September, and October, according to their deliveries in these latter months.

Discontinuance of the takeout-payback plan was requested by the United Dairymen of Arizona, a cooperative representing about 80 percent of the Central Arizona order producers. The basis for the request of the cooperative is that the takeout-payback plan is no longer serving the purpose for which it was originally instituted in the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(b) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Interested parties were afforded opportunity to file written data, views, or arguments concerning this termination (35 F.R. 3174). None were filed in opposition to the proposed termination.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby terminated.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on March 5, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-2879; Filed, Mar. 9, 1970; 8:48 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, subparagraph (e)(6) relating to the State of Massachusetts is amended to read:

(e) * * *

(6) *Massachusetts.* Bristol and Middlesex Counties.

2. In § 76.2, subparagraph (e)(8) relating to the State of Mississippi, subdivision (v) relating to Tallahatchie and Grenada Counties is deleted.

3. In § 76.2, subparagraph (e)(9) relating to the State of Missouri is amended to read:

(e) * * *

(9) *Missouri.* The adjacent portions of Dunklin and Stoddard Counties bounded by a line beginning at the junction of State Highway U and the Missouri-Arkansas State line; thence, following State Highway U in an easterly direction to State Highway 25; thence, following State Highway 25 in a southerly direction to U.S. Highway 62; thence following U.S. Highway 62 in a westerly direction to State Highway 53; thence, following State Highway 53 in a southeasterly direction to State Highway B; thence, following State B in a westerly direction to State Highway BB; thence, following State Highway BB in a westerly direction to the Missouri-Arkansas State line; thence, following the Missouri-Arkansas State line in a generally northerly direction to its junction with State Highway U.

4. In § 76.2, subpargraph (e)(12) relating to the State of North Carolina, subdivision (i) relating to Duplin and Lenoir Counties and subdivision (iii) relating to Jones, Lenoir, and Craven Counties are amended to read:

(e) * * *

(12) *North Carolina.*

(i) That portion of Lenoir County bounded by a line beginning at the junction of State Road 1121 and the Lenoir-Duplin County line; thence, following State Road 1121 in a southeasterly direction to State Road 1120; thence, following State Road 1120 in a northeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a southerly direction to the Lenoir-Jones County line; thence, following the Lenoir-Jones County line in a southwesterly direction to the Lenoir-Duplin County line; thence, following the Lenoir-Duplin County line in a northerly direction to its junction with State Road 1121.

* * * * *

(iii) That portion of Lenoir County bounded by a line beginning at the junction of Secondary Roads 1807 and 1804; thence, following Secondary Road 1804 in a southwesterly direction to U.S. Highway 70; thence, following U.S. Highway 70 in a northwesterly direction to U.S. Highway Bypass 70, 258; thence, following U.S. Highway Bypass 70, 258 in a northwesterly direction to U.S. Highway Business 70, 258; thence, following U.S. Highway Business 70, 258 in an easterly direction to State Highway 11; thence, following State Highway 11 in a northeasterly direction to Secondary Road 1807; thence, following Secondary Road 1807 in an easterly direction to its junction with Secondary Road 1804.

* * * * *

5. In § 76.2, subparagraph (e)(12) relating to the State of North Carolina, subdivision (iv) relating to Lenoir County is deleted and a new subdivision (iv) relating to Duplin County is added to read:

(e) * * *

(12) *North Carolina.*

* * * * *

(iv) That portion of Duplin County bounded by a line beginning at the junction of State Highway 24 and the Duplin-Onslow County line; thence, following the Duplin-Onslow County line in a southwesterly direction to State Road 1715; thence, following State Road 1715 in a southwesterly direction to State Highway 50; thence, following State Highway 50 in a northwesterly direction to the Northeast Cape Fear River; thence, following the east bank of the

Northeast Cape Fear River in a northwesterly direction to State Highway 24; thence, following State Highway 24 in a generally easterly direction to its junction with the Duplin-Onslow County line.

* * * * *

6. In § 76.2, subparagraph (e)(16) relating to the State of Texas, a new subdivision (xii) relating to Smith County is added to read:

(e) * * *

(16) *Texas.*

(xii) That portion of Smith County bounded by a line beginning at the junction of State Highway 31 and the Smith-Henderson County line; thence, following State Highway 31 in a northeasterly direction to U.S. Highway 69; thence, following U.S. Highway 69 in a southerly direction to the Smith-Cherokee County line; thence, following the Smith-Cherokee County line in a westerly direction to the Smith-Henderson County line; thence, following the Smith-Henderson County line in a northerly direction to its junction with State Highway 31.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Smith County, Tex., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to such County.

The amendments also exclude Worcester County, Mass.; portions of Tallahatchie and Grenada Counties in Miss.; a portion of Scott County in Mo.; and portions of Craven, Duplin, Jones, and Lenoir Counties in N.C., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of March 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-2852; Filed, Mar. 9, 1970; 8:46 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, subparagraph (e)(17) relating to the State of Virginia, a new subdivision (xii) relating to Augusta County is added to read:

(e) * * *

(17) *Virginia.*

* * * * *

(xii) That portion of Augusta County bounded by a line beginning at the junction of U.S. Highways 250 and 340; thence, following U.S. Highway 250 in a southeasterly direction to Secondary Highway 610; thence, following Secondary Highway 610 in a southwesterly direction to Secondary Highway 634; thence, following Secondary Highway 634 in a northerly direction to Secondary Highway 635; thence, following Secondary Highway 635 in a northerly direction to U.S. Highway 340; thence, following U.S. Highway 340 in a northeasterly direction to its junction with U.S. Highway 250.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines a portion of Augusta County in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area designated herein.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of March 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-2880; Filed, Mar. 9, 1970; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Maximum Rates on Certain Multiple Maturity Time Deposits

1. Effective January 21, 1970, subparagraph (b) of § 217.7 (Supplement to Regulation Q) is amended to read as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(b) *Multiple maturity time deposits.* No member bank shall pay interest on a multiple maturity time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity intervals	*Maximum per cent*
30 days or more but less than 90 days	4½
90 days or more but less than 1 year	5
1 year or more but less than 2 years	5½
2 years or more	5¾

* * * * *

2a. This amendment is designed to permit member banks to pay, effective January 21, 1970 (1) 5½ percent on multiple maturity time deposits payable only 1 year or more after the date of deposit, or 1 year or more after the last preceding date on which it might have been paid, and (2) 5¾ percent on such deposits payable only 2 years or more after the date of deposit, or 2 years or more after the last preceding date on which it might have been paid. The Board previously authorized member banks to pay, effective January 21, 1970, such rates on single maturity time deposits in amounts less than $100,000 and with like maturities (35 F.R. 1156).

b. The amendment was adopted in view of the convenience to bank customers of automatic renewal and the practice followed by the Federal Home Loan Bank Board in permitting automatic

renewal of similar deposits in savings and loan institutions.

c. Requirements of section 553(b) of Title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment. The Board found that, in the circumstances, the public interest compelled it to take action at the earliest practicable time and to make the action retroactive to the date of its action raising the maximum rates payable on single maturity time deposits.

By order of the Board of Governors, February 26, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-2857; Filed, Mar. 9, 1970; 8:46 a.m.]

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Multiple Maturity Time Deposits

1. Effective January 21, 1970, paragraph (b) of § 329.6 and paragraph (b) of § 329.7 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 329.6, 329.7) are amended and a new paragraph (f) is added to § 329.9 (12 CFR 329.9) to read as follows:

§ 329.6 Maximum rates of interest payable on time and savings deposits by insured nonmember banks.

* * * * *

(b) *Multiple maturity time deposits.* No insured nonmember bank shall pay interest on a multiple maturity time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity intervals	*Maximum percent per annum*
30 days or more but less than 90 days	4½
90 days or more but less than 1 year	5
1 year or more but less than 2 years	5½
2 years or more	5¾

* * * * *

§ 329.7 Maximum rates[14] of interest or dividends payable on deposits by insured nonmember mutual savings banks.

* * * * *

(b) * * *

(2) *Multiple maturity time deposits.* No insured nonmember mutual savings bank shall pay interest on a multiple maturity time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity intervals	*Maximum percent per annum*
90 days or more but less than 1 year	5¼
1 year or more but less than 2 years	5¾
2 years or more	6

* * * * *

§ 329.9 Savings banks in Massachusetts not insured by FDIC.

* * * * *

(f) *Multiple maturity time deposits.* No noninsured savings bank in the Commonwealth of Massachusetts shall pay interest or dividends on a multiple maturity time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity intervals	*Maximum percent per annum*
1 year or more but less than 2 years	5¾
2 years or more	6

(Sec. 9, 18(g), 64 Stat. 881–82, 83 Stat. 371; 12 U.S.C. 1819, 1828(g))

2a. These amendments are designed to permit insured nonmember commercial banks to pay, effective January 21, 1970, (1) 5½ percent per annum on multiple maturity time deposits payable only 1 year or more after the date of deposit, or 1 year or more after the last preceding date on which it might have been paid, and (2) 5¾ percent per annum on such deposits payable only 2 years or more after the date of deposit, or 2 years or more after the last preceding date on which it might ahve been paid, and to permit insured mutual savings banks and noninsured savings banks in Massachusetts to pay, effective January 21, 1970 (1) 5¾ percent per annum on multiple maturity time deposits payable only 1 year or more after the date of deposit, or 1 year or more after the last preceding date on which it might have been paid, and (2) 6 percent per annum on such deposits payable only 2 years or more after the date of deposit, or 2 years or more after the last preceding date on which it might have been paid. The Corporation previously authorized insured State nonmember banks and noninsured savings banks in Massachusetts to pay, effective January 21, 1970, such rates on single maturity time deposits in amounts less than $100,000 and with like maturities (35 F.R. 1157).

b. The amendments were adopted in view of the convenience to bank customers of automatic renewal and the practice followed by the Federal Home Loan Bank Board in permitting automatic renewal of similar deposits in savings and loan institutions.

c. The requirements of sections 553(b) and 553(d) of Title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment because the Board found that, in the circumstances, the public interest compelled it to take action at the earliest practicable time and to make the action retroactive to the date of its action raising the maximum rates payable on single maturity time deposits.

By order of the Board of Directors, February 27, 1970.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY, *Secretary.*

[F.R. Doc. 70-2740; Filed, Mar. 9, 1970; 8:45 a.m.]

[No. 23,862]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 556—STATEMENTS OF POLICY

Procedure on Certain Applications

MARCH 4, 1970.

Resolved that the Federal Home Loan Bank Board, for the purpose of implementing recent regulatory amendments of Parts 543 and 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Parts 543 and 545), which were published at 35 F.R. 2509, to inform the public and affected Federal savings and loan associations of the internal processing procedure which will be followed in the handling of applications for permission to organize Federal savings and loan associations and for permission to establish branch office and mobile facilities for such associations, hereby amends § 556.5 of the rules and regulations for the Federal Savings and Loan System (12 CFR 556.5) by revising it to read as follows:

§ 556.5 Establishment of Federal savings and loan associations and branch office and mobile facilities of such associations.

(a) *Internal processing procedure.* The Board deems it advisable that applicants for permission to organize Federal savings and loan associations and Federal associations who are applicants for permission to establish branch offices and mobile facilities, and persons who are interested in such applications, be informed of certain general instructions by the Board governing staff handling of applications and of the timetable for handling applications which the Board has adopted as an objective, as follows:

(1) *Advice of filing of application.* The Supervisory Agent at the time of advice to an applicant to publish notice of the application should send a copy of such advice to the Office of Industry Development, and may send a copy of such advice to State savings and loan authorities, any trade organizations which have local thrift and home financing institutions as members, and any local thrift and home financing institutions which the Supervisory Agent considers might have a competitive interest in the application.

(2) *Obtaining of additional information by Supervisory Agent.* The Supervisory Agent and the Office of Industry Development respectively may, in their discretion, request additional information from applicants or other persons and may make or cause to be made such inspection of the area to be served as they may deem advisable.

(3) *Oral argument.* In any case in which oral argument is scheduled, the Supervisory Agent may provide for consolidation of the oral argument on applications for permission to organize Federal associations or to establish branch office or mobile facilities, or for insurance of accounts of a new State-chartered association by the Federal

Savings and Loan Insurance Corporation to be located in or to serve the same general area. In hearing oral argument, the person presiding may determine the order of presentation by various persons and whether to permit rebuttal, or he may permit the parties to agree on a division of time. In consolidated arguments, he may allow each applicant the full time which would be allowed if there were no consolidated argument. Ordinarily, the arguments should be based only on the facts and information already on file. Occasionally, a party may seek to introduce new matter. If it appears to the person presiding that there is in fact substantive new matter, he should permit the parties to argue on the basis of such new matter, and require the party introducing it to submit a memorandum of such new matter at the time of oral argument. If opposing parties wish to file a rebuttal, the person presiding may allow a reasonable time—10 days should suffice in most cases—for the submission of a rebuttal. The Supervisory Agent should include 3 copies of the transcript in the file which is transmitted to the Board.

(4) *Recommendations to the Board.* An application file forwarded by the Supervisory Agent to the Board in Washington, D.C., should be directed to the Office of Industry Development accompanied by a recommendation by the Supervisory Agent as to Board action thereon, and such recommendation should be supported by a summary and analysis of relevant information. The Office of Industry Development accom- submit the application to the Office of the Secretary accompanied by its recommendation as to Board action thereon, and supported by such additional summary and analysis of relevant information as it deems appropriate.

(5) *Timetable for handling applications.* The following timetable should be the objective in the handling of each application, but the Board recognizes that there may be instances in which circumstances will prevent adherence to the objective:

(i) The Supervisory Agent's report and recommendation should be transmitted to the Office of Industry Development within 60 days following the date of publication of notice by the applicant, if oral argument was not heard, and within 90 days from the date of such publication if oral argument was heard.

(ii) The recommendation to the Board by the Office of Industry Development should be submitted to the Office of the Secretary within 25 days after receipt of the recommendation from the Supervisory Agent.

(iii) The Office of the Secretary should place an application on an agenda which is scheduled to be before the Board within 10 days after receipt of a recommendation from the Office of Industry Development.

(6) *Public inspection.* In making application files available for public inspection at the offices of Supervisory Agents and at the Board offices in Washington, D.C., only the following material should be made available, unless in a particular case there is a determination that additional material is required by law to be made available for inspection:

(i) All information submitted by an applicant except, in the case of an application for a branch office or mobile facility, the proposed budget of the applicant association and information requested by or on behalf of the Board which relates to supervisory matters and except, in the case of an application for petition to organize, the biographical and financial information furnished by applicants on FHLBB Form 139.

(ii) All information submitted by persons who have filed communications in favor or in protest of an application pursuant to the published notice of the application.

(iii) The transcript of oral argument.

(iv) Communications placed in the public record pursuant to § 510.1 of this chapter.

Prior to transmittal of an application file to the Board, the Supervisory Agent should divide the file to separate all material in such file which is not a part of the public record.

(7) *Branch and mobile facility applications—supervisory considerations—*

(i) *Regulatory provisions.* The regulations governing branch and mobile facility applications provide that no such application shall be approved if "in the opinion of the Board, the policies, condition, or operation of the applicant association afford a basis for supervisory objection to the application." Such regulations also provide that the Supervisory Agent shall not advise an applicant to publish notice of such an application unless "it has been preliminarily determined that there is no basis for supervisory objection to approval of the application."

(ii) *Preliminary determination of supervisory objection.* The Director of the Office of Examinations and Supervision is authorized, with respect to any application for a branch office or mobile facility, to make a preliminary determination that there is no basis for supervisory objection, and the Supervisory Agent is authorized, within limits fixed by such Director, to make such determination. If the Director of the Office of Examinations and Supervision is of the opinion that there is any supervisory matter which might afford a basis for preliminary supervisory objection, he should submit the matter to the Board for its decision, together with a report and recommendation. The Director of the Office of Examinations and Supervision shall issue instructions to assure that there is no delay for supervisory reasons in the processing of an application of an association whose policies, condition, or operation, as determined by the Supervisory Agents within limits fixed by the Director, do not afford a basis for preliminary supervisory objection, and, in other cases, to assure that the preliminary determination, or submission to the Board for decision, is made within 30 days from the date of filing of the application.

(iii) *Subsequent determination of supervisory objection.* If at any time subsequent to preliminary supervisory clearance and prior to final Board action on an application for a branch office or mobile facility the Director of the Office of Examinations and Supervision is of the opinion that there is any substantial question that the policies, condition, or operation of the applicant association might afford a basis for supervisory objection to approval of the application, he shall submit to the Board a report and recommendation thereon.

(b) *Policy on approval of branch office and mobile facilities.* (1) As a general policy, the Board permits branches and mobile facilities by Federal savings and loan associations in a particular State if the State law, or State practice in absence of statutory prohibition, permits savings and loan associations, savings banks, or commercial banks of the State to establish branches in such State or to conduct chain, group, or affiliate operations.

(2) It is the Board's policy not to approve the establishment of a branch office or a mobile facility by such an association in a State other than that where the home office of the association is located.

(3) It is the Board's policy to consider applications by such an association for permission to establish a branch office or a mobile facility, or to maintain a branch office acquired as a result of merger, only when the proposed branch office or mobile facility is to be located within 100 miles of the association's home office, unless the association is located in Alaska, Hawaii, or Puerto Rico. This policy is applicable whether or not an association was converted from a State-chartered institution at a time when it made loans on the security of real estate located more than 100 miles from its home office and whether or not it was organized initially as a Federal savings and loan association.

(4) As a general policy under § 545.-14(b), the Board will not consider or process any application by a Federal association for permission to establish a branch office unless the applicant association meets all of the eligibility requirements contained in subparagraphs (1) through (6) of § 545.14(b). However, under the proviso to paragraph (b) of § 545.14, the Board may, in its discretion, permit the consideration and processing of particular branch applications even if the applicant association fails to meet the eligibility requirements contained in subparagraphs (2) and (4) of § 545.14 (b). It is the intention of the Board to permit this special treatment only in connection with applications for branches to serve low-income, inner-city areas which are inadequately served by existing savings and loan facilities.

Applicant associations wishing such special treatment with respect to a particular application must furnish the Supervisory Agent with detailed information demonstrating that the application (or a prior branch application, if it is still pending or if less than 12 months have expired from the date of publication of

notice thereof and the branch is not yet opened) is for a branch office (i) to be located within an area characterized by substandard family incomes, chronically high unemployment, a high percentage of welfare recipients, and substandard housing, and (ii) to fulfill the objectives of facilitating the granting of loans in such area, particularly for construction or rehabilitation of housing, stimulating thrift and providing financial guidance among low-income residents of such area, and providing opportunities for employment or job training for residents of such area. If the Supervisory Agent is satisfied that the above criteria for special treatment of the application have been met, he may determine that the association is eligible under § 545.14(g), and the application may be processed as provided therein.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that Resolution No. 20,913 dated October 4, 1967 (32 F.R. 14345), establishing an internal processing procedure for applications for permission to organize Federal savings and loan associations, and Resolution No. 20,914 dated October 4, 1967 (32 F.R. 14348), establishing an internal processing procedure for applications for permission to establish branch offices of Federal savings and loan associations, are hereby revoked.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM, *Assistant Secretary.*

[F.R. Doc. 70-2883; Filed, Mar. 9, 1970; 8:49 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

Procedure on Applications for Insurance of Accounts

MARCH 4, 1970.

Resolved that the Federal Home Loan Bank Board, for the purpose of implementing recent regulatory amendments of Part 562 of the rules and regulations for Insurance of Accounts (12 CFR Part 562), which were published at 35 F.R. 2514, to inform the public of the internal processing procedure which will be followed in the handling of applications for insurance of accounts, hereby amends Part 571 of the rules and regulations for Insurance of Accounts (12 CFR Part 571) by adding a new § 571.6, to read as follows:

§ 571.6 Internal processing procedure for applications for insurance of accounts.

The Board deems it advisable that applicants for insurance of accounts be informed of certain general instructions by the Board governing staff handling of applications and of the timetable for handling applications which the Board has adopted as an objective, as follows:

(a) *Advice of filing of applications.* The Supervisory Agent at the time of advice to an applicant to publish notice of the application should send a copy of such advice to the Office of Industry Development, and may send a copy of such advice to State savings and loan authorities, any trade organizations which have local thrift and home financing institutions as members, and any local thrift and home financing institutions which the Supervisory Agent considers might have a competitive interest in the application.

(b) *Obtaining of additional information by Supervisory Agent.* The Supervisory Agent and the Office of Industry Development respectively may, in their discretion, request additional information from applicants or other persons and may make or cause to be made such inspection of the area to be served as they may deem advisable.

(c) *Oral argument.* In any case in which oral argument is scheduled, the Supervisory Agent may provide for consolidation of the oral argument on applications for insurance of accounts by new State-chartered institutions and applications for permission to organize Federal associations and to establish branch office or mobile facilities to be located in or to serve the same general area. In hearing oral argument, the person presiding may determine the order of presentation by various persons and whether to permit rebuttal, or he may permit the parties to agree on a division of time. In consolidated arguments, he may allow each applicant the full time which would be allowed if there were no consolidated argument. Ordinarily, the arguments should be based only on the facts and information already on file. Occasionally, a party may seek to introduce new matter. If it appears to the person presiding that there is in fact substantive new matter, he should permit the parties to argue on the basis of such new matter, and require the party introducing it to submit a memorandum of such new matter at the time of oral argument. If opposing parties wish to file a rebuttal, the person presiding may allow a reasonable time—10 days should suffice in most cases—for the submission of a rebuttal. The Supervisory Agent should include 3 copies of the transcript in the file which is transmitted to the Board.

(d) *Recommendations to the Board.* An application file forwarded by the Supervisory Agent to the Board in Washington, D.C., should be directed to the Office of Industry Development accompanied by a recommendation by the Supervisory Agent as to Board action thereon, and such recommendation should be supported by a summary and analysis of relevant information. The Office of Industry Development should submit the application to the Office of the Secretary accompanied by its recommendation as to Board action thereon, and supported by such additional summary and analysis of relevant information as it deems appropriate.

(e) *Timetable for handling applications.* The following timetable should be the objective in the handling of each application, but the Board recognizes that there may be instances in which circumstances will prevent adherence to the objective:

(1) The Supervisory Agent's report and recommendation should be transmitted to the Office of Industry Development within 60 days following the date of publication of notice by the applicant, if oral argument was not heard, and within 90 days from the date of such publication, if oral argument was heard.

(2) The recommendation to the Board by the Office of Industry Development should be submitted to the Office of the Secretary within 25 days after receipt of the recommendation from the Supervisory Agent.

(3) The Office of the Secretary should place an application on an agenda which is scheduled to be before the Board within 10 days after receipt of a recommendation from the Office of Industry Development.

(f) *Public inspection.* In making application files available for public inspection at the offices of Supervisory Agents and at the Board offices in Washington, D.C., only the following material should be made available, unless in a particular case there is a determination that additional material is required by law to be made available for inspection:

(1) All information submitted by an applicant except the biographical and financial information furnished by applicants on FHLBB Form 139.

(2) All information submitted by persons who have filed communications in favor or in protest of an application pursuant to the published notice of the application.

(3) The transcript of oral argument.

(4) Communications placed in the public record pursuant to § 510.1 of this chapter.

Prior to transmittal of an application file to the Board, the Supervisory Agent should divide the file to separate all material in such file which is not a part of the public record.

(g) *Application by operating institution.* Except as the Board may otherwise determine in the case of a particular application, the procedure in this section, except paragraphs (d) and (e) of this section shall not be applicable to an application for insurance of accounts by an operating institution. In applying said paragraph (e) of this section to such an application, which is considered without publication of notice by the applicant unless otherwise ordered by the Board, the 60-day time period referred to in subparagraph (1) of paragraph (e) should begin with the date of filing of the application.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that Resolution No. 20,915 dated October 4, 1967 (32 F.R. 14348), establishing an internal processing procedure for applications for insurance of accounts submitted by new State-chartered institutions or requests for a

commitment to insure accounts submitted by proposed State-chartered institutions, and Resolution No. 20,916 dated October 4, 1967 (32 F.R. 14349), establishing an internal processing procedure for applications for insurance of accounts submitted by operating State-chartered institutions, are hereby revoked.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM,
Assistant Secretary.

[F.R. Doc. 70-2884; Filed, Mar. 9, 1970; 8:49 a.m.]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN OFFICES

PART 582b—STATEMENTS OF POLICY

Policy and Procedure on Branch Office Applications

MARCH 4, 1970.

Resolved that the Federal Home Loan Bank Board considers it desirable to add a new Part 582b to the regulations for District of Columbia Savings and Loan Offices for the following purposes:

1. To codify as a part of the Code of Federal Regulations a statement of policy with respect to District of Columbia savings and loan offices adopted by the Federal Home Loan Bank Board by Resolution No. 19,755 dated March 4, 1966, published at 31 F.R. 4262;

2. To adopt a statement of policy with respect to applications for branch offices to serve low-income, inner-city areas, to parallel a statement of policy which is applicable to Federal savings and loan associations; and

3. To implement recent regulatory amendments of Part 582 of the regulations for District of Columbia Savings and Loan Offices (12 CFR Part 582), which were published at 35 F.R. 2515, to inform the public and affected savings and loan associations of the internal processing procedure which will be followed in the handling of applications for permission to establish branch offices.

Accordingly, the Board hereby amends Chapter V, Subchapter E of Title 12 of the Code of Federal Regulations by adding a new Part 582b to read as follows:

Sec.
582b.1 General policy on location of branch offices.
582b.2 Policy with respect to inner-city branch offices.
582b.3 Internal processing procedure for applications for branch offices.

AUTHORITY: The provisions of this Part 582b issued under sec. 5, 48 Stat. 132, as amended: 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071.

§ 582b.1 General policy on location of branch offices.

It is the Board's policy, with respect to any "building and loan association", not to approve the establishment of a branch office within the District of Columbia by any such association whose home office is located outside the District of Columbia, or outside the District of Columbia by any such association incorporated or organized under the laws of the District of Columbia. As used in the preceding sentence, the term "building and loan association" shall have the same meaning as it has in the amendment of section 5(c) of the Home Owners' Loan Act of 1933 made by subsection (c) of section 1110 of the Housing and Urban Development Act of 1965, i.e., "any incorporated or unincorporated building, building or loan, building and loan, savings and loan, or homestead association or cooperative bank."

§ 582b.2 Policy with respect to inner-city branch offices.

(a) As a general policy under § 582.1, the Board will not consider or process any application for permission to establish a branch office unless the applicant association meets all of the eligibility requirements contained in subparagraphs (1) through (6) of § 582.1(b). However, under the proviso to paragraph (b) of § 582.1, the Board may, in its discretion, permit the consideration and processing of particular branch applications even if the applicant association fails to meet the eligibility requirements contained in subparagraphs (2) and (4) of § 582.1(b). It is the intention of the Board to permit this special treatment only in connection with applications for branches to serve low-income, inner-city areas which are inadequately served by existing savings and loan facilities.

(b) Applicant associations wishing such special treatment with respect to a particular application must furnish the Supervisory Agent with detailed information demonstrating that the application (or a prior branch application, if it is still pending or if less than 12 months have expired from the date of publication of notice thereof and the branch is not yet opened) is for a branch office (1) to be located within an area characterized by substandard family incomes, chronically high unemployment, a high percentage of welfare recipients, and substandard housing, and (2) to fulfill the objectives of facilitating the granting of loans in such areas, particularly for construction or rehabilitation of housing, stimulating thrift and providing financial guidance among low-income residents of such area, and providing opportunities for employment or job training for residents of such area. If the Supervisory Agent is satisfied that the above criteria for special treatment of the application have been met, he may determine that the association is eligible under § 582.1(g), and the application may be processed as provided therein.

§ 582b.3 Internal processing procedure for applications for branch offices.

The Board deems it advisable that applicants for permission to establish branch offices, and persons who are interested in such applications, be informed of certain general instructions by the Board governing staff handling of applications and of the timetable for handling applications which the Board has adopted as an objective, as follows:

(a) *Advice of filing of application.* The Supervisory Agent at the time of advice to an applicant to publish notice of the application should send a copy of such advice to the Office of Industry Development, and may send a copy of such advice to any trade organizations which have local thrift and home financing institutions as members, and any local thrift and home financing institutions which the Supervisory Agent considers might have a competitive interest in the application.

(b) *Obtaining of additional information by Supervisory Agent.* The Supervisory Agent and the Office of Industry Development respectively may, in their discretion, request additional information from applicants or other persons and may make or cause to be made such inspection of the area to be served as they may deem advisable.

(c) *Oral argument.* In any case in which oral argument is scheduled, the Supervisory Agent may provide for consolidation of the oral argument on an application for a branch office for a District of Columbia association, an application for permission to organize a Federal association or to establish a branch office for such an association, or an application for insurance of accounts of a new institution by the Federal Savings and Loan Insurance Corporation to be located in or to serve the same general area. In hearing oral argument, the person presiding may determine the order of presentation by various persons and whether to permit rebuttal, or he may permit the parties to agree on a division of time. In consolidated arguments, he may allow each applicant the full time which would be allowed if there were no consolidated argument. Ordinarily, the arguments should be based only on the facts and information alrealy on file. Occasionally, a party may seek to introduce new matter. If it appears to the person presiding that there is in fact substantive new matter, he should permit the parties to argue on the basis of such new matter, and require the party introducing it to submit a memorandum of such new matter at the time of oral argument. If opposing parties wish to file a rebuttal, the person presiding may allow a reasonable time—10 days should suffice in most cases—for the submission of a rebuttal. The Supervisory Agent should include 3 copies of the transcript in the file which is transmitted to the Board.

(d) *Recommendations to the Board.* An application file forwarded by the Supervisory Agent to the Board in Washington, D.C. should be directed to the Office of Industry Development accompanied by a recommendation by the Supervisory Agent as to Board action thereon, and such recommendation should be supported by a summary and analysis of relevant information. The Office of Industry Development should submit the application to the Office of the Secretary accompanied by its recommendation as to Board action thereon, and supported by such additional summary and analysis of relevant information as it deems appropriate.

(e) *Timetable for handling applications.* The following timetable should be the objective in the handling of each application, but the Board recognizes that there may be instances in which circumstances will prevent adherence to the objective:

(1) The Supervisory Agent's report and recommendation should be transmitted to the Office of Industry Development within 60 days following the date of publication of notice by the applicant, if oral argument was not heard, and within 90 days from the date of such publication, if oral argument was heard.

(2) The recommendation to the Board by the Office of Industry Development should be submitted to the Office of the Secretary within 25 days after receipt of the recommendation from the Supervisory Agent.

(3) The Office of the Secretary should place an application on an agenda which is scheduled to be before the Board within 10 days after receipt of a recommendation from the Office of Industry Development.

(f) *Public inspection.* In making application files available for public inspection at the offices of Supervisory Agents and at the Board offices in Washington, D.C., only the following material should be made available, unless in a particular case there is a determination that additional material is required by law to be made available for inspection:

(1) All information submitted by an applicant except the proposed budget of the applicant association and information requested by or on behalf of the Board which relates to supervisory matters.

(2) All information submitted by persons who have filed communications in favor or in protest of an application pursuant to the published notice of the application.

(3) The transcript of oral argument.

(4) Communications placed in the public record pursuant to § 510.1 of this chapter.

Prior to transmittal of an application file to the Board, the Supervisory Agent should divide the file to separate all material in such file which is not a part of the public record.

(g) *Supervisory considerations.*—(1) *Regulatory provisions.* The regulations governing branch office applications provide that no such application shall be approved if "in the opinion of the Board, the policies, condition, or operation of the applicant association afford a basis for supervisory objection to the application." Such regulations also provide that the Supervisory Agent shall not advise an applicant to publish notice of such an application unless "it has been preliminarily determined that there is no basis for supervisory objection to approval of the application."

(2) *Preliminary determination of supervisory objection.* The Director of the Office of Examinations and Supervision is authorized, with respect to any application for a branch office, to make a preliminary determination that there is no basis for supervisory objection, and the Supervisory Agent is authorized, within limits fixed by such Director, to make such determination. If the Director of the Office of Examinations and Supervision is of the opinion that there is any supervisory matter which might afford a basis for preliminary supervisory objection, he should submit the matter to the Board for its decision, together with a report and recommendation. The Director of the Office of Examinations and Supervision shall issue instructions to assure that there is no delay for supervisory reasons in the processing of an application of an association whose policies, condition, or operation, as determined by the Supervisory Agent within limits fixed by the Director, do not afford a basis for preliminary supervisory objection, and, in other cases, to assure that the preliminary determination, or submission to the Board for decision, is made within 30 days from the date of filing of the application.

(3) *Subsequent determination of supervisory objection.* If at any time subsequent to preliminary supervisory clearance and prior to final Board action on an application for a branch office, the Director of the Office of Examinations and Supervision is of the opinion that there is any substantial question that the policies, condition, or operation of the applicant association might afford a basis for supervisory objection to approval of the application, he shall submit to the Board a report and recommendation thereon.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM, *Assistant Secretary.*

[F.R. Doc. 70-2885; Filed, Mar. 9, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-EA-152]

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

Alteration and Revocation of VOR Federal Airway Segments; Correction

On February 18, 1970, F.R. Doc. 70-2002 was published in the FEDERAL REGISTER (35 F.R. 3109) effective April 2, 1970.

This document amended Part 71 of the Federal Aviation Regulations in part by realigning VOR Federal airway Nos. 149 and 153. However, this amendment through a typographical error failed to reflect the proper terminating points for V-149 and V-153. Accordingly, action is taken herein to correct this error.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective March 2, 1970, F.R. Doc. 70-2002 (35 F.R. 3109) is amended as hereinafter set forth.

1. Item c is amended by striking out the words "Wilkes-Barre, Pa." and inserting the words "Binghamton, N.Y." in place thereof.

2. Item d is amended by striking out the words "Hancock, N.Y.; Georgetown, N.Y." and inserting the words "Hancock, N.Y.; Georgetown, N.Y.; Syracuse, N.Y." in place thereof.

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

Issued in Washington, D.C., on March 4, 1970.

H. B. HELSTROM, *Chief, Airspace and Air Traffic Rules Division.*

[F.R. Doc. 70-2848; Filed, Mar. 9, 1970; 8:45 a.m.]

[Airspace Docket No. 69-SO-99]

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

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Federal Airways and Jet Route Segments

On February 7, 1970, F.R. Doc. 70-1560 was published in the FEDERAL REGISTER (35 F.R. 2726) effective April 2, 1970.

This document amended Part 71 of the Federal Aviation Regulations in part by realigning VOR Federal airway No. 53 between Charleston, S.C., and Columbia, S.C., through use of the Columbia 152° radial.

Subsequent to the publication of this amendment, it has been determined that use of the Columbia 153° radial will permit a better alignment for this airway segment. Accordingly, action is taken herein to reflect this 1° radial change.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. 70-1560 (35 F.R. 2726) is amended as hereinafter set forth.

In Item 1.b. "Columbia, S.C., 152° radials;" is deleted and "Columbia, S.C., 153° radials;" is substituted therefor.

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

Issued in Washington, D.C., on March 4, 1970.

H. B. HELSTROM, *Chief, Airspace and Air Traffic Rules Division.*

[F.R. Doc. 70-2849; Filed, Mar. 9, 1970; 8:45 a.m.]

[Docket No. 10155; Amdt. No. 99-9]

PART 99—SECURITY CONTROL OF AIR TRAFFIC

Applicability; Gulf of Mexico Coastal ADIZ

The purpose of these amendments to the Federal Aviation Regulations is to change the latitude for the applicability exception of Subpart A, Part 99, for aircraft operating in a Coastal or Domestic ADIZ with a true airspeed of less than 180 knots, and to revise the southern boundary of the Gulf of Mexico Coastal ADIZ.

Department of Defense air defense procedures have been amended so that all aircraft operating north of 25° north latitude or west of 85° west longitude at a true airspeed of less than 180 knots are classified as friendly. Since flight plans or ADIZ position reports are no longer needed for these aircraft, § 99.1(b)(1) is amended to except those aircraft from the applicability of Subpart A, Part 99.

The Department of Defense has recommended revision of the southern boundary of the Gulf of Mexico Coastal ADIZ. The distance of the present southern boundary from the Florida land mass is such that aircraft may penetrate the ADIZ before they are within range of aids to navigation used to determine their position. As a result, many of these aircraft are detected by air defense radars as being out of correlation tolerances and tactical actions are initiated before the pilot can determine and report an updated position. The changes in the southern boundary of the Gulf of Mexico Coastal ADIZ contained in this amendment will materially reduce that problem.

Since this amendment will relieve the operators of aircraft in the areas concerned from further compliance with procedural requirements, I find it is unnecessary to comply with notice and public procedures hereon, and these amendments may be made effective in less than 30 days.

Inasmuch as this action involves airspace outside the United States, the agency has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, Part 99 of the Federal Aviation Regulations is amended as follows, effective March 10, 1970.

1. Section 99.1(b)(1) is amended by striking out the numeral "28" and inserting the numeral "25" in place thereof.

2. Section 99.45(c) is amended to read as follows:

§ 99.45 Coastal ADIZ's.

* * * * *

(c) *Gulf of Mexico Coastal ADIZ.*

The area bounded by a line 24°00′ N., 97°00′ W.; 26°00′ N., 96°35′ W.; 26°25′ N., 96°30′ W.; 28°05′ N., 96°30′ W.; 28°42′ N., 95°17′ W.; 29°26′ N., 94°00′ W.; 28°48′ N., 90°00′ W.; 30°00′ N., 88°55′ W.; 30°00′ N., 86°00′ W.; 29°20′ N., 85°00′ W.; 28°55′ N., 83°30′ W.; 25°45′ N., 82°07′ W.; 25°45′ N., 81°27′ W.; then southeast along a line 3 nautical miles from the shore line to 25°10′ N., 81°12′ W.; 24°49′ N., 80°55′ W.; 24°49′ N., 80°00′ W.; 24°00′ N., 80°00′ W.; 24°00′ N., 83°00′ W.; 27°30′ N., 84°30′ W.; 27°30′ N., 93°25′ W.; 27°00′ N., 95°00′ W.; 24°00′ N., 95°30′ W.; 24°00′ N., 97°00′ W. (point of beginning).

* * * * *

(Secs. 307, 1110 and 1202, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510, 1522, E.O. 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 25, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-2846; Filed, Mar. 9, 1970; 8:45 a.m.]

[Docket No. 10156; S.F.A.R. 15]

AIRCRAFT OPERATIONS OVER CERTAIN AREAS WITHIN THE STATE OF FLORIDA AND OVER WATERS ADJACENT THERETO

Revocation

The Department of Defense has advised the FAA that the provisions of SFAR 15 (prohibiting certain operations of civil aircraft within the airspace over designated areas of the State of Florida and the adjacent waters) are no longer needed since the requirements of the national security within those areas can be accomplished with the regional implementation of the SCATANA plan and other regulations and procedures. Accordingly, in order to relieve civil aircraft operators from the unnecessary burden imposed upon them under the provisions of SFAR 15, it is hereby revoked.

Inasmuch as the overall effect of this regulatory action will lessen the burden on the public, I find it both unnecessary and contrary to the public interest to comply with notice and public procedures hereon, and for these reasons these amendments may be made effective in less than 30 days.

Since this action involves airspace outside the United States, the Agency has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, SFAR 15 is revoked effective March 10, 1970.

(Secs. 306, and 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1347, and 1348, E.O. 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 25, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-2847; Filed, Mar. 9, 1970; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T.D. 70-59]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Certain Works of Art and Artistic Antiquities

MARCH 3, 1970.

To eliminate the requirement for the filing of customs Form 3307 in connection with the entry of certain Works of Art, Artistic Antiquities, Original Paintings, Statuary, Etc., §§ 10.48, 10.50, and 10.53 are amended as follows:

§ 10.48 [Amended]

In § 10.48(b) subparagraph (3) is deleted.

§ 10.50 [Amended]

In § 10.50 the following is substituted for the last sentence:

This declaration may be executed on commercial invoices when a purchase is involved or on a pro forma invoice when the artist and the importer are the same person and shall be attached to the entry papers used to effect clearance.

In § 10.53 paragraphs (b) and (c) are amended to read as follows:

§ 10.53 Antiques.

* * * * *

(b) At the time of entry of articles under item 766.20 or 766.25, Tariff Schedules of the United States, the following shall be required on the reverse of customs Form 6417:

The articles entered herein are being imported for __________. (State whether for sale or personal use.)

(c) Articles accompanying a passenger and entitled to entry under the passenger's declaration and entry, or articles entered under an informal entry which are claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, may be admitted free of duty upon the execution of a declaration on the face of the entry provided that the passenger or person filing the informal entry is the owner of the articles and that they are for his personal use and not for sale or other commercial use and provided the customs officer concerned is satisfied that the articles are of the requisite age.

* * * * *

(R.S. 251, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1624)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: February 26, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-2878; Filed, Mar. 9, 1970; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7028]

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

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Date for Filing Income Tax Returns by Farmers and Fishermen in Lieu of Declarations of Estimated Tax or Amended Declarations; Correction

On February 27, 1970, T.D. 7028 was published in the FEDERAL REGISTER (35 F.R. 3805). The year "1969" appearing on the second line in paragraph (b)(4) of § 1.6015(f)-1 of the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 7028, should have been "1968". Accordingly, replace the year "1969" with the year "1968".

[SEAL] JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 70-2875; Filed, Mar. 9, 1970; 8:48 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7030]

PART 143—TEMPORARY EXCISE TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Taxes on Self-Dealing—Scholarship and Fellowship Grants

The following regulations relate to the application of section 4941(d)(1) (D) and (E) of the Internal Revenue Code of 1954, as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 500), to certain scholarship and fellowship grants.

The regulations set forth herein are temporary and are designed to inform taxpayers of the application of section 4941(d)(1) (D) and (E) to scholarship and fellowship grants by private foundations prior to the issuance of regulations to be prescribed by the Commissioner and approved by the Secretary or his delegate.

In order to provide such temporary regulations under section 4941 of the Internal Revenue Code of 1954, the following regulations are adopted:

§ 143.2 Taxes on self-dealing; scholarship and fellowship grants by private foundations.

(a) *In general.* Section 4941(d)(1) (D) of the Internal Revenue Code of 1954 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 500) provides that the term "self-dealing" includes any direct or indirect payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person. Section 4941(d)(1)(E) provides that the term "self-dealing" includes any direct or indirect transfer to, or use by, or for the benefit of, a disqualified person of the income or assets of a private foundation.

(b) *Scholarship and fellowship grants.* A scholarship or fellowship grant to a person other than a Government official paid or incurred by a private foundation in accordance with a program which is consistent with the allowance of a deduction under section 170 for contributions made to such private foundation shall not constitute an act of self-dealing. For example, a scholarship or fellowship grant made by a private foundation in accordance with a program to award scholarship or fellowship grants to the children of employees of the donor shall not constitute an act of self-dealing if the private foundation has, after disclosure of the method of carrying out such program, received a ruling or determination letter stating that it is exempt from taxation under section 501(c)(3) and that contributions to the private foundation are deductible by the donor under section 170.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: March 5, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-2877; Filed, Mar. 9, 1970; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-7—CONTRACT CLAUSES

Subpart 5A-7.1—Fixed-Price Supply Contracts

MARKING PROVISION RATES FOR VENDOR SHIPMENTS

Section 5A-7.101-75(c) is revised to read as follows:

§ 5A-7.101-75 Marking provisions.

* * * * *

(c) *Improperly marked material.* In the event any shipment is not marked in accordance with the contract requirements, the Government shall have the right, without prior notice to the Contractor, notwithstanding Article 5 of Standard Form 32 to: (1) Reject the shipment; or (2) perform the required marking by use of Government personnel and charge the Contractor therefore at a rate of $11 per man-hour for the first or fractional hour and $6 for any succeeding or fractional hour; or (3) have the marking performed by an independent Contractor and charge the Contractor therefore at the above rates. In connection with any prompt payment discount offered, time will be computed from the date of completion of such remarking services.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: March 2, 1970.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[F.R. Doc. 70-2864; Filed, Mar. 9, 1970; 8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Amendment to Additional Standards: Rubella Virus Vaccine, Live

On January 31, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 1293-1294) proposing to amend Part 73 of the Public Health Service Regulations by amending the Additional Standards: Rubella Virus Vaccine, live to provide specific standards of safety, purity, and potency for such product when prepared in rabbit renal cell cultures.

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER and notice was given of intention to make any amendments that were adopted effective on the date of publication in the FEDERAL REGISTER.

No objections have been received and the proposed regulations are hereby adopted without change, except for the following typographical correction.

The first and second sentences of subparagraph (6) of § 73.192(b-1) are changed to read as follows: "A minimum of 15 ml. of each virus pool shall be tested by inoculation into at least five healthy rabbits, each weighing 1500-2500 grams. Each rabbit shall be injected intradermally in multiple sites with a total of 1.0 ml. and subcutaneously with 2.0 ml., of the virus pool, and the animals observed for at least 30 days."

Effective date. These regulations shall be effective upon publication.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216, sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: MARCH 5, 1970.

ROBERT Q. MARSTON,
Director, National Institutes of Health.

Approved: March 6, 1970.

JOHN G. VENEMAN,
Acting Secretary.

1. Amend § 73.191(a) and insert a new paragraph (c–1) after paragraph (c) to read as follows:

§ 73.191 Production.

(a) *Virus cultures.* Rubella virus shall be propagated in duck embryo cell cultures, canine renal cell cultures or rabbit renal cell cultures.

* * * * *

(c–1) *Virus propagated in rabbit renal tissue cell cultures.* Only rabbits in overt good health which have been maintained in quarantine individually caged in vermin-proof quarters for a minimum of 6 months, having had no exposure to other rabbits or animals throughout the quarantine period, or rabbits born to rabbits while so quarantined, provided the progeny have been kept in the same type of quarantine continuously from birth shall be used as a source of kidney tissue. Animals shall be free of antibodies for agents potentially pathogenic for man unless it has been demonstrated in the license application that the tests required by § 73.192(b–1) to be performed on each lot of vaccine are capable of detecting contamination of agents capable of producing such antibodies.

(1) *Rabbits used for experimental purposes.* Rabbits that have been used previously for experimental or testing purposes with microbiological agents shall not be used as a source of kidney tissue in the production of vaccine.

(2) *Quarantine and necropsy.* Each rabbit shall be examined periodically during the quarantine period as well as at the time of necropsy under the direction of a qualified pathologist, physician or veterinarian having experience with diseases of rabbits, for the presence of signs or symptoms of ill health, particularly for evidence of tuberculosis, myxomatosis, fibromatosis, rabbit pox, and other diseases indigenous to rabbits. If there are any such signs, symptoms or other significant pathological lesions observed, tissues from that colony shall not be used in the production of vaccine.

(3) *Control vessels.* Control vessels shall be prepared, observed and tested as prescribed in § 73.141(g).

* * * * *

2. Amend § 73.192 by inserting a new paragraph (b–1) after paragraph (b) to read as follows:

§ 73.192 Test for safety.

* * * * *

(b–1) *Tests prior to clarification of vaccine manufactured in rabbit renal cell cultures.* Prior to clarification each rubella virus pool prepared in rabbit renal cell cultures shall be tested as follows:

(1) *Inoculation of adult mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(1), and the virus pool is satisfactory only if equivalent test results are obtained.

(2) *Inoculation of suckling mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(2), and the virus pool is satisfactory only if equivalent test results are obtained.

(3) *Inoculation of monkey tissue cell cultures.* A rubella virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a)(3), except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(4) *Inoculation of other cell cultures.* The tests shall be performed in the volume and following the procedures prescribed in § 73.142(a)(3) in rhesus or cynomolgus monkey kidney tissue, rabbit renal tissue and human tissue cell cultures, except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(5) *Inoculation of embryonated chicken eggs.* A suspension of each undiluted rubella virus pool shall be tested in the volume and following the procedures prescribed in § 73.142(a)(5) except that the virus need not be neutralized by antiserum. The virus pool is satisfactory only if there is no evidence of adventitious agents.

(6) *Inoculation of rabbits.* A minimum of 15 ml. of each virus pool shall be tested by inoculation into at least five healthy rabbits, each weighing 1500–2500 grams. Each rabbit shall be injected intradermally in multiple sites with a total of 1.0 ml. and subcutaneously with 2.0 ml., of the virus pool, and the animals observed for at least 30 days. Each rabbit that dies after the first 24 hours of the test or is sacrificed because of illness shall be necropsied and the brain and organs removed and examined. The virus pool is satisfactory only if at least 80 percent of the rabbits remain healthy and survive the entire period and if all the rabbits used in the test fail to show lesions of any kind at the sites of inoculation and fail to show evidence of any viral infection.

(7) *Inoculation of guinea pigs.* Each of at least five guinea pigs, each weighing 350–450 grams, shall be inoculated intracerebrally with 0.1 ml. and intraperitoneally with 5 ml. of the undiluted virus pool. The animals shall be observed for at least 42 days. Each animal that dies after the first 24 hours of the test or is sacrificed because of illness, shall be necropsied. All remaining animals shall be sacrificed and necropsied at the end of the observation period. The virus pool is satisfactory only if at least 80 percent of all animals remain healthy and survive the observation period and if all the animals used in the test fail to show evidence of infection with *M. tuberculosis* or any viral infection.

(8) *Bacteriological tests.* In addition to the tests for sterility required pursuant to § 73.73, bacteriological tests shall be performed on each rubella virus pool for the presence of *M. tuberculosis*, human, by appropriate culture methods. The rubella virus pool is satisfactory only if found negative for *M. tuberculosis*, human.

(9) *Tests for adventitious agents.* Each virus pool shall be tested for the presence of such known adventitious agents of rabbits as toxoplasma, encephalitozoon, herpes cuniculi, the vacuolating virus of rabbits, rabbit syncytial virus, myxoviruses and reoviruses. The virus pool is satisfactory only if the results of all tests show no evidence of any extraneous agent attributable to the rabbit renal tissue or the vaccine.

(10) *Inoculation of cell cultures and embryonated eggs after neutralization of the virus with antiserum.* Each of the tests prescribed in subparagraphs (3), (4), and (5) of this paragraph shall be carried out also with rubella virus that has been neutralized by the addition of high titer antiserum of nonhuman, nonsimian and nonrabbit origin following the procedures and in the volume prescribed in paragraph (a)(9) of this section. The virus pool is satisfactory only if the results obtained are equivalent to those required by that paragraph.

* * * * *

[F.R. Doc. 70–2966; Filed, Mar. 9, 1970; 11:11 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

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

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Sport fishing on the Moosehorn National Wildlife Refuge, Calais, Maine, is permitted on the areas designated by signs as open to fishing. These open areas, comprising 500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The use of boats without motors is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1970.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

FEBRUARY 27, 1970.

[F.R. Doc. 70–2843; Filed, Mar. 9, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1007, 1103]

[Dockets Nos. AO-366-A2 and AO-346-A6-RO1]

MILK IN GEORGIA AND MISSISSIPPI MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Georgia and Mississippi marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Atlanta, Ga., on January 15, 1970, pursuant to notice thereof which was issued on December 23, 1969 (34 F.R. 20349), and December 31, 1969 (35 F.R. 231). With respect to the Mississippi market, this hearing constituted a reopening of the hearing held at Memphis, Tenn., on February 19-21, April 23-24, and May 21-24, 1968, pursuant to notice thereof issued February 6, 1968 (33 F.R. 2785).

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

1. Interstate commerce;
2. Classification of filled milk;
3. Treatment of reconstituted skim milk in fluid milk products, including filled milk, disposed of by regulated handlers, partially regulated handlers and producer-handlers;
4. Definition of filled milk for order purposes;
5. In the Georgia order, the reclassification of buttermilk made from reconstituted skim milk;
6. Conforming changes in order provisions; and
7. Whether an emergency exists which would warrant omission of a recommended decision.

FINDINGS AND CONCLUSIONS

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

1. *Interstate commerce.* Filled milk, if disposed of in either the Georgia or Mississippi marketing areas, would directly burden, obstruct or affect interstate commerce in milk and milk products. It has previously been determined (at the time of the promulgation of each order) that all milk marketed in each marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and milk products. Filled milk is in content substantially a product of milk and competes for the same sales outlets as milk. It follows, therefore, that the marketing of the milk ingredients in filled milk in either the Georgia or the Mississippi markets would burden, obstruct or affect interstate commerce in milk and milk products. This would be equally true whether the marketing of filled milk were by a fully regulated plant, or by a plant not fully regulated, since both would compete for similar outlets in the market.

Manufactured milk products may be used in the production of filled milk. Manufactured milk products move in interstate commerce and compete in the national market, regardless of where the milk is produced. Therefore, manufactured milk products, if used in the production of filled milk for disposition in either the Georgia or Mississippi markets, would likewise burden, obstruct or affect interstate commerce in milk and its products. In this connection, a person who testified on behalf of Country Lad Foods, Inc., a recently organized company in Georgia which has not yet begun operations, testified that his company was constructing a plant from which it expects to begin distribution of filled milk in the Georgia market within the next few weeks. He stated that his company intends to produce filled milk entirely from nonfat dry milk solids and that it has arranged for a supply of nonfat dry milk solids from Land O'Lakes Creameries which has it headquarters in Minneapolis, Minn.

The sale of filled milk across State lines is prohibited by the Federal Filled Milk Act. Nevertheless, intrastate commerce in filled milk would burden, obstruct, and affect interstate commerce in milk and milk products regulated under the Georgia and Mississippi marketing orders. This decision relates to the appropriate classification and pricing of milk and milk products under the Agricultural Marketing Agreement Act of 1937, as amended, when such milk products are used in filled milk or in reconstituted fluid milk products.

2. *Classification of filled milk.* Skim milk disposed of for fluid consumption in filled milk should be Class I under both orders.

Filled milk is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and milk fat in whole milk. Hence, well over 90 percent of the product is skim milk. In most filled milk, the skim milk portion is fresh fluid skim milk separated from whole milk. Some filled milk contains reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. As noted above, Country Lad Foods, which plans to begin the distribution of filled milk in Georgia, will depend on nonfat dry milk for the entire supply of the milk ingredients of the filled milk which it plans to market. Whether made from vegetable fat and fresh or reconstituted skim milk or any combination of the two, the resulting product resembles whole milk in appearance.

At the present time, no filled milk is distributed in either the Georgia or the Mississippi marketing areas. However, an official of the Georgia State Department of Agriculture testified that, in addition to Country Lad Foods, several regulated handlers had submitted filled milk cartons to his Department for approval, apparently in anticipation of beginning distribution of the product in the Georgia marketing area.

In those regulated markets where filled milk is distributed, it moves in the same channels as whole milk. It is distributed by the same handlers in the course of their regular business through the same outlets and in the same types of containers.

As a result of amendments to all but two of the other existing milk orders (Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa) based on a hearing held in Memphis, Tenn., on February 19-22, April 23-24 and May 21-24, 1968, filled milk has been classified as Class I. Action is pending on the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing orders.

Even with Class I classification, regulated handlers disposing of filled milk make a substantial savings in cost by substituting vegetable fat or oil for butterfat. One witness stated that this savings would amount to about 18 cents per gallon in the Georgia marketing area. Another witness estimated the savings would amount to between 16 and 18 cents per gallon in the Mississippi marketing area. This is the main incentive for the marketing of filled milk.

While the differences in cost between vegetable fat and butterfat is not an issue at this hearing, it is relevant to the extent that it explains the profit motivation for marketing the product even though the skim milk content is priced as Class I milk.

Filled milk marketed in simulation of milk is already classified as Class I in any regulated marketing area where it is distributed. As stated in the decision of October 13, 1969, dealing with filled milk in Memphis, Tenn., and certain other marketing areas (34 F.R. 16881) of which official notice is taken, "The specific language of the Act with respect to classification is that each order shall contain terms "* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *". In applying the language of the Act we here consider the form and purpose of use for both filled milk and the milk ingredient content of the filled milk.

"The form of filled milk and the purpose for which it is used are the same as the form and purpose of use of whole milk. Filled milk, just as whole milk, is disposed of in fluid form. It is marketed by handlers in the same types of packages and in the same trade channels as the whole milk they market, and is mainly intended as a beverage substitute for milk.

"Similarly, the fluid skim milk content of the filled milk is in the same form as skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of the nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification. The addition of nonmilk ingredients in fluid milk products is not a new development. The addition of vegetable fat does not involve an essentially different consideration from that for other Class I fluid milk products to which a flavoring ingredient, such as chocolate (which also contains nonmilk fat) has been added.

"For purpose of illustration, a product within the "fluid milk product" category containing a nonmilk additive is chocolate milk. The additive is not considered as changing the form of this product so that it is no longer a fluid milk product. For the purposes of classification, the flavoring material has never been regarded as significant in determining the form of the product or as a basis for altering its classification.

"The same reasoning applies in the case of filled milk—that the additives do not change significantly the form or the purpose of use and therefore do not constitute a basis for classification other than in Class I.

"The product "filled milk" therefore should be classified, for the purpose of pricing under the orders, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification would apply only to the milk ingredients in the product."

Handlers regulated under the Georgia order opposed the Class I classification of the skim milk used in filled milk. They reiterated the position taken at the Memphis hearing that a separate classification midway between the Class I and surplus classifications should be established for filled milk. The reasons for denying a separate classification for milk used in filled milk are fully set forth in the decision of October 13, 1969. The findings made thereon are equally applicable to the Georgia and Mississippi orders.

Country Lad Foods also opposed the Class I classification of its filled milk on the grounds that the product which it would distribute would be produced from nonfat dry milk solids rather than from fresh skim milk from producer milk. In view of the preceding findings and conclusions, the proposals that the skim milk portion of filled milk should be priced other than as Class I are denied.

Since we are dealing, in these markets also, with a product, filled milk, which is clearly marketed for the same use as whole milk, is composed principally of milk products, is made in the semblance of whole milk, and is, in fact, designed as a substitute for whole milk, returns to dairy farmers should be the same for the corresponding milk components of the two products. This recognizes that the appropriate Class I price level serves to assure an adequate but not excessive milk supply. Therefore, the skim milk (or butterfat) in both products and in other fluid milk products, should make proportionate contributions to this objective. This is accomplished by the classification of all such products as Class I milk.

While, as noted above, handlers generally opposed the Class I classification of filled milk, they recognized the need for uniformity of treatment of the product. A witness for the handlers stated that no regulation or restraint should be applied to their marketing of such product that is not applied to all other parties processing and distributing the same product in this market.

To apply a Class I classification to filled milk under the Georgia and Mississippi orders will maintain handlers regulated under these and other orders on similar classification terms in competing for sales of such product.

3. *Treatment of reconstituted skim milk in filled milk.* As noted above, filled milk may be made by combining "reconstituted skim milk" with vegetable fat and other minor ingredients. "Reconstituted skim milk" commonly is made from nonfat dry milk to which water is added to return it essentially to a form and consistency similar to fresh skim milk. The potential for disruptive influence on the market for producer milk is very serious because disposition of a product for a Class I use which is priced in a surplus price class undermines the classified pricing system.

Reconstituted skim milk in fluid milk products disposed of for fluid consumption should be treated as Class I milk.

As was found in the decision of October 13, 1969, filled milk made from reconstituted skim milk, from a market standpoint, is essentially similar to filled milk made from fresh skim milk. It has the same material components, is in the same form and is intended for the same primary purpose to be used as a substitute for milk. Reconstituted products compete in the same market channels and for the same wholesale and retail outlets as filled milk made from fresh skim milk. It is a competitor of whole milk at the consumer level. As previously noted, one person stating his intention to distribute filled milk in the Georgia market, intends to use reconstituted skim milk in his product.

Reconstituted milk in filled milk and in all other fluid milk products should be classified and priced on the same basis as all other fluid milk products to achieve uniformity of pricing of milk for similar uses. Uniformity of pricing could not be achieved if some handlers had a lower cost by substituting a surplus class product (usually nonfat dry milk) for a Class I, or fluid, use.

Nonfat dry milk is an important product outlet for the daily and seasonal surpluses in many of the regulated fluid milk markets. Consequently, it not only may be derived from milk of manufacturing quality but often will be readily available from graded milk which is surplus to the fluid milk requirements of other regulated markets. Whatever the source, it is priced at the manufacturing milk price level—the lowest price for any use of milk.

The objectives of classified pricing are uniformity of pricing according to form or use and providing an adequate return to producers for the fluid milk market. Therefore, the widespread disposition of filled milk made from reconstituted skim milk, if the skim milk were not subject to some equalizing payment, could lead to total defeat of such objectives. Certainly, the classification and pricing plan should protect the Class I market from the potential effects of competition with products produced from the market's own surplus or similar products produced elsewhere at a manufacturing price when used in filled milk. Federal milk orders for some time have contained specific provisions dealing with disposition by a regulated handler of other fluid milk products which have been reconstituted from nonfat milk products. Except in the case of reconstituted buttermilk in the Georgia market, which will be discussed below, these reconstituted fluid milk products have been classified as Class I. The problem of proper classification and charge for such use of nonfluid milk products to produce products for Class I disposition was dealt with in the decision issued June 19, 1964 (29 F.R. 9002), official notice of which is taken. The decision applied to orders in 76 marketing areas.

The findings and conclusions which relate to this subject appearing at 29 F.R. 9010 were as follows: "Certain milk by its very nature must be treated as surplus when received at market pool plants regulated by a Federal order and, therefore, it must be assigned a surplus value. One such source is milk received at a regulated plant, in either bulk or packaged form, from a producer-handler (under any Federal order). Another source is

milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk. Still another source is milk of manufacturing grade (non-Grade A milk) which is not eligible for disposition for fluid consumption in the market. As to milk from these sources, a payment into the producer-settlement fund at the difference between the Class I and surplus prices must be required of the receiving handler when such milk is allocated to Class I, following 'down-allocation' to the extent it can be absorbed in lower priced uses.

"A surplus value likewise is properly assigned to reconstituted milk (for instance, the result of combining nonfat dry milk or condensed milk with water). The products used in such reconstitution process are made from milk which always carries a manufacturing, or surplus, value. Producer milk used to produce such products is priced as surplus under each of these Federal orders. Since the milk used to produce these products is originally priced as surplus milk, payment into the producer-settlement fund at the difference between the Class I and surplus price is necessary to insure competitive equity with producer milk when reconstituted milk is used in Class I. No recognition should be given to processing costs involved in the manufacture of the products derived from unregulated milk and used in reconstitution since similar costs are incurred in processing producer milk into such products."

The method of treating reconstituted products described in the 1964 decision is appropriately applicable to reconstituted skim milk used in fluid milk products, including filled milk that may be disposed of in the Georgia or Mississippi marketing areas. The nonfluid milk products which would be so utilized would be derived from milk having a surplus value and should be assigned to surplus uses of the handler to the extent possible. To the extent that such reconstituted product cannot be assigned to a surplus use class it must be considered as used in Class I. Payment to the producer-settlement fund at the difference between the Class I price and the surplus price is necessary, not only to assure competitive equity among handlers, but also to insure the integrity of the classified pricing system as a means of assuring reasonable prices to producers.

Uniform treatment of reconstituted skim milk in fluid milk products should apply to the several types of handler operations. One handler may reconstitute skim milk from nonfluid milk products in his own regulated plant while another may purchase from other handlers filled milk containing reconstituted skim milk. The third type of operation is the distribution of reconstituted products in the marketing area from a plant which is not fully regulated.

The allocation provisions of the orders already assign skim milk reconstituted in a fully regulated plant first to the surplus use and then any remainder to Class I. The one exception to this instance is the case of reconstituted buttermilk in the Georgia market. For the quantity assigned to Class I disposition a charge of the Class I price less the surplus price applies. In the case of interplant transfers (including transfers between order markets) the orders already provide for the classification of the fluid milk product transferred. The quantity so classified as Class I would be subject to the charge at the transferor plant, except in some cases in a handler pool market.

Provisions are needed to treat receipts of filled milk at a regulated plant if the receipt is from an unregulated source and contains reconstituted skim milk. The receipt should be assigned in sequence first to the surplus class and then to the next higher price classes. The receiving handler should be charged the Class I price less the surplus price for any quantity of skim milk or butterfat assigned to Class I utilization. In no event should such adjusted Class I price be less than the Class II price regardless of the location of the plant of origin. This method will extend the uniform application at the same rate of charge as applies in the case of a handler making reconstituted product in his own plant.

Should filled milk containing reconstituted skim milk be received from a plant regulated under an individual handler pool, it would present a situation similar to receipt from an unregulated source. This could happen because the individual handler pool orders price only the Class I usage assignable to receipts of producer milk at the handler pool plant. Should the Class I disposition of the plant exceed producer milk received there, a possibility if reconstituted product is used for filled milk, then this Class I usage is not priced.

In such a situation, the receipt at a market order pool plant from a handler pool plant should be treated the same as a receipt from an unregulated plant. The receipt of the reconstituted filled milk would be allocated first to the surplus class and any remainder would then be allocated to a higher class. The receiving handler would be obligated for any such receipt assigned to Class I at the Class I price adjusted to the location from which received less the surplus price.

Another possibility is the disposition by an individual handler pool plant of the reconstituted product on routes in either the Georgia or the Mississippi marketing areas. Should this happen, the operator of the handler pool plant should be obligated to pay the difference between the Class I and surplus prices on such disposition in the marketing area to the extent that such disposition is not assigned to producer milk at his pool plant. The payment should be made into the producer-settlement fund of the Georgia or the Mississippi market if the milk were sold there. The Class I price used for this purpose would be the order price of the Georgia or Mississippi market where the disposition is made adjusted to the location of the individual handler plant. In no event should such adjusted Class I price be less than the Class II price regardless of the location of the plant of origin. Such payment is necessary to apply the same treatment to reconstituted filled milk sales by the pool plant under the individual handler pool plant as is applied to a plant regulated under either the Georgia or Mississippi marketing orders.

Partially regulated distributing plants likewise may dispose of reconstituted fluid milk products including filled milk in the marketing area. The term, "partially regulated distributing plant", applies to a plant which has route disposition of fluid milk products in the marketing area too small to qualify as a pool plant or which otherwise does no meet the pool requirements of either order. On the basis described in the record, the plant which is under construction by Country Lad Foods, Inc., when it begins operation, would fall in the category of a partially regulated distributing plant as defined in the Georgia order.

Both the Georgia and Mississippi orders contain specific pricing provisions which apply to such plants for the purpose of achieving a reasonable competitive parity between these plants and fully regulated handlers. These provisions should be modified with respect to Class I products containing reconstituted skim milk disposed of in the marketing area.

Under both orders, certain options are provided the operators of partially regulated distributing plants. One such option allows such a handler to offset his disposition in the marketing area by purchases of Class I milk from a plant fully regulated under any Federal order.

The second alternative allows such a handler to make payment into the producer-settlement fund with respect to his Class I disposition in the marketing area at a rate per hundredweight equal to the Class I price less the uniform price. The partially regulated handler is given credit for any quantity for Class I milk purchased from a plant fully regulated under a Federal order.

Under a third option the value of such handler's milk utilization is computed in the same manner as for a pool plant. The handler then has the choice of paying this sum to the Grade A dairy farmers supplying his plant or dividing the sum between payments to such farmers and payments to the producer-settlement fund.

The options now provided in the orders are designed to apply to a partially regulated handler whose disposition in the marketing area is primarily milk received from dairy farmers. If such disposition is wholly or largely filled milk made from reconstituted skim milk, the payment now required (Class I price minus uniform price) would not be equitable in relation to the requirement upon pool handlers that they pay the Class I price less the surplus price for such Class I disposition. In addition, the fully regulated plants are subject to the Class I price less surplus price obligation on all Class I disposition of reconstituted skim milk whether in filled milk or in other Class I disposition. This same charge should apply to partially regulated plants with respect to the disposition in the marketing area of any fluid

milk product containing reconstituted skim milk. Such treatment is necessary to make the obligation for disposition of reconstituted product comparable to the obligation upon a pool handler for the same kind of utilization.

As noted above, the operator of a plant which would be a partially regulated plant contemplates beginning the disposition of filled milk made with reconstituted skim milk in the Georgia marketing area.

Partially regulated handlers, at the present time, are disposing of fluid milk products in the Mississippi marketing area which are made in part from reconstituted skim milk. Provision should be made for a handler operating a partially regulated distributing plant to pay into the producer-settlement fund at the Class I price less surplus price with respect to the quantity of reconstituted skim milk in Class I products disposed of in the marketing area if he chooses the option which requires payment only on disposition in the marketing area. This charge is similar to that required if he chooses to pay his producers the fixed amount he would owe as a regulated handler.

Each partially regulated handler disposing of filled milk or other fluid milk products containing reconstituted skim milk in either the Georgia or the Mississippi marketing area must maintain adequate records of his receipts and utilization in order to permit verification by the market administrator of his sources and disposition with respect to such reconstituted milk. Further, unless such a handler furnishes proof to the contrary, his disposition of fluid milk products in the marketing area should be treated as a disposition of a reconstituted product. Unless a partially regulated handler were required to prove that his disposition in the marketing area is not reconstituted he could gain substantial advantage because he could avoid the higher return of payment needed on conversion of a surplus product to Class I use. For this reason, the burden of proof that the fluid milk product was not made with reconstituted milk should be on the handler.

Any obligation incurred by a partially regulated handler as a result of disposition of reconstituted fluid products into either the Georgia or Mississippi market should be paid into the producer-settlement fund of the market where the product is disposed. This is the only practical disposition of the funds so collected. The distribution of such money among producers as a part of the uniform price results in an equitable disposition of the proceeds without advantage to any particular group. The money would assist in obtaining an adequate supply of high quality milk for the market. It is an administratively feasible plan which contributes to orderly marketing.

One Georgia regulated handler testified that he had been advised that Class I classification of filled milk made from reconstituted skim milk might be in violation of section 608c(5)(G) of the Act. This statement was not elaborated, however.

The same point was raised by certain handlers in their exceptions to the recommended decision filed following the Memphis hearing. Their arguments were fully answered in the decision of October 13, 1969, dealing with this matter and the same answer applies here.

A witness for Country Lad Foods, Inc., stated that since it intends to produce its product entirely from nonfat dry milk produced outside the State of Georgia, such product should not be subject to any payment obligation under the Georgia order. He further stated that it would be necessary for the company to secure its requirements outside the State of Georgia since production of nonfat dry milk in the State of Georgia would be insufficient to meet its anticipated needs.

The origin of the nonfat dry milk which is used to produce reconstituted skim milk is not a matter of material consequence in determining whether skim milk which has been reconstituted should be subject to the aforesaid payment obligation under the order. Regardless of the source of the milk ingredients used in the product, it must be subject to such order obligation for the reasons set forth above. Also, it should not be overlooked that the payment applies only if the handler converts the nonfluid product to a fluid form and use. The payment is not required on nonfat dry milk, per se. It cannot be reasonably determined that nonfat dry milk remains as nonfat dry milk in the marketplace when it is sold in reconstituted form in semblance of whole fluid milk. Obviously, in the latter form it is seeking a higher valued outlet in competition with milk of producers than is possible in its original form as nonfat dry milk.

Producer-handler disposition. A producer-handler should lose his status as such and should become a pool handler if he disposes of any fluid milk products, including filled milk made from reconstituted skim milk. Also, in the case of the Mississippi order which denies producer-handler status to such a handler who receives milk from pool plants, the order should deny the producer-handler exemption if filled milk is received from a pool plant.

A producer-handler is not subject to the pricing and pooling provisions of either order. Filled milk is not being disposed of in either the Georgia or the Mississippi marketing area and in very few instances is being disposed of in any market by producer-handlers. However, reconstituted skim milk in filled milk has been marketed by at least one producer-handler in the Central Arizona market. This disposition represents a substantial part of his sales. This filled milk operation has had a disruptive influence on the stable and orderly marketing of milk in the Central Arizona market.

Similarly, a threat to uniformity of pricing could result in the Georgia or Mississippi market if a producer-handler were permitted to use reconstituted skim milk or unregulated milk in either filled milk or other fluid milk products without restriction. It is not practical for this purpose to distinguish between receipts of concentrated milk for reconstitution and fluid milk from an unregulated source. Either type of receipt could result in the same kind of advantage to a producer-handler compared to a regulated handler.

This type of limitation in the use of unregulated receipts does not interfere with the essential operation of a producer-handler in marketing his own skim milk production, but it is necessary to insure uniform pricing under the classified pricing plan should a producer-handler reconstitute fluid milk products or secure them from unregulated sources.

4. *Definition of filled milk for order purposes.* A definition of filled milk should be constructed which meets the specific needs of order regulation and for such purpose only.

Most filled milk is made to simulate whole milk. There are, however, many possible variations in the content of filled milk. Filled milk products within the beverage category may contain more or less vegetable fat than the normal fat content of whole milk. In order to cover all products which might be in this category, the order term "filled milk" should apply to products containing less than 6 percent nonmilk fat.

Filled milk, therefore, should be defined as:

"Any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring), resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil)."

Fluid products of the type described by the definition possibly could contain some milkfat as well as nonmilk fat. Such products also would be "filled milk" under this definition in order to assure the effectiveness of the proposed order provisions on filled milk.

This definition of filled milk is identical to the definition of "filled milk" which was incorporated in the other Federal milk orders as a result of the amendments issued following the Memphis hearing. Filled milk should also be included in the term "fluid milk products" as defined in the Georgia or Mississippi orders.

The term "filled milk," therefore, is not intended to include skim milk marketed in a form or for a purpose specifically excluded from the fluid milk product definition of either order. For example, "evaporated milk" is a use of skim milk not treated as a fluid milk product in either order. If a product containing skim milk and any amount of vegetable fat were marketed in the same form and manner as evaporated milk, it likewise would be excluded from the term "filled milk."

5. *Classification of reconstituted buttermilk under the Georgia order.* Order No. 7 regulating the handling of milk in the Georgia marketing area should be amended to specifically provide that buttermilk made from reconstituted skim

milk be a Class I product. It was found in the decision on the original Georgia order, issued January 15, 1969 (34 F.R. 960), that buttermilk made from reconstituted skim milk could be distributed in the Georgia market and that the nonfat solids used to reconstitute such buttermilk were not subject to inspection requirements by health authorities in the marketing area.

Since the order was originally issued, the regulations of the State governing the disposition of buttermilk from reconstituted skim milk have been revised. The State now requires that any product made from reconstituted skim milk must meet the same quality requirements as like products must meet when processed from Grade A fluid milk. It is further required that the handler, to reconstitute skim milk used in buttermilk, must receive permission to do so from the Commissioner of Agriculture of the State of Georgia. It was testified that such permission is granted only in cases of emergency when producer skim milk is not available to a handler.

As noted above, in every month since the order has been issued there have been substantial quantities of producer milk classified in Class II. Also, the volume of reconstituted buttermilk disposed of in the Georgia market has been negligible. In these circumstances there is no longer a justification for permitting a Class II classification of buttermilk made from reconstituted skim milk.

The handler who distributes buttermilk made from reconstituted skim milk, if priced as Class II, would enjoy a definite competitive advantage over other handlers whose buttermilk is produced from skim milk derived from producer milk. This advantage is similar to that which would be obtained by a handler selling filled milk made from reconstituted skim milk which was priced as Class II in competition with other handlers disposing of filled milk produced from producer skim milk which was classified and priced at the Class I price.

As in the case of filled milk, the advantage of purchasing the ingredients of buttermilk at a Class II price would jeopardize the objectives of classified pricing, which are to provide uniformity of pricing according to form or use and to provide an adequate supply of milk for the market.

6. *Conforming changes in order provisions.* Order definitions serve among other things to identify the dairy farmers who are the producers for the market and to identify those handlers to be regulated. The amendments with respect to filled milk require several changes in these definitions. Presently, the provisions of both orders defining pool plants and producers serve to qualify for pooling the milk approved for fluid use and regularly supplied to the fluid market. These provisions should not result in pooling milk from unapproved and unneeded sources with milk of farmers regularly supplying and approved for the fluid market. Therefore, the determination of whether a distributing plant is qualified for pooling under either order should not be affected by its disposition of filled milk in the marketing area. Similarly, the inclusion of shipments of filled milk would not be a proper basis for classifying a plant as a pool supply plant. Appropriate changes to accomplish these objectives are needed as corollary amendments.

The definition of partially regulated plant in each order should also be modified to include a plant making disposition of filled milk on routes in the marketing area. This is accomplished by deleting the specification that fluid milk products disposed of in the marketing area be Grade A.

Throughout this decision, reference is made to the term "distributing plant" and to the term "partially regulated distributing plant". These terms have been used to describe plants from which filled milk may be distributed. Under the present orders, a distributing plant is a plant that by meeting performance standards may obtain pool plant status. A partially regulated distributing plant is defined under the nonpool plant provisions. In no event should such a plant become pooled without meeting the terms provided for distributing plants and pool plants. Where used in this decision, the two definitions, "partially regulated distributing plant" and "distributing plant," are treated as separate and individual definitions. The definition of "unregulated supply plant" should be modified to cover possible shipments of filled milk. While no monetary obligation is imposed on an unregulated supply plant, the term is used in both orders to identify sources of receipts of unregulated milk. The location of the unregulated supply plant is considered in establishing the obligation of the receiving plant.

Order provisions with respect to reports, records, and facilities and the market administrator's functions are modified to insert the term "filled milk" wherever needed to clarify the intention that the product is covered by the applicable order provisions. Additional reports are needed with respect to the quantities of disposition in the marketing area by pool plants and partially regulated distributing plants. These reports should show the quantity of Class I disposition separately for filled milk and other fluid milk products. In the case of partially regulated distributing plants, the report should show also the quantity of reconstituted skim milk in fluid milk products disposed of in the marketing area.

Throughout the classification and allocation provisions, filled milk would be treated, generally, in the same manner as other fluid milk products. Inventories of filled milk would be treated the same as inventories of whole milk. With respect to filled milk modified by the addition of nonfat milk solids, the same type of classification would apply as now applies under both orders to modified whole milk.

Should filled milk containing reconstituted skim milk be received from a handler pool plant or from an unregulated supply plant, such receipts would be allocated so as to properly apply the charges which prior findings and conclusions state should apply to transfers from such plants. These receipts would be allocated first to the surplus class and then in sequence to the higher priced classification. Receipts of packaged filled milk from an other order plant would be allocated in the same manner as other packaged fluid milk products from other order plants except filled milk containing reconstituted skim milk.

The provisions with respect to any plant which qualifies as a pool plant under more than one order should be modified to provide that the determination of which order applies will be based on the disposition of fluid milk products other than filled milk. These changes will coordinate these provisions with the modifications of pool plant provisions previously described.

In some order provisions, the words "skim milk and butterfat" are substituted for the word "milk" where this provides a more specific meaning. One instance is the provision contained in all orders referring to the termination of obligations.

7. *Emergency conditions.* Regulated handlers and proponent cooperative associations both urged that prompt action be taken, particularly with respect to the amendments to the Georgia order. It was suggested that it might be appropriate for the Secretary to find that an emergency exists which would warrant the omission of a recommended decision.

The record, however, does not afford a basis for omission of the recommended decision. Interested parties should be afforded the opportunity to review the recommended decision and file exceptions thereto.

Although neither order specifically refers to filled milk, the classification provisions of the Georgia order are so written that any filled milk disposed of in that market would fall within the Class I classification. This results from the fact that filled milk is not included among the products specified as a Class II use. Any product not specifically classified in the lower class automatically is a Class I item under the order. Thus, should filled milk be disposed of in the Georgia market before the issuance of the clarifying amendments recommended herein, it will be classified as Class I milk.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

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

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and

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

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

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

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

RECOMMENDED MARKETING AGREEMENTS AND ORDERS AMENDING THE ORDERS

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following orders amending the orders, regulating the handling of milk in the Georgia and Mississippi marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. Sections 1007.7, 1007.8, 1007.9, and 1007.10 are revised to read as follows:

§ 1007.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, filled milk, flavored milk, flavored milk drinks, concentrated milk, cream and mixtures of cream, and milk or skim milk.

§ 1007.8 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted health authority for fluid consumption or filled milk is processed or packaged and which has route disposition in the marketing area during the month.

§ 1007.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority for fluid consumption or filled milk is shipped during the month to a pool plant.

§ 1007.10 Pool plant.

"Pool plant" means a plant specified in paragraph (a) or (b) of this section that is neither an other order plant, a producer-handler plant, nor an exempt distributing plant.

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.16 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of it total Class I disposition, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.16 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

2. The introductory text and paragraph (a) of § 1007.11 are revised to read as follows:

§ 1007.11 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1007.10 and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route dispositions in its marketing area.

* * * * *

3. A new § 1007.24, filled milk, is added to read as follows:

§ 1007.24 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

4. The introductory text of § 1007.30 and paragraph (b) of this section are revised to read as follows:

§ 1007.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler (except a handler pursuant to § 1007.13 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received or at which filled milk is processed or packaged, reporting in detail and on forms prescribed by the market administrator:

* * * * *

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat in route disposition in the marketing area, showing separately the in-area route disposition of filled milk; and

(2) For a handler pursuant to § 1007.13(b), the amount of reconstituted skim milk in route disposition in the marketing area; and

* * * * *

5. In § 1007.33, paragraphs (b) and (c) are revised to read as follows:

§ 1007.33 Records and facilities.

* * * * *

(b) The weights and butterfat and other content of all milk and milk products (including filled milk) handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products (including filled milk) in inventory at the beginning and end of the month; and

* * * * *

6. In § 1007.41 paragraph (b) is revised to read as follows:

§ 1007.41 Classes of utilization.

* * * * *

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), eggnog, yogurt, aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, custards and puddings, and sterilized products in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk or filled milk plant) in the manufacture of bakery products, candy, or packaged food products (other than milk products and filled milk) for consumption off the premises;

(3) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(4) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(5) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

(6) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(7) Skim milk and butterfat, respectively, in shrinkage at each pool plant but not in excess of:

(i) Two percent of producer milk (except that received from a handler pursuant to § 1007.13(d));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1007.13(d): *Provided*, That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(iii) Plus 1.5 percent of bulk fluid milk products (except cream) received from other pool plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization is requested by the handler; and

(vi) Less 1.5 percent of bulk fluid milk products (except cream) transferred or diverted to other plants; and

(8) Skim milk and butterfat in shrinkage of other source milk assigned pursuant to § 1007.42(b)(2).

6a. In paragraph (b) of § 1007.42, the reference in subparagraphs (1) and (2) to § 1007.41(b)(8) should be changed to § 1007.41(b)(7).

7. In paragraph (a) of § 1007.45, subparagraphs (1), (2), (3), (5), (6), and (9), and the introductory text of subparagraph (10) are revised to read as follows:

§ 1007.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1007.41(b)(7);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products, except filled milk made from reconstituted skim milk, received from an unregulated supply plant or the pounds of skim milk classified as Class I milk and transferred or diverted during the month to such plant, whichever is less;

(3) Substract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (5)(vi) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1007.41(b)(6) plus 2 percent of the remainder of such receipts; and

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

* * * * *

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which appropriate health approval is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of fluid milk products from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraphs (2) and (5)(v) of this paragraph:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (5)(vi) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (5)(vi) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraphs (2), (5)(v), and (6)(i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (5)(vi) and (6)(ii) of this paragraph:

* * * * *

8. In § 1007.60 paragraphs (e) and (f) are revised to read as follows:

§ 1007.60 Computation of the net pool obligation of each handler.

* * * * *

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1007.45(a)(5) and the corresponding step of § 1007.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1007.45(a)(5) (v) and (vi) and the corresponding step of § 1007.45(b) the Class I price shall be adjusted to the location of the transferor plant, but, in no event shall such adjustment result in a Class I price lower than the Class II price; and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s), from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1007.45(a)(9) and the corresponding step of § 1007.45(b), but in no event shall such adjustment result in a Class I price lower than the Class II price.

9. In § 1007.62 subparagraph (1) of paragraph (a) and paragraph (b) are revised to read as follows:

§ 1007.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) The obligation that would have been computed pursuant to § 1007.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1007.60(f) and a credit in the

amount specified in § 1007.74(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1007.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1007.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

* * * * *

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Deduct from the remainder the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or at the Class II price, whichever is higher, and add for the quantity of reconstituted skim milk subtracted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

10. A new § 1007.63 is added to read as follows:

§ 1007.63 Obligation of handler operating an other order plant.

Each handler who operates an other order plant that is regulated under an order providing for individual-handler pooling shall pay to the market administrator for the producer-settlement fund, on or before the 25th day after the end of the month, an amount computed as follows:

(a) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to the route disposition in each marketing area; and

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to route disposition in this marketing area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price, but in no event shall such adjustment result in Class I price lower than the Class II price.

11. Section 1007.73 is revised to read as follows:

§ 1007.73 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1007.62, 1007.63, and 1007.74 and out of which he shall make all payments from such fund pursuant to § 1007.75: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

12. In § 1007.80, paragraphs (a) and (d) are revised to read as follows:

§ 1007.80 Termination of obligations.

* * * * *

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the skim milk and butterfat 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 be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the skim milk and butterfat, with respect to which the obligation exists, were 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;

* * * * *

(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 2 years after the end of the month during which the skim milk and butterfat involved in the claims were received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff 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.

PART 1103—MILK IN THE MISSISSIPPI MARKETING AREA

1. Section 1103.8 is revised to read as follows:

§ 1103.8 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment or facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

2. In § 1103.11, paragraphs (a) and (b) are revised to read as follows:

§ 1103.11 Pool plant.

* * * * *

(a) A distributing plant, other than that of a producer-handler or one described in § 1103.61, from which during the month route disposition of fluid milk products, except filled milk, is not less than 50 percent of its total receipts of Grade A milk and the volume so disposed of in the marketing area is at least 20 percent of the total route disposition of fluid milk products, except filled milk;

(b) A supply plant from which a volume of fluid milk products, except filled milk, not less than 50 percent of the Grade A milk received at such plant from dairy farmers is transferred during the month to a distributing plant(s) from which a volume of Class I milk, except filled milk, not less than 50 percent of its receipts of Grade A milk from dairy farmers and from other plants is disposed of as route disposition during the month and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition (not including filled milk): *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

* * * * *

3. Section 1103.12 is revised to read as follows:

§ 1103.12 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

4. Section 1103.14 is revised to read as follows:

§ 1103.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant at which no milk or other fluid milk products are received during the month except his own production and which has no receipts of nonfluid milk products which are used to reconstitute fluid milk products: *Provided*, That such person establishes that the maintenance, care and management of all resources necessary to produce the entire volume of fluid milk products handled and all facilities necessary for operations as a handler are each the personal enterprise and risk of such person.

5. Section 1103.18 is revised to read as follows:

§ 1103.18 Fluid milk product.

"Fluid milk product" means all the skim milk (including reconstituted skim milk and concentrated skim milk, other than bulk condensed) and butterfat in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, filled milk, eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, frozen storage cream, ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen dessert and mixes, sterilized products contained in hermetically sealed cans, and any product which contains 6 percent or more nonmilk fat (or oil)): *Provided*, That when any such milk product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content.

6. A new § 1103.19a is added to read as follows:

§ 1103.19a Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent of nonmilk fat (or oil).

7. In § 1103.30, subparagraph (2) of paragraph (a) and paragraph (b) are revised to read as follows:

§ 1103.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(2) Utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement of the route of disposition of fluid milk products outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk;

* * * * *

(b) Each handler specified in § 1103.13 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing Class I disposition on routes in the marketing area of each of the following: skim milk and butterfat, respectively in fluid milk products and the quantity thereof which is reconstituted skim milk;

* * * * *

8. In § 1103.33, paragraphs (b) and (c) are revised to read as follows:

§ 1103.33 Records and facilities.

* * * * *

(b) The weights and tests for butterfat and other content of all milk and milk products (including filled milk) handled;

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

* * * * *

9. In § 1103.44, subparagraph (5) of paragraph (d) is revised to read as follows:

§ 1103.44 Transfers.

* * * * *

(d) * * *

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II; and

* * * * *

10. In § 1103.46, subparagraphs (2), (2-a), (3), (4), (5), (6), (7), and the introductory text of subparagraph (8) preceding subdivision (i) of paragraph (*a*) are revised to read as follows:

§ 1103.46 Allocation of skim milk and butterfat classification.

* * * * *

(a) * * *

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3) (v) of this paragraph, as follows:

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

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

(2-a) Subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (3) (iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (3) (iv) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the same handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (3) (v) of this paragraph; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class

II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler; and

(iv) The pounds of skim milk in receipts of milk by diversion from an other order plant for which Class II utilization was requested by the receiving handler and by the diverting handler under the other order, but not in excess of the pounds of skim milk remaining in Class II milk;

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

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

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (3)(iv) or (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be substracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Substract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not substracted pursuant to subparagraphs (3)(v) or (4)(iii) of this paragraph pursuant to the following procedure:

* * * * *

11. Section 1103.61 is revised to read as follows:

§ 1103.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as the operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except as specified in paragraphs (d) and (e):

(a) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order, and from which the Secretary determines a greater quantity of Class I milk, except filled milk, is disposed of during the month as route dispositions in such other Federal order marketing area than is disposed of as route dispositions in this marketing area; except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines a greater quantity of Class I milk, except filled milk, is disposed of during the month as route dispositions in this marketing area than is so disposed of in such other marketing area but which plant is nevertheless, fully regulated under such other Federal order; and

(c) A plant meeting the requirements of § 1103.11(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part except during the months of February through August if such plant retains automatic pooling status under this part.

(d) Each handler operating a plant described in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, report to the market administrator at such time and in such manner as the market administrator may require (in lieu of reports pursuant to §§ 1103.30 and 1103.31) and allow verification of such reports by the market administrator.

(e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order and subtract its value at the Class II price, but in no event shall such adjustment result in a Class I price lower than the Class II price.

12. In § 1103.62, paragraphs (a)(1)(i) and (b) are revised to read as follows:

§ 1103.62 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) (i) The obligation that would have been computed pursuant to § 1103.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1103.70(e) and a credit in the amount specified in § 1103.97(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

* * * * *

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk route dispositions in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Deduct from the remainder the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location

of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher and add for the quantity of reconstituted skim milk subtracted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

13. In § 1103.70, paragraphs (d) and (e) are revised to read as follows:

§ 1103.70 Computation of the net pool obligation of each pool handler.

* * * * *

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1103.46(a)(3) and the corresponding step of § 1103.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1103.46(a)(3)(iv) and (v) and the corresponding steps of § 1103.46(b) the Class I price shall be adjusted to the location of the transferor plant, but in no event shall such adjustment result in a Class I price lower than the Class II price; and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(7) and the corresponding step of § 1103.46(b), but in no event shall such adjustment result in a Class I price lower than the Class II price.

14. Section 1103.96 is revised to read as follows:

§ 1103.96 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 applicable payments made by handlers pursuant to §§ 1103.61, 1103.62, 1103.93(a), and 1103.97, and out of which he shall make all applicable payments pursuant to §§ 1103.93(b) and 1103.98: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

15. In § 1103.100, paragraphs (a) and (d) are revised to read as follows:

§ 1103.100 Termination of obligations.

* * * * *

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the skim milk and butterfat 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 be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the skim milk and butterfat, with respect to which the obligation exists, were 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 such producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

* * * * *

(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 2 years after the end of the calendar month during which the skim milk and butterfat involved in the claim were received if an under payment is claimed, or 2 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.

Signed at Washington, D.C., on March 5, 1970.

JOHN C. BLUM,
*Deputy Administrator,
Regulatory Programs.*

[F.R. Doc. 70-2882; Filed, Mar. 9, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of United States Virgin Islands Air Quality Control Region; Consultation With Appropriate Territorial and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the U.S. Virgin Islands Air Quality Control Region as set forth in the following new § 81.46 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-59, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the territory of the Virgin Islands and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at 10 a.m., March 20, 1970, at the Government House, Second Floor Ballroom, Charlotte Amalie, St. Thomas, V.I.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

Territorial and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-59, 5600 Fishers Lane, Rockville, Md. 20852 of such intention at least 1 week prior to the consultation. A report prepared for the consultation is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.46 is proposed to be added to read as follows:

§ 81.46 United States Virgin Islands Air Quality Control Region.

The U.S. Virgin Islands Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

The entire U.S. Virgin Islands.

This action is proposed under the authority of sections 107(a) and 301(2) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: March 5, 1970.

RAYMOND SMITH,
*Acting Commissioner, National Air
Pollution Control Administration.*

[F.R. Doc. 70-2858; Filed, Mar. 9, 1970; 8:46 a.m.]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 320]

DEPRESSANT AND STIMULANT DRUGS

Proposed Listing of MDA, MMDA, TMA, JB-318, and JB-336 and their Salts and Isomers as Subject to Control

Notice is hereby given that the Director, Bureau of Narcotics and Dangerous Drugs, proposes, on the basis of investigations, and the recommendations of an advisory committee appointed pursuant to section 511(g)(1) of the Federal Food,

Drug, and Cosmetic Act, that the drugs set forth below be listed as "depressant or stimulant" drugs within the meaning of section 201(v) of the Act because of their hallucinogenic effect. Having considered such recommendations, pursuant to the provisions of the Act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371) and under the authority vested in the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611), and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.200 of Title 28 of the Code of Federal Regulations, it is proposed that § 320.3(c)(3) of Title 21 of the Code of Federal Regulations be amended by alphabetically inserting in the list of drugs new items, as follows:

§ 320.3 Listing of drugs defined in section 201(v) of the Act.

* * * * *

(c) * * *

(3) Hallucinogenic effect:

Established name	*Some trade and other names*
MDA, its salts, and all its isomers, such as optical and position, and all the salts thereof.	3,4-methylenedioxy amphetamine (MDA) or 4,5-methylenedioxy amphetamine.
	2,3-methylenedioxy amphetamine or 5,6-methylenedioxy amphetamine.
MMDA, its salts, and all its isomers, such as optical and position, and all the salts thereof.	5 - methoxy - 3,4 - methylenedioxy amphetamine (MMDA) or 3-methoxy-4,5-methylenedioxy amphetamine.
	6-methoxy-3,4-methylenedioxy amphetamine or 2-methoxy-4,5-methylenedioxy amphetamine.
	2-methoxy-3,4-methylenedioxy amphetamine or 6-methoxy-4,5-methylenedioxy amphetamine.
	6-methoxy-2,3-methylenedioxy amphetamine or 2-methoxy-5,6-methylenedioxy amphetamine.
	5-methoxy-2,3-methylenedioxy amphetamine or 3-methoxy-5,6-methylenedioxy amphetamine.
	4-methoxy-2,3-methylenedioxy amphetamine or 4-methoxy-5,6-methylenedioxy amphetamine.
TMA, its salts, and all its isomers, such as optical and position, and all the salts thereof.	3,4,5-trimethoxy amphetamine (TMA).
	2,4,5-trimethoxy amphetamine or 3,4,6-trimethoxy amphetamine.
	4,5,6-trimethoxy amphetamine or 2,3,4-trimethoxy amphetamine.
	2,3,5-trimethoxy amphetamine or 3,5,6-trimethoxy amphetamine.
	2,3,6-trimethoxy amphetamine or 2,5,6-trimethoxy amphetamine.
	2,4,6-trimethoxy amphetamine.
JB-318, its salts, and all its position isomers, and all the salts thereof.	N-ethyl-3-piperidyl benzilate (JB-318).
	N-ethyl-2-piperidyl benzilate.
	N-ethyl-4-piperidyl benzilate.
JB-336, its salts and all its position isomers, and all the salts thereof.	N-methyl-3-piperidyl benzilate (JB-336).
	N-methyl-2-piperidyl benzilate.
	N-methyl-4-piperidyl benzilate.

* * * * * * *

All interested persons are invited to submit their views in writing regarding this proposal. Comments concerning any additional trade or other names that may be properly listed for the subject drugs are also invited. Views and comments should be submitted, preferably in quintuplicate, addressed to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, D.C. 20537, within 30 days following the date of publication of this notice in the FEDERAL REGISTER, and may be accompanied by a memorandum or brief in support thereof.

Dated: March 2, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70-2841; Filed, Mar. 9, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-SW-43]

VOR FEDERAL AIRWAY SEGMENTS

Proposed Alteration and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airways Nos. 20 and 163 and designate VOR Federal airway No. 261.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration is considering the following airspace actions:

1. Redesignate V-163 segment from Brownsville, Tex., direct to Corpus Christi, Tex. The width of the airway segment from 37 nautical miles south of Corpus Christi to Corpus Christi would be designated as 3 nautical miles east and 4 nautical miles west of the centerline. Designate V-163 west alternate from Brownsville to Corpus Christi via the intersection of Brownsville 343° T. (334° M) and Corpus Christi 193° T. (184° M) radials. The width of the airway segment from 37 nautical miles south of Corpus Christi to Corpus Christi would be designated as 3 nautical miles each side of the centerline. The airspace above 15,000 feet MSL on V-163 west alternate segment from the intersection of Brownsville 343° T. (334° M) and Corpus Christi 193° T. (184° M) radials to Corpus Christi would be excluded.

2. Redesignate V-20 from McAllen, Tex., to Corpus Christi via the intersection of Brownsville 343° T. (334° M) and Corpus Christi 193° T. (184° M) radials. The width of the airway segment from 37 nautical miles south of Corpus Christi to Corpus Christi would be designated as 3 nautical miles each side of the centerline. The airspace above 15,000 feet MSL from McAllen to Corpus Christi and the portion of the airway within Mexico would be excluded. Designate V-20 south alternate segment from McAllen via Harlingen, Tex., to the intersection of Brownsville 343° T. (334° M) and Corpus Christi 193° T. (184° M) radials.

3. Designate V-261 airway from Brownsville direct to Harlingen, excluding the portion within Mexico.

These proposed airspace actions would facilitate the movement of the increased volume of air traffic in the south Texas area and would alleviate traffic congestion now experienced in this southern portion of Texas. The proposed airway structure between Corpus Christi and Brownsville/Harlingen/McAllen would

provide a bypass routing for aircraft arriving and departing Corpus Christi and for air traffic arriving and departing airports in the lower Rio Grande Valley area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 4, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-2850; Filed, Mar. 9, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 18802; FCC 70-239]

SCHEDULE OF FEES

Supplemental Notice of Proposed Rule Making

1. This supplemental notice is issued because of requests received by the Commission for further information concerning the proposed fee schedules for the various services contained in the notice of proposed rule making in Docket No. 18802.

2. The Commission's process starts with direct costs for each bureau/office concerned, as reflected in our annual budget requests. There is then added to such direct costs those costs of other bureaus or offices which are directly attributable to the service involved; e.g. the costs of activities of the Field Engineering Bureau are distributed among Broadcasting, Common Carrier, and Safety and Special Services in the proportion of activity devoted to each service. Thereafter, the Commission's remaining costs not directly attributable to any particular service are distributed amongst the bureaus and offices, prorated on the basis of direct costs.

3. Activity costs thus derived are shown in the following table, both in terms of dollars and in terms of percentages of the total Commission budget request.

		Percent
Broadcast	$9,661,200	38.8
Cable television	1,145,400	4.6
Chief engineer	323,700	1.3
Common carrier	4,631,400	18.6
Field engineering	1,294,800	5.2
Safety and special radio	7,843,500	31.5

4. It should be emphasized that the foregoing figures reflect only the "cost" factor considered in the proposed fee schedule, and that other criteria, such as value to the recipient and public policy or interest served, are also and will continue to be considered, in arriving at a practicable, fair and equitable method for formulating the proposed fee schedules.

5. The issuance of this supplemental notice will not serve as a basis for grants of extensions of time in which to file comments.

Adopted: March 4, 1970.

Released: March 4, 1970.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-2874; Filed, Mar. 9, 1970; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 204, 217]

RESERVES OF MEMBER BANKS; INTEREST ON DEPOSITS

Certain Subordinated Obligations as Deposits

The Board of Governors is considering changing present requirements for an obligation issued by a member bank subordinated to the claims of depositors to be classified by the bank as nondeposit borrowing for the purposes of member bank reserve requirements (Regulation D) and interest rate controls (Regulation Q).

This would be accomplished by amending the relevant portions of § 204.1(f) and § 217.1(f) to read as follows:

(f) *Deposits as including certain promissory notes and other obligations.* [The term "deposit" does not include an obligation that] * * *

(3) is designated as a capital note or capital debenture and possesses the following characteristics:

(i) has an original maturity of more than 5 years;

(ii) is subordinated expressly to the claims of depositors and is unsecured;

(iii) expressly provides that it will not be eligible as collateral for a loan by the issuing bank; and

(iv) is of a denomination not less than $20,000, unless part of an issue of securities sold by means of a preemptive rights offering, an underwriting, or other securities marketing channel not connected with the issuing bank's regular banking operations and personnel or those of its affiliates;

but this subparagraph (3) shall not affect (A) any instrument issued before March 9, 1970, that has an original maturity of more than 2 years, is unsecured, and states expressly that it is subordinated to the claims of depositors, or (B) capital notes or debentures issued, other than to the general public, by a national bank with the specific approval of the Comptroller of the Currency or by a State member bank with the specific approval of its State supervisor and the Board of Governors, upon a determination in each case that exigent circumstances require the issuance of such capital notes or debentures without regard to the provisions of this Part.

* * * * *

Recent evidence indicates that member banks are marketing certain types of subordinated obligations to acquire deposit-type funds, with results that the Board considers as impairing the effective application of regulations with respect to deposit interest rates and reserve requirements. The intent of the amendment is to distinguish between deposit-type funds and true capital funds.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 2, 1970. Under the Board's rules regarding availability of information (12 CFR Part 261), such materials will be made available for inspection and copying upon request unless the person submitting the material asks that it be considered confidential.

By order of the Board of Governors, February 27, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-2844; Filed, Mar. 9, 1970; 8:45 a.m.]

INTERIM COMPLIANCE PANEL

Coal Mine Health and Safety

[30 CFR Part 501]

RESPIRABLE DUST STANDARD

Proposed Procedures for Obtaining Permits for Noncompliance

In F.R. Doc. 70-2702 appearing in the issue for Friday, March 6, 1970, on Page 4238, second column, third paragraph, third line, the word "no" should be deleted.

In § 501.5(b) after the word "Interior" insert the words "and the Secretary of Health, Education, and Welfare".

Dated: March 6, 1970.

CHARLES F. BROWN,
Chairman,
Interim Compliance Panel.

[F.R. Doc. 70-2908; Filed, Mar. 9, 1970; 8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Indian Affairs has filed an application, serial number F-11045, for the withdrawal of the lands described herein from all forms of appropriation under the public land laws, including the mining laws, mineral leasing laws, grazing laws, and disposal of materials under the act of July 31, 1947, as amended. The applicant agency desires the land as a site for a new school at Shaktoolik, Alaska. Due to excessive erosion on the shores of the Tagoomeyuk River, the village must move and the location of the new school will be 3½ miles north from the existing school and village.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation, 43 CFR 2311.1-3(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SHAKTOOLIK, ALASKA

TRACT A

Beginning at a point at approximate latitude 64°23' N., longitude 161°10' W., hereafter known as Station T, located approximately 2,000 feet southeast of the existing cemetery property corner on a magnetic bearing of south 54°34' E., said station being the true point of beginning; thence north 54°00' W., 75 feet to corner number 1-A; thence south 36°00' W., 100 feet to corner number 2-A; thence south 54°00' E., 75 feet to corner number 3-A; thence south 36°00' W., 40 feet to corner number 4-A; thence south 54°00' E., 300 feet to corner number 5-A; thence north 36°00' E., 140 feet to corner number 6-A; thence north 54°00' W., 300 feet to the true point of beginning.

TRACT B

Beginning at Station T mentioned in Tract A above; thence north 36°00' W., 60 feet to corner number 1-B; thence south 54°00' E., 300 feet to corner number 2-B; thence north 36°00' E., 100 feet to corner number 3-B; thence north 54°00' W., 300 feet to corner number 4-B; thence south 36°00' W., 100 feet to corner number 1-B; the point of beginning.

The tracts contain approximately 1.52 acres.

Shaktoolik is an Eskimo village located on Norton Sound approximately 120 miles southeast of Nome.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 70-2863; Filed, Mar. 9, 1970; 8:47 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 27, 1970.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. S 3527 for the withdrawal of the lands described below, subject to valid existing rights, from location, prospecting, entry, and patenting under the mining laws (Title 30, U.S.C., Ch. 2), but not from leasing under the mineral leasing laws.

The applicant desires the land for the development of two campgrounds; one on the East Fork of the Salmon River and the other at the junction of Shadow Creek and the East Fork of the South Fork of the Salmon River and Forest Highway No. 93.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

KLAMATH NATIONAL FOREST

MOUNT DIABLO MERIDIAN

Shaddw Creek Camping Site

T. 39 N., R. 11 W (unsurveyed),
Sec. 36, that portion lying above the junction of Shadow Creek and the East Fork of the South Fork of the Salmon River and to Forest Highway 93.

HUMBOLDT MERIDIAN

Hotelling Gulch Camping Site

T. 10 N., R. 8 E.,
Sec. 28, S½NE¼ lot 5 and NW¼SE¼ lot 5.

The areas described contain approximately 19 acres in Siskiyou County.

ELIZABETH H. MIDTBY,
Chief, Lands Adjudication Section.

[F.R. Doc. 70-2842; Filed, Mar. 9, 1970; 8:45 a.m.]

[U-11029]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 2, 1970.

The U.S. Forest Service, Department of Agriculture, has filed application for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid rights.

The applicant desires the land for an administrative site and visitor information center in connection with its operations in the Dixie National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned

officer of the Bureau of Land Management, Department of the Interior, Post Office Box 11505, Salt Lake City, Utah 84111.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN

T. 36 S., R. 3 W.,
Sec. 7, lots 1 and 2.

The area described aggregates 68.66 acres.

R. D. NIELSON,
State Director.

[F.R. Doc. 70-2854; Filed, Mar. 9, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

PEANUTS; 1969 CROP

Outgoing Quality Regulation

Pursuant to the provisions of sections 32 and 34 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the amendment hereinafter set forth to the Outgoing Quality Regulation (34 F.R. 11152) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of the Outgoing Quality Regulation is necessary to allow any handler to move cleaned inshell or shelled peanuts, which have been bagged and tagged for handling under positive lot identification, from one plant owned by him to another of his plants or to commercial storage within the production area without having such peanuts certified as meeting the Outgoing Quality Regulation, the same as currently permitted for the movement of peanuts not so bagged and tagged.

Therefore, paragraph (f) of the Outgoing Quality Regulations (34 F.R. 11152) is revised to read as follows:

(f) *Interplant transfer.* Until such time as procedures permitting all interplant and cold storage movements are established by the Committee, any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting outgoing quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

The Peanut Administrative Committee has recommended that this amendment be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with Outgoing Quality Regulations. Marketing of the 1969 peanut crop is underway and such outgoing quality regulations for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendment have signed the marketing agreement authorizing the issuance of such regulations, they are represented on the Committee which recommended such amendments, this action relieves restrictions, and time does not permit prior notice of the proposed amendment to such handlers.

The foregoing amendment of the Outgoing Quality Regulations is hereby approved and issued this 5th day of March 1970, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 70-2881; Filed, Mar. 9, 1970; 8:48 a.m.]

Packers and Stockyards Administration

ALLEN AUCTION CO., HARRISON, ARK. ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Allen Auction Company, Harrison, Ark.
County Line Milling Co., Inc., Pelham, Ga.
Mid America Stockyards, Bristow, Okla.
Jersey Shore Livestock, Inc., Jersey Shore, Pa.
R. Brandau Livestock Auction, Kendall, Wis.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 3d day of March 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-2853; Filed, Mar. 9, 1970; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 745, Amdt. 1]

MAINE

Amendment to Declaration of Disaster Loan Area

Declaration of Disaster Loan Area 745, dated December 31, 1969, for the State of Maine, is hereby amended as follows:

1. By changing the period in paragraph 1 thereof to a comma, and adding "February 10 through February 16, 1970, and continuing."

2. By changing the date in paragraph 2 thereof from "June 30, 1970" to "August 31, 1970."

Dated: March 2, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-2865; Filed, Mar. 9, 1970; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING DIRECTOR, URBAN PLANNING RESEARCH AND DEMONSTRATION PROGRAM

Designation

Mr. Wyndham Clarke, Special Assistant to the Assistant Secretary for Research and Technology, is hereby designated to serve as Acting Director, Urban Planning Research and Demonstration

Program, during the present vacancy in the position of Director, Urban Planning Research and Demonstration Program, with all the powers, functions, and duties redelegated or assigned to the Director, Urban Planning Research and Demonstration Program.

The designation of Mr. Milton R. Edelin effective November 22, 1969 (34 F.R. 1871, Nov. 22, 1969) is hereby revoked.

(Secretary's delegation to Assistant Secretary for Research and Technology, 35 F.R. 2750, Feb. 7, 1970)

Effective date. This designation shall be effective as of March 3, 1970.

HAROLD B. FINGER,
Assistant Secretary for Research and Technology.

[F.R. Doc. 70-2860; Filed, Mar. 9, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER COMPANY, PALISADES PLANT

Notice of Proposed Issuance of Provisional Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) is considering the issuance of a provisional operating license which would authorize Consumers Power Co. to possess, use, and operate the Palisades Plant reactor (the facility) for a period not to exceed 18 months. The reactor, which is a pressurized water reactor, is located at the Company's site on the eastern shore of Lake Michigan in Covert Township, Van Buren County, Mich., approximately 4½ miles south of South Haven, Mich. The proposed license would authorize Consumers Power Co. to operate the Palisades Plant at steady-state power levels up to a maximum of 2,200 megawatts thermal in accordance with the provisions of the license and the Technical Specifications appended thereto.

The Commission has found that the application for the facility license (as amended) complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations in 10 CFR, Chapter 1.

Prior to issuance of the provisional operating license, the facility will be inspected by the Commission to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permit No. CPPR-25. The license will be issued after the Commission makes the findings, reflecting its review of the application, which are set forth in the proposed license, and concludes that the issuance of this license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, Consumers Power Co. will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In the event that construction has not been completed to permit full power operation, the Commission may issue a provisional operating license consistent with the level of construction completed to permit initial fuel loading and low power testing prior to the issuance of the full power license.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, Consumers Power Co. may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this proposed provisional operating license, see (1) the Consumers Power Co.'s application for a facility license dated June 2, 1966, as amended (Amendments Nos. 9 through 20), (2) the report of the Advisory Committee on Reactor Safeguards dated January 27, 1970, (3) a related safety evaluation prepared by the Division of Reactor Licensing and (4) the proposed provisional operating license, including Technical Specifications attached as Appendix A thereto, all of which will be available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2), (3), and (4) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 5th day of March, 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-2898; Filed, Mar. 9, 1970; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21669]

AERO TRADES (WESTERN) LTD.

Notice of Hearing

Application for a foreign air carrier permit, issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled application is assigned to be held on March 20, 1970, before Examiner Joseph L. Fitzmaurice at 10 a.m., e.s.t., in Room 630, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., March 4, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-2872; Filed, Mar. 9, 1970; 8:47 a.m.]

[Docket No. 21866-4, 6, 7, 8, and 9]

DOMESTIC PASSENGER FARE INVESTIGATION

Notice to Interested Persons

Order 70-2-121, which defined the scope of issues and stated the manner in which the nine separate proceedings designated therein are to be handled, also stated that "all evidence presented in any phase of the entire investigation shall be available in the docket for consideration and decision in all other phases." Thus, it is evident that though there will be separate hearings for each of the several phases of the investigation, a party to one phase of the investigation will also be a party to the entire investigation. For example, parties heretofore granted leave to intervene in docket 18936, Standby Youth Fares, etc., now consolidated in Docket 21866 as phase 5, Discount Fares, will be parties to the entire investigation. In view of the fact that there will be separate hearings as part of one proceeding, orderly procedure requires some indication by would-be interveners of the phase of the investigation in which they plan to participate.

Any person desiring to participate as an intervener in phases 4, 6, 7, 8, or 9 of Docket 21866, pursuant to § 302.15 of the procedural regulations, in order to comply with § 302.15(c)(2)(ii), shall file a petition for leave to intervene prior to March 20, 1970, the date of the prehearing conference in Docket 21866-4, the first prehearing conference to be held pursuant to order 70-2-121. Such petition should clearly state the particular phase (for example, 21866-4) or phases in which the petitioner desires to participate as a party. One petition should be filed, rather than separate petitions for each phase. In addition, persons who have been granted leave to intervene in phase 5, Discount Fares, should advise whether they intend to participate only in phase 5 or whether they desire to participate at the hearing in any other phase.

In order to reduce the burden of exchange of exhibits in each phase which will be heard, it is contemplated that exhibits in any particular phase will be exchanged only with parties attending and participating in the prehearing conference of that particular phase. Stated differently, it will be presumed that any party in the investigation who does not attend the prehearing conference of a particular phase is not interested in receiving the exhibits and participating in that phase.

Dated at Washington, D.C., March 5, 1970.

[SEAL] THOMAS L. WRENN, *Chief Examiner.*

[F.R. Doc. 70-2873; Filed, Mar. 9, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 5]

NORSUD SHIPPING CO.

Order of Revocation

By letter dated February 14, 1970, Mr. Albert J. Dooley, 330 First Avenue, New York, N.Y. 10004, advised that Norsud Shipping Co. had ceased operations as an independent ocean freight forwarder. License No. 5 was voluntarily returned for cancellation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, section 6.03,

It is ordered, That the Independent Ocean Freight Forwarder License No. 5 of Albert J. Dooley doing business as Norsud Shipping Co. be and is hereby revoked effective February 14, 1970, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Albert J. Dooley.

LEROY F. FULLER, *Director, Bureau of Domestic Regulation.*

[F.R. Doc. 70-2866; Filed, Mar. 9, 1970; 8:47 a.m.]

NOUVELLE COMPAGNIE DE PAQUEBOTS

Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

NOTICE OF APPLICATION FOR CERTIFICATE [CASUALTY]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. 540):

NOUVELLE COMPAGNIE DE PAQUEBOTS (PAQUET LINES), 70-72 Rue de la Republique, Marseilles, France.

Dated: March 4, 1970.

FRANCIS C. HURNEY, *Secretary.*

[F.R. Doc. 70-2867; Filed, Mar. 9, 1970; 8:47 a.m.]

NOUVELLE COMPAGNIE DE PAQUEBOTS

Indemnification of Passengers for Nonperformance of Transportation

NOTICE OF APPLICATION FOR CERTIFICATE [PERFORMANCE]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

NOUVELLE COMPAGNIE DE PAQUEBOTS (PAQUET LINES), 70-72 Rue de la Republique, Marseille, France.

Dated: March 4, 1970.

FRANCIS C. HURNEY, *Secretary.*

[F.R. Doc. 70-2868; Filed, Mar. 9, 1970; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP70-5]

SOUTHERN NATURAL GAS CO.

Order Accepting Alternative Revised Tariff Sheets

FEBRUARY 25, 1970.

On January 19, 1970, Southern Natural Gas Co. (Southern) tendered for filing alternative revised tariff sheets to its FPC Gas Tariff, sixth revised Volume No. 1,[1] proposing that they be substituted for the revised tariff sheets included in Southern's August 15, 1969, rate increase filing in Docket No. RP70-5. By order issued September 23, 1969, we suspended Southern's proposed $37,830,641 rate increase in Docket No. RP70-5 until March 1, 1970. The subject alternative revised tariff sheets reduce Southern's proposed rate increase in Docket No. RP70-5 by $1,376,036 annually.

The proposed reduced rates reflect the netting of (1) the reduced costs resulting from the reduction in the Federal Income tax surcharge from 10 percent to 5 percent and (2) the increased costs resulting from the reduction in the percentage depletion allowance from 27½ percent to 22 percent.

Southern requests waiver of § 154.66 of the regulations to permit the filing of the proposed tariff sheets.

The Commission finds:

Good cause exists for waiving § 154.66 (b) of the Commission's regulations to permit the filing of the proposed alternative revised tariff sheets.

The Commission orders:

(A) Section 154.66(b) of the Commission's regulations is hereby waived.

(B) The alternative revised tariff sheets are accepted for filing in substitution for the revised tariff sheets filed August 15, 1969, in Docket No. RP70-5, and their use deferred until March 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 70-2840; Filed, Mar. 9, 1970; 8:45 a.m.]

[1] Alternate: First revised sheets Nos. 8E, 15E, and 26E; third revised Sheet No. 11F; fourth revised sheet 11J; fifth revised sheets Nos. 8A, 8D, 11H, 15A, 15D, 26A, and 26D; sixth revised sheet No. 30; and ninth revised sheets Nos. 9, 16, 23, and 27.

[Docket No. CP70-208]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

MARCH 9, 1970.

Take notice that on March 6, 1970, Texas Eastern Transmission Corp. (Applicant), Post Office Box 2521, Houston, Tex. 77001, filed an application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing the importation of up to 750,000 barrels of liquefied natural gas (LNG) (the equivalent of approximately 2,600,000 Mcf of natural gas) from Arzew, Algeria, North Africa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import up to 3 shiploads of LNG, with the first cargo of approximately 240,000 barrels of LNG (the equivalent of approximately 850,000 Mcf of natural gas) to be loaded on or about March 12, 1970, for delivery at Staten Island on or about March 25, 1970. The other two shiploads are scheduled for delivery in April 1970. Applicant will purchase the LNG from British Methane, Ltd., a Bahamian corporation, at a price of $4.75 per U.S. barrel. Deliveries of the LNG will be made into Applicant's LNG storage facilities on Staten Island. Applicant is proposing to import the LNG to assure maintenance of adequate service to its existing customers.

In this instance it appears that a shorter notice period is reasonable and consistent with the public interest, and, therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not

serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-2958; Filed, Mar. 9, 1970; 10:32 a.m.]

FEDERAL RESERVE SYSTEM

HUNTINGTON BANCSHARES INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Huntington Bancshares Inc., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of The Bank of Wood County Co., Bowling Green, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors, or the Federal Reserve Bank o" Cleveland.

Dated at Washington, D.C., this 2d day of March 1970.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-2845; Filed, Mar. 9, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2709]

DANA LABORATORIES, INC.

Notice of Filing of Application for Order Authorizing Proposed Transaction

MARCH 4, 1970.

Notice is hereby given that Dana Laboratories, Inc. ("Dana"), 500 Newport Center Drive, Newport Beach, Calif. 92660, a California corporation, has filed an application pursuant to section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder for an order granting said application pursuant to Rule 17d-1 with respect to the sale of shares of common stock of Dana by Dana and certain stockholders of Dana as part of a proposed public offering of Dana common stock. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein, which are summarized below.

Christiana Securities Co. ("Christiana"), a registered closed-end investment company, owns approximately 29 percent of the outstanding common stock of E. I. du Pont de Nemours and Co., which, in turn, owns approximately 36 percent of the common stock of Dana. Under sections 2(a)(3) and 2(a)(9) of the Act, Dana and Cushman Electronics, Inc. ("Electronics"), a wholly owned subsidiary of Dana, are presumed to be controlled by Christiana and each is an affiliated person of Christiana.

Dana has filed a registration statement with the Commission under the Securities Act of 1933 with respect to a proposed public offering of Dana common stock. It is expected such offering will consist of an aggregate of approximately 300,000 shares of common stock of Dana, of which a total of approximately 83,500 would be offered by certain stockholders of Dana and the balance would be offered by Dana. Dana and the selling shareholders will each bear a pro rata share of the expenses of registration in proportion to the number of shares being offered by each, except that Dana alone will pay the cost of printing and preparing stock certificates and the charges of its transfer agent and registrar. Dana represents that such costs are normal costs of its operation and its payment thereof is customary practice. Dana and each of the selling stockholders will sell to the underwriters at the same price the shares offered by them.

The selling stockholders and the shares of Dana common stock proposed to be offered by each are as follows:

62,500 shares—LeRoy T. Cushman.
9,740 shares—John F. Bishop.
5,000 shares—Norman C. Walker.
3,500 shares—Joseph Wu.
1,800 shares—Harold D. Anderson.
1,000 shares—Lucian Taylor.

Cushman owns 251,561 shares, or 12.5 percent, of the outstanding Dana common stock as well as an additional 211,311 shares held in escrow; he is president and a director of Electronics. Bishop owns 245,240 shares, or 12.3 percent, of the outstanding Dana common stock and is chairman of the board and president of Dana. Walker owns 155,112 shares, or 7.7 percent, of the outstanding Dana common stock and is a director and vice-president of Dana. Wu is chief engineer, and Anderson is a director and vice-president, of Electronics. Wu, Anderson, and Taylor own less than 5 percent of the common stock of Dana. Under section 2(a)(3) of the Act, Cushman, Bishop, and Walker are affiliated persons of Dana and Cushman, Wu and Anderson are affiliated persons of Electronics.

Rule 17d-1, adopted under section 17(d) of the Act, provides, inter alia, that no affiliated person of any registered investment company, and no affiliated person of such affiliated person, shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant, unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered or controlled company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, not later than March 18, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Dana at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-2856; Filed, Mar. 9, 1970; 8:46 a.m.]

[File No. 500-1]

U.S. BERYLLIUM CORP.

Order Suspending Trading

MARCH 3, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of U.S. Beryllium Corp. and all other securities of U.S. Beryllium Corp., a Colorado Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 4, 1970 through March 13, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-2855; Filed, Mar. 9, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 504]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 5, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71860. By order of February 27, 1970, the Motor Carrier Board approved the transfer to Illinois Merchants Delivery, Inc., Danville, Ill., of certificate in No. MC-52680 (Sub-No. 1), issued June 7, 1963, to John Koehn, Jr., doing business as Merchants Delivery, Danville, Ill., authorizing the transportation of: Such merchandise as is dealt in by mail order houses, meat, packinghouse products, groceries, meat products and by products, dairy products, and articles distributed by meat packinghouses, from, to, or between specified points in Illinois and Indiana. Ray M. Foreman, 41 North Vermilion Street, Danville, Ill. 61832, attorney for applicants.

No. MC-FC-71872. By order of March 2, 1970, the Motor Carrier Board approved the transfer to Portland Tractor & Equipment Co., a corporation, 9451 Southeast 82d Avenue, Portland, Oreg. 97266, of certificate No. MC-94833 issued April 4, 1941, to Gustine's Auto Service, a corporation, Portland, Oreg., acquired by Richard C. Duncan and William L. Runyan, a partnership, doing business as Duncan Towing Co., Portland, Oreg., pursuant to No. MC-FC-9359, consummated March 6, 1967, and thence acquired by Duncan Towing Co., a corporation, 1040 Northeast Baldwin Street, Portland, Oreg. 97211, pursuant to No. MC-FC-69662, consummated July 11, 1967, authorizing the transportation of used and disabled motor vehicles and used machinery without motive power, in driveaway or towaway service, over irregular routes, between points in Washington and Oregon.

No. MC-FC-71888. By order of February 26, 1970, the Motor Carrier Board approved the transfer to Lyle G. Langfitt, doing business as Langfitt Delivery Service, 552 17th Avenue South, Clinton, Iowa 52732, of the operating rights in permit No. MC-86014 issued September 22, 1943, to John F. Meade, doing business as Meade Transfer Co., 141 Seventh Avenue South, Clinton, Iowa 52711, authorizing the transportation of such merchandise as is dealt in by chain, retail, and mail order department stores, the business of which is the sale of general merchandise, from Clinton, Iowa, to points in Illinois within 50 miles of Clinton, Iowa.

No. MC-FC-71891. By order of February 27, 1970, the Motor Carrier Board approved the transfer to John E. Gates Transport, Inc., doing business as Gates Transport, Perry, N.Y., of the certificate of registration in No. MC-96721 (Sub-No. 1) issued December 10, 1963, to John E. Gates, doing business as Gates Transport, Perry, N.Y., and the certificate and certificate of registrations in Nos. MC-30801 and MC-30801 (Sub-No. 2), respectively, issued to Walsh Motor Express, Inc., acquired by John E. Gates pursuant to No. MC-FC-71526, consummated September 22, 1969, involving operations wholly within the State of New York. Raymond A. Richards, registered practitioner, 23 West Main Street, Webster, N.Y. 14580, representative for applicants.

No. MC-FC-71900. By order of February 27, 1970, the Motor Carrier Board approved the transfer to Harrison Transport, Inc., Brandon, Fla., of certificate No. MC-129193 issued January 9, 1969, to Frank M. Teachout, doing business as F. M. Transportation, Tampa, Fla., authorizing the transportation of general commodities, with the usual exceptions, which are at the time moving on bills of lading of freight forwarders, from Tampa, Fla., to points in Pasco, Pinellas, Polk, Hillsborough, Manatee, Sarasota, Charlotte, and Lee Counties, Fla. Myron G. Gibbons, Post Office Box 1363, Tampa, Fla. 33601, attorney for applicants.

No. MC-FC-71933. By order of February 26, 1970, the Motor Carrier Board approved the transfer to John M. Thompson, doing business as Thompson Trucking, Hardin, Mont., of the certificate of registration in No. MC-120931 (Sub-No. 1) issued April 14, 1969, to John Fergerson, Hardin, Mont., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Montana. Douglas Y. Freeman, Post Office Box 353, Hardin, Mont. 59034, attorney for applicants.

No. MC-FC-71946. By order of February 27, 1970, the Motor Carrier Board approved the transfer to C & W Transfer Co., Inc., Richmond, Va., of permit No. MC-133197 (Sub-No. 1) issued June 4, 1969, to Clarence Wyatt Transfer, Inc., Richmond, Va., authorizing the transportation of toilet preparations, soap, cosmetics, and related advertising materials, from Richmond, Va., to points in Henrico, Hanover, Charles City, New Kent, Prince George, Dinwiddie, Amelia, Powhatan, King William, Goochland, and Chesterfield Counties, Va. Ralph C. Lynn, Post Office Box 6595, Richmond, Va. 23230, attorney for applicants.

No. MC-FC-71941. By order of February 27, 1970, the Motor Carrier Board approved the transfer to Robert Cole Trucking Co., a corporation, Indiana, Pa., of certificate No. MC-129625 issued March 14, 1969, to Robert J. Cole, doing business as Robert Cole Trucking, Indiana, Pa., authorizing the transportation of sand, gravel, aggregates, and limestone, between points in Cameron, Clearfield, Elk, Indiana, Jefferson, McKean, Potter, and Warren Counties, Pa.; coal, from points in Elk and Jefferson Counties, Pa., to specified points in New York; sand, slag, gravel, aggregates, and limestone, from points in a specified portion of New York, to points in Clearfield, Indiana, and Jefferson Counties, Pa., and from points in Niagara, Genesee, and Orleans Counties, N.Y., and specified points in Monroe County, N.Y., to points in Forest, Elk, and Cameron Counties, Pa. William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC-FC-71951. By order of February 27, 1970, the Motor Carrier Board approved the transfer to Raymond W. Cantrell, Mendon, Ill., of certificate No. MC-123770 issued August 25, 1964, to William T. Cantrell, Mendon, Ill., authorizing the transportation of specified commodities from La Grange and Ewing, Mo., to points in Adams County, Ill. Melvin N. Routman, 308 Reisch Building, Springfield, Ill. 62701, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2869; Filed, Mar. 9, 1970; 8:47 a.m.]

[No. 32485]

PIPELINE COMPANIES

Uniform System of Accounts for Pipeline Companies

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 18th day of February, 1970.

Upon consideration of (1) the record in the above-entitled proceeding; (2) the petition for reconsideration filed by the Association of Oil Pipe Lines et al., replicants in the proceeding, on December 12, 1969; (3) a petition filed by John M. Cleary on December 12, 1969, seeking leave to intervene for himself and other tion of the report and order of Division 2 may be filed within 20 days after the date of service of this order.

ultimate consumers of gasoline and petroleum products, accompanied by a petition for reconsideration; and (4) the same John M. Cleary's reply to the petition of the Association of Oil Pipe Lines et al., submitted January 2, 1970, for reconsideration; and for good cause appearing:

It is ordered, That the petition of John M. Cleary for leave to intervene be, and it is hereby, granted; and that intervener's petition for reconsideration and his reply to the petition of the Association of Oil Pipe Lines et al., for reconsideration, be, and they are hereby, accepted and filed of record in this proceeding.

It is further ordered, That replies to the intervener's petition for reconsidera-

It is further ordered, That the date for compliance with the order entered in this proceeding on September 22, 1969, be, and it is hereby, postponed until the further order of the Commission.

And it is further ordered, That service of this order shall be made on all pipeline companies which are affected by the order of September 22, 1969, on all parties of record herein, and that notice of the order shall be given the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy of the order with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2871; Filed, Mar. 9, 1970; 8:47 a.m.]

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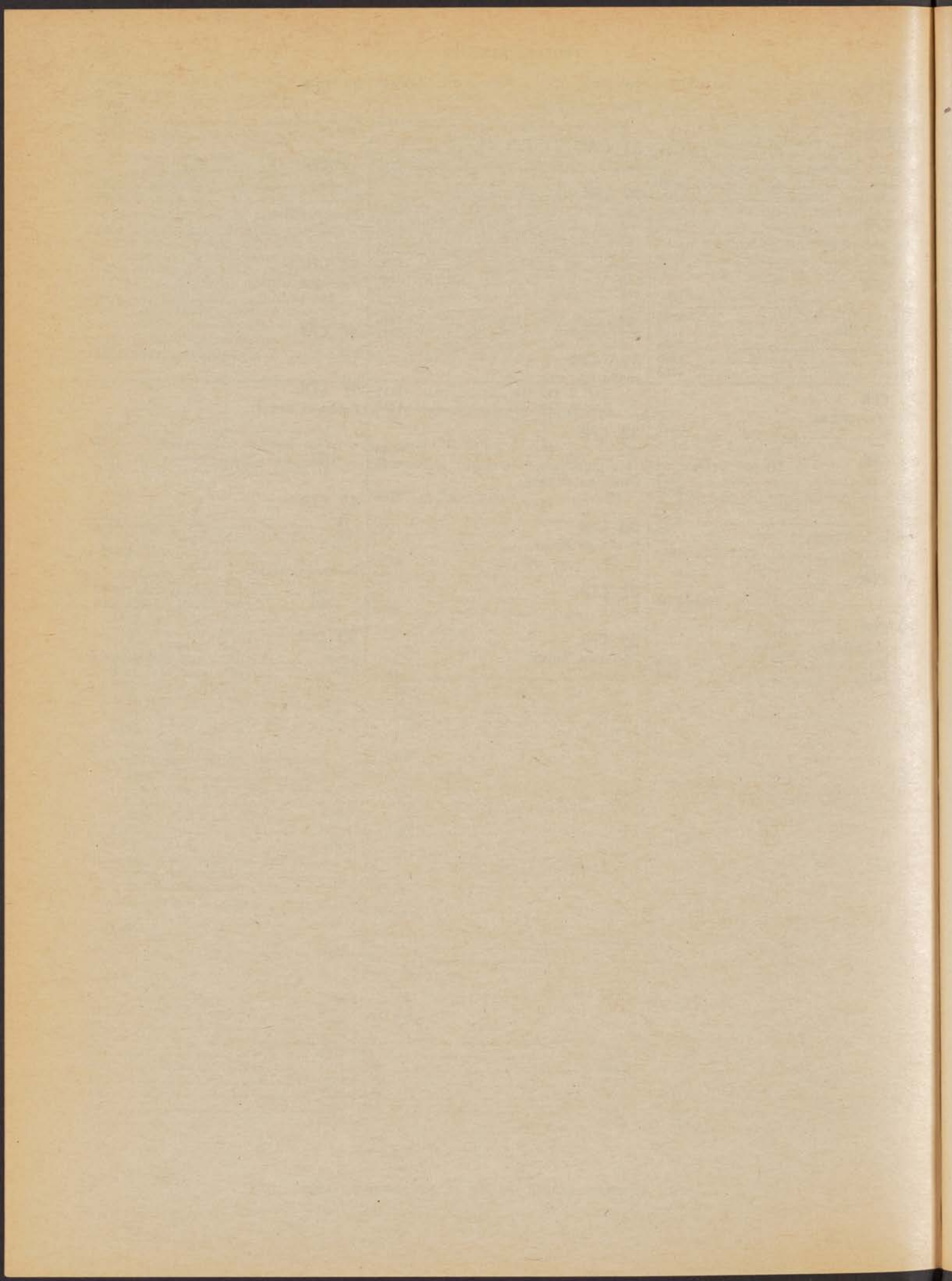

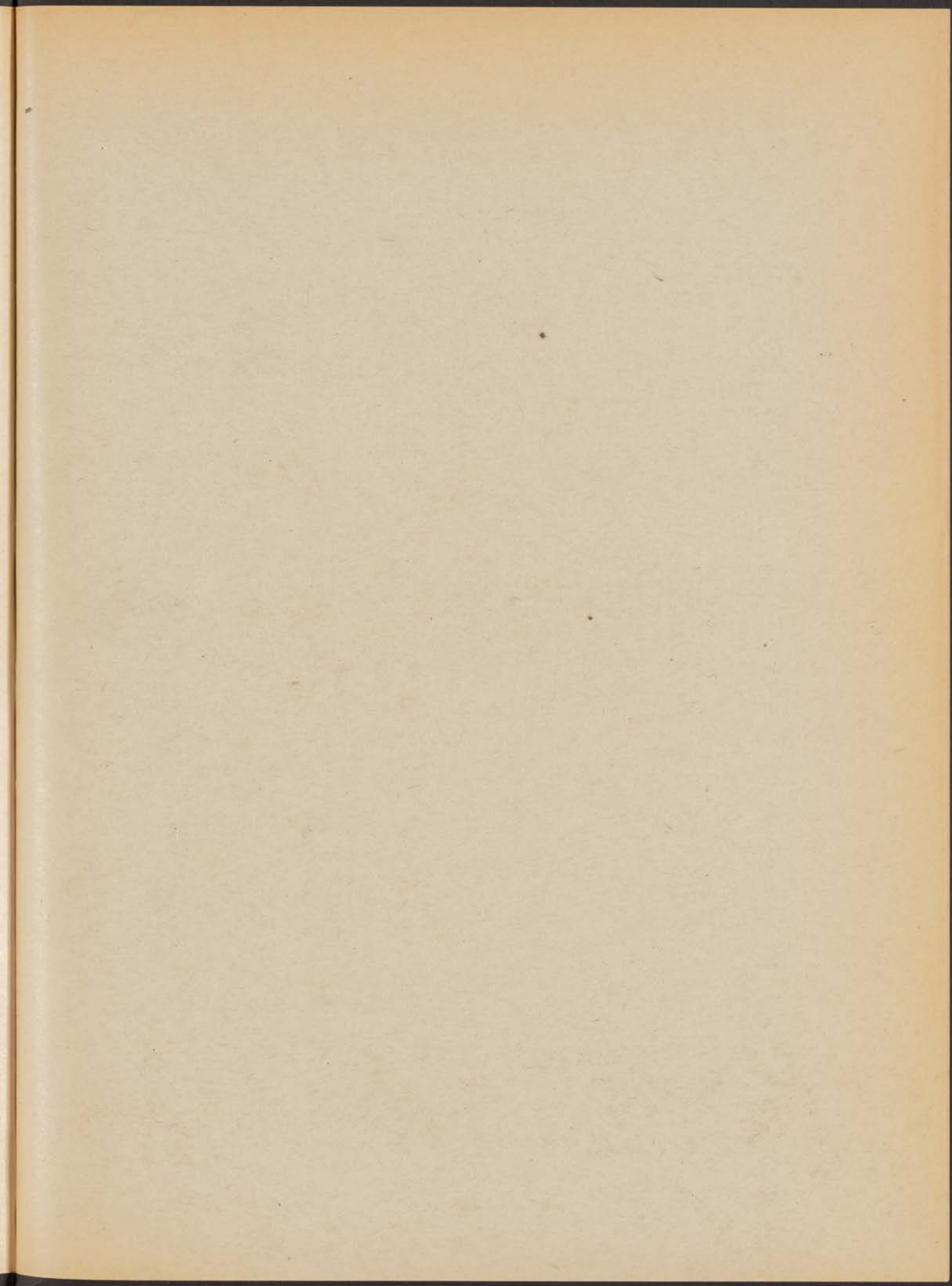

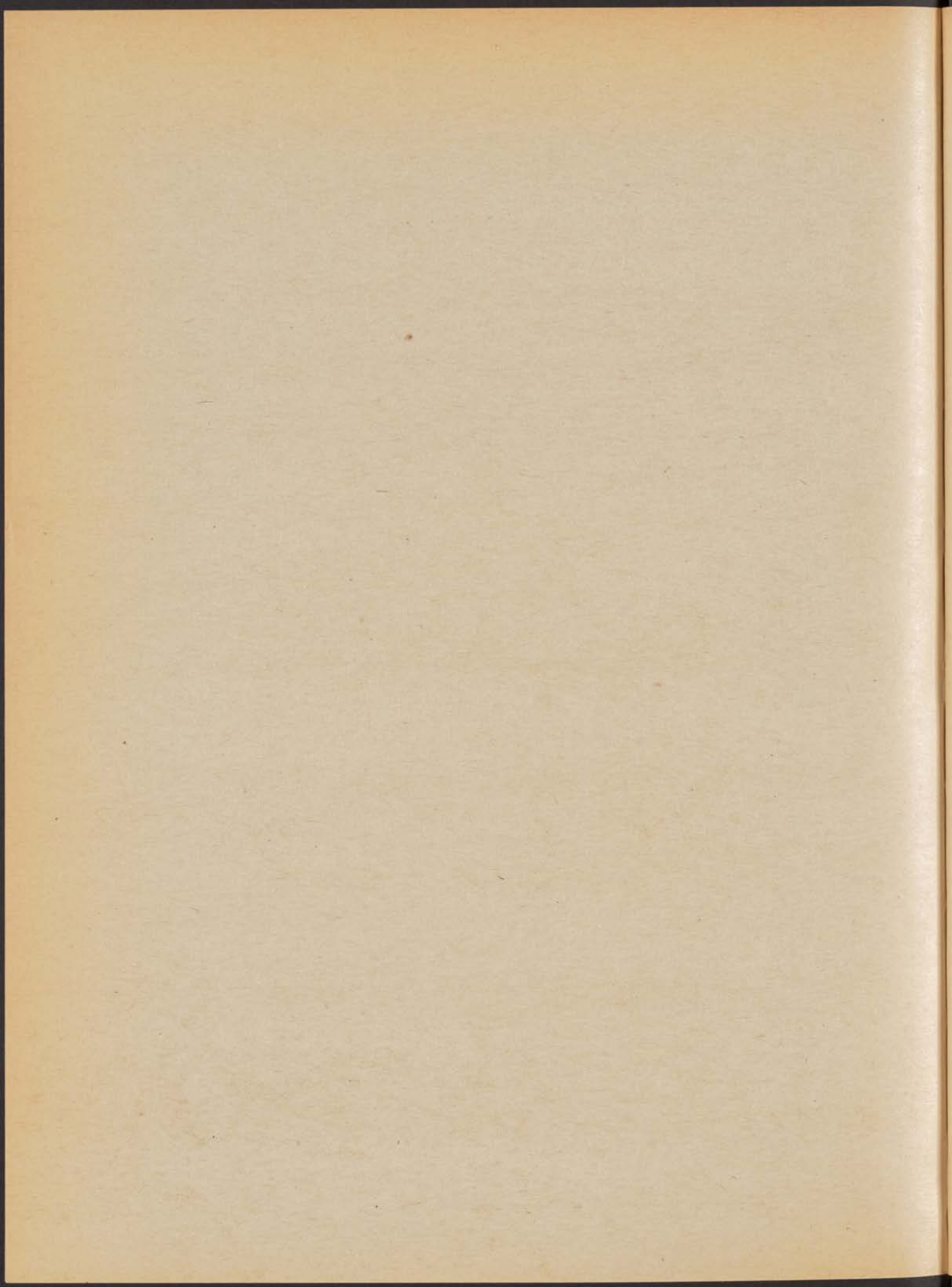

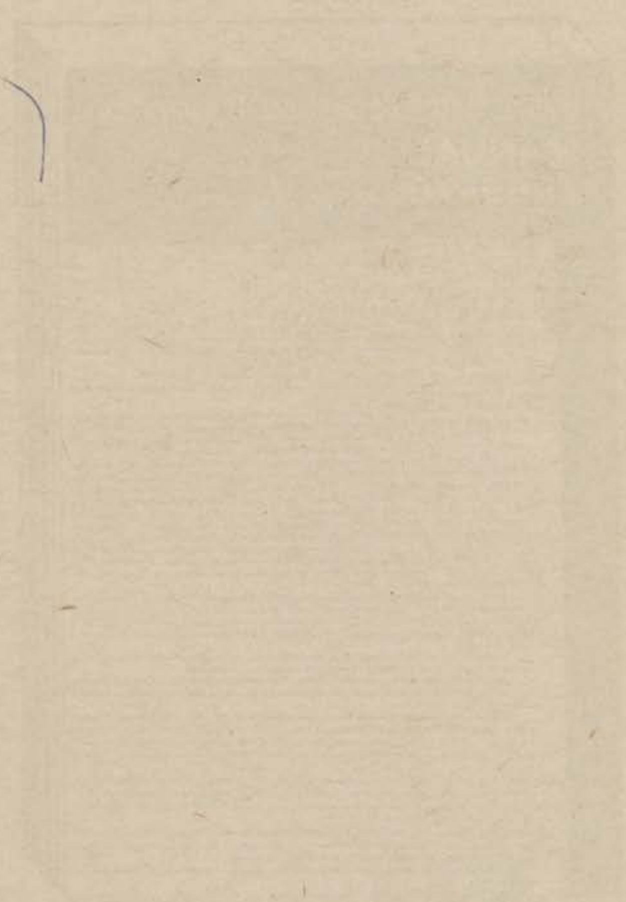

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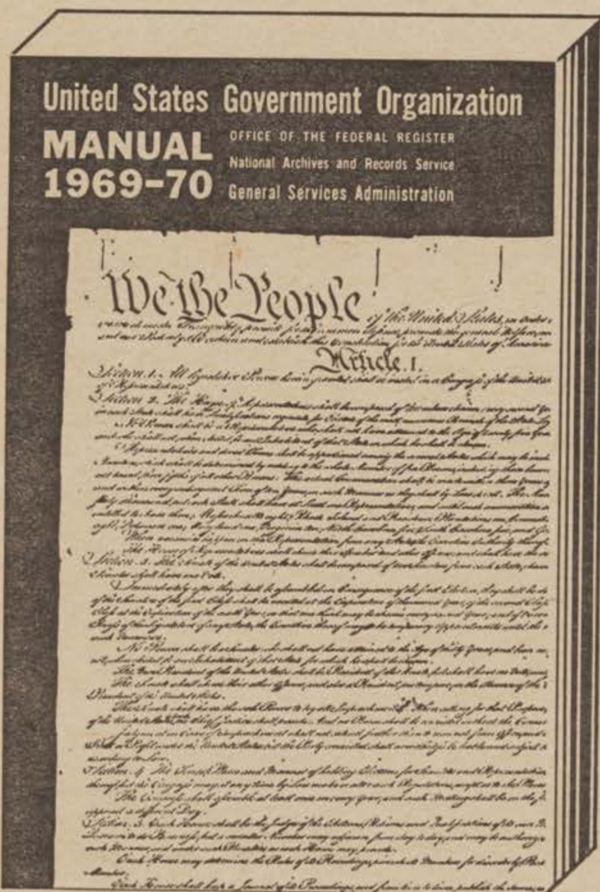

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