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Part I

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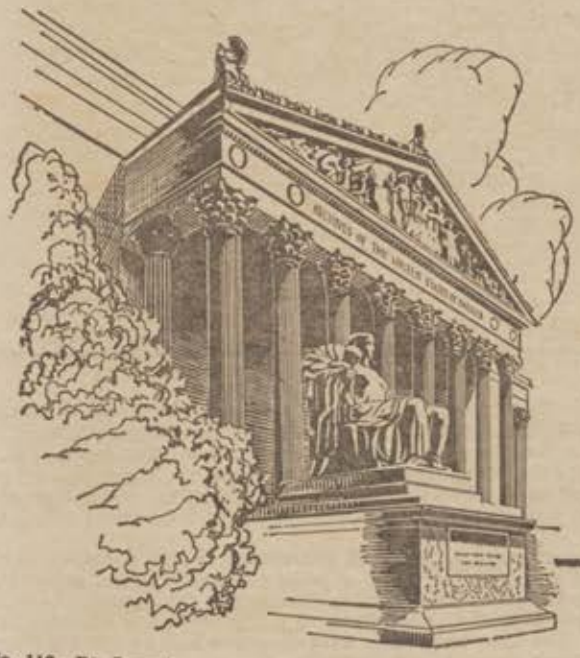

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Title 3—THE PRESIDENT

Proclamation 3988

CITIZENSHIP DAY AND CONSTITUTION WEEK, 1970

By the President of the United States of America

A Proclamation

In commemoration of the signing of the Constitution on September 17, 1787, and in recognition of all who, by coming of age or by naturalization, had attained citizenship during the year, the Congress by a joint resolution of February 29, 1952 (66 Stat. 9), set aside the seventeenth day of September of each year as Citizenship Day; and by a joint resolution of August 2, 1956 (70 Stat. 932), the Congress requested the President to designate the week beginning September 17 of each year as Constitution Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, direct the appropriate government officials to display the flag of the United States on all government buildings on Citizenship Day, September 17, 1970. I urge Federal, State, and local officials, as well as all religious, civic, educational, and other interested organizations to make arrangements for impressive meaningful pageants and observances on that day to inspire all our citizens to rededicate themselves to the service of their country and to the support and defense of the Constitution.

I also designate the period beginning September 17 and ending September 23, 1970, as Constitution Week; and I urge the people of the United States to observe that week with appropriate ceremonies and activities in their schools and churches, and in other suitable places, to the end that our citizens, whether naturalized or natural-born, may have a better understanding of the Constitution and of the rights and responsibilities of United States citizenship.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of June, in the year of our Lord nineteen hundred seventy, and of the Independence of the United States of America the one hundred ninety-fourth.

Richard Nixon

[F.R. Doc. 70-7373; Filed, June 9, 1970; 4:58 p.m.]

Rules and Regulations

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, in paragraph (e) (8) relating to the State of Mississippi, a new subdivision (vii) relating to Scott County is added to read:

(e) * * *

(8) *Mississippi.*

* * * * *

(vii) That portion of Scott County bounded by a line beginning at the junction of State Highway 35 and the Scott-Smith County line; thence, following State Highway 35 in a generally northerly direction to Farm-to-Market Forestry Service Road 509; thence, following Farm-to-Market Forestry Service Road 509 in a generally westerly direction to the Scott-Rankin County line; thence, following the Scott-Rankin County line in a generally southeasterly direction to the Scott-Smith County line; thence, following the Scott-Smith County line in an easterly direction to its junction with State Highway 35.

2. In § 76.2, the introductory portion of paragraph (e) is amended by deleting therefrom the name of the State of Minnesota; paragraph (e) (7) relating to the State of Minnesota is deleted; and paragraph (f) is amended by adding the name of the State of Minnesota.

(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 Scott County, Miss., 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 portions of Chippewa and Kandiyohi Counties in Minn., 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.

The foregoing amendments also add the State of Minnesota to the list of hog cholera eradication States in § 76.2(f).

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 5th day of June 1970.

F. R. MANGHAM,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-7262; Filed, June 10, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10355; Amdt. No. 706]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (358 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAPs, effective July 9, 1970.

Dowagiac, Mich.—Cass County Memorial Airport; VOR–1, Amdt. 2; Revised.
Elyria, Ohio—Elyria Airport; VOR–1, Amdt. 1; Revised.
Grand Rapids, Mich.—Kent County Airport; VOR Runway 36, Amdt. 4; Revised.
Joliet, Ill.—Joliet Municipal Airport; VOR–1, Amdt. 7; Canceled.
Joliet, Ill.—Joliet Municipal Airport; VOR Runway 12, Orig.; Established.
Marion, Ill.—Williamson County Airport; VOR Runway 2, Amdt. 2; Revised.
Marion, Ill.—Williamson County Airport; VOR Runway 20, Amdt. 2; Revised.
Pago Pago, Tutuila Island, American Samoa, Pago Pago International Airport; VOR Runway 5, Amdt. 7; Revised.
Tanana, Alaska—Ralph M. Calhoun Memorial Airport; VOR–1, Amdt. 3; Revised.

Section 97.25 is amended by establishing, revising, or canceling the following LOC–LDA SIAPs, effective July 9, 1970.

Birmingham, Ala.—Muncipal Airport; LOC (BC) Runway 23, Amdt. 3; Revised.

Denver, Colo.—Stapleton International Airport; LOC (BC) Runway 8R, Amdt. 6; Revised.
Denver, Colo.—Stapleton International Airport; LOC (BC) Runway 17, Amdt. 7; Revised.
Lafayette, Ind.—Purdue University Airport; LOC Runway 10, Amdt. 1; Revised.

Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective July 9, 1970.

Birmingham, Ala.—Municipal Airport; NDB (ADF) Runway 5, Amdt. 21; Revised.
Denver, Colo.—Stapleton International Airport; NDB (ADF) Runway 26L, Amdt. 29; Revised.
Grand Marais, Minn.—Devil's Track Municipal Airport; NDB (ADF) Runway 27, Amdt. 1; Revised.
Medina (Akron), Ohio—Freedom Field; NDB (ADF) Runway 27, Orig.; Established.
Pago Pago, Tutuila Island, American Samoa; NDB (ADF) Runway 5, Amdt. 1; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; NDB (ADF) Runway 10L, Amdt. 4; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; NDB (ADF) Runway 28L, Amdt. 8; Canceled.
Pittsburgh, Pa.—Greater Pittsburgh Airport; NDB (ADF) Runway 28R, Amdt. 4; Canceled.
Pittsburgh, Pa.—Greater Pittsburgh Airport; NDB (ADF) Runway 28 L/R, Orig.; Established.
Stow, Mass.—Minute Man Airport; NDB (ADF)-1, Orig.; Established.
Tanana, Alaska.—Ralph M. Calhoun Memorial Airport; NDB (ADF) Runway 6, Amdt. 1; Revised.
Walterboro, S.C.—Walterboro Municipal Airport; NDB (ADF) Runway 23, Amdt. 1; Revised.

Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 9, 1970.

Denver, Colo.—Stapleton International Airport; ILS Runway 26L, Amdt. 32; Revised.
Denver, Colo.—Stapleton International Airport; ILS Runway 35, Amdt. 8; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; ILS Runway 10L, Amdt. 11; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; ILS Runway 28L, Amdt. 14; Revised.
Rapid City, S. Dak.—Rapid City Regional Airport; ILS Runway 32, Amdt. 4; Revised.
San Juan, P.R.—Puerto Rico International Airport; ILS Runway 7, Amdt. 3; Revised.

Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective July 9, 1970.

Denver, Colo.—Stapleton International Airport; Radar-1, Amdt. 6; Revised.
Little Rock, Ark.—Adams Field; Radar-1, Amdt. 5; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; Radar-1, Amdt. 13; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; Radar-1, Orig.; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

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

WILLIAM G. SHREVE, Jr.
Acting Director,
Flight Standards Service.

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

[F.R. Doc. 70-7185; Filed, June 10, 1970; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Schedule of Remuneration

The issuance of Executive Order 11525, 35 F.R. 6251 (April 17, 1970), providing increased pay and allowances for members of the uniformed services pursuant to Public Law 91-231, 84 Stat. 195, makes it necessary to amend § 614.19 of title 20, Code of Federal Regulations, which contains the schedule of remuneration for each pay grade of ex-servicemen used in the administration of the program of unemployment compensation for ex-servicemen established by subchapter II of chapter 85 of title 5 of the United States Code (5 U.S.C. 8521-8525).

Accordingly, pursuant to 5 U.S.C. 8508 and 8521(a)(2), 20 CFR 614.19 is amended in the manner indicated below. The following amendment shall become effective immediately.

1. Section 614.19 of Title 20, Code of Federal Regulations, is revised to read:

§ 614.19 Schedule of remuneration.

(a) The schedule provided in this paragraph applies to first claims under the UCX program filed on or after July 5, 1970:

Pay grades	*Monthly rate*
1. Commissioned officer:	
O-10	$3,065
O-9	2,741
O-8	2,503
O-7	2,218
O-6	1,926
O-5	1,592
O-4	1,288
O-3	1,072
O-2	855
O-1	644
2. Warrant officer:	
W-4	1,277
W-3	1,060
W-2	895
W-1	752
3. Enlisted personnel:	
E-9	1,068
E-8	928
E-7	812
E-6	707
E-5	582
E-4	475
E-3	359
E-2	313
E-1	301

(b) The deletion from paragraph (a) of this section of schedules of remuneration applicable to periods of time prior to September 1, 1969, and heretofore published in 34 F.R. 12434; 33 F.R. 10086; 33 F.R. 3635; 32 F.R. 20974; 30 F.R. 13120; 29 F.R. 13102; and 23 F.R. 8699, does not revoke such schedules.

(5 U.S.C. 8508, 8521(a)(2))

Signed at Washington, D.C., this 4th day of June 1970.

MALCOLM R. LOVELL, Jr.,
Manpower Administrator.

[F.R. Doc. 70-7246; Filed, June 10, 1970; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Use of Methadone in the Maintenance Treatment of Narcotic Addicts

The Commissioner of Food and Drugs and the Director of the Bureau of Narcotics have agreed that there is a need for the publication of a joint statement on the investigational use of methadone in the maintenance treatment of narcotic addicts. Criteria and guidelines that are regarded as acceptable for conducting research in this area are set forth elsewhere in this issue of the FEDERAL REGISTER.

Therefore under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-53, as amended, 1055; 21 U.S.C. 355, 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Title 21, Chapter I, is amended by adding to Part 3 the following new section:

§ 3.77 The use of methadone in the maintenance treatment of narcotic addicts.

(a) The Food and Drug Administration and the Bureau of Narcotics and Dangerous Drugs recognize that the investigational use of methadone requiring the prolonged maintenance of narcotic dependence as part of a total treatment effort has shown promise in the management and rehabilitation of selected narcotic addicts. It is also recognized that a number of dangers and possible abuses may arise from such efforts if professional services and controls are inadequately applied. It is further felt that additional research is urgently needed so that data may be accumulated which will permit sound determinations of safety, efficacy, and necessary procedural safeguards.

(b) Therefore, the Commissioner of Food and Drugs and the Director of the Bureau of Narcotics and Dangerous Drugs agree that interested professionals, municipalities, and organizations should be allowed to conduct further research in this area within a framework of adequate controls designed to protect the individual patients and the community. To facilitate this purpose, the Food

and Drug Administration and the Bureau of Narcotics and Dangerous Drugs have jointly agreed upon acceptable criteria and guidelines which are set forth in proposed § 130.44 of this chapter. In addition such other provisions of the Federal Narcotic laws and regulations as are applicable must also be observed.

(Secs. 505, 701(a), 52 Stat. 1052-53, as amended, 1055; 21 U.S.C. 355, 371(a))

Dated: June 4, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-7258; Filed, June 10, 1970; 8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

NITRILE RUBBER MODIFIED ACRYLONITRILE-METHYL ACRYLATE COPOLYMERS

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 9B2332) filed by Vistron Corp., Midland Building, Cleveland, Ohio 44115, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of nitrile rubber modified acrylonitrile-methyl acrylate copolymers as components of articles intended for food-contact use. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2614 Nitrile rubber modified acrylonitrile-methyl acrylate copolymers.

Nitrile rubber modified acrylonitrile-methyl acrylate copolymers identified in this section may be safely used as components of articles intended for food-contact use under conditions of use D, E, F, or G described in table 2 of § 121.2526(c), subject to the provisions of this section.

(a) For the purpose of this section, nitrile rubber modified acrylonitrile-methyl acrylate copolymers consist of basic copolymers produced by the graft copolymerization of 73-77 parts by weight of acrylonitrile and 23-27 parts by weight of methyl acrylate in the presence of 8-10 parts by weight of butadiene-acrylonitrile copolymers containing approximately 70 percent by weight of polymer units derived from butadiene.

(b) The nitrile rubber modified acrylonitrile-methyl acrylate basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Nitrogen content is in the range 16.5-19 percent as determined by Kjeldahl analysis.

(ii) Intrinsic viscosity in acetonitrile at 25° C. is not less than 0.29 deciliter per gram as determined by ASTM Method D 1243-60.

(iii) Residual acrylonitrile monomer content is not more than 11 parts per million as determined by gas chromatography.

(iv) Dimethyl formamide-soluble fraction at 25° C. is in the range 65-70 percent by weight of the basic copolymers.

(2) *Extractives limitations.* The following extractives limitations are determined by an infrared spectrophotometric method, available upon request from the Commissioner of Food and Drugs, and are applicable to the basic copolymers in the form of particles of a size that will pass through a U.S. standard sieve No. 6 and that will be held on a U.S. standard sieve No. 10:

(i) Extracted copolymer not to exceed 2.0 parts per million in aqueous extract obtained when a 100-gram sample of the basic copolymers is extracted with 250 milliliters of demineralized (deionized), freshly distilled water at reflux temperature for 2 hours.

(ii) Extracted copolymer not to exceed 0.5 part per million in *n*-heptane extract obtained when a 100-gram sample of the basic copolymers is extracted with 250 milliliters of reagent grade, freshly distilled *n*-heptane at reflux temperature for 2 hours.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 28, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-7240; Filed, June 10, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Statement of Policy Concerning Oral Contraceptive Labeling Directed to Users

On April 10, 1970, there was published in the FEDERAL REGISTER, 35 F.R. 5962, a notice of proposed rule-making to establish new labeling requirements for oral contraceptives which would assure that the user is provided information necessary for her safe use of these drugs.

The proposal was controversial and drew a substantial number of comments. They may be summarized as follows:

1. More than 700 letters were received from individuals, urging that the labeling information proposed be substantially expanded. To assure that this would be done, many of the persons writing requested a public hearing on the proposal to allow an oral expression of the users' desires and needs for more information about the drugs.

2. Organized medicine, speaking through the American Medical Association, the Association of American Physicians and Surgeons, the American College of Obstetrics and Gynecology, the American Society of Internal Medicine, the AMA Interspecialty Committee, the South Georgia Medical Society, the California Medical Association, the Rhode Island Medical Society, the Texas Medical Association, and the Medical Society of Delaware generally opposed the statement of policy, on the grounds that (1) it would interfere with the physician-patient relationship by introducing a barrier, and by exerting an undue influence on the physician's prescribing decision and the patients' acceptance of the drugs; (2) that it would confuse and alarm the patient to the extent that persons who should take the drugs for health reasons would not do so; (3) that the package insert cannot provide all of the needed information and is not an appropriate means of informing patients; (4) that the physician is the proper person to provide the kind of information to his own patient on an individualized, need-to-know, basis; and (5) that the regulations should not control what information the prescriber gives to the patient by a labeling statement that certain points had been discussed with the patient when the drug was prescribed.

It was reiterated in these comments, however, that the physician is responsible for informing his patients of possible risks of any therapy he prescribes.

3. A number of individual physicians also commented that providing information of this type was an unnecessary government intrusion into medical practice, that the information itself was incomplete and misleading because it was not balanced by a discussion of the hazards of pregnancy, and that labeling could not provide patients with information adequate for their use but would unduly alarm them. It was contended that the doctor's judgment as to what the patient should be told should prevail.

One physician objected on the ground that FDA was in error in its belief that physicians were not fully advising patients as to the risks involved in oral contraceptive therapy.

4. A number of physicians took the opposite view, that information about the hazards of the use of oral contraceptive drugs would serve the cause of patient protection, would enable the patient to make a conscious choice of this method

of contraception, and would not be unduly alarming. Several commented that more extensive information than that published in the proposal was needed. Specifically mentioned were the need for a warning about breast feeding an infant while the mother was using the drugs and the need for a warning about the relationship of use of the drugs to depression.

5. Consumer spokesmen also were divided. Most supported much more extensive patient information to assure informed consent to the use of the drugs, but a few spoke of the need to encourage the use of oral contraceptives in family planning among persons for whom unwanted pregnancy would pose a special hazard.

It was contended that the drug user is entitled to a fully informative and effective warning statement before taking oral contraceptives, that there is ample evidence that physicians are not uniformly providing the information, and that when they do the patient cannot be expected to remember all of the details for a protracted period of time. These comments asserted that the patient information should give attention to certain deficiencies in our knowledge about the drugs, e.g., metabolic effects of long-term use and a cancer potential, as well as the known hazards; that the information should serve as an accurate memo for those adequately informed by the prescribing physician and as a source of necessary information for those not adequately informed.

6. The Pharmaceutical Manufacturers Association, Wyeth Laboratories, Syntex, Ortho, and Parke-Davis commented for the drug manufacturers. They opposed the concept of requiring patient information in the labeling of prescription drugs on the ground that this is the responsibility of the physician who must deal with it on an individualized basis, and is inconsistent with the policy of the Federal Food, Drug and Cosmetic Act. PMA, while opposing any required dissemination of patient information, approved the dissemination of printed material supplied by the drug producers whenever the physician deems that distribution advisable.

PMA and the companies had several specific objections: (1) they objected to calling these drugs "prototypes" of drugs to come; (2) they objected that the short statement was not balanced by a discussion of the risks of pregnancy; (3) they objected to a requirement that they say that the physician had discussed the points in the package insert with the patient; (4) they objected that thromboembolic disease had not been causally related to the oral contraceptives but only associated with their use; (5) they objected to the listing of five specific symptoms; (6) they objected to the required arrangement of the patient information; and (7) they objected to the 30-day deadlines proposed.

The Commissioner has evaluated all of the comments. The conclusions are:

1. The prescribing physician should be the person to provide his patient with the necessary information to assure her safe use of the prescribed medication.

2. Many patients are not now receiving the needed information in an organized, comprehensive, understandable, and handy-for-future-reference form.

3. Patients need to know that this information is readily available to them from their prescribing physicians. They need to know that the physician is prepared to discuss any hazard involved in the use of their drugs.

4. The necessary information for the safe and effective use of oral contraceptives is too complex to expect the patient to remember everything told her by the physician.

5. The information must be based upon the approved uniform labeling that has been developed for these drugs. This summarizes in full disclosure form what the physician needs to know for the safe and effective use of the drugs.

6. Pharmaceutical firms can and do provide a summarization of the information in booklets and pamphlets for dissemination by physicians to their patients. These booklets and pamphlets are required to contain full disclosure in terms understandable to the drug user.

7. It will be no undue intrusion into the physician-patient relationship to require a brief warning notice in the dispensing package to alert the patient to the nature of the oral contraceptives, to the fact that they must be taken under continued supervision, that they may cause side effects in some cases and are contraindicated in some cases, to the principal complication involved in the use of the drugs, to the necessity of a careful discussion of the drugs with the prescriber, and to the availability from him of the printed patient information. Physicians who do not choose to make the information available to some patients, for sound medical reasons, can handle the problems on an individualized basis with those particular patients, with the understanding that the widespread dissemination of the information to millions of users will likely bring it to the attention of all who wish to have the information.

8. A public hearing is unnecessary and would delay the implementation of these regulations. Essentially, all of the objectors are agreed that patients require full information for the safe use of the oral contraceptives. The only issue is how best to assure that they have it. These regulations, therefore, provide for a statement in the dispensing package alerting the patient to the need for a careful doctor-patient discussion about the use of the drugs, they provide for a full disclosure booklet to be made available to the prescriber for dissemination to his patient, and they require that the patient be informed as to the availability of the booklet.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502 (a), (f), 505, 701(a), 52 Stat. 1050–53, as amended, 1055; 21 U.S.C. 352 (a), (f), 355, 371(a)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new section is added to Subpart A of Part 130:

§ 130.45 Oral contraceptive preparations; labeling directed to the patient.

(a) The Food and Drug Administration is charged with assuring both physicians and patients that drugs are safe and effective for their intended uses. The full disclosure of information to physicians concerning such things as the effectiveness, contraindications, warnings, precautions and adverse reactions is an important element in the discharge of this responsibility. In view of this, the Administration has reviewed the oral contraceptive products, taking into account the following factors: The products contain potent steroid hormones which affect many organ systems; they are used for long periods of time by large numbers of women who, for the most part, are healthy and take them as a matter of choice for prophylaxis against pregnancy, in full knowledge of other means of contraception; and there is no present assurance that persons for whom the drugs are prescribed or dispensed are uniformly being provided the necessary information for safe and effective use of the drugs.

(b) In view of the foregoing, it is deemed in the public interest to present to users of the oral contraceptives a brief notice of the nature of the drugs, the fact that continued medical supervision is needed for safe and effective use, that the drugs may cause side effects and are contraindicated in some cases, that the most important complication is abnormal blood clotting which can have a fatal outcome, that the physician recognizes an obligation to discuss the potential hazards of taking the drugs with the patient, that he has available for the patient written material discussing the effectiveness and the hazards of the drugs, and that users of the oral contraceptives should notify their physicians if they notice any unusual physical disturbance or discomfort.

(c) The Commissioner agrees that the physician is the proper person for providing use information to his patients, and these regulations will provide him a balanced discussion of the effectiveness and the risks attendant upon the use of oral contraceptives for his use in discussing the drugs with his patients.

(d) (1) The oral contraceptives are restricted to prescription sale, and their labeling is required to bear information under which practitioners licensed to administer the drugs can use them safely and for the purpose for which they are intended. In addition, in the case of oral contraceptive drugs, the Commissioner conclude that it is necessary in the best interests of users that the following printed information for patients be included in or with the package dispensed to the patient:

(Patient Package Information)

ORAL CONTRACEPTIVES

(Birth Control Pills)

Do Not Take This Drug Without Your Doctor's Continued Supervision.

The oral contraceptives are powerful and effective drugs which can cause side effects in some users and should not be used at all by some women. The most serious known

side effect is abnormal blood clotting which can be fatal.

Safe use of this drug requires a careful discussion with your doctor. To assist him in providing you with the necessary information, ---------- has pre-
(Firm name)
pared a booklet (or other form) written in a style understandable to you as the drug user. This provides information on the effectiveness and known hazards of the drug including warnings, side effects and who should not use it. Your doctor will give you this booklet (or other form) if you ask for it and he can answer any questions you may have about the use of this drug.

Notify your doctor if you notice any unusual physical disturbance or discomfort.

(2) Providing the patient package information to users may be accomplished by including it in each package of the type intended for the user as follows:

(i) If such package includes additional printed materials for the patient (e.g., dosage schedules), the text of the information in subparagraph (1) of this paragraph shall be an integral part of the printed material and be in boldface type set out in a box, preceding all other printed text.

(ii) If such package does not include printed material for the patient, the text of the information in subparagraph (1) of this paragraph shall be provided as a printed leaflet in boldface type.

(iii) Include in each bulk package intended for multiple dispensing, a sufficient number of the patient package information leaflet, with instructions to the pharmacist to include one with each prescription dispensed.

(e) Written, printed, or graphic materials on the use of a drug that are disseminated by or on behalf of the manufacturer, packager, or distributor and are intended to be made available to the patient, are regarded as labeling. The commissioner also concludes that it is necessary that information in lay language, concerning effectiveness, contraindications, warnings, precautions, and adverse reactions be incorporated prominently in the beginning of any such materials, and that such labeling must be made available to physicians for all patients who may request it. Such labeling shall be substantially as follows, based on the approved package insert for prescribers of the oral contraceptives, and shall include the following points:

(1) A statement that the drug should be taken only under continued supervision of a physician.

(2) A statement regarding the effectiveness of the product.

(3) A warning regarding the serious side effects with special attention to thromboembolic disorders and stating the estimated morbidity and mortality in users vs nonusers. Other serious side effects to be mentioned include mental depression, edema, rash, and jaundice. The possibility of infertility following discontinuation of the drug should be mentioned.

(4) A statement of contraindications.

(5) A statement of the need for special supervision of some patients including those with heart or kidney disease, asthma, high blood pressure, diabetes, epilepsy, fibroids of the uterus, migrane, mental depression or history thereof.

(6) A statement of the most frequently encountered side effects such as spotting, breast changes, weight changes, skin changes, and nausea and vomiting.

(7) A statement of the side effects frequently reported in association with the use of oral contraceptives, but not proved to be directly related such as nervousness, dizziness, changes in appetite, loss of scalp hair, increase in body hair, and increased or decreased libido.

(8) A statement regarding metabolic effects such as on blood sugar and cholesterol setting forth our current lack of knowledge regarding the long term significance of these effects.

(9) Instructions in the event of missed menstrual periods.

(10) A statement cautioning the patient to consult her physician before resuming the use of the drug after childbirth, especially if she intends to breastfeed the baby, pointing out that the hormones in the drug are known to appear in the milk and may decrease the flow.

(11) A statement regarding production of cancer in certain animals. This may be coupled with a statement that there is no proof of such effect in human beings.

(12) A reminder to the patient to report promptly to her physician any unusual change in her general physical condition and to have regular examinations.

Optionally, the booklet may also contain factual information on family planning, the usefulness and hazards of other available methods of contraception, and the hazards of pregnancy. This material shall be neither false nor misleading in any particular and shall follow the material presented above.

(f) The marketing of oral contraceptives may be continued if all the following conditions are met within 90 days of the date of publication of this section in the FEDERAL REGISTER.

(1) The labeling of such preparations shipped within the jurisdiction of the Act is in accord with paragraphs (d) (1) and (2), and (e) of this section.

(2) The holder of an approved new-drug application for such preparation submits a supplement to his new-drug application under the provisions of § 130.9(d) to provide for labeling as described in paragraphs (d) and (e) of this section. Such labeling may be put into use without advance approval of the Food and Drug Administration.

(g) Existing stocks may be shipped without the package insert for a period of 90 days, provided the labeling booklet is prepared and disseminated as promptly as possible.

Effective date. This order shall become effective 30 days from the date of publication in the FEDERAL REGISTER.

(Secs. 502 (a), (f), 505, 701(a), 52 Stat. 1050–53, as amended, 1055, 21 U.S.C. 352 (a), (f), 355, 371(a))

Dated: June 4, 1970.

CHARLES C. EDWARDS,
Commissioner of Foods and Drugs.

[F.R. Doc. 70-7293; Filed, June 10, 1970; 8:50 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-60a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Coos Bay, Oreg.

1. The Oregon State Highway Department requested the Commander, Thirteenth Coast Guard District to revise the operation regulations for its bridge across South Slough, Coos Bay, Oreg. A public notice dated February 16, 1970, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Thirteenth Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 29, 1970 (35 F.R. 6760).

2. After consideration of all factors in this case this proposal is accepted. Accordingly, 33 CFR 117.720(a) is revised to read as follows:

§ 117.720 Coos Bay, Oreg.

(a) *Highway bridge across South Slough.* (1) The draw shall be opened promptly on signal except that between the hours of 7 a.m. to 7 p.m. from June 1 through September 30 the draw need be opened only on the hour and half-hour.

(2) (i) The excepted provisions of subparagraph (1) of this paragraph shall not apply to vessels in distress, commercial tugs and/or tows, or public vessels of the United States. Such vessels shall be passed at any time upon sounding four blasts of a whistle, horn, or otherwise.

(ii) The regular opening signal shall be one long and one short blast of a whistle, horn, or otherwise.

(3) The owners of or agencies controlling the drawbridge shall conspicuously post notices both upstream and downstream of the drawbridge, on the bridge or elsewhere, in such a manner that they can readily be read at all times under normal conditions from an approaching vessel. The notices shall contain statements of the special operation regulations applicable to this bridge and how the authorized representatives may be reached.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(e)(5))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: May 28, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-7280; Filed, June 10, 1970; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 3 is amended as follows:

PART 3–3—PROCUREMENT BY NEGOTIATION

1. The table of contents of Part 3–3 is amended to add the following entries:

Subpart 3–3.3—Determinations, Findings, and Authorities

AUTHORITY: The provisions of this Part 3–3 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subpart 3–3.3 is added to read as follows:

Subpart 3–3.3—Determinations, Findings, and Authorities

§ 3–3.301 General.

(a) Determinations and findings which authorize negotiation of contracts and determinations which support other procurement actions shall be made by the officials specified in § 3–3.303 and §§ 3–3.303–50 and 3–3.303–52.

(b) Class determinations and findings shall be justified on the basis of need to avoid processing multiple determinations and findings when more than one contract must be negotiated under the same negotiation authority for the same program or project. The multiple procurements must be for items or services which are to be negotiated at or near the same time and are so related as to constitute a logical and distinct class. All class determinations and findings shall be limited to a period of 1 year or less.

§ 3–3.302 Determinations and findings required.

In addition to the determinations and findings required by Subpart 1–3.2 and § 1–3.302, determinations are required to support:

(a) Exceptions to the restrictions of the Buy American Act (41 U.S.C. 10 a–d) and determinations under the Balance of Payments Program; see Subpart 3–6.1 and Part 1–6.

(b) Proposed payment of fixed fee in excess of 10 percent of estimated cost exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, development, or research work; or 7 percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract (see § 3–3.303–3(a)(7)).

(c) Use of time and materials or labor-hour type contract (see § 1–3.406).

(d) Acquisition or construction of equipment or facilities on property not owned by the United States pursuant to an appropriation or other act incorporating the provisions of 10 U.S.C. 2353.

(e) Use of an indemnification provision in a research contract pursuant to an appropriation or other act incorporating the provisions of 10 U.S.C. 2354.

§ 3–3.303 Determinations and findings by the head of the agency.

(a) The following determinations and findings shall be made by the Assistant Secretary for Health and Scientific Affairs (where health programs are involved), the Assistant Secretary for Education (where education programs are involved), or the Assistant Secretary for Administration (where other programs are involved)

(1) The determination required by § 1–3.211 with respect to contracts which will require expenditure in excess of $25,000.

(2) The determinations required by §§ 1–3.212 and 1–3.213.

§ 3–3.303–50 Other determinations and findings by the Assistant Secretary for Administration.

(a) The following determinations and findings shall be made by the Assistant Secretary for Administration:

(1) The determination required by § 1–3.302(d) that the making of advance payments is in the public interest.

(2) The determination required for application of 10 U.S.C. 2353(b)(3).

(3) The determination required for application of 10 U.S.C. 2354 with respect to the use of an indemnification provision in a research contract.

§ 3–3.303–51 Determinations and findings by the head of the procuring activity.

(a) The following determinations and findings shall be made by the head of the procuring activity or his designee: [1]

(1) The determination required by § 1–3.201 for reasons other than: [1]

(i) Assistance to labor surplus areas or small business concerns, and

(ii) Administration of Balance of Payments Program.

(2) The determinations and findings required by §§ 1–3.202 and 1–3.214.

(3) The determinations and findings required by §§ 1–3.302(c) and 1–3.302(e).[1]

(4) The determinations which support exceptions to restrictions of the Buy American Act (41 U.S.C. 10a–d) and the determinations and deviations required by Subpart 1–6.8 in administration of the Balance of Payments Program within limitations set out in Subpart 3–6.1 and Part 1–6.

(5) The determination required for application of 10 U.S.C. 2353 (a), (b) (1), and (2).

(6) All class determinations and findings except for the categories specified in §§ 3–3.303 and 3–3.303–50.[1]

(7) The determinations and findings which support proposed payment of fixed fees in excess of: (i) ten percent of estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work, or (ii) 7 percent of estimated cost, exclusive of fee, for any other cost-plus-a-fixed-fee contract, but see § 3–75.104–2(a).

(8) The determinations required by § 1–3.406 with respect to the use of time and materials and labor-hour contracts.[1]

§ 3–3.303–52 Determinations and findings by the contracting officer.

The following determinations and findings shall be made by the contracting officer, unless the head of the procuring activity decides otherwise:

(a) The determinations required by §§ 1–3.207, 1–3.208, 1–3.210, and 1–3.215, if any.

(b) The determination required by § 1–3.211 for contracts not in excess of $25,000.

(c) The determinations required by § 1–3.302 (a) and (b).

(d) Any other determinations and findings not required to be made by higher authority.

§ 3–3.305 Form and requirements of determinations and findings.

(a) Written determinations and findings shall be prepared in accordance with § 3–3.305–50.

§ 3–3.305–50 Sample formats.

(a) *Negotiation authority.* Operating agencies will prescribe formats for determinations and findings made under §§ 1–3.202, 1–3.207, and 1–3.208. The following formats are prescribed for determinations and findings made under §§ 1–3.210 through 1–3.214:

(1) *Section 1–3.210. Individual contract.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate an Individual Contract Under 41 U.S.C. 252(c)(10)

I hereby find that:

(1) The (agency title) proposes to procure (describe the work, service, or product) (identify program or project).

(2) It is impracticable to secure competition by formal advertising for the contract contemplated because:

(a) (Set forth facts and circumstances which support a judgment that competition by formal advertising is impracticable. Facts and circumstances presented must conform

[1] A designee for making these determinations must be at least one organizational level above that of the contracting officer.

to the § 1-3.210 subparagraph selected as justification for negotiation.)

I hereby determine that:

On the basis of the above findings, the proposed procurement is for (work, services, or products [1]) for which it is impracticable to secure competition by formal advertising and that negotiation of a contract for such (work, services, or products [1]) is authorized pursuant to 41 U.S.C. 252(c)(10), as contemplated by § 1-3.210(a) [2]; provided, the required (work, service, or product [1]) has been authorized by law.

Date ----------

(Signature)

(2) *Section 1-3.211. Individual contract.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate an Individual Contract Under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to procure (describe work to be performed or product to be delivered) (identify program or project and state estimated contract price).

(2) The proposed procurement is for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test [1]). (Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental, or research.)

(3) It is impracticable to secure competition by formal advertising for the contract contemplated because:

(a) (Set forth reasons why the procurement contemplated can not be formally advertised, e.g., only ultimate objectives and general scope or work can be outlined, work can not be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed procurement is for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test [1]) and that negotiation of a contract for such (work or property [1]) is authorized pursuant to 41 U.S.C. 252(c)(11); provided, the (work or property [1]) has been authorized by law.

Date ----------

(Signature)

(3) *Section 1-3.211. Class of contracts.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate a Class of Contracts Under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to negotiate approximately (number) contracts in support of (identify program or project, and state the anticipated funding level).

(2) The proposed procurements are for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test [1]).

(a) Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental or research).

(3) It is impracticable to secure competition for the contracts contemplated because:

(a) (Set forth reasons why the procurements contemplated cannot be formally advertised, e.g., only ultimate objectives and general scope of work can be outlined, work cannot be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed procurements are for (experimental, developmental, or research work, for the manufacture or furnishing of property for experimentation, development, research, or test [1]) and that negotiation of contracts for such (work or property [1]) is authorized pursuant to 41 U.S.C. 252(c)(11); provided the required (work or property [1]) has been authorized by law.

This class determination shall remain in effect until (state terminal date (limit effective period to 1 year)).

Date ----------

(Signature)

(4) *Section 1-3.212. Individual contract.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate an Individual Contract Under 41 U.S.C. 252(c)(12)

I hereby find that:

(1) The (agency title) proposes to procure (describe the work, service, or product) identify program or project).

(2) This procurement can not be publicly disclosed because (explain either the basis for classification of the contract or the other considerations which the Secretary should know in order to determine that the property or services should not be publicly disclosed).

(3) (Set forth reasons why the procurement can not be formally advertised.)

I hereby determine that:

On the basis of the above findings, procurement of the (property or services [1]) should not be publicly disclosed and the negotiation of a contract for such (property or services [1]) is authorized pursuant to 41 U.S.C. 252(c)(12); provided, the required (property or service [1]) has been authorized by law.

Date: ----------

(Signature)

(5) *Section 1-3.214. Individual contract.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(14)

I hereby find that:

(1) The (agency title) proposes to procure (describe work, service or product) (identify program or project).

(2) The proposed procurement was solicited by formal advertising under IFB (No. and date). The lowest responsive bid offered a (unit or aggregate [1]) price of ($------) which is considered excessive in relation to the prices ($------), estimated as reasonable by (agency title).

(Note: If applicable, use the following statement: "The prices of bids received were not independently arrived at in open competition.") (Set forth facts and circumstances to support this statement.)

I hereby determine that:

On the basis of the above findings, bid prices received under IFB (No. and date) (are unreasonable; have not been independently arrived at in open competition [1]) and that negotiation of a contract for (describe work, service or product) is authorized pursuant to 41 U.S.C. 252(c)(14); provided, the required (property or service [1]) has been authorized by law and the limitations under § 1-3.214 are complied with.

Date ----------

(Signature)

(6) *Section 1-3.213.* (Note sample determination and findings prescribed by § 1-3.213.)

(b) *Type of contract*—(1) *Cost reimbursement contracts.* The following format is prescribed for determinations required by § 1-3.302 (a) and (b):

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority To Use Cost Reimbursement Type Contract

I hereby find that:

(1) The (agency title) proposes to contract with (name of proposed contractor) for (describe work, service, or product) (identify program or project). The estimated cost is ($------) (if contract is CPFF type, insert, "plus a fixed fee of ($------) which is ------ percent of the estimated cost exclusive of fee").

(2) (Set forth facts and circumstances that show why it is impracticable to secure property or services of the kind or quantity required without the use of the proposed type of contract or why the proposed method of contracting is likely to be less costly than other methods.)

I hereby determine that:

On the basis of the above findings it is impracticable to secure the property or services of the kind or quality required without the use of a (cost, cost-sharing, or cost-plus-a-fixed-fee [2]) type of contract, or the (cost, cost-sharing, or cost-plus-a-fixed-fee [1]) method of contracting is likely to be less costly than other methods.[2]

Date ----------

(Signature)

(2) *Time and materials or labor-hour contracts.* The format prescribed by § 3-3.305-50 (b)(1) shall be followed except that the final paragraph shall read as follows:

I hereby determine that:

On the basis of the above findings, no other type of contract will suitably serve for the procurement of the required work or services.

(c) *Section 1-3.302 (c) and (e).* Operating agencies will prescribe formats for determinations required by § 1-3.302 (c) and (e).

(d) *Advance payments.* The prescribed format for advance payments determination and findings is set forth in § 1-30.410.

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[1] Use applicable word.

[2] Insert appropriate § 1-3.210(a) subparagraph number.

[1] Use applicable word.

[1] Use applicable word or statement.

[2] Use applicable words.

(e) *Buy American Act exceptions.* The prescribed format for determinations in support of exceptions to the Buy American Act is set forth in § 3–6.103.

(f) *10 U.S.C. 2353 (Reserved).*

(g) *Fixed fee.* Format for the determination required by § 3–3.302(b) will be prescribed by operating agencies.

§ 3–3.306 Procedure with respect to determinations and findings.

§ 3–3.306–50 Preparation and submission.

(a) Determinations and findings to be made by an Assistant Secretary shall be prepared in an original and four copies (including the yellow box-imprinted copy) and forwarded to the Assistant Secretary through the Division of Procurement and Materiel Management, OASA–OGS. The accompanying briefing letter shall be prepared in an original and three copies. Proposed procurement actions shall be planned so as to allow the Office of the Secretary a minimum of twenty working days to process a determination and findings.

§ 3–3.306–51 Briefing letter for authority to negotiate.

(a) *Secretarial determinations.* Each determination and findings to be made by an Assistant Secretary shall be accompanied by a briefing letter signed by the head of the procuring activity. The letter will present facts and information sufficient to support a judgment that the proposed procurement action is proper, is authorized by law, and that negotiation of a contract(s) is justified. As a minimum, the letter shall include:

(1) A concise description in nontechnical language of the work or services to be performed and the products to be delivered. If a cost reimbursement type contract is contemplated, note scope of work discussion in § 1–3.405–5(e).

(2) Identification of the program or project to be supported and an explanation of why contracting is the proper method of acquiring the required work, service, or property; including a citation of contracting authority.

(3) A statement that appropriated funds are available for the proposed contract(s) and the estimated dollar value of the proposed procurement(s).

(4) A statement setting forth facts and circumstances that clearly and convincingly explain why formal advertising is not feasible or practicable for the proposed procurement. Details must be furnished to support statements such as "only ultimate objectives and general scope of work can be outlined:" "work cannot be described by definite drawings and specifications;" etc.

(5) Discussion of the extent of competition contemplated; i.e., "between five and ten of the most qualified sources will be solicited because (state reasons):" "only a single or sole source will be solicited because (state reasons; identify source);" "procurement will be synopsized;" include pertinent information obtained from preliminary discussion with potential source or sources. Briefly discuss proposed source evaluation criteria. If the successful contractor will be allowed to acquire, or if the Government is to furnish facilities or equipment, describe the kind and amount and the basis for providing such property.

(6) Description of type(s) of contract contemplated and reasons for choice. If type of contract contemplated is not set out in Subpart 1–3.4, explain.

(7) Brief discussion of time-frame for procurement actions; i.e., estimated period for soliciting sources, evaluation of proposals, negotiation of contract, period of contract performance (renewal or extension contemplated), etc.

(b) *Proposed procurements expected to exceed $1 million.* In addition to the information covered in § 3–3.306–51(a), briefing letters for proposed procurements or classes of procurements expected to exceed $1 million will provide answers to the following questions:

(1) Is the proposed procurement an isolated task or is it part of a whole, balanced program?

(2) What is to be the end result of the experimental, developmental, or research work; specific use, or acquisition of general knowledge? How will the results be applied?

(3) Does the current level of technology support the feasibility of effort contemplated? How?

(4) To what degree has the effort been coordinated within and outside the Department in order to preclude duplication of effort?

(c) *Determinations by heads of procuring activities.* Contracting officers shall prepare and submit briefing letters providing the same information as prescribed in § 3–3.306–51(a) when determinations are to be made by the head of the procuring activity or a designee other than the contracting officer.

§ 3–3.306–52 Briefing letter for determinations other than authority to negotiate.

(a) *General.* Each determination to be signed by the Assistant Secretary for Administration or by the head of the procuring activity shall be accompanied by a briefing letter signed by the chief officer of the operating agency responsible for administration, the Regional Director, or the Executive Officer, Office of the Secretary. The letter shall contain as much supplemental information as is necessary to establish that each requirement or condition of the application law or regulation is being fully complied with (e.g., Subpart 1–30.4, Advance Payments).

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

Approved: June 2, 1970.

SOL ELSON,
Acting Deputy Assistant Secretary for Administration.

[F.R. Doc. 70–7311; Filed, June 10, 1970; 8:51 a.m.]

Chapter 9—Atomic Energy Commission

PART 9–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 9–4.51—Research Agreements and Contracts With Educational Institutions

PART 9–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 9–5.52—Procurement of Special Items

PART 9–7—CONTRACT CLAUSES

Subpart 9–7.50—Use of Standard Clauses

PART 9–9—PATENTS AND COPYRIGHTS

Subpart 9–9.50—Patents, Inventions, Technical Data

MISCELLANEOUS AMENDMENTS

These amendments add guidance on use of the standard AEC security article in contracts and subcontracts and make a number of minor editorial corrections related to security. AECPR 9–5.5206–10, –13, and –24 are updated to reflect the changeover from GSA to DSA sources for lubricating oil, fuels, and coal.

1. In § 9–4.5106–6, *Information to be furnished to Managers of AEC Field Offices,* paragraph (c)(7) is revised to read as follows:

§ 9–4.5106–6 Information to be furnished to Managers of AEC Field Offices.

* * * * *

(c) * * *

(7) Indicates whether Restricted Data or other classified information is likely to be used or developed in the course of the work and such classification and security determination as may be appropriate;

* * * * *

2. Section 9–4.5112–7, *Security,* is revised to read as follows:

§ 9–4.5112–7 Security.

As a general rule, it is not anticipated that investigators will need access to classified information in the conduct of basic research supported or sponsored by the AEC. When, in the judgment of the principal investigator, information is developed which should be classified, he or the contracting institution will notify the appropriate AEC Field Office immediately. When in the opinion of the cognizant AEC Headquarters Program Division, the work moves into a classified area, prompt steps should be taken to notify the contractor and the appropriate AEC Field Office.

3. Section 9–5.5206–10, *Lubricating and transformer oil,* is revised to read as follows:

§ 9–5.5206–10 **Fuels and packaged petroleum products.**

AEC offices shall procure fuels and packaged petroleum products (e.g., lubricating oil, gasoline, fuel oil, kerosene, and solvents) in accordance with FPMR 101–26.602. When cost-type contractors, consistent with 9–5.51, procure such products from Defense Supply Agency sources, they shall do so in accordance with FPMR 101–26.602.

4. Section 9–5.5206–13, *Gasoline, fuel oil (diesel and burner), kerosene, and solvents*, is deleted and reserved.

5. Section 9–5.5206–24, *Coal*, is revised to read as follows:

§ 9–5.5206–24 **Coal.**

AEC offices and cost-type contractors may participate in the Defense Fuel Supply Center coal contracting program for carload or larger lots. If participation is desired, estimates shall be submitted to DFSC in accordance with FPMR 101–26.602.

6. Section 9–7.000–50, *Policy, cost-type contractor procurement*, is revised to read as follows:

§ 9–7.000–50 **Policy, cost-type contractor procurement.**

Contracting officers shall require cost-type contractors to use terms and conditions in connection with procurement under their AEC contracts which are adequate to protect the Government's interests consistent with their contractual obligations. In addition to the prime contract flowdown provisions, the instructions and notes in §§ 9–7.5004–3, 9–7.5004–10, 9.7.5004–11, and 9–7.5006–47 are to be applied to cost-type contractor procurement. Other terms and conditions shall be included as may be required as a matter of law (e.g., Contract Work Hours Standards Act—Overtime Compensation, Davis-Bacon Act, etc.) or as appropriate under the circumstances.

7. In § 9–7.5004–11, *Security*, paragraph (f) is revised and NOTE B is added, as follows:

§ 9–7.5004–11 **Security.**

* * * * *

(f) *Criminal liability.* It is understood that disclosure of Restricted Data, Formerly Restricted Data, or other classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any Restricted Data, Formerly Restricted Data, or any other classified matter that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 10501, as amended.)

* * * * *

NOTE B: Except as provided in NOTE A to § 9–7.5004–22, this clause is required in contracts entered into under sections 31 or 41 of the Atomic Energy Act of 1954, as amended, and in other contracts, subcontracts, and purchase orders the performance of which involves or is likely to involve Restricted Data, Formerly Restricted Data or other classified information.

8. In § 9–9.5001, *Purpose and scope of subpart*, paragraph (b) is revised to read as follows:

§ 9–9.5001 **Purpose and scope of subpart.**

* * * * *

(b) The provisions of this subpart shall be followed in authorizing (1) the use of patent provisions in cost-type contractor procurement, and (2) deviations from the flowdown requirements of patent provisions in AEC and cost-type contractor contracts. The provisions of §§ 9–9.5008–7 and 9–9.5011 also shall be applied to cost-type contractor procurement. The determinations of need for background patent rights under § 9–9.5008–3 and the use of the hold-harmless article in § 9–9.5010 shall be made by Managers of Field Offices. The allocation of greater patent rights under § 9–9.5005–1 shall be made by the Assistant General Counsel for Patents.

(Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective Date. These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 4th day of June 1970.

For the Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 70-7261; Filed, June 10, 1970; 8:47 a.m.]

PART 9–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 9–5.53—Procurement of General Purpose Automatic Data Processing Equipment and Related Items

FPMR 101–32.4 was recently amended to add subsections 101–32.408–1 and 101–32.408–2 which deal with Federal Information Processing Standards Publications (FIPS PUBS). AECPR 9–5.5300 has been amended to recognize that these new FPMR subsections are not implemented by AECPR 9–5.53.

In § 9–5.5300, *Scope of subpart*, paragraphs (a) and (b) are amended to read as follows:

§ 9–5.5300 **Scope of subpart.**

(a) This subpart implements and supplements FPMR 101–32.4, except for the requirements in subsections 101–32.408–1 and 101–32.408–2.

(b) The procurement of ADPE, software, maintenance services, and supplies by AEC contractors is not subject to the requirements of this subpart.

* * * * *

(Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; section 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

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

Dated at Germantown, Md., this 3rd day of June, 1970.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 70-7292; Filed, June 10, 1970; 8:50 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101–20—ASSIGNMENT AND UTILIZATION OF SPACE

Space Requirements for ADP Equipment

Section 101–20.102–5 is added to provide guidelines for fulfilling the requirement to notify the General Services Administration of plans regarding ADP space requirements.

The table of contents for Part 101–20 is amended to provide the following new entry:

Sec.
101–20.102–5 Space requirements for ADP equipment.

Subpart 101–20.1—Assignment of Space

Section 101–20.102–5 is added as follows:

§ 101–20.102–5 **Space requirements for ADP equipment.**

(a) Agencies requiring space for the installation of data processing equipment must provide the following information in addition to the requirements of § 101–20.102–1:

(1) Type of equipment (including make, model number, manufacturer, and number of units of each);

(2) Space and environmental requirements, including:

(i) Floor weight (lbs.);

(ii) Machine dimensions (width, depth, and height in inches);

(iii) Service clearance (front, rear, right and left sides);

(iv) Power in voltage and kv.-a. (starting loads and operating loads);

(v) Heat dissipation in B.t.u./hr. and air flow (c.f.m.);

(vi) Environmental factors of temperature range (F) and relative humidity; and

(vii) Need for raised floor, acoustic ceiling, and air conditioning;

(3) Related requirements, such as storage space for supplies, tapes, and disks; work space, including desk and aisle space; and future expansion needs;

(4) Agency responsible for funding; and

(5) Required occupancy date.

(b) The above information should be provided as separate supplemental data to Standard Form 81, Request for Space, and forwarded to the GSA regional office as outlined in § 101-20.102. The space requirements indicated in block 13 of Standard Form 81 must include the space requirements for all components of ADPE. The ADPE supplier should be consulted prior to establishing space needs in order to ascertain any specific or peculiar space requirements of the ADPE involved.

(c) It is essential that this information regarding the requirement for ADP space be transmitted to GSA as far as possible in advance of delivery of equipment so that space can be provided in a timely and economical manner.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: June 4, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-7303; Filed, June 10, 1970; 8:50 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

U.S. Virgin Islands Air Quality Control Region

On March 10, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4305) to amend Part 81 by designating the U.S. Virgin Islands Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on March 20, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.46, as set forth below, designating the U.S. Virgin Islands Air Quality Control Region, is adopted effective on publication.

§ 81.46 U.S. 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

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: May 28, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-7067; Filed, June 10, 1970; 8:45 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region

On April 8, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 5705) to amend Part 81 by designating the Metropolitan Omaha Interstate Air Quality Control Region, hereafter referred to as the Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on April 17, 1970. Due consideration has been given to all relevant material presented, with the result that the Region has been renamed the Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region. No changes have been made in the boundaries proposed.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.50, as set forth below, designating the Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.50 Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region.

The Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region (Nebraska-Iowa) 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):

In the State of Nebraska:

Douglas County. Sarpy County.

In the State of Iowa:

Pottawattamie County.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: May 28, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-7065; Filed, June 10, 1970; 8:45 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Portland Interstate Air Quality Control Region

On April 9, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 5816) to amend Part 81 by designating the Portland Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on April 21, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.51, as set forth below, designating the Portland Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.51 Portland Interstate Air Quality Control Region.

The Portland Interstate Air Quality Control Region (Oregon-Washington) 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:

In the State of Oregon:

Benton County.	Marion County.
Clackamas County.	Multnomah County.
Columbia County.	Polk County.
Lane County.	Washington County.
Linn County.	Yamhill County.

In the State of Washington:

Clark County.	Cowlitz County.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: May 28, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-7066; Filed, June 10, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18763; FCC 70-592]

PART 1—PRACTICE AND PROCEDURE

Revised Period for Construction for Various Broadcast Stations

1. The Commission here considers the notice of proposed rule making in this docket, adopted December 3, 1969 (FCC 69-1338). The notice proposed amendment of section 1.598 dealing with time

to construct a broadcast facility, and more particularly to enlarge the 8-month period for television to 18 months. The notice also requested to comment whether the construction period for standard and FM broadcast services should also be extended. Fourteen parties filed comments. Those favoring the proposal are the All-Channel Television Society (ACTS); Association of Maximum Service Telecasters, Inc. (AMST); The National Association of Educational Broadcasters (NAEB); Joseph H. Beirne as a member of the Board of Directors of the Corporation of Public Broadcasting; McKenna and Wilkinson, a firm of communications attorneys; Duhamel Broadcasting Enterprises, a multiple owner; Fisher's Blend Station, Inc., another multiple owner; Jacksonville Television Co., permittee of WKHM–TV, Jackson, Miss. (Channel 18); KMSO–TV, Inc., another multiple owner; Percypeny Radio, licensee of AM Station WPRJ, Parsippany-Troy Hills, N.J.; Summit Broadcasting Co., Inc., permittee of WJMR–TV, New Orleans, La. (Channel 20); Tele Americas Corporation of Florida, permittee of WTML, Miami, Fla. (Channel 39); the Land Mobile Communications Council; and Motorola, Inc. The latter two opposed the change in the rule. In addition, joint reply comments were filed by Boston Heritage Broadcasting, Inc., permittee of Channel 68, Boston, Mass.; Indian River Television, Inc., licensee of WTVX, Fort Pierce, Fla. (Channel 34); Liberty Television, Inc., licensee of KEZI–TV, Eugene, Oreg. (Channel 9); and Minshall Broadcasting Co., permittee of Channel 20, Gainesville, Fla.

2. The comments generally favor an extension to 18 months for a television construction permit (CP) as proposed in the notice. Those commenting on behalf of radio broadcast stations feel that a similar extension should be made for the aural services. AMST not only favors the proposed extension of the construction period for television but, indeed, recommends that the period be 24 months in certain circumstances. As already noted, the Land Mobile Communications Council and Motorola, Inc., opposed the proposed change for television; Motorola expresses the view that the reasons for extension are specious and repetitious; LMCC refers to the "perpetual longevity" of so-called paper television construction permits, i.e., extentions without sufficient reasons for delay. Motorola goes on to say that the Commission should make plain the intent to compel a permittee to complete construction or enforce early cancellation of the CP. NAEB and Joseph H. Beirne point to the plight of educators depending on funding by donations, gifts, and grants.

3. We became particularly aware of the inadequacy of the present 8-month construction permit period set out in section 1.598 of the rules in the so-called "idle UHF" proceedings. See Northeast TV Cablevision Corp., et al., 21 FCC 2d 442, 443–4; and Radio Longview Inc., et al., 19 FCC 2d 966, 967–8, which discusses the problem generally. Both decisions state that construction permits for new television stations are granted only to qualified applicants who demonstrate capacity and bona fide intention to construct and render broadcast services in accordance with the Commission's rules, and the Commission in awarding permits relies on the permittee's obligation to proceed with construction and to initiate authorized services promptly and expeditiously. In Northeast TV, we also pertinently said (21 FCC 2d at 443–444):

The Commission will grant applications for extensions of time in which to complete construction of facilities only where construction was delayed by unforeseen circumstances beyond the permittees' control or where there are other overriding public interest considerations. A permittee who postpones construction because of economic considerations alone exercises his independent business judgment, and thus his failure to construct is attributable to circumstances within his control.

4. Our authority over construction permits derives from Section 319 of the Communications Act of 1934, as amended. Of particular note is paragraph (b) which states:

Such permit for construction shall show specifically the earliest and latest dates between which the actual operation of such station is to begin, and, shall provide that such permit will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, unless prevented by causes not under the control of the grantee.

Despite the statutory language as to forfeiture, the Commission must act affirmatively to forfeit a CP. Mass Communicators, Inc. v. FCC, 266 F. 2d 681 (C.A.D.C., 1959), certiorari denied, 361 U.S. 828. Moreover, forfeiture is discretionary. MG–TV Broadcasting Co. v. FCC, 408 F. 2d 1257 (C.A.D.C., 1968).

5. In sum, we here intend not merely to update section 1.598 of the rules to set forth more realistic periods for construction (18 months in the case of television and 12 months in the case of standard and FM stations) which experience indicates will more than suffice for the usual types of problems, but to make clear that henceforth only the closest adherence to section 319 of the Act will be countenanced. We reject certain arguments of those commenting as to the lack of obligation in certain respects. Before a CP is granted, the applicant has to have reasonable assurance of a transmitter site; if he is purchasing equipment on a deferred plan, he must have negotiated with the manufacturer(s) as to the terms of payment; and he must have ascertained the needs of the community. The policy considerations underlying the permittee's obligation to complete construction in a diligent manner have taken on new meaning in many of the larger and medium markets, where no additional AM, FM, or TV channels are available for assignment. In these circumstances, failure to construct promptly and extension of a CP may be detrimental to the listening public and other prospective applicants. If so, this situation cannot be tolerated, for it is contrary to the public interest, convenience, and necessity.

6. While we do not share the views of LMCC and Motorola, nonetheless, we agree that some sort of control must be provided in order for us to be adequately informed of the progress being made toward completion of construction. Thus, in the case of television permittees, we are providing that a report must be filed during the ninth month after the date of the grant of the construction permit, setting forth the status of construction. If it is felt that the report does not show that a satisfactory degree of progress is being made, we shall so advise the permittee.

7. In amending § 1.598 to provide what are believed to be realistic periods for initial construction, it is felt that the present volume of requests for extension of time to construct will be substantially reduced. Requests may be filed if necessary (using FCC Form 701); but they will be carefully scrutinized and granted only if compelling circumstances are shown indicating that an extension would be in the public interest.

8. In accordance with the foregoing: *It is ordered*, That effective July 13, 1970, § 1.598 of the Commission's rules and regulations is amended to read as set forth below. Authority for the action proposed herein is set out in sections 4(i), 303(r), and 319 of the Communications Act of 1934, as amended.

9. *It is further ordered*, That this proceeding is terminated.

Adopted: June 3, 1970.

Released: June 5, 1970.

(Secs. 4, 303, 319, 48 Stat., as amended, 1066, 1082, 1089; 47 U.S.C. 154, 303, 319)

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

Section 1.598 is amended to read as follows:

§ 1.598 Period of construction.

(a) *Television broadcast stations.* Each original construction permit for the construction of a new television broadcast station shall specify a period of 18 months within which construction shall be completed and application for license filed. The permittee shall file a report in the ninth month after the grant of the construction permit setting forth the progress made toward building the station; such progress report shall be signed by the principal(s) of the permittee.

(b) *Standard or FM broadcast stations.* Each original construction permit for the construction of a new standard or FM broadcast station shall specify a period of 12 months within which construction shall be completed and application for license filed.

[F.R. Doc. 70–7296; Filed, June 10, 1970; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 331—EMERGENCY PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Subpart—European Crane Fly

Pursuant to the provisions of the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), Chapter III, Title 7 of the Code of Federal Regulations, is hereby amended by adding thereto a new Part 331 to read as follows:

§ 331.1 Notice of existence of emergency and regulations related thereto.

(a) Infestations of the European crane fly, *tipula paludosa* Meigen, a dangerous plant pest not widely prevalent or distributed within and throughout the United States, have been found in portions of Whatcom County, Wash.; and, it has been determined that it is necessary to adopt, as an emergency measure, a rule imposing restrictions as provided for in this section upon the interstate movement of certain products and articles in order to prevent the interstate dissemination of said plant pest. Accordingly, the products and articles listed in paragraph (b) of this section may not be moved interstate from that portion of Whatcom County, Wash., bounded by a line beginning at a point where the northwest corner of the city of Blaine junctions with the Whatcom County-Canadian international boundary line; thence proceeding east along said boundary line to its junction with Silver Lake Road; thence south along said road to its intersection with Mount Baker Highway; thence southwesterly along said highway to its intersection with the northern boundary of the Bellingham City limits; thence west and south along said city limits to Bellingham Bay; thence westerly and southerly along said bay to Hale Passage; thence westerly along said passage to Georgia Strait; thence northerly along said strait to the point of beginning; unless:

(1) Such products and articles have been treated to destroy European crane fly infestations in accordance with procedures prescribed by the Director of the Plant Protection Division, U.S. Department of Agriculture,[1] under the direction of an inspector authorized by said Division, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(2) Such products and articles originate in an area in the said regulated portion of Whatcom County, which has been inspected by such an inspector, and he has found that the interstate movement of the products and articles from such area will not involve a risk of disseminating said infestations, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(3) Such products and articles are moved under permit issued by such an inspector to an approved destination for consumption, processing, and other handling in accordance with procedures prescribed by said inspector, when upon evaluation of the circumstances involved in each specified case he determines that such movement will not result in the spread of the European crane fly and requirements of other applicable Federal domestic plant quarantines have been met.

(b) The following products and articles are subject to the emergency measures imposed under this section:

(1) Soil, compost, humus, muck, peat, and decomposed manure, separately or with other things.

(2) Plants with roots.

(3) Grass sod.

(4) Used mechanized cultivating and soil-moving equipment, except if such equipment has been cleaned and repainted.

(5) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by subparagraphs (1) through (4) of this paragraph, when it is determined by an inspector that they present a hazard of spread of the European crane fly, and the person in possession thereof has been so notified.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34; 7 U.S.C. 150dd, 150ee, 150ff; 29 F.R. 16210, as amended)

The foregoing regulation shall become effective upon publication in the FEDERAL REGISTER.

Under this regulation, specific products and articles may be moved interstate from that described portion of Whatcom County, Wash., only if they have been treated or originate in certain areas of said county, or are moved to an approved destination for consumption, processing, or other approved handling. Such measures are necessary because an emergency exists as a result of recently discovered infestations of the European crane fly, a dangerous plant pest which is not now widely prevalent in the United States.

Inasmuch as such infestations must be controlled immediately to prevent the spread of the European crane fly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure regarding this regulation are impracticable and contrary to the public interest, and good cause is found for making said regulation effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of June 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-7263; Filed, June 10, 1970; 8:47 a.m.]

[1] Pamphlets containing such provisions are available upon request, from the Director, Plant Protection Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER F—DETERMINATION OF NORMAL YIELDS AND ELIGIBILITY FOR ABANDONMENT AND CROP DEFICIENCY PAYMENTS

[S.D. 845.2—Supp. 9]

PART 845—MAINLAND CANE SUGAR AREA

Approved Local Areas for 1969 Crop

Pursuant to the provisions of section 302(b) of the Sugar Act of 1948, as amended, § 845.11 is added to read as follows:

§ 845.11 Approved local areas for the 1969 crop.

For purposes of considering eligibility of farms for abandonment and crop deficiency payments on 1969 crop sugarcane pursuant to paragraph (c) of § 845.2, as amended (23 F.R. 9255), the local parish ASC committees in Louisiana and the Glades County ASC Committee in Florida have determined that the extent of crop damage as specified and provided in subparagraph (1)(iii) of paragraph (c) of § 845.2 has occurred in the following local producing areas:

LOUISIANA

Parishes approved in their entirety.

Iberia.	St. Martin.
Pointe Coupee.	St. Mary.
St. Charles.	Terrebonne.
St. James.	

Individual local producing areas approved.
Iberville: Area 2.
Lafayette: Area 2; Area 3; Area 4.

FLORIDA

All of Florida.

Statement of bases and considerations. This supplement provides public notice of the local producing areas in Louisiana and Florida where due to drought, flood, storm, freeze, disease, or insects, the 1969 sugarcane crop has been damaged to the extent that farms located in whole or in part therein will be considered (as to location) for abandonment and deficiency payments. Producers on these farms who have not filed application for Sugar Act payments with respect to acreage abandonment or crop deficiencies for which they may otherwise be eligible should apply for such payments before December 31, 1971, as provided in 7 CFR 892.7 (32 F.R. 8413).

(Secs. 301, 302, 403, 61 Stat. 929, 930, as amended, 932; 7 U.S.C. 1131, 1132, 1153)

Effective date. Date of publication.

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

GEORGE V. HANSEN,
Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-7305; Filed June 10, 1970; 8:51 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 317]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.617 Valencia Orange Regulation 317.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 9, 1970.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 12, 1970, through June 18, 1970, are hereby fixed as follows:

(i) District 1: 180,000 cartons;

(ii) District 2: 215,000 cartons;

(iii) District 3: 105,000 cartons.

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

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

Dated: June 10, 1970.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-7396; Filed, June 10, 1970; 11:21 a.m.]

[Grapefruit Reg. 10, Amdt. 8]

PART 944—FRUIT; IMPORT REGULATIONS

Grapefruit

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the introductory language and subparagraph (1) of paragraph (a) in Grapefruit Regulation 10 (§ 944.106, 33 F.R. 14365, 17895; 34 F.R. 7898, 11135, 14383; 35 F.R. 5462, 6747, 7504), are hereby amended to read as follows:

§ 944.106 Grapefruit Regulation 10.

(a) On and after June 8, 1970, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 2 Russet and be of a size not smaller than $3\frac{12}{16}$ inches in diameter except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit;

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions on imports of all grapefruit as the grade and size restrictions being made applicable to the shipment of all grapefruit grown in Florida under amended Grapefruit Regulation 68 (§ 905.514); (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of seeded grapefruit.

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

Dated June 5, 1970, to become effective June 8, 1970.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-7264; Filed, June 10, 1970; 8:48 a.m.]

[966.307 Amdt. 6]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because (1) the time intervening between the date when the information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) compliance with this amendment will not require any special preparation by handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of

production area tomatoes. The marketing season for Florida production area tomatoes is nearly over and supplies will decline rapidly for the remainder of the season.

Regulation as amended. Amendments 2 through 5 to § 966.307 (35 F.R. 3159, 3798, 4546, 7003) are hereby terminated and the regulation which shall be in effect for tomatoes grown in the Florida production area shall be § 966.307 as amended by Amendment No. 1 (34 F.R. 18090 and 19746).

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

Effective date. Dated June 5, 1970, to become effective June 8, 1970.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-7265; Filed, June 10, 1970; 8:48 a.m.]

[980.204 Amdt. 4]

PART 980—VEGETABLES: IMPORT REGULATIONS

Tomatoes

Pursuant to the requirements of section 8e–1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1), Tomato Import Regulation, § 980.204, is hereby amended as set forth below:

Tomato import regulation, as amended. In § 980.204 (34 F.R. 18091; 35 F.R. 3160, 3799, 4547) *Tomato import regulation,* paragraph (b) is hereby amended to read as follows:

§ 980.204 Tomato import regulations.

* * * * *

(b) *Size requirement*—(1) *Size.* Imports shall be limited to tomatoes which are larger than 2 2/32 inches in diameter.

(2) *Tolerance for size.* Not more than 10 percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter.

* * * * *

Findings. This amendment conforms with a simultaneous amendment to the limitation of shipments effective on domestic shipments of tomatoes (§ 966.307, Amdt. 6) under Marketing Order No. 966, as amended (7 CFR Part 966) regulating the handling of tomatoes grown in Florida. It is hereby found that it is impractical and contrary to the public interest to give preliminary notice or engage in public rule making procedure on this amendment (5 U.S.C. 553) in that (1) the requirements of section 608e–1 of the act make this amendment mandatory, (2) compliance with this amendment will not require any special preparation by importers which cannot be completed by the effective date, and (3) this amendment relieves restrictions on the importation of tomatoes.

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

Dated June 5, 1970 to become effective June 8, 1970.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-7266; Filed, June 10, 1970; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 Crop Dry Edible Bean Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 Crop Dry Edible Bean Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops (35 F.R. 7363) and the 1970 and Subsequent Crops Dry Edible Bean Loan and Purchase Program regulations (35 F.R. 8537) which contain regulations of a general nature with respect to price support operations, are further supplemented for 1970 crop dry edible beans as follows:

Sec.
1421.140 Purpose.
1421.141 Availability.
1421.142 Maturity of loans.
1421.143 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.140 Purpose.

This supplement contains additional program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1970 and Subsequent Crops and any amendments thereto or revisions thereof, and the 1970 and Subsequent Crop Dry Edible Bean Loan and Purchase Program regulations, and any amendments thereto, apply to loans and purchases for 1970 crop dry edible beans.

§ 1421.141 Availability.

(a) *Loans.* A producer desiring a price support loan must request a loan on his eligible beans on or before April 30, 1971.

(b) *Purchases.* To obtain price support through sales, a producer must execute and deliver to the appropriate ASCS county office on or before May 31, 1971, a Purchase Agreement (Form CCC–614), indicating the approximate quantity of 1970 crop dry edible beans he will sell to CCC.

§ 1421.142 Maturity of loans.

Unless demand is made earlier, loans on dry edible beans will mature on May 31, 1971.

§ 1421.143 Support rates.

The support rate for beans placed under a loan other than a loan on beans stored commingled in an approved warehouse shall be the applicable basic support rate specified in paragraph (a) of this section for the county in which the beans were produced, adjusted as provided in paragraph (d) of this section. The support rate for loans on beans stored commingled in approved warehouse storage and for settlement of all loans and purchases shall be the applicable basic support rate specified in paragraph (a) of this section for the county in which the beans were produced, adjusted in accordance with paragraphs (b), (c), and (d) of this section, and adjusted also, in the case of settlements, by such discounts as CCC may establish for class, grade, and quality factors not specified in this section which affect the value of the beans, such as (but not limited to) splits, damage contrasting classes, and foreign material. The discounts established for the purposes of settlement will be based upon the market discounts for such factors at the time the beans are delivered to CCC, as determined by CCC. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately 1 month prior to the loan maturity date. Except in the case of large lima beans, if the beans have been moved by truck to approved warehouse storage in a higher support rate county, or if the warehouse guarantees delivery by truck to approved storage or on track in a higher support rate county, the support rate shall be determined on the basis of the basic support rate specified in paragraph (a) of this section for the county in which the beans are stored or to which delivery is guaranteed, rather than the county in which the beans were produced. Settlement shall be made in accordance with the provisions of § 1421.23.

(a) *Basic county support rates.* The basic county support rates per 100 pounds net weight for beans of all classes grading Prime Handpicked or U.S. No. 1 are as follows:

Class and area	*Rate per 100 pounds prime handpicked or U.S. No. 1 in jute bags*
Pinto:	
Area I—In New Mexico all counties except San Juan, Rio Arriba, Taos, McKinley, and Valencia	$6.57
Area II—Idaho, Kansas, Nebraska, Oklahoma, and Texas. In Colorado, the counties of Larimer, Boulder, Gilpin, Clear Creek, Jefferson, Teller, Fremont, Pueblo, Huerfano, and Las Animas and all counties east thereof in Colorado. In Wyoming, the counties of Goshen, Laramie, and Platte	6.47
Area III—In New Mexico the counties of San Juan, Rio Arriba, Taos, McKinley, and Valencia	6.37
Area IV—Arizona, California, Montana, South Dakota, and Utah. In Wyoming all counties not in Area II. In Colorado, all counties not in Area II	6.27
Area V—Washington	5.97
Area VI—Other States	6.07

Class and area	Rate per 100 pounds prime handpicked or U.S. No. 1 in jute bags
Great Northern:	
Area I—Nebraska, Minnesota, and North Dakota. In Colorado all counties east of 106° longitude. In Wyoming, the counties of Goshen, Laramie, and Platte	7.21
Area II—South Dakota, Montana, and Idaho. In Wyoming all counties not in Area I and in Oregon, Malheur County	7.01
Area III—Other States and counties	6.71
Pea (Navy) and Medium White:	
Area I—Michigan, New York, Maine, Minnesota, and Wisconsin	6.65
Area II—Other States	6.15
Small White and Flat Small White	7.52
Dark Red Kidney	8.51
Light and Western Red Kidney	8.70
Pink	7.32
Small Red:	
Area I—Idaho and Colorado	7.47
Area II—Washington	7.37
Area III—Other States	7.42
Large Lima	10.39
Baby Lima	5.59

(b) *Premium.*

	Costs per 100 pounds
Grade U.S. CHP (Pea beans)	25
Grade U.S. CHP (all other beans)	10
Grade U.S. Extra No. 1	10

(c) *Discount.*

	Cents per 100 pounds
Grade U.S. No. 2	25
Paper package	09

(d) *Deduction for processing charges.* In the case of beans which have not been processed (i.e., commercially cleaned), the rate shall be reduced by the following amounts (except for beans stored commingled in an approved warehouse):

	Dollar per 100 pounds from U.S. No. 1 rate
All States except Michigan and New York	$1.00
Michigan, Pea beans only	1.00
Michigan, other classes	1.50
New York	2.00

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C. on May 20, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 270-7306; Filed, June 10, 1970; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

NEW DRUGS

Conditions for Investigational Use of Methadone for Maintenance Programs for Narcotic Addicts

In order to assist the profession, municipalities, organizations, and other groups who are interested in sponsoring programs for the investigation of methadone in the treatment of narcotic addicts, the Food and Drug Administration and the Bureau of Narcotics and Dangerous Drugs agree that it is in the public interest that acceptable guidelines for these programs be established. The guidelines of the Bureau of Narcotics and Dangerous Drugs, Department of Justice, are also proposed in this issue of the FEDERAL REGISTER.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052–53, as amended, 1055; 21 U.S.C. 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that a new section be added to Part 130 as follows:

§ 130.44 Conditions for investigational use of methadone for maintenance programs for narcotic addicts.

(a) There is widespread interest in the use of methadone in the maintenance treatment of narcotic addicts. Though methadone is a marketed drug approved through the new-drug procedures for specific indications, its use in maintenance treatment of narcotic addicts is an investigational use for which substantial evidence of safety and effectiveness is not available. In addition, methadone is a controlled narcotic subject to the provisions of the Harrison Narcotic Act and has been shown to have significant potential for abuse. In order to assure that the public interest is adequately protected, and in view of the uniqueness of this method of treatment, it is necessary that a methadone maintenance program be closely monitored to prevent diversion of the drug into illicit channels and to assure the development of scientifically useful data. Accordingly, the Food and Drug Administration and the Bureau of Narcotics and Dangerous Drugs conclude that prior to the use of methadone in the maintenance treatment of narcotic addicts, advance approval of both agencies is required. The approval will be based on a review of a Notice of Claimed Investigational Exemption for a New Drug submitted to the Food and Drug Administration and reviewed concurrently by the Food and Drug Administration for scientific merit and by the Bureau of Narcotics and Dangerous Drugs for drug control requirements.

(b) No person may sell, deliver, or otherwise dispose of methadone for use in the maintenance treatment of narcotic addicts until a study providing for such use has had the advance approval by the Commissioner of Food and Drugs on the basis of a Notice of Claimed Investigational Exemption for a New Drug justifying such studies.

(c) An abbreviated Notice of Claimed Investigational Exemption for a New Drug shall be submitted to the U.S. Food and Drug Administration (four copies), 5600 Fishers Lane, Rockville, Md. 20852. Forms entitled "Notice of Claimed Investigational Exemption for Methadone for Use in the Maintenance Treatment of Narcotic Addicts," suitable for such a submission may be obtained from the above address. The submission should be signed by the physician in charge of the maintenance program who will be regarded as the responsible party and sponsor for the exemption. (If the sponsor is a manufacturer or distributor of the drug, the regulations as outlined in § 130.3 should be followed, except where the guidelines set forth below are appropriate.) The notice shall contain the following:

(1) Name of sponsor, address, date, and the name of investigational drug—methadone.

(2) A description of the form in which the drug is purchased (e.g., bulk powder or tablet or other oral dosage form), the name and address of the manufacturer or supplier, and assurance that the drug meets the requirements of the United States Pharmacopeia if recognized therein. If it is in an oral form designed to minimize its potential for abuse, and not recognized in the U.S.P., assurance that the drug meets adequate specifications for such use should be provided.

(3) The name, address, and a summary of the scientific training and experience of each investigator, the physician-sponsor, and the individual charged with monitoring the progress of the investigation and evaluating the safety and effectiveness of the drug if the monitor is other than the physician-sponsor. Investigators, other than physician-sponsor, are required to sign a form FD 1573, obtainable from the Food and Drug Administration.

(4) A description of the facilities available to the sponsor to perform the required tests including the name of any hospital, institution, or clinical laboratory facility to be employed in connection with the investigation.

(5) A statement of the protocol. The following is an acceptable protocol. Modifications of this protocol or other protocols will be judged on their merits.

METHADONE MAINTENANCE STANDARD PROTOCOL

Objectives:

A. To evaluate the safety of long term methadone administration at high doses.

B. To evaluate the efficacy of oral methadone per se at high dosage in decreasing the craving for other narcotic drugs and in minimizing their euphoriant effect.

C. To evaluate the efficacy of methadone as the pharmacological moiety in a regimen for the rehabilitation of narcotics addicts including their return to a drug free state.

Admission criteria:

A. Documented history of abuse of one or more opiate drugs, the duration of which is to be stated.

B. Confirmed history of one or more failures of withdrawal treatment.

C. Evidence of current abuse of opiates.

An exception to the third criterion (i.e., current abuse of opiates) is allowable in exceptional circumstances for certain subjects for whom methadone maintenance may be initiated a short time prior to or upon release from an institution. This procedure should be justified on the basis of a history of previous relapses. In these circumstances, appropriate descriptions of the facilities, procedures, and qualifications of the personnel of the institution are to be included in the application filed by the physician-investigator.

Subjects who wish to do so may be transferred from one approved program to another.

Criteria for exclusion from the program:

A. Pregnancy.

B. Psychosis.

C. Serious physical disease.

D. Persons less than 18 years of age.

Addicts who are pregnant or who are suffering from psychosis or serious physical disease should be hospitalized and withdrawn from narcotics.

Admission evaluation:

A. History: Recorded history to include age, sex, verified history of arrests and convictions, educational level, employment history, history of drug abuse of all types.

B. Medical history of significant illnesses.

C. History of prior psychiatric evaluation and/or treatment.

D. Physical examination.

E. Formal psychiatric examination in subjects with a prior history of psychiatric treatment and in those in whom there is a question of psychosis and/or competence to give informed consent.

F. Chest X-ray.

G. Laboratory examinations to include complete blood count, routine urinalysis, liver function studies (including SGOT, alkaline phosphatase, total protein, and albumin-globulin ratio), fasting blood sugar, blood urea nitrogen, serologic test for syphilis.

Procedure:

A. Methadone to be administered in an oral form, so formulated as to minimize misuse by parenteral injection. The dosage to be adjusted individually and not to exceed 160 mg. per day. The methadone is to be administered under the close supervision of the investigator or responsible persons designated by him. Initially, the subject is to receive the medication under observation each day. After demonstrating adherence to the program, the subject may be permitted twice weekly observed medication intake with no more than a 3-day supply allowed in his possession. (Longer intervals may be approved in exceptional cases when the investigator

has stated appropriate justification in his protocol.)

B. Urinalysis: Urine collection to be supervised; urine specimens to be analyzed for methadone, morphine, quinine, cocaine, brabiturates, and amphetamines; urine specimens to be pooled or selected randomly for analysis at intervals not exceeding 1 week.

C. Rehabilitative measures as indicated; these may include individual and/or group psychotherapy, counseling, vocational guidance, and educational placement.

D. Adequate investigation and appropriate management of any abnormalities detected on the basis of history, physical examination, or laboratory examination at the time of admission to the program or subsequently, including evaluation and treatment of intercurrent physical illness with observation for complications which might result from methadone.

E. Physical examination and chest X-ray to be repeated annually and laboratory examinations conducted at the time of admission to be repeated at 6-month intervals.

F. Consideration to be given to discontinuing the drug for participants who have maintained a satisfactory adjustment over an extended period of time; in such cases, followup evaluation to be obtained periodically.

G. Adequate records to be kept for each participant on each aspect of the treatment program including adverse reactions and the treatment thereof.

Other special procedures:

Within the limitations of personnel, facilities, and funding available and in the interests of increasing the knowledge of the safety and efficacy of the drug itself, the following procedures are suggested as worthwhile, to be carried out at baseline and periodically in randomly selected subjects: EKG, EEG, measures of respiratory, cardiovascular, and renal function, psychological test battery, simulated driving performance.

Voluntary and involuntary terminations:

A. Attempts are to be made to obtain followup on all participants who elect to leave the program. Whenever possible, the patient is to be hospitalized for gradual withdrawal from methadone, and appropriate facilities should be available for this purpose.

B. Subjects are to be terminated as having failed in the program on the basis of continued frequent abuse of narcotics or other drugs, alcoholism, criminal activity, or persistent failure to adhere to the requirements of the program.

Results:

Evaluation of the safety of the drug administered at high dosages over prolonged periods of time is to be based on results of physical examination, laboratory examinations, adverse reactions, and results of special procedures when these have been carried out.

Evaluation of rehabilitation is to be based on, among other things, the following:

A. Arrest records.

B. Extent of alcohol abuse.

C. Extent of drug abuse.

E. Occupational adjustment verified by employers or records of earnings.

F. Social adjustment verified whenever possible by family members or other reliable persons.

Evaluations are to be recorded at predetermined intervals, e.g., monthly for the first 3 months, at 6 months, and at 6-month intervals thereafter.

Evaluation group:

Whenever possible, an independent evaluation committee of professionally trained and qualified persons not directly involved in the project will inspect facilities, interview personnel and selected patients, and review individuals' records and the periodic analysis of the data.

(d) The sponsor shall assure that adequate and accurate records are kept of all observations and other data pertinent to the investigation on each individual treated; the sponsor shall make the records available for inspection.

(e) The sponsor is required to maintain adequate records showing the dates, quantity and batch or code marks of the drug used. These records must be retained for the duration of the investigation.

(f) The sponsor shall monitor the progress of the investigations and evaluate the evidence relating to the safety and effectiveness of the drug. Accurate progress reports of the investigation and significant findings shall be submitted to the Food and Drug Administration at intervals not exceeding periods of 1 year. All reports of the investigation shall be retained for the duration of the investigation.

(g) The sponsor shall promptly notify the Food and Drug Administration of any findings associated with the use of the drug that may suggest significant hazards, contraindications, side effects, and precautions pertinent to the safety of the drug.

(h) The sponsor in admitting addicts to the investigational treatment program is required to give to the addict an accurate description of the limitations as well as the possible benefits which the addict may derive from the program.

(i) The sponsor of this program shall certify that the drug will be used and administered only to subjects under his personal supervision or under the supervision of personnel directly responsible to him; a statement to this effect shall be included in the notice.

(j) The sponsor shall certify that all participants will be informed that drugs are being used for investigational purposes, and will obtain the informed consent of the subjects and shall include a statement to this effect in the notice.

(k) If the study is undertaken on institutionalized human subjects, the notice shall include a description of the peer committee responsible for initial and continuing review. Names of the individual committee members need not be submitted if the institution has been granted an "Assurance" by the Department of Health, Education, and Welfare. Assurance should be given that the review committee does not allow participation in its review and conclusions by any individual involved in the conduct of the research activity under review (except to provide information to the committee), and that the investigator will report any emergent problems to the committee for review. A statement to this effect shall be included in the notice.

(l) Failure to conform to the standard protocol or an approved modified protocol will be a basis for termination of the claimed investigational exemption.

(m) Provisions under the Harrison Narcotic Act enforced by the Department of Justice are also applicable to this use of methadone.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 4, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-7257; Filed, June 10, 1970; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[26 CFR Part 151]

REGULATORY TAXES ON NARCOTIC DRUGS

Administering and Dispensing Requirements

Notice is hereby given pursuant to the authority granted by section 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805) 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 § 0.100 of Title 28 of the Code of Federal Regulations, and the requirements concerning proposed rulemaking contained in 5 U.S.C. 553(b) that the Director, Bureau of Narcotics and Dangerous Drugs, proposes to amend § 151.411 of Part 151 of Title 26 of the Code of Federal Regulations in order to make clear the conditions upon which practitioners may administer or dispense narcotic drugs for the purpose of prolonged narcotic drug dependence in the course of conducting clinical investigations in the development of narcotic addict rehabilitation programs.

It is recognized that the investigational use of methadone, a class "A" narcotic drug, requiring the prolonged maintenance of narcotic dependence as part of a total rehabilitative effort has shown promise in the management and rehabilitation of selected narcotic addicts. Although methadone is a marketed drug approved through new drug procedures for specific indications, its use in the maintenance treatment of narcotic addicts is an investigational use for which substantial evidence of safety and effectiveness are not available. In addition, it is a drug controlled under Federal narcotic laws which has been shown to have a significant potential for abuse. Accordingly, the Food and Drug Administration and the Bureau of Narcotics and Dangerous Drugs are agreed that advance approval of such investigations must be obtained through review of a Notice of Claimed Investigational Exemption for a New Drug submitted to the Food and Drug Administration for such purposes. The amendment which follows applies only to the administering and dispensing of narcotic drugs and

does not authorize the prescribing of narcotic drugs for any such purposes; see 26 CFR 151.392.

Accordingly, it is proposed to delete the word "Dispensing" preceding § 151.411 of Part 151 of Title 26 of the Code of Federal Regulations and that § 151.411 be amended to read as follows:

§ 151.411 Administering and dispensing.

(a) Practitioners may administer or dispense narcotic drugs to bona fide patients pursuant to the legitimate practice of their profession without prescriptions or order forms.

(b) The administering or dispensing of narcotic drugs to narcotic drug dependent persons for the purpose of continuing their dependence upon such drugs in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program shall be deemed to fall within the meaning of the term "in the course of professional practice" in sections 4704(b)(2) and 4705(c)(1) of title 26 of the United States Code: *Provided*, That approval is obtained prior to the initiation of such a program by submission of a Notice of Claimed Investigational Exemption for a New Drug to the Food and Drug Administration which will be reviewed concurrently by the Food and Drug Administration for scientific merit and by the Bureau of Narcotics and Dangerous Drugs for drug control requirements; and provided further that the clinical investigation thereafter accords with such approval; see 21 CFR 130.44, 35 F.R. 9014.

Pursuant to the requirements of 5 U.S.C. 553(c) all interested persons are hereby afforded the opportunity to participate in the rulemaking through the submission of written data, views, or arguments. Such written comments should be submitted, preferably in quintuplicate, to the Director, Bureau of Narcotics and Dangerous Drugs, 1405 Eye Street NW., Washington, D.C. 20537, within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: June 4, 1970.

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

[F.R. Doc. 70-7256; Filed, June 10, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 777]

PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Notice of Proposed Rule Making

Notice is hereby given pursuant to section 4a, Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553) that the Agricultural Stabilization and Conservation Service proposes to issue Amendment 6 to the Republication of the Processor Wheat Marketing Certificate Regulations (33 F.R. 14676).

Consideration will be given to all written comments or suggestions in connection with the proposed amendment filed in duplicate with the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, during the 30-day period beginning with the date this notice is published in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (7 CFR 1.27(b)).

The proposed amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended, (see Sec. 379a to 379j, 52 Stat. 31, as amended, 7 U.S.C. 1379a to 1379j) to provide miscellaneous changes in the Processor Wheat Marketing Certificate Regulations as follows:

(1) Extend the marketing certificate cost of 75 cents per bushel through the marketing year beginning July 1, 1970, as provided in section 379e of the Act (7 U.S.C. 1379e;)

(2) Provide the refund rate for flour second clears not used for human consumption for the marketing year beginning July 1, 1970, based upon latest information available to the Department as to the average extraction rate of persons who process wheat into food products.

The proposed amendment to 7 CFR Part 777 would read as follows:

(1) Section 777.5(a) is amended by changing the penultimate sentence to read as follows:

§ 777.5 Applicability of certificate requirements.

(a) *General.* * * * The cost of domestic certificates shall be 75 cents a bushel during the marketing years beginning July 1, 1965, through the marketing year beginning July 1, 1970. * * *

* * * * *

(2) Section 777.19(e) is amended to read as follows:

§ 777.19 Industrial users of flour second clears.

* * * * *

(e) *Refund rate.* The refund rate for the marketing years beginning July 1, 1965, and July 1, 1966, shall be $1.71 per hundredweight, which was determined on the basis of a conversion factor of 2.283, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1967, shall be $1.69 per hundredweight, which was determined on the basis of a conversion factor of 2.252, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1968, and July 1, 1969, shall be $1.68 per hundredweight, which was determined on the basis of a conversion factor of 2.240, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1970, shall be $1.67 per hundredweight, which was determined on the basis of a conversion factor of 2.230 multiplied by the applicable certificate cost rounded to the nearest cent. This refund rate to be used is the rate applicable to the marketing year in which the flour second clears were produced as shown by the processor on Form CCC-165.

* * * * *

Effective date: It is proposed that the provisions of this amendment shall be effective with respect to processing report periods beginning on and after July 1, 1970.

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

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-7304; Filed, June 10, 1970; 8:50 a.m.]

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 602]

PUBLIC EMPLOYMENT OFFICES

Temporary Foreign Labor for Agricultural and Logging Employment

Pursuant to Section 1184 of title 8, United States Code, § 214.2(h) of Title 8, Code of Federal Regulations, and Secretary's Order No. 14-69 (34 F.R. 6502), I hereby propose to amend 20 CFR Part 602 as set forth below. It is not intended that any of the amendments proposed would be applicable to requests for certification filed prior to the effective date of any amendments.

Any person interested in this proposal may file a written statement of data, views, or arguments regarding it with the Manpower Administrator, U.S. Department of Labor, Washington, D.C. 20210, within 15 days after this notice is published in the FEDERAL REGISTER.

1. The centerhead immediately preceding § 602.10 would be amended by deleting the word "industry" therefrom.

2. Section 602.10a would be revised as follows: Paragraphs (f), (g) and (i) would be revised. As amended, § 602.10a would read as follows:

§ 602.10a Job offers and contracts.

* * * * *

(f) Permit no charge by the employer in excess of $2.50 per worker for furnishing 3 meals per day except where the Manpower Administrator, when evidence submitted to him of average actual cost for a representative pay period supports a greater charge, has approved a charge not to exceed $3.25 per worker for furnishing three meals per day;

(g) Require the employer to provide or pay for transportation and subsistence en route from the place of recruitment to the place of employment in those cases where the worker completes at least 50 percent of the contract. The amount paid

per day for subsistence en route from the place of recruitment must be at least as much as the amount authorized to be charged each day for meals at the place of employment. An employer who has advanced payment to a worker for the costs of transportation and subsistence en route may deduct such costs from earnings of the worker until the worker has completed 50 percent of the contract period. However, upon completion of 50 percent of the contract period, the worker shall be entitled to reimbursement of the amounts so deducted. If the worker completes his contract, the employer will provide or pay the cost of return transportation and subsistence en route from the place of employment to the place of recruitment, except when the worker is not returning to the place of recruitment and has subsequent employment with an employer who will bear transportation expenses. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to applicable regulations of the Interstate Commerce Commission. Transportation from the worker's on-the-job site living quarters to the place where the work is to be performed will be provided by the employer without cost to the worker. The worker shall be paid, at the hourly rate provided for in the contract, for the total travel time each day in excess of one-hour from his place of abode to his first work location for that day and from his last work location for that day to his abode;

* * * * *

(l) Require the employer to keep accurate and adequate records in regard to all earning and hours of employment. Such records shall include information showing the nature of the work performed, the number of hours of work offered each day by the employer and worked each day by each worker, the rate of pay, the amount of work performed, the earning of each worker, and deductions made from each worker's wages. If the number of hours worked by a worker is less than the number offered, the records shall state the reason therefore. Such records shall be made available at any reasonable time for inspection by representatives of the Secretary of Labor, and by workers or their representatives. Such records shall be retained for a period of not less than 3 years following the completion of the contract. With respect to each pay period, each worker shall be furnished at or before the time he is paid for such pay period in one or more written statements the following information: His total earnings for the pay period; his hourly rate or piece rate of pay; the hours offered him; the hours worked by him; an itemization of all deductions made from his wages; if piece rates are used, the units produced; and if his earnings were increased pursuant to paragraph (e) of § 602.10b, the amount of such increase and the average hourly earnings.

* * * * *

4. In § 602.10b, paragraphs (a), (c), and (e) would be revised. As amended, § 602.10b would read as follows:

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State	*Rate*
Alabama	$1.88
Arizona	1.73
Arkansas	1.78
California	1.87
Colorado	1.89
Connecticut	1.85
Delaware	1.64
Florida	1.68
Georgia	1.84
Idaho	1.87
Illinois	1.86
Indiana	1.83
Iowa	1.97
Kansas	1.90
Kentucky	1.85
Louisiana	1.82
Maine	1.79
Maryland	1.81
Massachusetts	1.84
Michigan	1.83
Minnesota	2.00
Mississippi	1.78
Missouri	1.91
Montana	1.92
Nebraska	2.01
Nevada	1.82
New Hampshire	1.87
New Jersey	1.90
New Mexico	1.67
New York	1.86
North Carolina	1.78
North Dakota	1.93
Ohio	1.78
Oklahoma	1.74
Oregon	1.72
Pennsylvania	1.81
Rhode Island	1.80
South Carolina	1.72
South Dakota	1.90
Tennessee	1.86
Texas	1.69
Utah	1.83
Vermont	1.92
Virginia	1.67
Washington	1.95
West Virginia	1.65
Wisconsin	1.95
Wyoming	1.72

(2) Piece rates shall be designed to produce hourly earnings at least equivalent to the hourly rate specified in subparagraph (1) of this paragraph for the State in which the work is to be performed and no workers shall be paid less than the specified hourly rate.

* * * * *

(c) The minimum wage rates to be offered workers in the logging industry shall be the rates prevailing for logging activities or the rates determined by the Secretary of Labor to be necessary to prevent adverse effect upon U.S. logging workers, whichever is higher.

* * * * *

(e) Upon application to, and approval by, the Secretary of Labor in each case, an employer may use piece rates which are designed to, and do, produce earnings by his employees engaged in the type of work covered by the job offer or contract, the average of which for the weekly or biweekly period is 25 percent higher than the hourly rates applicable under paragraph (a) of this section for agricultural workers or under paragraph (c) of this section for logging workers. Should the average of the hourly earnings of such employees fall below this requirement, each worker's earnings for each payroll period within such weekly or biweekly period must be increased by the percentage needed to bring the total average to this requirement.

* * * * *

(8 U.S.C. 1184, 8 CFR 214.2(h), 34 F.R. 6502)

Signed at Washington, D.C., this 4th day of June 1970.

ARNOLD R. WEBER,
Assistant Secretary for Manpower.

[F.R. Doc. 70-7274; Filed, June 10, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-35]

ALLEN STREET BRIDGE, COWLITZ RIVER, WASH.

Drawbridge Operation

1. Notice is hereby given that the Commandant, U.S. Coast Guard under authority of section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)), and 49 CFR 1.46(c)(5), is considering a request by the city of Kelso, Wash., to discontinue the operation of the Allen Street Bridge, mile 5.5, Cowlitz River, and permit it to remain in the closed position. Present regulations (§ 117.765(b)(2)) require at least 2 hours' advance notice.

2. Section 117.765 is entitled *"Cowlitz and Lewis Rivers, Wash.; bridges"* and § 117.810 is entitled *"Navigable waters in the State of Washington; bridges where constant attendance of drawtenders is not required."* The proposed change, if adopted, will be listed under 33 CFR 117.810 as subparagraph (f)(9). 33 CFR 117.765(b)(2) will be deleted.

3. Accordingly, it is proposed to delete § 117.765(b)(2) and to amend § 117.810 (f) by adding subparagraph (9) to read as follows:

§ 117.810 Navigable waters in the State of Washington; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(9) *Cowlitz River; highway bridge at Allen Street, Kelso, Wash.* The draw need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this

bridge. However, the draw shall be returned to an operable condition within 6 months after notification by the Commandant to take such action.

4. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before July 10, 1970. All submissions should be made in writing to the Commander, Thirteenth Coast Guard District, 618 Second Avenue, Seattle, Wash. 98104.

5. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address and firm or organization if any, of the person making the submission.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Thirteenth Coast Guard District.

7. After the time set for the submission of comments by the interested parties, the Commander, Thirteenth Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: June 3, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-7276; Filed, June 10, 1970; 8:48 a.m.]

[33 CFR Part 117]

[CGFR 70-71]

GREEN RIVER, ROCKPORT, ILL.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the Illinois Central Railroad to revise the special operation regulations for its drawbridge across the Green River, Rockport, Ill. The present regulations set forth in 33 CFR 117.560(g)(7) require the draw to be opened promptly on signal when the vertical clearance is less than 30 feet and at least 8 hours' advance notice when the vertical clearance is 30 feet or more. This bridge has now been automated. The proposed regulations would require the draw to remain in an open position when the vertical clearance is less than 34 feet, except when a train is approaching or crossing the draw. At least 8 hours' advance notice is required when the vertical clearance is 34 feet or more. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to revise § 117.560(g)(7) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(g) * * *

(7) *Green River, Ky.* (i) Louisville and Nashville Railroad Co. bridges at Spottsville, Livermore, and Smallhouse. When the stage of the river permits a vertical clearance of 30 feet or more under the closed draws, as determined from gauges suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the bridges, respectively, at least 8 hours' advance notice required. If for any reason the vessel is delayed and cannot arrive for passage at the time specified in the notice the authorized representative shall be promptly notified of the estimated delay for opening the draw. When the stage of the river does not permit a vertical clearance of 30 feet or more under the closed draw at any of the bridges, a drawtender shall be on duty and the draw opened on signal for the passage of a vessel requiring a clearance exceeding the clearance indicated on the gauge. The owner of the bridges shall arrange for ready telephone communication with the authorized representative at any time from the bridges or their immediate vicinity. Copies of these regulations shall be conspicuously posted at Green River Navigation Locks Nos. 1, 2, 3, and 4.

(ii) Illinois Central Railroad bridge at Rockport is operated automatically. When the stage of the river permits a vertical clearance of 34 feet or more under the closed draw, as determined from gauges suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the bridge, at least 8 hours' advance notice is required. If for any reason the vessel is delayed and cannot arrive for passage at the time specified, the authorized representative shall be promptly notified of the estimated delay for opening the draw. When the stage of the river does not permit a vertical clearance of 34 feet or more under the closed draw, the bridge will be normally opened and automatic closing for passing of trains will be in effect. The owner of the bridge shall arrange for ready telephone communication with the authorized representative at any time from the bridge or its immediate vicinity. Copies of these regulations and the automatic operating procedure shall be conspicuously posted at Green River Navigation Locks Nos. 1, 2, 3, and 4.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before July 10, 1970. All submissions should be made in writing to the Commander, Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Mo. 63103.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Second Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Second Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: June 3, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-7278; Filed, June 10, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-73]

HAINES CREEK, LISBON, FLA.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the Florida Department of Transportation to revise the special operation regulations for the Lisbon bridge on State Road 44 across Haines Creek near Lisbon, Fla. Present regulations require the draw to be opened on signal between 7 a.m. and 7 p.m.; 3 hours' advance notice is required between 7 p.m. and 7 a.m. The proposed amendment would require 3 hours' advance notice at all times. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to revise the heading of 33 CFR 117.434 to read:

§ 117.434 Oklahawa River and Dead River, Fla.; bridges over Oklawaha River on State Road S-316 at Eureka, State Road 40 at Delks Bluff (Colbys Landing), State Road 464 at Moss Bluff, and State Road 42 at Starkes Ferry.

* * * * *

3. It is also proposed to add 33 CFR 117.434a which shall read as follows:

§ 117.434a Haines Creek, Fla., State Road 44 near Lisbon.

(a) At least 3 hours' advance notice required.

(b) The owner of or agency controlling this bridge shall conspicuously post notices containing the substance of these regulations both upstream and downstream of the drawbridge, on the bridge or elsewhere in such a manner that they can easily be read at all times under normal conditions from an approaching vessel. The notice shall state how the authorized representative may be reached.

4. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before July 10, 1970. All submissions should be made in writing to the Commander, Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130.

5. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

7. After the time set for the submission of comments by the interested parties, the Commander, Seventh Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: June 3, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-7279; Filed, June 10, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-76]

TRENT RIVER, POLLOCKSVILLE, N.C., AND ROANOKE RIVER, PALMYRA, N.C.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the Seaboard Coast Line Railroad Co. to revise the special operation regulations for its drawbridges across the Trent River near Pollocksville, N.C., and the Roanoke River near Palmyra, N.C. The bridge near Pollocksville is presently required to open after at least 24 hours' advance notice. The draw has not been opened to navigation since 1954 and the Trent River above this bridge has been placed in the advanced approval category and drawbridges upstream therefrom are no longer governed by 33 CFR 117. The bridge near Palmyra is required to open on signal. The draw has not been open to navigation since 1912. The proposal would permit the draws of these bridges to remain closed to navigation. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to revise 33 CFR 117.245(g)(6) and to add 33 CFR 117.245(g)(2-a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(g) * * *

(2-a) Seaboard Coast Line railroad bridge near Palmyra, N.C. The draw need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this bridge.

* * * * *

(6) Seaboard Coast Line railroad bridge across the Trent River near Pollocksville, N.C. The draw need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this bridge.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before July 10, 1970. All submissions should be made in writing to the Commander, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Fifth Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: June 3, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-7277; Filed, June 10, 1970; 8:48 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 24,143]

FEDERAL SAVINGS AND LOAN SYSTEM

Financing of Mobile Homes

JUNE 4, 1970.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 545.7-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.7-1) to effect the following clarification and liberalization of the provisions thereof relating to financing of mobile homes by Federal savings and loan associations:

1. General.

(a) Substitute an area requirement for the length requirement in the definition of a mobile home.

(b) Clarify "invest" to mean only "make or purchase whole loans" which will exclude participations.

2. Inventory financing.

Permit Alaskan and Hawaiian associations to finance up to 80 percent of certain freight costs.

3. Retail financing.

(a) Clarify that interest charged on an "add-on, discount, or other gross charge basis" is not included in the "amount of the monetary obligation."

(b) Permit the financing of appropriate credit-life and property insurance.

(c) Permit Alaskan and Hawaiian associations to finance up to 80 percent of certain freight costs.

(d) Permit investment on nationwide basis if FHA-insured and serviced locally.

(e) Permit investment when mobile home unit is moved into regular lending area.

Accordingly, the Board hereby proposes to amend § 545.7-1 by revising it to read as follows:

§ 545.7-1 Mobile home financing.

(a) *Definitions.* As used in this section—

(1) The term "mobile home" means a movable dwelling constructed to be towed on its own chassis and undercarriage, having minimum width of 10 feet and area of 400 square feet, and containing living facilities for year-round occupancy by one family, including permanent provisions for eating, sleeping, cooking, and sanitation.

(2) The term "mobile home chattel paper" means written evidence of both a monetary obligation and a security interest of first priority in one or more

mobile homes, and any equipment installed or to be installed therein.

(b) *General provisions.* A Federal association which has a charter in the form of Charter K (rev.) or Charter N may, after adoption of a mobile home financing plan by its board of directors, invest in mobile home chattel paper (make or purchase whole loans secured by first liens on mobile homes) subject to the provisions of this section.

(c) *Percent-of-assets limitation.* Any such association may make an investment in mobile home chattel paper under this section only if the amount of such investment and all other investments in such chattel paper then outstanding does not exceed 5 percent of the association's assets at the time of such investment.

(d) *Inventory financing.* Any such association may invest in mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer only if:

(1) The inventory is to be held for sale in the ordinary course of business by the mobile home dealer within the association's regular lending area; and

(2) The monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not, except as otherwise provided in paragraph (f) of this section, exceed the following:

(i) in the case of new mobile homes, an amount equal to the total of (*a*) 100 percent of the manufacturer's invoice price of each such mobile home (including any installed equipment), excluding freight, and (*b*) 100 percent of the invoice price of the manufacturer of any new equipment to be installed by the dealer in such mobile home, excluding freight;

(ii) in the case of used mobile homes, an amount equal to 90 percent of the wholesale value of each such used mobile home (including any installed equipment) as established in the dealer's market.

(e) *Retail purchase money financing.* Any such association may invest in any retail mobile home chattel paper as to which the association's investment is insured or the association has a commitment for such insurance under the provisions of the National Housing Act as now or hereafter amended if arrangements have been made for satisfactory local servicing of such chattel paper. Any such association may invest in other retail mobile home chattel paper only if:

(1) The monetary obligation evidenced by such chattel paper is incurred to finance the purchase of a mobile home;

(2) The mobile home is to be maintained as a residence of the purchaser, or a relative of the purchaser;

(3) The mobile home is located at the time of the investment by such association in such chattel paper, or is to be located within 90 days thereof, at a mobile home park or other semipermanent site within the association's regular lending area;

(4) The amount of the monetary obligation evidenced by such chattel paper (exclusive of any interest, whether on an add-on, discount, or other gross charge basis) does not, except as otherwise provided in paragraph (f) of this section, exceed an amount equal to the total of the following:

(i) The cost of appropriate insurance for the protection of the association and the purchaser;

(ii) Any sales or similar tax applicable to the retail purchase of the mobile home; and

(iii) In the case of a new mobile home, (*a*) 100 percent of the manufacturer's invoice price of such mobile home (including any installed equipment), excluding freight, (*b*) 100 percent of the invoice price of the manufacturer of any new equipment installed or to be installed by the dealer, excluding freight, and (*c*) 10 percent of the total of such invoice prices, excluding freight, up to a limit of $500; or

(iv) In the case of a used mobile home, 100 percent of the wholesale value of such used mobile home (including any installed equipment) as established in the dealer's market; and

(5) The monetary obligation evidenced by such chattel paper is to be paid in substantially equal monthly installments within the following time limits from the date of sale of the mobile home:

(i) Up to 12 years in the case of a new mobile home; or

(ii) Up to 8 years in the case of a used mobile home.

(f) *Geographic exception.* If a new mobile home or new equipment to be installed by a mobile home dealer in a mobile home is shipped to a mobile home dealer in either Alaska or Hawaii from outside the State, the monetary obligation referred to in paragraphs (d)(2) and (e)(4) of this section may include, in addition to the amounts specified in each such paragraph, an amount not exceeding 80 percent of freight on such shipment.

(g) *Sound investment practices.* Investments by any such association in mobile home chattel paper shall be made in conformity with sound practices for such investments. Such chattel paper shall include provisions for protection of the association and shall provide specifically for protection with respect to insurance, taxes, other governmental levies, maintenance and repairs, and for other protection as may be lawful or appropriate. The association may pay taxes or other governmental levies, insurance premiums, or other similar charges for the protection of its security interest, and all such payments may, when lawful, be added to the monetary obligation of the obligor. The association shall in a timely manner take all steps necessary to perfect its security interest under applicable law.

(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 interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by July 10, 1970, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-7309; Filed, June 10, 1970; 8:51 a.m.]

Notices

INTERSTATE COMMERCE COMMISSION

[Notice 53]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JUNE 5, 1970.

The following applications are governed by § 247[1] of the Commission's general rules of practice (49 CFR 1100.247 as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 9325 (Sub-No. 48), filed May 13, 1970. Applicant: K LINES, INC., Post Office Box 187, Lebanon, Oreg. 97355. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, between points in Benton and Franklin Counties, Wash., on the one hand, and, on the other, points in Umatilla County, Oreg. NOTE: Applicant states it will tack with its presently held authority in its Sub 43 wherein it holds authority to transport cement in bulk between points in Oregon, and its pending Sub 47 wherein it seeks authority involving points in specified counties in Washington. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 11592 (Sub-No. 9) (Amendment), filed December 22, 1969, published in the FEDERAL REGISTER issue of January 22, 1970, and republished as amended this issue. Applicant: BEST REFRIGERATED EXPRESS, INC., 1001 West South Omaha Bridge Road, Council Bluffs, Iowa. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, and except hides, from Omaha, Nebr.; Oakland, Iowa; Fort Morgan, Colo.; and the storage facilities utilized by American Beef Packers, Inc., at or near Fremont, Nebr., to points in New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add as an additional origin "the site of the storage facilities utilized by American Beef Packers, Inc., at or near Fremont, Nebr." If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 27063 (Sub-No. 19), filed May 11, 1970. Applicant: LIBERTY TRANSFER COMPANY, INC., Towson and Cuba Streets, Baltimore, Md. 21230. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Green coffee beans*, from Elizabeth and Newark, N.J., to Baltimore, Md.; (2) *roasted coffee*; (a) from Landover, Md., to Fairlawn, Hawthorne, and Newark, N.J.; Elmsford, Garden City and New York, N.Y.; (b) from Baltimore, Md., to Fairlawn, Hawthorne, and Newark, N.J.; Elmsford, Garden City, and New York, N.Y.; (3) *green or processed coffee* between Linden, N.J., on the one hand, and, on the other, Baltimore and Landover, Md.; and (4) *empty cartons, rejected, outdated, or unsalable coffee*, from Fairlawn, Hawthorne, and Newark, N.J.; Elmsford, Garden City, and New York, N.Y., to Baltimore and Landover, Md., under contract with The Great Atlantic & Pacific Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 29392 (Sub-No. 14), filed May 18, 1970. Applicant: LES JOHNSON CARTAGE CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast, prestressed and preformed concrete slabs, columns, beams, purlins, channels, and panels*; (2) *buildings*, complete, knocked down or in sections; and (3) *parts, accessories, materials, supplies, and equipment* used in the construction, erection, and completion of the commodities specified in (1) and (2) above (except commodities in bulk), from points in Wisconsin, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, and Ohio. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 32882 (Sub-No. 54), filed May 11, 1970. Applicant: MITCHELL BROS. TRUCK LINES, a corporation,

3841 North Columbia Boulevard, Portland, Oreg. 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames or fifth wheels); (2) *agricultural machinery and implements;* (3) *industrial and construction machinery and equipment;* (4) *equipment* designed for use in conjunction with tractors; (5) *trailers* designed for the transportation of commodities described above (other than those designed to be drawn by passenger automobiles); (6) *attachments* for the commodities described above; (7) *internal combustion engines;* and (8) *parts* of the commodities described above when moving in mixed loads with such commodities, from Othello, Wash., to points in Washington and Oregon. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 33641 (Sub-No. 95), filed May 15, 1970. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantside of J. R. Simplot Co. in Elmore County, Idaho, as an off-route points in connection with applicants presently held authority. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 42156 (Sub-No. 5), filed May 22, 1970. Applicant: WALTON BULIFANT, WALTON BULIFANT, JR., and DONALD BULIFANT, EXECUTORS, doing business as, M. BULIFANT, 972 North Front Street, Philadelphia, Pa. 19123. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between Philadelphia, Pa., and points in Camden County, N.J., on the one hand, and, on the other, points in Suffolk and Nassau Counties, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 42487 (Sub-No. 746), filed May 18, 1970. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, Post Office Box 3062, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds*, in bulk, in tank vehicles, from Hawthorne, Calif., to Verone, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 42487 (Sub-No. 747), filed May 19, 1970. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representatives: V. R. Oldenburg, Post Office Box 5138, Chicago, Ill. 60680, and E. T. Liipfert, 1660 L Street NW., Suite 1100, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, Tenn., and Louisville, Ky.; (1) from Memphis, Tenn., over Interstate Highway 40 to Nashville, Tenn., thence over U.S. Highway 31W to junction Interstate Highway 65 near the Kentucky-Tennessee State line, thence over Interstate Highway 65 to Louisville, Ky., and return over the same route, as an alternate route for operating convenience only; and (2) from Memphis, Tenn., over Interstate Highway 40 to Nashville, Tenn., thence over Interstate Highway 65 to Louisville, Ky., and return over the same route, as an alternate route for operating convenience only; serving no intermediate points in connection with (1) and (2) above. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 59583 (Sub-No. 126), filed May 11, 1970. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, Kingsport, Tenn. Applicant's representative: Clifford E. Sanders, 321 Sast Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Fort Wayne, Ind., and Mansfield, Ohio; from Fort Wayne, Ind., over U.S. Highway 30 to Delphos, Ohio, thence over U.S. Highway 30N to Mansfield, Ohio, and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 60612 (Sub-No. 17), filed May 18, 1970. Applicant: SAMUEL TISCHLER, doing business as TISCHLER MOTOR FREIGHT, Morton Avenue, Rosenhayn, N.J. 08350. Applicant's representative: Margaret W. McDermott, 157 Walnut Street, Bridgeton, N.J. 08302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cans*, from suppliers located at Baltimore, Cambridge, and Fruitland (actually Salisbury), Md.; Philadelphia, Harrisburg, and Morrisville, Pa.; and Winchester, Va., to the plantsite of Cedar Lake Canning Co., Cedarville, N.J. NOTE: Applicant states the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 61592 (Sub-No. 176), filed May 20, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bar and restaurant materials, equipment, and supplies* (except foodstuffs), between points in Denver and Boulder Counties, Colo., on the one hand, and, on the other, points in the Continental United States (including Alaska but excepting Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 63417 (Sub-No. 32), filed May 18, 1970. Applicant: BLUE RIDGE TRANSFER CO., INC., 1814 Hollins Road NE., Post Office Box 2888, Roanoke, Va. 24001. Applicant's representatives: Lester M. Bridgeman and Nancy Pyeatt, 1000 Woodward Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing and asphalt roofing products, and mineral wool and mineral wool products*, from Birmingham and Leeds, Ala., to points in Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its exising authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 72495 (Sub-No. 7), filed March 9, 1970. Applicant: DON SWART TRUCKING, INC., Box 49, Wellsburg, W. Va. 26070. Applicant's representative: Ronald W. Kasserman, 900 Riley Law Building, Wheeling, W. Va. 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the commission and *machinery, materials, supplies, and equipment*, incidental to, but not limited to, use in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of nautral gas and petroleum, between points in Tyler, Pleasants, Wetzel, Marshall, and Ohio Counties, W. Va., on the one hand, and, on the other, points in Ohio, Pennsylvania, West Virginia, and Maryland. NOTE: Applicant states that it intends to tack with its presently held authority. If a hearing is deemed necessary, applicant requests it be held at

Wheeling, W. Va., Charleston, W. Va., Pittsburgh, Pa., or Columbus, Ohio.

No. MC 73937 (Sub-No. 15), filed April 27, 1970. Applicant: HOGAN STORAGE & TRANSFER COMPANY, a corporation, 721 East Fourth Avenue, Williamson, W. Va. 25661. Applicant's representative: Charles W. Dawson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those injurious or contaminating to other lading), between Bluefield, W. Va., on the one hand, and, on the other, Williamson, W. Va. NOTE: Applicant states it will join at Williamson, W. Va., for through service to area now authorized to serve in Ohio, Kentucky, and West Virginia. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., Columbus, Ohio, or Louisville, Ky.

No. MC 76032 (Sub-No. 255), filed March 23, 1970. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Arnold L. Burke, 69 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except explosives, commodities requiring special equipment, livestock, fresh fish, coal, ore, sand, gravel, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading, serving Salt Lake City, Utah as an off-route point in connection with its regular route operations between Denver, Colo., and San Francisco, Calif., for the purpose of joinder with rail carriers in substituted rail for motor carrier service. Common control may be involved. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 76264 (Sub-No. 25), filed May 18, 1970. Applicant: WEBB TRANSFER LINE, INC., Post Office Box 231, Shelbyville, Ky. 40065. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and supplies, and materials* used in the manufacture of building materials (except commodities in bulk), between Springfield, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has contract carrier authority under MC 117606, therefore dual operation may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Indianapolis, Ind.

No. MC 83539 (Sub-No. 278), filed May 18, 1970. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75222. Applicant's representatives: Kenneth Weeks (same address as applicant) and Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron* and *plastic pipe and pipe fittings*, except those which because of size or weight require the use of special equipment, and except those described in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459 and 543, from Macungie, Pa., and Bridgeton, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 93393 (Sub-No. 14), filed May 18, 1970. Applicant: NIGHTWAY TRANSPORTATION CO., INC., 4108 South Emerald Avenue, Chicago, Ill. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except commodities in bulk, in vehicles equipped with mechanical refrigeration, from Louisville, Ky., and Evansville, Indianapolis, and Washington, Ind., to points in Illinois, Indiana, Ohio, and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Louisville, Ky.

No. MC 94201 (Sub-No. 89), filed May 15, 1970. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. 35903. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, paper and paper products*, from the plantsite, warehouse, and shipping facilities of Gulf States Paper Corp. at or near Demopolis, Ala., to points in Indiana and Tennessee, points in that part of Ohio on, west and north of a line beginning at a point on the Ohio-Pennsylvania State line near Sharon, Pa., and extending along U.S. Highway 62 to Columbus, Ohio, thence along U.S. Highway 23 to Circleville, Ohio, and thence along U.S. Highway 22 to Cincinnati, Ohio, and points in that part of Illinois on and bounded by a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Springfield, Ill., thence along Illinois Highway 29 to Peoria, Ill., thence along Illinois Highway 116 to Metamora, Ill., thence along Illinois Highway 89 to junction U.S. Highway 34, thence along U.S. Highway 34 to Chicago, Ill., thence along Lake Michigan to the Illinois-Indiana State line, and thence along the Illinois-Indiana State line to point of beginning. NOTE: Applicant states that under its existing certificates, it can transport the involved commodities from the origin to all destination points in a single line service over a circuitous route. By tacking these separate grants, it would eliminate the circuity. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 94350 (Sub-No. 263), filed May 18, 1970. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, S.C. 29602. Applicant's representatives: Mitchell King, Jr. (same address as above) and Ames, Hill &Ames, 666 11th Street NW., Suite 705, McLachlen Building, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, mounted on wheeled undercarriages, from points of manufacture, from Bienville Parish, La., to points in Arkansas, Mississippi, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La.

No. MC 94350 (Sub-No. 264), filed May 18, 1970. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, S.C. 29602. Applicant's representatives: Mitchell King, Jr. (address as above), and Ames, Hill, and Ames, 666 11th Street, NW., Suite 705, McLachlen Building, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from points in Garvin County, Okla., to points in United States (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 95540 (Sub-No. 777), filed May 18, 1970. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or cold storage facilities of Wilson-Sinclair Co., located at Cedar Rapids, Iowa, to points in Kentucky and Memphis, Tenn.; restricted to traffic originating at the above-specified plantsite and storage facilities and destined to the above destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held a Chicago, Ill., or Memphis, Tenn.

No. MC 95540 (Sub-No. 778), filed May 18, 1970. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., Kansas City, Mo., or Washington, D.C.

No. MC 106398 (Sub-No. 477), filed May 20, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckway service, from points in Yazoo County, Miss., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, or Greenville, Miss.

No. MC 106497 (Sub-No. 45), filed May 18, 1970. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, Mo. 64801. Applicant's representatives: A. N. Jacobs (same address as above), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubing*, other than oilfield tubing, from Rosenberg, Tex., to points in the United States (except Hawaii). NOTE: Applicant states that tacking is possible on tubing which requires special equipment, but tacking would not be practical at Rosenberg, Tex. Tacking possibilities, therefore, are unforeseen. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 106603 (Sub-No. 111), filed May 18, 1970. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products; insulating materials; building composition and insulating board; and materials and supplies* used in the installation and distribution thereof, from Grand Rapids, Mich., to points in Illinois, Wisconsin, and Indiana, north of U.S. Highway 40, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant is also authorized to operate as a contract carrier under MC 46240 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 107295 (Sub-No. 384), filed May 8, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel joists, steel roof deck, and accessories*. (NOTE: Joists in length up to 80 feet. Special equipment in the form of extendable flat trailer and pole trailers are required.) From Kansas City, Mo./Kans., to points in Alabama, Georgia, Louisiana, Mississippi, Ohio, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 107403 (Sub-No. 794), filed May 14, 1970. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representatives: John Nelosn (same address as above), and Harry C. Ames, Jr., 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk; (1) from points in Adams County, Pa., to points in New Jersey; and (2) from points in Dauphin County, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107403 (Sub-No. 795), filed May 14, 1970. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representatives: John Nelson (same address as applicant), and Harry C. Ames, Jr., 666 11th Street NW. Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust, mineral filler, lime filler, and agricultural lime*, from the plantsite of Atlantic Cement Co., at Ravena (Albany County), N.Y., to points in Connecticut, Massachusetts, New Jersey, and New Hampshire. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108207 (Sub-No. 294), filed May 18, 1970. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plantsite of Oscar Mayer & Co., at or near Goodlettsville, Tenn., to points in Mississippi, Louisiana, Arkansas, Oklahoma, and Texas, restricted to traffic originating at the above-described plantsite and destined to points in the above-named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Dallas, Tex.

No. MC 108207 (Sub-No. 295), filed May 18, 1970. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chickasha, Okla., to points in Iowa, Kansas, Minnesota, Nebraska, and Wisconsin and Sioux Falls, S. Dak., restricted to traffic originating at the plantsite and storage facilities of Pet Inc., Frozen Foods Division, Chickasha, Okla. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Dallas, Tex.

No. MC 108207 (Sub-No. 296), filed May 18, 1970. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fort Wayne, Ind., to points in Arizona, Arkansas, California, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Texas, and Memphis, Tenn. NOTE: Applicant states

that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Dallas, Tex.

No. MC 108207 (Sub-No. 297), filed May 18, 1970. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood plasma*, from Santa Fe and Albuquerque, N. Mex., to Kankakee, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 109397 (Sub-No. 225), filed May 14, 1970. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, Mo. 64801. Applicant's representatives: A. N. Jacobs, (same address as above), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Idaho, Montana, and Washington, to points in Kansas, Arkansas, and Missouri. NOTE: Applicant holds contract motor carrier authority in MC 128814 and subs thereunder. Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority and any such possibilities are unforeseen. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 110098 (Sub-No. 108), filed May 18, 1970. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, Tex. 78220. Applicant's representatives: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102, and T. W. Cothren (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and/or cold storage facilities of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Colorado, Kansas, Missouri, Illinois, Indiana, Nebraska, Iowa, Wisconsin, and Minnesota.

No. MC 112713 (Sub-No. 124), filed May 18, 1970. Applicant: YELLOW FREIGHT SYSTEM, INC., Post Office Box 8462, 92d at State Line, Kansas City, Mo. 64114. Applicant's representative: John M. Record (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Westinghouse Electric Corp., Sykesville, Md., as an off-route point in connection with carrier's authorized routes from Baltimore, Md. NOTE: Applicant states that it seeks joinder at Baltimore, Md., for service at all points in Dockets Nos. MC 112713, MC 1657, and MC 71096, as authorized in MC-F-10514. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112893 (Sub-No. 44), filed May 18, 1970. Applicant: BULK TRANSPORT COMPANY, a corporation, 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: A. Bryant Torhorst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Franksville, Wis., to points in Illinois, Indiana, Michigan, Minnesota, and Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 113024 (Sub-No. 90), filed May 1, 1970. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bathroom and washroom fixtures, sinks, and accessories and attachments* therefor, from New Castle, Pa., and Camden, N.J., to points in Arkansas, Lower Peninsula of Michigan, Louisiana (except New Orleans), Oklahoma (except Norman, Oklahoma City, and Tulsa), and Texas (except Amarillo, Angleton, Austin, Beaumont, Canadian, Dallas, El Paso, Fort Worth, Hondo, Houston, Huntsville, Lubbock, Mount Pleasant, San Antonio, Victoria, Waco, and Wichita Falls); under contract with Universal-Rundle Corp. NOTE: Applicant holds contract passenger authority under MC 119448 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113267 (Sub-No. 237), filed May 11, 1970. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. 62232. Applicant's representatives: L. A. Fischer (same address as applicant), and Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (excluding commodities in bulk in tank vehicles), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Anderson, Clayton, & Co., located at or near Jacksonville (Morgan County), Ill., to points in Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 113678 (Sub-No. 385), filed May 18, 1970. Applicant: CURTIS, INC., Post Office Box 16004, Stockyard Station, Denver, Colo. 80216. Applicant's representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A of appendix 1 to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Ellensburg, Wash., to points in New York, Pennsylvania, Massachusetts, Virginia, South Carolina, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 113678 (Sub-No. 388), filed May 15, 1970. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and packinghouse products*, from Denison and Iowa Falls, Iowa, to points in Pennsylvania, Maryland, New Jersey, New York, Massachusetts, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 113843 (Sub-No. 159) (Amendment), filed March 24, 1970, published in the FEDERAL REGISTER issue of April 30, 1970, and republished as amended this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, preserved, prepared, and frozen foods* (except commodities in bulk) in mechanically refrigerated vehicles from Archbold, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the

District of Columbia. Restriction: Restricted to traffic originating at the plantsites and warehouse facilities of Beatrice Food Co. companies including divisions and/or subsidiaries thereof, and destined to the named destinations. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to broaden the scope of authority, and to include a restriction. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113855 (Sub-No. 222), filed May 14, 1970. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), *equipment* designed for use in conjunction with tractors, *agricultural, industrial, and construction machinery, and equipment trailers* designed for the transportation of the above-described commodities (except those trailers designed to be drawn by passenger automobiles), *attachments* for the above-described commodities, *internal combustion engines and parts* of the above-described commodities when moving in mixed loads with such commodities, from the plant and warehouse sites and experimental farms of Deere & Co. in Polk and Wapello Counties, Iowa, to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. Restriction: The above authority is restricted to traffic originating at the plants and warehouse sites of Deere & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114334 (Sub-No. 20), filed May 20, 1970. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3265 Tulane Road, Memphis, Tenn. 38116. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between points in Jackson County, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority could be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 115162 (Sub-No. 196), filed May 18, 1970. Applicant: POOLE TRUCK LINE, INC., Post Office Box 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plant bed media; synthetic or artificial rock*, from points in Lake County, Ill., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *ground clay*, from points in Tippah County, Miss., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114211 (Sub-No. 137), filed May 15, 1970. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles W. Singer, 33 North Dearborn, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements, loaders, trailers, mixer-feeders, and attachments and parts;* and (2) *materials, supplies, and equipment* used in the manufacture of the above-named commodities, between points in Minnehaha County, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 115691 (Sub-No. 19), filed May 15, 1970. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue, Anniston, Ala. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, hardwood flooring, timber, posts and poles*, from points in Alabama, to points in Florida, Georgia, Illinois, Indiana, Delaware, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, Washington, D.C., Tennessee, West Virginia, New York, New Jersey, Connecticut, Massachusetts, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Birmingham, Ala.

No. MC 115840 (Sub-No. 57), filed May 15, 1970. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as above) also E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, fabricated and structural aluminum*, between points in Alabama, on the one hand, and, on the other, points in North Carolina and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115841 (Sub-No. 379), filed May 19, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as above), also E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Alabama, Arkansas, Georgia, North Carolina, South Carolina, Virginia, Maryland, Delaware, Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Tennessee, District of Columbia, Mississippi, Louisiana, Missouri, Iowa, Illinois, Indiana, Michigan, Ohio, and Kentucky. NOTE: Applicant states that tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex.

No. MC116544 (Sub-No. 116), filed May 19, 1970. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, Mo. 64836. Applicant's representative: Robert Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicle and hides), from the plantsite of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Kentucky, Alabama, North Carolina, South Carolina, Tennessee, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Indiana, Florida, and Georgia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Fort Worth, Tex.

No. MC 117898 (Sub-No. 25), filed May 22, 1970. Applicant: WILLIAM EARNHARDT, doing business as EARNHARDT TRANSPORT, Highway 52, Post Office Box 77, Gold Hill, N.C. 28071. Applicant's representative: Francis J. Ortman, Suite 770, Mills Building, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe, conduit, tubing, and fittings*, from Wheatland, Pa., to points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.; Richmond, Va.; Raleigh or Charlotte, N.C.; or Atlanta, Ga.

No. MC 117940 (Sub-No. 20), filed May 18, 1970. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), and *canned and frozen foods*, from Minnesota and Wisconsin, to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Vermont, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 118034 (Sub-No. 14), filed May 15, 1970. Applicant: MILLER TRUCK LINE, INC., 901 Northeast 28th Street, Fort Worth, Tex. 76106. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Louisiana, Arkansas, Mississippi, and Oklahoma, and to Memphis, Tenn. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Fort Worth or Dallas, Tex.

No. MC 118989 (Sub-No. 47), filed May 19, 1970. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53211. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers, accessories, and incidental parts thereof* including covers, caps, closures, and cartons, from the facilities of Horizon Plastics, Inc., at Chicago, Ill., to Terre Haute, Indianapolis, Evansville, Muncie, Fort Wayne, and South Bend, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 119315 (Sub-No. 13), filed May 15, 1970. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, Ohio 43612. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass products*, from Camp Croft, S.C., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) *materials, supplies, and equipment* used in the manufacture of fiberglass products, from points in the destination States in (1) above to Camp Croft, S.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119777 (Sub-No. 180), filed May 7, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Paris, Ill., to points in the United States including Alaska and Hawaii. NOTE: Applicant states it intends to tack with its presently held authority in lead certificate MC 119777 at Paris, Ill., to provide through service from points in Kentucky west of U.S. Highway 31E. Applicant holds contract motor carrier authority under MC 126979 Subs 1 and 3, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Frankfort or Louisville, Ky., or Nashville, Tenn.

No. MC 120543 (Sub-No. 67), filed May 25, 1970. Applicant: FLORIDA REFRIGERATED SERVICE, INC., Highway 301 North, Post Office Box 1297, Dade City, Fla. 33525. Applicant's representative: L. D. Fay, 1205 Universal Marion Building, Post Office Box 1086, Jacksonville, Fla. 32201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Gustine, Calif., to points in North Dakota, South Dakota, Nebraska, Oklahoma, Maine, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Alabama, Georgia, Florida, Ohio, South Carolina, North Carolina, Virginia, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Michigan. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 123124 (Sub-No. 5), filed May 22, 1970. Applicant: W. A. BOOTH, doing business as BOOTH DELIVERY SERVICE, 408 15th Street North, Fargo, N. Dak. 58102. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fargo, N. Dak., to points in Marshall, Kittson, Roseau, and Lake of the Woods Counties, Minn., and to points in Rolette, Bottineau, and Renville Counties, N. Dak. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 123446 (Sub-No. 25), filed May 7, 1970. Applicant: BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Avenue, Greenwich, Conn. 06830. Applicant's representative: Reubin Kaminsky, Post Office Box 17–2056, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, fresh (except frozen and unleavened bakery products), from New Haven, Conn., to Fredericksburg and Richmond, Va., and *stale, damaged refused, rejected, and nonsalable shipments* of the above-described commodities, and *empty containers*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 124078 (Sub-No. 436), filed May 18, 1970. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Mineral filler*, in bulk, in tank vehicles, from Bristol, Va., to points in Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 124111 (Sub-No. 24), filed May 25, 1970. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Avenue, Post Office Box 2297, Sandusky, Ohio 44870. Applicant's representative: Earl J. Thomas, 5850 North High Street, Worthington, Ohio 43085. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from Indianapolis, Evansville, Washington, Ind., and Louisville, Ky., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 124174 (Sub-No. 80), filed May 20, 1970. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 18 North, Spencer, Iowa 51301. Applicant's representative: Karl E. Momsen, 6801 L Street, Omaha, Nebr. 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrought conduit pipe; wrought conduit pipe fittings; and steel conduit pipe, welded*, (a) from the plantsite and facilities of Jones & Laughlin Steel Corp. located at New Kensington, Pa., to points in Wisconsin, Minnesota, Illinois, Iowa, Missouri, Montana, Arkansas, Oklahoma, Texas, North Dakota, South Dakota, Montana, and Nebraska; (b) from the plantsite and facilities of Jones & Laughlin Steel Corp. located at Niles, Ohio, to points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, North Dakota, South Dakota, Montana, and Nebraska; and (c) from the plantsite and facilities of H. K. Porter Co., Inc., at Ambridge, Pa., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming. NOTE: Common control may be involved. Applicant states it is unaware of any feasible tacking operations that would arise as a result of a grant herein. However, applicant opposes the imposition of a restriction against tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Pittsburgh, Pa., or Chicago, Ill.

No. MC 126025 (Sub-No. 2) (Correction), filed February 2, 1970, published in FEDERAL REGISTER issues of March 5, 1970, and May 21, 1970, and republished in part, as corrected, this issue. Applicant: BALLARD TRANSFER OF WASHINGTON, INC., doing business as BALLARD TRANSFER CO., 2417 Northwest Market Street, Seattle, Wash. 98107. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. NOTE: The purpose of this partial republication is to show Oregon as a destination State under commodity description iron and steel, which was erroneously omitted. The rest of the application remains the same.

No. MC 126458 (Sub-No. 2) (Correction), filed April 29, 1970, published in the FEDERAL REGISTER issue of May 28, 1970, under MC 126548 (Sub-No. 2) and republished in part as corrected this issue. Applicant: ASCENZO & SONS, INC., 535 Brush Avenue, Bronx, N.Y. 10465. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. NOTE: The purpose of this partial republication is solely to reflect the correct docket number assigned, which was incorrectly shown in the previous publication.

No. MC 126555 (Sub-No. 13), filed May 20, 1970. Applicant: UNIVERSAL TRANSPORT, INC., Post Office Box 268, Rapid City, S. Dak. 57701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, from points in Custer County, S. Dak., to points in Colorado, Kansas, Nebraska, North Dakota, Montana, South Dakota, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak.

No. MC 127042 (Sub-No. 59), filed May 13, 1970. Applicant: HAGAN, INC., 4120 Floyd Boulevard, Post Office Box 6, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from Luverne, Minn., Denison and Fort Dodge, Iowa, to points in Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 127717 (Sub-No. 2), filed May 18, 1970. Applicant: Y. HIGA ENTERPRISES, LTD., 2150 Nimitz Highway, Honolulu, Hawaii 96810. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Hawaii, restricted to traffic originating at or destined to points beyond the State of Hawaii. NOTE: Applicant proposes to enter into joint through motor-water-motor rates under section 216(c) of the Act. If a hearing is deemed necessary, applicant requests it be held at Honolulu, Hawaii.

No. MC 127804 (Sub-No. 3), filed May 22, 1970. Applicant: WILLIAM R. WEINRICH, doing business as WEINRICH TRUCK LINES, an individual, Hinton, Iowa 51024. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from points in Plymouth and Woodbury Counties, Iowa, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 128497 (Sub-No. 4), filed May 15, 1970. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, Iowa 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities of Wilson/Sinclair at Cedar Rapids, Iowa, and Albert Lea, Minn., to points in Indiana, Michigan, and Ohio. Restriction: The services proposed herein are restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destinations. Applicant is also authorized to operate as a contract carrier under MC 124807 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128879 (Sub-No. 12), filed May 21, 1970. Applicant: C-B TRUCK LINES, INC., 1034 Humble Place, El Paso, Tex. 79915. Applicant's representative: Jerry R. Murphy, 708 La Veta NE., Albuquerque, N. Mex. 87108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, classes A

and B explosives, household goods as defined by the Commission, and commodities because of size or weight require the use of special equipment); (1) between El Paso, Tex., and Amarillo, Tex., from El Paso over U.S. Highways 62 and 180 to junction New Mexico Highway 483 (near Hobbs, N. Mex.), thence over New Mexico Highway 483 to junction New Mexico Highway 18 (at Lovington, N. Mex.), thence over New Mexico Highway 18 to junction U.S. Highway 60 (at Clovis, N. Mex.), and thence over U.S. Highway 60 to Amarillo, Tex., and return over the same route, serving all intermediate points in New Mexico; (2) between Carlsbad, N. Mex., and Clovis, N. Mex., from Carlsbad over U.S. Highway 285 to junction U.S. Highway 70 (at Roswell, N. Mex.,) thence over U.S. Highway 70 to Clovis, and return over the same route, serving all intermediate points; and (3) between Clovis and Lovington, N. Mex., from Clovis over U.S. Highway 84 to junction U.S. Highway 82 (at Lubbock, Tex.) and thence over U.S. Highway 82 to Lovington, N. Mex., and return over the same route, serving the intermediate points of Lubbock, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex., Hobbs and Clovis, N. Mex., Amarillo and Lubbock, Tex.

No. MC 129618 (Sub-No. 3) (Amendment), filed January 12, 1970, published in the FEDERAL REGISTER issues of February 5, 1970 and March 5, 1970, and republished as amended this issue. Applicant: EISENBACH ENTERPRISES LIMITED, 327 Murry Street, Brantford, Ontario, Canada. Applicant's representative: Frank J. Kerwin, Jr., 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, chrome splits, bellies, materials, and supplies* used in the processing, preserving, or curing of hides, skins, or glue (except chemicals in bulk), between the international boundary between the United States and Canada at the Detroit, St. Clair, and Niagara Rivers on the one hand, and on the other, St. Cloud, Duluth, St. Paul, Minn.; Butler, Mo.; Omaha, Nebr.; Roanoke and Luray, Va.; Memphis, Knoxville, and Nashville, Tenn.; and points in North Carolina, South Carolina, Iowa, Mississippi, and Kentucky (except Louisville). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to include St. Cloud, Minn., in the territorial description. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 129645 (Sub-No. 20), filed May 5, 1970. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING COMPANY, 1330 South Jackson Street, Iron Mountain, Mich. 49801. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products, composition boards, insulating materials, roofing and roofing materials, urethane and urethane products, and related materials, supplies, and accessories incidental thereto* (except commodities in bulk), from Edgewater, Carteret, and Port Newark, N.J., and Pittston, Pa., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, West Virginia, Florida, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Virginia, Nebraska, North Carolina, Maryland, Delaware, South Carolina, and Geordgia; and (2) *building, roofing, and insulating materials*, from Jamesburg, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, West Virginia, Minnesota, Iowa, Kansas, Missouri, Wisconsin, Virginia, North Carolina, South Carolina, Georgia, Maryland, Delaware, Nebraska, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract authority under MC 127093 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 129944 (Sub-No. 4), filed May 7, 1970. Applicant: THREE-B FREIGHT SERVICE, INC., 3973 Riverside Drive, Chino, Calif. 91710. Applicant's representative: Milton W. Flack, 1813 Wilshire Boulevard, Suite 400, Los Angeles, Calif. 90057. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New household appliances and new household furnishings*, from points in that part of California, bounded by a line beginning at junction U.S. Highway 66 and Grand Avenue, near Glendora, Calif., thence south along Grand Avenue to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction California Highway 71, thence southeast along California Highway 71, to junction California Highway 91, thence east along California Highway 91 to Hamner Avenue, in Corona, Calif., thence north along Hamner Avenue to River Road, thence north along River Road to Archibald Avenue, thence north along Archibald Avenue to junction U.S. Highway 66, thence west along U.S. Highway 66 to point of beginning, to Brawley, El Centro, Calexico, and Winterhaven, Calif., including points on the indicated portions of the highways specified, under contract with McMahan's Furniture Stores. NOTE: Applicant holds common carrier authority under MC 126944, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 133761 (Sub-No. 6) (Amendment), filed April 16, 1970, published in the FEDERAL REGISTER issue of May 14, 1970, amended May 18, 1970, and republished as amended this issue. Applicant: GEORGE A. LABAGH, 713 North Street, Middletown, N.Y. 10940. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting:

Trailers, other than those designed to be drawn by passenger automobiles, *containers, truck chassis, trailer chassis, and trailer parts*, (1) between Middletown and the town of Wallkill, N.Y., and points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, West Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Texas, Kansas, Missouri, and the District of Columbia, and (2) between Fairless Hills, Pa., on the one hand, and, on the other, points in the New York, N.Y. commercial zone, as defined by the Commission, and points in New York, under a continuing contract with Strick Corp. of Fairless Hills, Pa., in connection with (1) and (2) above. NOTE: No duplicating authority is sought. The purpose of this republication is to enlarge the territorial scope of the application by the addition of (2) above. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133824 (Sub-No. 1), filed May 8, 1970. Applicant: DONALD FRANZEN, doing business as FRANZEN ENTERPRISES, Rural Delivery 2, Monroeville, N.J. 08343. Applicant's representative: Raymond A. Thistle, Jr., Suite 1301, 1500 Walnut Street, Philadelphia, Pa. 10102. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Pea combines* in secondary movement in truck-way service, and (2) *pea harvesters* mounted on farm tractors, between the plantsite of Green Giant, Inc., located at Salisbury and Fruitland, Md., and Woodside and Smyrna, Del., on the one hand, and, on the other, points in New York north of U.S. Highway Route No. 11 and east of New York Highway Route No. 56. Restricted to shipments originating or destined to said plantsites and restricted further to shipment destined to and originating in the Province of Quebec, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 133860 (Sub-No. 1), filed May 20, 1970. Applicant: HC & D MOVING & STORAGE COMPANY, INC., 911 Middle Street, Honolulu, Hawaii 96812. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the State of Hawaii, restricted to traffic originating at or destined to points beyond the State of Hawaii. NOTE: Applicant states that it proposes to enter into joint through motor-water-motor rates under section 216(c) of the Interstate Commerce Act. If a hearing is

deemed necessary, applicant requests it be held at Honolulu, Hawaii.

No. MC 134075 (Sub-No. 2), filed March 26, 1970. Applicant: LYLE H. DAVIS, Route 3, Box 235–D, Enumclaw, Wash. 98022. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, from Auburn, Wash., to Eugene and Portland, Oreg., under continuing contract with Auburn Dairy Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 134134 (Sub-No. 7), filed May 4, 1970. Applicant: MAINLINER MOTOR EXPRESS, INC., 5037 South 26th Street, Omaha, Nebr. 68107. Applicant's representative: John Hornung (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities used by Wilson Sinclair Co., at Monmouth, Ill., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia. Restriction: The service proposed herein is restricted to the transportation of traffic originating at the above-specified origins and destined to the above-described destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134237 (Sub-No. 2), filed April 21, 1970. Applicant: M–M–M CORPORATION, 110 Fifth Street, Pahrump, Nev. 89041. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, except those in bulk, in tank vehicles, from points in Los Angeles County, Calif., to Pahrump, Nev. NOTE: If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev.

No. MC 134304 (Sub-No. 2) (Correction), filed April 29, 1970, published in the FEDERAL REGISTER issue of May 28, 1970, under MC 134403 (Sub-No. 2), and republished in part, as corrected, this issue. Applicant: LES DARR TRUCKING CO., a corporation, 520 Grade Street, Kelso, Wash. 98626. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. NOTE: The sole purpose of this partial republication is to reflect the correct docket number assigned in lieu of MC 134403 (Sub-No. 2) as shown in the previous publication.

No. MC 134337 (Amendment), filed February 6, 1970, published in FEDERAL REGISTER issue of March 12, 1970, and republished as amended, this issue. Applicant: TRANSPORT AMEDEE CAYER, INC., C. P. 277, La Pocatiere, Kemouraska County, Quebec, Canada. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles and parts therefor*, from all ports of entry on the international boundary line between the United States and Canada to Yarmouth, Maine; Malone and New York, N.Y.; Belvidere, N.J.; Erie, Pa.; Detroit, Mich.; Forest Lake, Minn.; Denver, Colo.; Idaho Falls, Idaho; Portland, Oreg.; and Palmer, Alaska, restricted to traffic originating at points in Kamouraska County, Quebec, Canada. NOTE: The purpose of this republication is to show authority sought as a common carrier, in lieu of contract carrier, as previously published, and add restriction. If a hearing is deemed necessary, applicant requests it be held at Augusta or Portland, Maine, or Boston, Mass.

No. MC 134348 (Sub-No. 1), filed May 7, 1970. Applicant: RAYMOND FREDERICK, Rural Route No. 1, Milledgeville, Ill. 61051. Applicant's representatives: Routman and Lawley, 308 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal livestock and poultry feeds, feed supplements, and feed ingredients;* (1) from Rock Falls, Ill., to points in Cedar, Clinton, Dubuque, Jackson, Jones, Linn, Muscatine, and Scott Counties, Iowa; and (2) from points in above-named destination States to above-named origin State under contract with W. R. Grace & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 134436, filed March 20, 1970. Applicant: WILLIAM C. O'BRIEN, doing business as Service Transfer, Post Office Box 908, Cordova, Alaska. Applicant's representative: John R. Strachan, 921 West Sixth Avenue, Anchorage, Alaska 99501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Cordova, Glenallen, and Valdez, Alaska, including the business sections of Cordova, Glenallen, and Valdez. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cordova or Anchorage, Alaska.

No. MC 134567 (Sub-No. 1), filed May 5, 1970. Applicant: RAMON RINE, Osceola, Ark. 72370. Applicant's representative. Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household goods shipping and storage containers* knocked-down flat palletized, from the plantsite and warehouse facilities of Mizpah Container Co., at Caruthersville, Mo., to points in the continental United States on and east of U.S. Highway 85 and Interstate Highway 25, under a continuing contract with Mizpah Container Co., restricted to traffic originating at named origin and destined to named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 134588 (Sub-No. 1), filed May 22, 1970. Applicant: O. VERNON HANSON, doing business as VIKING WAY, Honeyville, Utah 84314. Applicant's representative: Miss Irene Warr, Suite 419, Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Weber County, Utah, to points in California; under contract with Wilson Beef & Lamb Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 134603 (Sub-No. 1), filed May 11, 1970. Applicant: T & S CONSOLIDATED, INC., 5118 Park Avenue, Memphis, Tenn. 38117. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors; doors*, assembled in frames; *doors and casings and frames combined; screens*, including *screen doors, window screens, and roller screens; blinds; glass*, window, door, skylight, *blocks*, bricks, *and* slabs; *boards; bolts*, door and window; *bolts and nuts; casings*, door and window; *ceiling moldings, panels, and ornaments; putty; sash; sash balances*, spring; *cash mullions, pulleys and weights; weights*, sash and window; *windows; wooden screen doors*, flat, with or without screens; *wooden screen windows*, flat; *wooden door frames*, knocked down; *wooden sliding doors* with glass; *wooden doors*, without glass, with or without screens; *wooden screen combination doors*, with or without screens; *screen or aluminum inserts* for wooden doors; *wooden doors with glass; wooden exterior window blinds; wooden window frames with glass*, with or without screens; *metal hardware for windows; wooden parts for windows; removable window frames*, made of glass and aluminum; *removable wooden grill window grids and door grids; window glass; wooden louver inserts* for doors and windows; *advertising materials; wood moldings; washboards; wood and steel baseboards* for stoves, from Memphis, Tenn., and Chicago Heights, Ill., to points in the continental United States east of the Mississippi River (except Maine), and ports of entry on the international boundary line between the United States and Canada located in the States of Michigan, New York, and Vermont, and to points in Missouri, Kansas, Iowa, Nebraska, Minnesota, South Dakota, North Dakota, Texas, Oklahoma, Wyoming, Colorado, and Arkansas; and (2) *materials, equipment, and supplies* utilized in the manufacture, distribution, and sale of the commodities described in (1) above, on return, restricted against the transportation of commodities in bulk; under a continuing contract with Wabash, Inc.,

Memphis, Tenn., and The American Stoveboard Co., Chicago Heights, Ill., outbound shipments for the latter company will be restricted to stoveboards. The latter company is a wholly owned subsidiary of the former. All traffic in this application will originate or terminate at the plantsite and warehouse facilities of Wabash, Inc., at Memphis, Tenn., and The American Stoveboard Co., at Chicago Heights, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 134620, filed May 15, 1970. Applicant: WHITE CLOUD GRAIN COMPANY, INC., White Cloud, Kans. 66094. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, from White Cloud, Kans., to points in Iowa, Kansas, Missouri, and Nebraska. NOTE: If a hearing is deemed necessary applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 134625, filed May 18, 1970. Applicant: H & H TRANSPORTATION, INC., 29 School Street, Lebanon, N.H. 03766. Applicant's representative: Ridler W. Page (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated homes and construction materials incidental thereto*, from Bradford, Vt., to points in States east of the Mississippi River with return movement of *lumber and other construction materials* used in construction of prefabricated homes from Portsmouth, R.I., to Bradford, Vt., under contract with Northland Development Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 134634, filed May 22, 1970. Applicant: CONTINENTAL LEASING CORPORATION, 3625 Garfield, Detroit, Mich. 48207. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in tank trucks, from the international boundary line at or near Port Huron, Mich., and also at or near Detroit, Mich., to points in Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

MOTOR CARRIERS OF PASSENGERS

No. MC 3600 (Sub-No. 8), filed May 19, 1970. Applicant: FRANK MARTZ COACH COMPANY, a corporation, 239 Old River Road, Wilkes-Barre, Pa. 18702. Applicant's representative: John J. Dempsey, Jr., 1200 United Penn Bank Building, Wilkes-Barre, Pa. 18701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at Wilkes-Barre (Luzerne County), and Scranton (Lackawanna County), Pa., and extending to points in the United States including Alaska (excluding Hawaii, New York, New Jersey, Maryland, Mount Vernon, Va., and Washington, D.C.). NOTE: Applicant states that authority can be tacked with portion of MC 3600. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Wilkes-Barre, Scranton, or Philadelphia, Pa.

No. MC 134600, filed May 1, 1970. Applicant: MOOSE MOUNTAIN LINES, LTD., a corporation, 1630 St. John Street, Regina, Saskatchewan, Canada. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter service, beginning and ending at ports of entry on the international boundary line between the United States and Canada in Montana and North Dakota, and extending to points in the United States (except Alaska and Hawaii). If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 130017 (Sub-No. 1), filed May 11, 1970. Applicant: PEOPLES TRAVEL SERVICE, INC., 246 North High Street, Columbus, Ohio 43216. For a license (BMC 5) to engage in operations as a *broker* at Columbus, Ohio, in arranging for transportation, by motor vehicle, in interstate or foreign commerce of *passengers and their baggage*, both as individuals and in groups, in charter operations, in all-expense tours, beginning and ending at Columbus (Franklin County), Ohio, and extending to points in the United States including Alaska and Hawaii.

No. MC 130116, filed May 8, 1970. Applicant: FOX ENTERPRISES, INC., doing business as FOX'S VACATION SERVICE, 5823 Western Run Drive, First Floor, Baltimore, Md. 21209. Applicant's representative: Joseph I. Huesman, 504 Maryland Trust Building, Calvert and Redwood Streets, Baltimore, Md. 21202. For a license (BMC-5) to engage in operations as a *broker* at Baltimore, Md., in arranging for transportation in interstate or foreign commerce of *passengers and their baggage*, in special and charter operations in round-trip all expense tours, beginning and ending at Baltimore, Md., and points in Baltimore County, Md., and extending to points in Sullivan and Ulster County, N.Y.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7201; Filed, June 10, 1970; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

BILLY JOE BROOKS

Notice of Granting of Relief

Notice is hereby given that Billy Joe Brooks, 708 Wilkinson Street, Mesquite, Tex., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 24, 1952 in the District Court of the 59th Judicial District of Texas, Collin County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Billy Joe Brooks because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Brooks to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Billy Joe Brooks' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Billy Joe Brooks be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7281; Filed, June 10, 1970; 8:49 a.m.]

RONALD JULE D'AGOSTINO

Notice of Granting of Relief

Notice is hereby given that Ronald Jule D'Agostino, 24552 Rosalind, East Detroit, Mich., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 28, 1962, in the U.S. District Court for the Western District of Texas, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be

unlawful for Ronald Jule D'Agostino because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ronald Jule D'Agostino to receive, possess or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ronald J. D'Agostino's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Ronald Jule D'Agostino be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7282; Filed, June 10, 1970; 8:49 a.m.]

EDWARD JAMES EDICK

Notice of Granting of Relief; Correction

A correction is hereby made to the Notice of Granting of Relief Pursuant to section 925(c), title 18, United States Code, appearing in F.R. Doc. 70-5951, published at pages 7611 and 7612 of the FEDERAL REGISTER, vol. 35, No. 95, dated Friday, May 15, 1970; to wit, the name "James Edward Edick" should be corrected, wherever it appears, to read "Edward James Edick".

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7283; Filed, June 10, 1970; 8:49 a.m.]

RICHARD FRANCIS ERICKSON

Notice of Granting of Relief

Notice is hereby given that Mr. Richard Francis Erickson, 2103 Northwest 22d Avenue, Portland, Oreg. 97210, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 16, 1964, by the Lane County Circuit Court at Eugene, Oreg., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Richard F. Erickson because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Richard F. Erickson to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Richard F. Erickson's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Richard F. Erickson be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7284; Filed, June 10, 1970; 8:49 a.m.]

FREDERICK JOSEPH OWEN

Notice of Granting of Relief

Notice is hereby given that Frederick Joseph Owen, 1604 Fremont Drive, Garland, Tex. 75040, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on or about May 1932, in the Superior Court of Cumberland County, Maine, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frederick Joseph Owen because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Owen to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Frederick Joseph Owen's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Frederick Joseph Owen be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 2d day of June 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7285; Filed, June 10, 1970; 8:49 a.m.]

WARREN ZARA PAULK

Notice of Granting of Relief

Notice is hereby given that Warren Zara Paulk, 200 Sierra Drive, Chesapeake, Va. 23320, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 28, 1949, in the Criminal Court, Orange County, Fla., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Warren Zara Paulk because of such conviction, to ship, transport, or receive in interstate

or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Warren Zara Paulk to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Warren Zara Paulk's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Warren Zara Paulk be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 2d day of June 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7286; Filed, June 10, 1970; 8:49 a.m.]

VERTUS S. PENDLEY

Notice of Granting of Relief

Notice is hereby given that Vertus S. Pendley, Route 4, Berry, Ala. 35546, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on November 14, 1929, in the Circuit Court of Fayette County, Ala., and March 9, 1939, in the U.S. District Court, Birmingham, Ala., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Vertus S. Pendley because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Vertus S. Pendley to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Vertus Pendley's application and:

1. I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

2. It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Vertus Pendley be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 2d day of June 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7287; Filed, June 10, 1970; 8:49 a.m.]

MICHAEL SIEMION

Notice of Granting of Relief

Notice is hereby given that Michael Siemion, 210 Sixth Street West, Roundup, Mont., 59072 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 20, 1962, in the District Court of Musselshell County, Roundup, Mont., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Michael Siemion because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Siemion to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Michael Siemion's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Michael Siemion be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 2d day of June 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7288; Filed, June 10, 1970; 8:49 a.m.]

DUANE NELSON STRONG

Notice of Granting of Relief

Notice is hereby given that Duane Nelson Strong, 162 Center Avenue, North Tonawanada, N.Y., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 11 and July 12, 1960, in the Courts for the Counties of Niagara and Erie, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Duane Nelson Strong because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Duane Nelson Strong to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Duane Nelson Strong's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to

act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Duane Nelson Strong be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7289; Filed, June 10, 1970; 8:49 a.m.]

HENRY JOSEPH WELSH

Notice of Granting of Relief

Notice is hereby given that Henry Joseph Welsh, 1270 Sullivan Street, San Bernardino, Calif. 92408, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 16, 1952, General Court Martial, GCMO No. 271 Hq. 5th Army, Chicago, Ill., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Henry Joseph Welsh because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Welsh to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Henry Joseph Welsh's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Henry Joseph Welsh be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 2d day of June 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7291; Filed, June 10, 1970; 8:49 a.m.]

ROBERT EARL WHITSITT

Notice of Granting of Relief

Notice is hereby given that Robert Earl Whitsitt, 3524 South Brandon Street, Seattle, Wash., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 13, 1957, in the San Diego Superior Court, San Diego, Calif., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Robert Earl Whitsitt because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Robert Earl Whitsitt to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Robert Earl Whitsitt's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Robert Earl Whitsitt be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of May 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-7290; Filed, June 10, 1970; 8:49 a.m.]

POST OFFICE DEPARTMENT

UNIFORM QUALITY CONTROL PROGRAM

Caps, Neckties, and Raingear

The Post Office Uniform Quality Control Office, U.S. Army Natick Laboratories has developed and designed an attractive new uniform cap in a deep blue shade, a matching necktie, and raingear in a nylon coated fabric in the PO blue color. These new items will supersede the present regulation wear.

The new caps and ties apply to male employees in the following crafts (except that the cap is not applicable for window clerks):

1. Letter carrier.
2. Special delivery messenger.
3. Letter box mechanic.
4. Area maintenance mechanic.
5. Ramp transfer clerk.
6. Window clerk (no cap).

Specifications for these newly designed items have been issued to the uniform industry. Requirements covering these items and the effective dates for wear and reimbursement are specified below:

1. *Cap.* Specification PODUQC No. 33A. Only authorized and specified uniform fabrics in color POD blue 5013 (dark blue) shall be used in the manufacture of this cap. The new cap has an oval crown, a plastic visor, black vinyl chin strap held by two gold POD buttons and dark blue braid. The above requirements apply to winter, summer and mesh type caps.

a. *Fur cap.* Chin strap shall be in new dark blue color.

b. *Pith helmet.* Braid shall be in the new dark blue color.

2. *Tie.* The new tie shall be manufactured in POD blue 5014. This is a dark blue color to match the braid on the cap. The new color applies to all style ties; four-in-hand, bow, and preknotted.

3. *Neck tab—Female letter carriers and female special delivery messengers.* The necktab worn with blouse shall be manufactured in new dark blue color.

4. *Raingear.* Specification PODUQC Nos. 44 and 31A.

Only the specified nylon coated fabric in color POD blue 5005 shall be used in the manufacture of raingear. Only raingear meeting the new specifications shall be purchased for reimbursement on and after July 1, 1970. This applies to all uniformed crafts for whom rainwear is an authorized uniform item.

5. *Effective dates.* On and after July 1, 1970, only the new dark blue tie, the dark blue necktab, the new specification raingear and the cap manufactured in accordance with the new specifications and new color may be purchased. Reimbursement shall be made for the above uniform items, purchased after July 1, 1970, only if they are manufactured in conformity with the new specifications.

6. *Purchase of new uniform items.* Employees should purchase the new tie and cap as soon as they have money available in their uniform account.

On and after July 1, 1970, all uniformed employees specified above may

not wear items of uniform made obsolete by this announcement.

(5 U.S.C. 301, 31 U.S.C. 686, 39 U.S.C. 501, 3116)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-7273; Filed, June 10, 1970; 8:48]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 19140]

WYOMING

Notice of Classification of Public Lands for Multiple-Use Management

Correction

In F.R. Doc. 70-6581 appearing at page 8398 in the issue for Thursday, May 28, 1970, make the following changes:

(a) The description in the 40th line of the third column on page 8398 should be changed from "SE¼NE¼, E½SW¼, and W½SE¼;" to "SE¼NW¼, E½SW¼, and W½SE¼;".

(b) The description in the 59th line of the third column on page 8398 should be changed from "Sec. 21, lots 2, 3, and 4, SE¼, SE¼NE¼," to "Sec. 31, lots 2, 3, and 4, SE¼, SE¼NE¼,".

(c) The description in the 20th line of the second column on page 8399 should be completed to read "SW¼NW¼, and NW¼SW¼;".

(d) The description on the 27th line of the second column on page 8399 should be completed to read "Sec. 34, lot 3, SE¼NE¼, and N½SE¼."

(e) The description on the 26th line of the third column on page 8399 should be completed to read "S½SW¼, and NE¼SW¼;".

(f) The description in the 34th line of the third column on page 8399 should be changed from "Sec. 14, NE¼SW¼, and SE¼NW¼;" to "Sec. 14, NE¼, SW¼, and SE¼NW¼;".

[Serial Number A 4447]

ARIZONA

Notice of Classification of Public Lands for Transfer Out of Federal Ownership; Correction

In F.R. Doc. 70-5648 of the May 8, 1970 issue, the following change should be made:

In paragraph 4 under T. 14 S., R. 12 E., sec. 23 should be changed to read sec. 23, N½NW¼, SW¼NW¼, W½SE¼NW¼, and NE¼SE¼NW¼.

Dated: June 3, 1970.

RILEY E. FOREMAN,
Acting State Director.

[F.R. Doc. 70-7269; Filed, June 10, 1970; 8:48 a.m.]

[Serial No. I-2340]

IDAHO

Notice of Classification of Public Lands for Transfer Out of Public Ownership; Correction

JUNE 5, 1970.

In F.R. Doc. 70-6274; filed May 20, 1970, appearing on page 7826 of the issue for May 21, 1970, the following correction should be made:

Paragraph 1 should be deleted entirely and the N½SW¼, Sec. 10 should be added to the lands described in Paragraph 3, under T. 11 S., R. 19 E., which should then read:

T. 11 S., R. 19 E.,
Sec. 5, S½NW¼, N½SW¼;
Sec. 6, SW¼SE¼;
Sec. 10, N½SW¼.

JOE T. FALLINI,
State Director.

[F.R. Doc. 70-7270; Filed, June 10, 1970; 8:48 a.m.]

[Serial No. I-3462]

IDAHO

Order Providing for Opening of Public Lands

JUNE 5, 1970.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g) as amended, the following described lands have been conveyed to the United States:

BOISE MERIDIAN, IDAHO

T. 4 S., R. 32 E.,
Sec. 9, NE¼NW¼.

The area described contains 40 acres.

2. The lands are located in Bingham County. They are within the Bingham County proposed Multiple-Use Classification I-2835 of April 3, 1970. This proposed classification temporarily segregates them from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. Sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171).

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby restored to the public domain status and open to application, petition, location and selection including location under the U.S. mining laws. All valid applications received at or prior to 10 a.m. on July 10, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 70-7241; Filed, June 10, 1970; 8:46 a.m.]

IDAHO

Notice of Filing of Idaho Protraction Diagrams

JUNE 5, 1970.

Notice is hereby given that effective at and after 10 a.m. on July 10, 1970, the following protraction diagrams are officially filed of record in the Idaho Land Office, Room 390, Federal Building, Boise, Idaho. In accordance with Title 43, Code of Federal Regulations, these protractions will become the basic record for describing the land for all authorized uses. Until this date and time the diagrams have been placed in open files and are available to the public for information only.

Idaho Protraction Diagrams Nos. 19, 38, 55, 87 and 93 (revised).

BOISE MERIDIAN

APPROVED MARCH 16, 1970

No. 19

Tps. 31 and 32 N., Rs. 11, 12, and 13 E.

No. 38

Tps. 23 and 24 N., Rs. 19 and 20 E.

No. 55

T. 19 N., R. 10 E.; T. 20 N., Rs. 8 and 10 E.

No. 87

Tps. 7 and 8 N., Rs. 11, 12, and 13 E.

No. 93

Tps. 5 and 6 N., Rs. 20, 21, and 22 E.

Copies of these diagrams are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 70-7242; Filed, June 10, 1970; 8:46 a.m.]

[OR 114]

OREGON

Notice of Classification of Public Lands for Disposal by Exchange

JUNE 5, 1970.

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412) and to the regulations in 43 CFR 2411.1-2(c) the public lands described below are hereby classified for transfer out of Federal ownership by private exchange under the authority of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g).

WILLAMETTE MERIDIAN

T. 23 S., R. 27 E.,
Sec. 18, NW¼SE¼ and S½SE¼;
Sec. 20, NW¼NW¼, S½NW¼, and N½SW¼;
Sec. 22;
Sec. 24, S½;
Sec. 26;
Sec. 28, NE¼NE¼.
T. 24 S., R. 29 E.,
Secs. 6, 8, 10, 14, 18, 20, 22, and 24.

The areas described aggregate 7,072.38 acres in Harney County.

2. The notice of proposed classification of these lands was published March 12, 1970 (35 F.R. 4421). As a result of that publication, one protest to the proposed

classification was received. The protest has been thoroughly analyzed, and it has been determined that alteration of the proposal is not warranted.

3. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.1–2(d). During this 30-day period, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

ARTHUR W. ZIMMERMAN,
Acting State Director.

[F.R. Doc. 70-7243; Filed, June 10, 1970; 8:46 a.m.]

[OR 5215 (Wash.)]

WASHINGTON

Opening of Lands

JUNE 5, 1970.

1. In an order issued March 20, 1970, the Federal Power Commission vacated the withdrawal created pursuant to the filing of an application for a license for Project No. 1409, for the following described land:

WILLAMETTE MERIDIAN

T. 39 N., R. 9 E. (unsurveyed),
About 0.11 acre in section 17 as protracted in the Proposed Hydro-Electric Project of the Mt. Baker Ski Club as shown on Exhibit "F" filed with the Federal Power Commission on November 30, 1936.

2. The land lies within the Mt. Baker National Forest in Whatcom County.

3. The State of Washington has until 10 a.m. on June 19, 1970, the right of selection in accordance with the provisions of sec. 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) as amended.

4. Beginning at 10 a.m. on June 19, 1970, the national forest lands shall be open to such form of disposition as may by law be made of such lands.

5. Inquiries concerning the land should be addressed to the Regional Forester, Pacific Northwest Region, Post Office Box 3623, Portland, Oreg. 97208.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-7244; Filed, June 10, 1970; 8:46 a.m.]

[OR 5430 (Wash.)]

WASHINGTON

Notice of Classification of Public Lands for Transfer Out of Federal Ownership

JUNE 4, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2410 and 2411, the public lands described below are hereby classified for transfer out of Federal ownership under one of the following statutes: Section 8 of the Taylor Grazing Act (43 U.S.C. 315g); Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421–27); and R.S. 2455 (43 U.S.C. 1171); and the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741). Publication of this notice has the effect of segregating the described lands from all forms of disposal under the public land laws, including the mining laws, except as to the forms of disposal for which the lands are classified.

2. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

3. Applications for exchange will not be accepted until such time as prospective exchange proponents have been furnished a statement that proposals are feasible in accordance with 43 CFR 2244.1–2(b)(1).

4. The publication of this notice does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than the mining laws.

5. Several comments were received following publication of the proposed classification in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 245). Comments both in favor and against the classification have been analyzed. The comments were generally broad in scope and one offered sufficient reason to warrant a change from the proposed classification at this time.

The N½N½SW¼, N½S½NW¼SW¼, and N½NW¼SE¼, sec. 32, T. 5 N., R. 24 E., is being added to this classification for transfer out of Federal ownership. This land was proposed for retention and multiple-use management in OR 5431 (Wash.) published in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 245).

6. The full record of public participation is available for inspection at the Spokane District Office.

7. The following public lands are classified for disposal by exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g), or sale under the Public Land Sale Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1421–27):

WILLAMETTE MERIDIAN

BENTON COUNTY

T. 5 N., R. 24 E.,
Sec. 32, N½N½SW¼, N½S½NW¼SW¼, and N½NW¼SE¼.
T. 5 N., R. 25 E.,
Sec. 12, all of SE¼SE¼ lying north of the southerly right-of-way line of Highway 8E;
Sec. 14, all of SE¼NE¼ and NE¼SW¼ lying north of southerly right-of-way line of Highway 8E;
Sec. 22, all of NW¼NE¼ lying north of southerly right-of-way line of Highway 8E.
T. 9 N., R. 26 E.,
Sec. 22, NE¼SW¼, W½SW¼, and NE¼SE¼.
T. 10 N., R. 26 E.,
Sec. 26, E½SE¼.
T. 9 N., R. 27 E.,
Sec. 8, lot 3;
Sec. 12, E½;
Sec. 20, lot 3;
Sec. 22, SW¼, W½SE¼, and SE¼SE¼.
T. 10 N., R. 27 E.,
Sec. 12, lots 5 to 8, inclusive, S½SW¼, and SW¼SE¼;
Sec. 14, NE¼NE¼.
T. 8 N., R. 28 E.,
Sec. 2, W½;
Sec. 10, SW¼.
T. 9 N., R. 28 E.,
Sec. 6, SW¼SE¼;
Sec. 22, N½NE¼SW¼, SE¼NE¼SW¼, N½SE¼, NE¼SW¼SE¼, and SE¼SE¼;
Sec. 26, N½NW¼ and SE¼NW¼;
Sec. 34, S½NE¼, W½, and SE¼.
T. 10 N., R. 28 E.,
Sec. 18, lots 1, 2, 3, 4, and 6, NW¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 20, N½ and SE¼;
Sec. 28.
T. 6 N., R. 29 E.,
Sec. 18, N½NE¼.
T. 8 N., R. 29 E.,
Sec. 6, lots 1 to 5, inclusive, and SE¼NW¼;
Sec. 24, S½SW¼.

The public lands described above aggregate approximately 4,780.21 acres.

8. The following public lands are classified for exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g) or public sale under R.S. 2455 (43 U.S.C. 1171):

WILLAMETTE MERIDIAN

BENTON COUNTY

T. 8 N., R. 24 E.,
Sec. 18, lot 4, SE¼NE¼, and E½SE¼.
T. 8 N., R. 30 E.,
Sec. 32, SE¼NE¼.

The public lands described above aggregate approximately 192.35 acres.

9. The following public lands are classified for lease or sale under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869, 869–1 to 869–4):

WILLAMETTE MERIDIAN

BENTON COUNTY

T. 9 N., R. 28 E.,
Sec. 6, lots 12, 18, 53, 55 to 59, inclusive, 64, 65, 66, 77, 83, 89, 107, 137, 141, 145, 146, 152, 155, 163, 173, 174, 178, 180, 181, 202, 206, 207, and 223;
Sec. 8, lots 86, 140, 142, 143, 168, 175, 176, 183, 185, 187, 199, 200, 212, 215, 217, 235, 236, 239, 240, 244, and 247.

The public lands described above aggregate approximately 126.28 acres.

10. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect as provided in 43 CFR 2411.1–2(d).

ARTHUR W. ZIMMERMAN,
Acting State Director.

[F.R. Doc. 70-7271; Filed, June 10, 1970; 8:48 a.m.]

[OR 5431 (Wash)]

WASHINGTON

Notice of Classification of Public Lands for Multiple-Use Management

JUNE 4, 1970.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 4 are classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating all public lands described below from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation.

3. Several comments were received following publication of the proposed classification in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 245). These comments have been analyzed. A protest involving N½N½SW¼, N½S½NW¼SW¼, and N½NW¼SE¼, sec. 32, T. 5 N., R. 24 E., W.M., urged that this land be classified for private exchange. Further investigation revealed this is a proper change from the proposed classification.

Therefore this land is deleted from this classification and is being included in the classification for transfer out of Federal ownership (OR 5430 (Wash.) published on Dec. 23, 1969) which is being published simultaneously with this notice.

There were no objections from conservation groups or local government. The record showing the comments received and related information is on file and can be examined in the Spokane District Office, Bureau of Land Management, Room 551, U.S. Courthouse, Spokane, Wash. The public lands affected by this classification are shown on maps on file and available for inspection in the Spokane District Office.

4. The lands are located in Benton County, Wash., and are described as follows:

WILLAMETTE MERIDIAN

T. 5 N., R. 24 E.,
Sec. 24, S½;
Sec. 34, S½N½, N½S½, N½S½SW¼, and N½S½S½SW¼.
T. 9 N., R. 26 E.,
Sec. 12, lot 3;
Sec. 24, N½NW¼, SW¼NW¼, W½SW¼, and SW¼SE¼.
T. 10 N., R. 26 E.,
Sec. 10, NE¼SE¼.
T. 8 N., R. 27 E.,
Sec. 4, lots 1, 2, 3, and 4;
Sec. 12, N½NE¼, SE¼NE¼, and NW¼.
T. 9 N., R. 27 E.,
Sec. 30, lots 1, 2, 3, and 4, SW¼NW¼NE¼, SW¼NE¼, W½SE¼NE¼, SE¼SE¼NE¼, W½NE¼NW¼, SE¼NE¼NW¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 32, N½ and SE¼;
Sec. 34, E½SW¼ and SE¼.
T. 10 N., R. 27 E.,
Sec. 8, S½;
Sec. 18, lots 1, 2, 3, and 4, E½ and E½W½;
Sec. 20, lot 2;
Sec. 30, lot 2.
T. 5 N., R. 28 E.,
Sec. 2, lots 1, 2, 3, and 4;
Sec. 4, lots 1, 2, and 3, S½NE¼, SE¼NW¼, and NE¼SW¼.
T. 8 N., R. 28 E.,
Sec. 18, lots 1 and 2, E½NW¼, SE¼SW¼, and SW¼SE¼.
T. 5 N., R. 29 E.,
Sec. 4, SW¼.
T. 5 N., R. 30 E.,
Sec. 6, lots 2, 3, and 4, and SW¼NW¼.
T. 6 N., R. 30 E.,
Sec. 13, SW¼NE¼ and SE¼SW¼.

The lands described above aggregate approximately 4,698 acres.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

ARTHUR W. ZIMMERMAN,
Acting State Director.

[F.R. Doc. 70-7272; Filed June 10, 1970; 8:48 a.m.]

Office of the Secretary

ALASKA

Contract Hearing

Pursuant to 41 CFR § 60-1.3(d) the Office of Federal Contract Compliance on September 18, 1969, designated the Department of the Interior as compliance agency for all Federal contracts and federally assisted construction contracts to be performed in the State of Alaska.

Notice is hereby given that, pursuant to section 208(a) of Executive Order 11246 (30 F.R. 12319), public hearings will be held by the U.S. Department of the Interior in Anchorage, Fairbanks, and Juneau, Alaska, according to the following schedule:

Anchorage—Sydney Lawrence Auditorium, Sixth and F Streets, on July 13, 14, and 15, 1970;
Fairbanks—Conference Room, Alaska Water Laboratory, University of Alaska, on July 17, 18, and 20, 1970;
Juneau—Conference Room, Bureau of Indian Affairs, Third Floor, Federal Office Building, on July 22 and 23, 1970.

Sessions will be held from 9 a.m. to 12 noon and 2 p.m. to 5 p.m. on each date and, in addition, from 7 p.m. to 9 p.m. on July 14, 17, and 22, 1970.

The purpose of the hearings is to afford interested persons an opportunity to submit in writing and orally data, views, or arguments to be considered by the Department of the Interior. The presentations will be made before a panel designated for this purpose by the Secretary of the Interior. Interested persons are encouraged to appear and present their views before the panel.

Persons wishing to present statements are requested to cover (but not necessarily limit themselves to) the following subjects:

(1) The current extent of minority group participation in each construction trade, and the full employee complement of each trade;

(2) A statement and evaluation of present employee recruitment methods, as well as the assistance and effectiveness of any employer or union programs to increase minority participation in the trades;

(3) The availability of qualified and qualifiable minority group persons for employment in each construction trade, including where they are now working, how they may be brought into the trades, etc.;

(4) An evaluation of existing training programs in the area, including the number of minorities and others recruited into the programs, the number who complete training, the length and extent of training, employer experience with trainees, the need for additional or expanded training programs, etc.;

(5) An analysis of the number of additional workers that could be absorbed into each trade without displacing present employees, including consideration of present employee shortages, projected growth of the trade, projected employer turnover, etc.;

(6) The desirability and extent, including the geographical scope, of possible Federal action to insure equal employment opportunity in the construction trades.

Interested persons wishing to present their views orally before the panel should notify, as soon as possible, the Office for Equal Opportunity, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or the Office of the Secretary, Department of the Interior, 632 Sixth Avenue, Room 410, Anchorage, Alaska (907-272-5561, extension 422 or 423) of their intention to appear and of the approximate amount of time which they expect their presentations to take, so as to facilitate an orderly scheduling of witnesses. All persons desiring to file written statements and pertinent information relative to this hearing may do so by filing the same with either of the above offices on or before July 31, 1970.

Executive Order 11246, as amended, prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin, and further requires that the employer or prospective employer take affirmative action to insure equal employment opportunity.

By delegation of the Office of Federal Contract Compliance, it is the responsibility of the Department of the Interior to implement Executive Order 11246 in Alaska. The Department recognizes that circumstances and problems in the field of equal employment opportunity may vary from one area of the State to another, and that those living and working

in a specific area are in a unique position to assist the Department with facts and ideas as to the most effective way to implement the Executive order. It is this assistance which is sought at the above noticed hearing.

Copies of Executive Order 11246 can be obtained from the Office of Federal Contract Compliance, Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, or from the Office for Equal Opportunity, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Signed at Washington, D.C., this 5th day of June 1970.

FRED J. RUSSELL,
Under Secretary of the Interior.

[F.R. Doc. 70-7253; Filed, June 10, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 30-1B]

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Organization and Functions

This material supersedes the material appearing at 34 F.R. 12955 of August 9, 1969, and 32 F.R. 13680 of September 29, 1967.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Environmental Science Services Administration (ESSA).

SEC. 2. *Organization structure.* The organization structure and line of authority of ESSA shall be as depicted in the attached organization chart (Exhibit 1). (A copy of the organization chart is on file with original of this document with the Office of the Federal Register.)

SEC. 3. *Administrator of the Environmental Science Services Administration.*

.01 The Administrator develops the objectives of the Administration, formulates policies and programs for achieving those objectives and directs execution of these programs.

.02 The Deputy Administrator assists the Administrator in formulating policies and programs and in administering these programs.

.03 The Associate Administrator assists the Administrator and the Deputy Administrator in formulating policies and programs and in administering the programs; synthesizes and evaluates ESSA marine operations and related charting services; and, within policy, exercises direction and management of the ESSA Commissioned Officer Corps.

.04 Liaison activities with Congress are centered in the Office of the Administrator.

SEC. 4. *Assistant Administrator for Administration and Technical Services.* The Office of the Assistant Administrator for Administration and Technical Services shall provide a full range of administrative and technical services throughout the Administration; exercise functional supervision over such services performed elsewhere in ESSA; and provide advice and guidance to the Administrator on the allocation of ESSA resources to insure the effective and economic conduct of ESSA programs. The Assistant Administrator's office shall be comprised of the following organizational components.

.01 The Administrative Operations Division shall provide services throughout the Administration consisting of property and supply management; paperwork management systems including ESSA directives; space and facilities management; travel and transportation services; mail and messenger services, and related office services; graphics services; safety; security; and tort claims.

.02 The Budget Division shall analyze and aggregate ESSA's budgetary requirements, prepare and coordinate formal budget documents for consideration by appropriate elements of the executive and legislative branches; and develop, apply, and review fiscal plans to insure that appropriations and other available funds are used properly and economically, and reflect those reviews by providing input to ESSA's management information systems.

.03 The Finance Division shall provide central accounting support for ESSA, review needs of ESSA and its operating units for accounting data and develop systems of financial reporting to insure a sound accounting and management of ESSA's financial resources; and maintain and process accounts and other records to reflect fund status, obligations, cost, and program expenditures.

.04 The Management Systems Division shall conduct studies and provide other analytical assistance towards developing or improving the organization structure and other management systems required in the direction and control of ESSA's operations, including systems for measuring production and performance; develop and operate a central system for collecting, presenting, and disseminating information to managers on program status and performance; and perform ADP systems analysis and programing for the staff units serving ESSA as a whole.

.05 The Personnel Division shall provide personnel management services throughout the Administration by conducting recruitment, employment, classification, and compensation, employee relations, labor relations, incentive awards, and career development activities for civil service and commissioned personnel.

.06 The Computer Division shall provide a data processing service facility, staff support, ADP management, and technical advice for all ESSA components; review and participate in the acquisition of ADP equipment to insure conformance with external and internal regulations; serve as the single focal point for dealing with the Office of Management and Organization, Office of the Secretary, on matters involving data processing equipment; and coordinate the ESSA Operational Telecommunications systems.

.07 The Scientific Information and Documentation Division shall develop and conduct a comprehensive program of scientific information and documentation, including library and editing services, to serve all elements of ESSA, and to convey the results and progress of ESSA's programs to the scientific community and other appropriate interests.

SEC. 5. *Assistant Administrator for Plans and Programs.* The Office of the Assistant Administrator for Plans and Programs shall provide ESSA with a focal point for the development, implementation and maintenance of an effective planning and programing system throughout ESSA and for the development of plans for meeting approved ESSA objectives; in close collaboration with line and staff organizations develop realistic 5-year program and compatible financial plans from which ESSA budgets can be formulated, and conduct a continuing evaluation of ESSA programs and accomplishments, provide advice and guidance to the Administrator on the program aspects of resource allocations, retrenchments and reprograming; and consider the availability and utilization of all pertinent ESSA resources in the accomplishment of these functions.

.01 The following four program oriented divisions shall support the Assistant Administrator in providing advice and assistance to the Administrator:

Marine Science Services Division.
Earth Science Services Division.
Atmospheric Science Services Division.
Telecommunications and Space Science Services Division.

The functions of these divisions shall be similar within their respective areas of programs responsibility. They shall maintain cognizance over the acquisition, communication, analysis, processing, publication, dissemination, archiving, and retrieval phases of information in all of its forms; and over research, development, test, and evaluation in support of these activities. The divisions shall obtain and evaluate requirements of users, insure development of adequate plans for meeting these requirements, establish and maintain current projections of resources required to implement approved plans and make recommendations regarding programs in progress and those to be considered for budgetary consideration. The divisions, on a continuing basis, shall evaluate the on-going programs under their purview in terms of their quality and responsiveness to user needs, and, recommend to the Administrator program curtailments, redirections, expansions, and new program initiatives.

.02 The Office of Special Studies shall provide guidance and direction for ESSA's major program areas with regard to long range goals and plans, applying such planning factors as forecasts of

technological advances, technological assessment, user needs and ESSA resource capacity and availability. The Office shall conduct benefit-cost analyses and other basic studies required in planning and carrying out programs of ESSA.

SEC. 6. *Assistant Administrator For Environmental Systems.* The Office of the Assistant Administrator for Environmental Systems shall be the ESSA focus for environmental systems analysis and design, for international and interagency coordination and planning, and for cooperative field experiments. With regard to these functions, the Office shall conduct systems studies, develop plans for ESSA's portion of the World Weather Program; provide advice and guidance to the Administrator in his role as Federal Coordinator for Meteorological Service and Supporting Research; provide advice and guidance to the Associate Administrator in his role as Federal Coordinator for Geodetic Surveys; and provide planning and management for field tests and experiments involving other agencies, countries, or scientific groups.

.01 The Federal Plans and Coordination Division shall provide leadership and coordination in the development of plans for the efficient utilization of Federal meteorological services and supporting research and for U.S. participation in the cooperative World Weather Program as well as for other similar multiagency Federal efforts; in close collaboration with line staff organizations, develop a 5-year program and compatible financial plans for the ESSA portion of the World Weather Program from which ESSA budgets can be formulated; and provide ESSA personnel for the Marine Environmental Prediction Staff.

.02 The Systems Division shall conduct systems studies for improvement of activities relating to ESSA's total environmental involvement; analyze alternative methods for achieving future national environmental science goals; and conduct studies related to the design and analysis of interagency and international programs, such as the World Weather Program.

.03 The Field Research Projects Division shall conduct the engineering and operational planning, coordination, and implementation of experiments or tests requiring the joint participation of agencies, countries, or scientific groups including the arrangement of logistic support.

SEC. 7. *Special staff offices.* .01 The Office of International Affairs shall formulate and coordinate policies, plans and procedures for U.S. participation in international activities in the environmental sciences; manage and coordinate ESSA's international training program; and advise on special programs for bilateral cooperation with foreign countries in the environmental sciences, including U.S. AID programs and Public Law 83-480 programs.

.02 The Office of Public Information shall plan and conduct an information program for the Administration which presents ESSA accomplishments and activities to the public, Congress, environmental data user groups, and Administration employees; coordinate public information activities within the Administration; and maintain close contact with communications media. Nothing herein shall affect the procedures and authorities established under and by Department Administrative Order 205-12, "Public Information."

.03 The Office of Aviation Affairs shall establish objectives and recommend policies for aviation service; serve as aviation services adviser to the Administrator and his senior line managers; act as senior ESSA official in liaison with FAA and advise FAA top officials on interrelated aviation program service matters. This Office shall provide top level representation to other Government agencies, the aviation industry and international interests on ESSA's aviation services.

SEC. 8. *Environmental Data Service.*[1] The Environmental Data Service shall collect, process, archive, publish, disseminate, and recall worldwide environmental data for use by commerce, industry, the scientific and engineering community, and the general public; guide research activities pertinent to the improvement of such services; and coordinate international activties in climatological and geophysical data problems with the world scientific organizations.

.01 The Office of the Director shall include the Director, Deputy, Deputy for Climatology, Systems Design Group, Science Advisory Group, and other immediate staff as may be required.

.02 The National Climatic Center shall collect, process, archive, and publish, climatological data; develop analyses of climatological data to meet user requirements; provide ready access to climatological data; and provide facilities for the world meteorological data center under international auspices.

.03 The Office of Geophysical Data Centers shall collect, process, archive, and publish geophysical data; develop analyses of geophysical data to meet user requirements; provide ready access to geophysical data; and provide facilities for world geophysical data centers.

.04 The Office of Field Services shall be responsible for the management of the Environmental Data Service field program. This involves acquisition, quality control, storage and dissemination of environmental data to meet the needs of State, national, and international requirements. It also involves the functional management of the climatological field program including the development of techniques for the application of data to meet all varieties of user requirements and providing field outlets throughout the 50 States.

.05 The Office of Data Information shall insure proper dissemination of environmental data information to the user public and scientific community from centralized data information sources.

.06 The Laboratory for Environmental Data Research shall develop the analysis, processing, and interpretation of geophysical and climatological data through research activities; and anticipate needs for climatological and geophysical data for design and risk assessment and stimulate original work to meet these needs.

SEC. 9. *Weather Bureau.*[1] The Weather Bureau shall provide the national weather service, observing and reporting the weather of the United States and its possessions and issuing forecasts and warnings of weather and flood conditions that affect the Nation's safety, welfare, and economy; develop the National Meteorological Service System; participate in international meteorological and hydrological activities, including exchanges of meteorological data and forecasts; and provide forecasts for domestic and international aviation and for shipping on the high seas. In support of the above objectives the Weather Bureau shall operate through its regions a national network of field offices and forecast centers.

.01 The Office of the Director shall include the Director and other immediate staff as may be required.

.02 The Office of Meteorological Operations shall observe, prepare, and distribute forecasts of weather conditions and warnings of severe storms and other adverse weather conditions for protection of life and property; establish policies and develop plans and procedures for operation of meteorological services and shall be the primary channel for coordination of all Weather Bureau field services operations.

.03 The Office of Hydrology shall provide the Nation with river and flood forecasts and warnings and water supply forecasts; conduct the necessary research to improve river and flood forecasts and warnings; and analyze and process hydrometeorological data for broad application to water resource planning, design, and operational problems.

.04 The Systems Development Office shall manage, plan, design, and develop a system to meet all meteorological service requirements; develop, test, and evaluate techniques and equipment; translate research results into operational practices; and conduct studies associated with the design of the World Weather Watch.

.05 The National Meteorological Center shall provide analyses of current weather conditions over the globe and depict the current and anticipated state of the atmosphere for general national and international uses; conduct development programs in numerical weather prediction; and lead in the extension and application of advanced techniques.

.06 The Executive and Technical Services Staff shall provide executive assistance to the Director and technical services, e.g., facilities, maintenance, etc., in support of programs throughout the Weather Bureau.

.07 The Field Structure shall consist of six regions as shown in Exhibit 2. A region shall provide weather service within its prescribed geographical area by issuing forecasts and warnings of weather and flood conditions; manage

[1] See footnote at end of document.

all operational and scientific meteorological and hydrological programs assigned to it; and conduct technical and administrative support functions. (A copy of Exhibit 2, which is an outline map, is on file with original of this document with the Office of the Federal Register.)

a. A region shall consist of a regional office managed by a Regional Director, and contain field offices and forecast centers reporting to the Regional Director.

b. Regional offices shall provide administrative and technical support for all Weather Bureau components in their geographic area of responsibility. Where feasible and practical this support will be extended to include other ESSA components.

SEC. 10. *Research Laboratories.*[1] The Research Laboratories shall conduct an integrated program of research and services relating to the oceans and inland waters, the lower and upper atmosphere, the space environment, and the solid earth to increase understanding of man's geophysical environment in order to provide the scientific basis for improved services. The Research Laboratories shall also serve as the central Federal agency for the conduct of research and services directed toward improving national utilization of radio, infrared and optical waves for telecommunications. The Research Laboratories shall consist of the Office of the Director, located at Boulder, Colo., and other major components located at Boulder and elsewhere, as described below. Each of the other major components shall be a separate management unit, consisting of one or more laboratories or other groups.

.01 The Office of the Director shall include:

a. The Director, Deputy Director, other immediate staff as may be required, and the following units.

b. The Office of Programs shall serve as focal point for policy and management advice to the Director, Research Laboratories on research and service programs; lead and coordinate program planning activities, including PPBS requirements; conduct program liaison; coordinate Research Laboratories activities in the framework of national and international scientific programs; review and evaluate current programs and plans; advise on resource allocation and reallocation; develop a management information system; conduct public information functions; and provide staff assistance to the Director and his immediate staff.

c. The Office of Research Support Services shall provide administrative and technical services to all Research Laboratories components located at Boulder, Colo., and to its field locations except as otherwise specified.

.02 The Earth Sciences Laboratories shall conduct research in geomagnetism, seismology, geodesy, and related earth sciences, seeking fundamental knowledge of earthquake processes, of internal structure and accurate figure of the earth, and the distribution of its mass.

See footnotes at end of document.

.03 The Atlantic Oceanographic and Meteorological Laboratories shall conduct research toward a fuller understanding of the ocean basins and borders, of oceanic processes, ocean-atmosphere interactions, and the origin, structure, and motion of hurricanes and other tropical phenomena.

.04 The Pacific Oceanographic Laboratories shall conduct oceanographic research toward fuller understanding of the ocean basins and borders, of oceanic processes, sea-air and land-sea interactions as required to improve the marine scientific services and operations of ESSA.

.05 The Atmospheric Physics and Chemistry Laboratory shall perform research on processes of cloud physics and precipitation and the chemical composition and nuclearing substance in the lower atmosphere. The laboratory is ESSA's major focus for design and conduct of laboratory and field experiments toward developing feasible methods of practical, beneficial weather modification.

.06 The Air Resources Laboratories shall conduct research on the diffusion, transport, and dissipation of atmospheric contaminants, using laboratory and field experiments to develop methods for prediction and control of atmospheric pollution.

.07 The Geophysical Fluid Dynamics Laboratory shall conduct investigations of the dynamics and physics of geophysical fluid systems to develop a theoretical basis, by mathematical modeling and computer simulation, for the behavior and properties of the atmosphere and the oceans.

.08 The National Severe Storms Laboratory shall conduct studies of tornadoes, squall lines, thunderstorms, and other severe local convective phenomena in order to achieve improved methods of forecasting, detecting, and providing advance warning of their occurrence and severity.

.09 The Space Disturbances Laboratory shall conduct research on the nature of space disturbances and provide forecasts of these disturbances. Studies shall be made of the behavior of these disturbances, the mechanisms producing them, and their consequences to man's activities. Also included is the development of techniques and their use to continuously monitor those characteristics of the space environment necessary for the early detection and reporting of important disturbances.

.10 The Aeronomy Laboratory shall study the nature of and the physical and chemical processes controlling the ionosphere and exosphere of the earth and other planets. The program includes theoretical, laboratory, ground-based, rocket and satellite studies.

.11 The Wave Propagation Laboratory shall act as a focal point for the development of new methods for remote sensing of man's geophysical environment. Special emphasis will be given to the propagation of sound waves and electromagnetic waves at millimeter, infrared and optical frequencies.

.12 The Institute for Telecommunication Sciences shall serve as the central Federal agency for the conduct of research and services on the propagation of radio waves, on radio properties of the earth and its atmosphere, on the nature of radio noise and interference, on information transmission and antennas, and on methods for the more effective use of the radio spectrum for telecommunication purposes.

.13 The Research Flight Facility shall meet the requirements of ESSA and other interests for atmospheric and other environmental measurements from aircraft, and for outfitting and operating aircraft specially instrumented for research.

SEC. 11. *Coast and Geodetic Survey.*[2] The Coast and Geodetic Survey shall provide charts for the safety of marine and air navigation; provide a basic network of geodetic control; provide basic data for engineering, scientific, commercial, industrial, and defense needs; and support the quest for more fundamental knowledge of our geophysical environment. In performance of these functions it shall conduct surveys, investigations, analyses, and research; and disseminate data in the following fields: hydrography, oceanography, geodesy, cartography, photogrammetry, geomagnetism, seismology, gravity, and astronomy.

.01 The Office of the Director shall include the Director and other immediate staff as may be required.

.02 The Office of Geodesy and Photogrammetry will fullfill national requirements for a system of basic geodetic control and for precise gravimetric, and global configuration and mensuration data. In accomplishment of this it shall establish and maintain a geodetic control network throughout the United States and a worldwide geometric network based on satellite observations; plan and direct geodetic, gravity, astronomic, earth movement, and photogrammetric surveys; and conduct related research in support of ESSA programs.

.03 The Office of Seismology and Geomagnetism will support the quest for a better understanding of seismic and geomagnetic phenomena and their relation to the state and structure of the earth; and fulfill national requirements for standardized seismic and geomagnetic data. In the accomplishment of this it shall collect, analyze, and compile data on a national and worldwide basis; maintain liaison with geophysicists throughout the world; and conduct related research in support of ESSA programs.

.04 The Office of Hydrography and Oceanography will contribute to the safety of marine navigation through nautical charting; and support the quest for more knowledge about the states and processes of the ocean. In the accomplishment of this it shall plan and direct hydrographic and oceanographic surveys (including current surveys) and operate a network of tide stations; process, analyze, and compile the survey data including the compilation of nautical charts for end use and dissemination;

and conduct related research in support of ESSA programs.

.05 The Office of Aeronautical Charting and Cartography will contribute to the safe navigation of air commerce and provide nautical and aeronautical charts for widespread use. To accomplish this it shall collect and evaluate air navigation information and compile aeronautical chart manuscripts; print and distribute nautical and aeronautical charts; maintain liaison with interests concerned with navigation regulations and information; and conduct research in support of these programs. This office also shall print and distribute weather charts and related documents and provide printing, reproduction and distribution services to ESSA.

.06 The Office of Systems Development shall plan, design, and develop systems for the description, mapping and charting of the earth and for hydrographic and oceanographic service requirements where such systems cut across major Coast and Geodetic program boundaries, or when they are designated by the Director, Coast and Geodetic Survey for special attention and support; develop, test, and evaluate systems and system components, including instrumentation, equipment, and related manning and operational doctrines; and translate research results into Coast and Geodetic operational systems.

.07 The Executive and Technical Services Staff shall provide executive assistance to the Director and technical services in support of programs throughout the Coast and Geodetic Survey.

.08a The Field Structure shall consist of the various organizational elements, as enumerated below:

1. The Atlantic and Pacific Marine Centers, the heads of which shall report to the Director, Coast and Geodetic Survey;

2. The Mid-Continent Field Director who shall report to the Director, Coast and Geodetic Survey, and be responsible for managing mobile field parties; and

3. Observatories, a seismology center, and a geomagnetic center which shall report to the appropriate program components at the headquarters of the Coast and Geodetic Survey.

b. The Atlantic and Pacific Marine Centers shall provide their own administrative support, including that required by vessels under their respective jurisdictions and, where feasible and practical, extend this support to other ESSA field units. The Mid-Continent Field Director shall obtain whatever common administrative support that can be arranged with the Weather Bureau region in the same city. Activities listed in subparagraph .08a(3) above shall receive administrative support from ESSA Headquarters. The locations of the principal field elements are shown in Exhibit 2.

SEC. 12. *National Environmental Satellite Center.*[1] The National Environmental Satellite Center shall provide observations of the environment by means of satellites; increase the utilization of satellite data in the environmental sciences; establish and operate a national environmental satellite system; manage and coordinate all operational satellite programs within ESSA and certain research-oriented satellite programs; conduct satellite systems engineering and research; and coordinate satellite activities with NASA and DOD. The National Environmental Satellite Center shall operate certain field installations such as Command and Data Acquisition Stations at locations required by the satellite system.

.01 The Office of the Director shall include the Director, Deputy, Chief Space Scientist, and other immediate staff as may be required.

.02 The Office of Operations shall provide data from environmental satellites and increase the value and the use of these data; operate the environmental satellite systems; collect, process, and analyze data from operational and specified research and development satellites; develop new and improved applications of satellite data; and maintain close relations with prime users of satellite data within ESSA and externally with NASA and DOD.

.03 The Office of System Engineering shall provide the planning, design, and engineering necessary to fulfill ESSA's requirements for environmental satellite systems; conduct systems design and analysis; explore possible multipurpose uses and environment satellite systems; perform the engineering required to implement new or modified satellite systems; and maintain close relations with NASA and DOD.

.04. The Office of Research shall improve understanding of the environment through satellite data and provide new and improved satellite measurement techniques and applications; and maintain close relations within ESSA, particularly with the Institutes for Environmental Research.

Effective date: May 19, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

APPENDIX A

PUBLIC INFORMATION APPENDIX; ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

MAY 19, 1970.

A. *Purpose.* The purpose of this appendix is to describe, in general, the public information services of the Environmental Science Services Administration (ESSA), to describe the places at which, and the methods whereby, the public may obtain information, to inform the public as to the sources or availability of rules, regulations, procedures, instructions, forms, reports, or other requirements established by ESSA which affect the public, and otherwise to comply with the requirements of section 552 of title 5, United States Code, as amended by Public Law 90-23.

B. *Public information services.* .01 ESSA gathers, processes, and issues information on weather conditions, river water height, coastal tides and currents, movement of ocean currents, structure and shape of ocean basins, seismic activity, the precise size and shape of the earth, and conditions of the upper atmosphere and space. It issues warnings against hurricanes, tornadoes, floods, and seismic sea-waves to areas in danger.

.02 ESSA information falls into three broad categories, namely:

a. Current information and warnings on the dynamic or continually changing aspects of the environment, such as the weather and other geophysical phenomena.

b. Longer term information, such as navigation charts, compilations or summaries of historical environmental data, and earth and ocean surveys and measurements.

c. Scientific and technical research publications dealing with the earth sciences.

.03 ESSA information is available in many forms and from many sources throughout ESSA.

a. Current information is disseminated in the form of forecasts, advisories, and warnings, directly by the local offices of ESSA, of which there are approximately 350, or through relaying intermediaries, such as radio and TV stations and telephone recorders. The addresses of local ESSA offices can be obtained by consulting local phone directories, generally under the heading of Commerce Department—Environmental Science Services Administration. The prime medium for disseminating weather information for the United States is the Daily Weather Maps, which is available on a subscription basis. There is also published a Weekly Weather and Crop Bulletin, which narrates on a weekly basis the weather conditions and crop progress during the reporting period, generally on a State-by-State basis. Both the Daily Weather Maps and the Weekly Weather and Crop Bulletin may be ordered from the Superintendent of Documents, Washington, D.C. 20402.

b. Longer term information is available in various forms, such as charts, maps, books, and pamphlets, tabulations, individual data sheets, reproductions of original graphic recordings, and aerial photographs. These are available at varying prices, from various offices within ESSA. Also, navigation charts may be purchased from contract sales agents, generally airport and marina operators. Catalogs or price lists of items in this category are available on request. Navigation chart catalogs are available from the Chief, Distribution Division (C44), Coast and Geodetic Survey, Washington, D.C. 20234. Price lists of ESSA climatological data, geophysical data, and geodetic data are available from the Director, Office of Data Information (D4), ESSA, Silver Spring, Md. 20910. Requests or inquiries concerning other information in the longer term category, but excluding scientific and technical research publications, may be sent to the Administrative Documentation Officer (AD1x11), ESSA, Rockville, Md. 20852, for referral to the responsible office.

c. Scientific and technical research publications are disseminated in the form of printed journals, monographs, reports, and other paper-bound publications. These range over the broad spectrum of the physical environment. Details concerning publications available and the prices may be obtained from the Chief, Scientific Information and Documentation Division (AD7) ESSA, Rockville, Md. 20852. Many of ESSA's scientific and technical research publications are sold by the Clearinghouse for Federal Scientific and Technical Information, Springfield, Va. 22151, and by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional details concerning ESSA's scientific and technical publications are given in Appendix B of the U.S. Government Organization Manual, published annually.

.04 Other information is handled as follows:

See footnotes at end of document.

a. General information on the mission and operation of ESSA or news releases: Address inquiries to the Director, Public Information (PI), ESSA, Rockville, Md. 20852.

b. Information on the filing of claims against ESSA: Address inquiries to the Claims Officer (AD123), ESSA, Rockville, Md. 20852.

c. General administrative information, or for information not otherwise described herein: Address inquiries to the Administrative Documentation Officer (AD1x11), ESSA, Rockville, Md. 20852, for referral to the responsible office.

C. *Guide to published rules and regulations.* .01 Prior to the formation of ESSA on July 13, 1965, the rules and regulations of the Weather Bureau were published in Chapter V, Title 15, and those of the Coast and Geodetic Survey were published in Chapter III, Title 33, Code of Federal Regulations.

.02 Rules and regulations of ESSA, including those of its constituent components, will hereafter be published in Chapter IX, Title 15, Code of Federal Regulations. The rules and regulations noted in paragraph .01 above will be republished under this chapter.

D. *Submittals and requests.* The established places at which and the methods whereby the public may make any submittals, applications, or requests are identified in: Sections B, F, and G of this appendix; Chapter IX, Title 15, Code of Federal Regulations; and on copies of the forms and instructions referred to in Chapter IX, Title 15.

E. *Final delegations of authority.* The Administrator, ESSA, has made no delegation or redelegation of authority to officers or employees of ESSA to take final actions, or make final decisions, with respect to requirements, submissions, or other matters arising under its published rules and regulations. Any such delegations hereafter made will be published in the FEDERAL REGISTER following their issuance.

F. *Inspection and copying of opinions and orders.* All final opinions of ESSA made in the adjudication of cases, statements of policy, and interpretations not published in the FEDERAL REGISTER, administrative staff manuals and instructions to staff that affect a member of the public, and any other materials required to be made available for public inspection and copying by 5 U.S.C. 552(a)(2), are made available for such purposes at the ESSA Public Reference Facility, Room 203, 11420 Rockville Pike, Rockville, Md. The mailing address of this facility is: Administrative Documentation Officer (AD1X11) ESSA, Rockville, Md. 20352. Rules prescribing public use of this facility are contained in Part 903, Chapter IX, Subchapter A, Title 15, Code of Federal Regulations, or may be obtained from the facility.

G. *Inspection of ESSA records.* Rules for persons desiring, pursuant to 5 U.S.C. 552 (a)(3), to inspect records of ESSA which are not available to the public as part of the regular public information services of ESSA, are contained in Part 903, Chapter IX, Subchapter A, Title 15, Code of Federal Regulations. Application forms and instructions are available from the ESSA Public Reference Facility.

R. M. WHITE,
Administrator, Environmental Science Services Administration.

[F.R. Doc. 70-7308; Filed, June 10, 1970; 8:51 a.m.]

[1] Constitutes a principal constituent organizational entity of the Administration within the meaning of Reorganization Plan No. 2 of 1965.

ATOMIC ENERGY COMMISSION

[Docket No. 50-335]

FLORIDA POWER AND LIGHT CO.

Notice of Availability of Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and to the Atomic Energy Commission's Regulations in 10 CFR Part 50, notice is hereby given that a document entitled "Statement on Environmental Considerations Involved in the Proposed Construction and Operation by the Florida Power and Light Co., Hutchinson Island Nuclear Power Plant" is being placed in the following locations where it will be available for inspection by members of the public: the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the Library Indian River Junior College, 3209 Virginia Avenue, Fort Pierce, Fla. 33450. Single copies of the statement may be obtained by writing to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 4th day of June 1970.

For the Atomic Energy Commission.

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

[F.R. Doc. 70-7259; Filed, June 10, 1970; 8:47 a.m.]

[Docket No. 50-234]

GULF GENERAL ATOMIC, INC.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, Amendment No. 5 to Facility License No. CX-23 dated May 25, 1965. The license presently authorizes the Gulf General Atomic, Inc., to possess, use, and operate the Experimental Critical Facility located on the licensee's Torrey Pines Mesa site in San Diego, Calif., at power levels up to 100 watts (thermal). The amendment extends the expiration date to May 25, 1972.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR, Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant 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 a 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 amendment, see (1) the licensee's application for license amendment dated April 20, 1970, and (2) the amendment to facility license, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of the amendment may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 28th day of May 1970.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-7228; Filed, June 10, 1970; 8:45 a.m.]

NATIONAL ENVIRONMENTAL POLICY ACT

Interim Procedures

Notice is hereby given that the General Manager of the U.S. Atomic Energy Commission (AEC) has adopted the following interim procedures in implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190) for application to all units and organizations of the AEC reporting to or through the General Manager. These interim procedures are effective as of May 28, 1970.

Written comments on the procedures will be received by the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, for a period of 60 days after publication of this notice in the FEDERAL REGISTER.

The National Environmental Policy Act of 1969 (NEPA), Executive Order No. 11514 (E.O. 11514) dated March 5, 1970, and the Interim Guidelines (Guidelines) of the Council on Environmental Quality (Council) dated April 30, 1970, provide that environmental considerations are to be given careful attention and appropriate weight in every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the human environment.

The following interim procedures have been adopted by the Atomic Energy Commission to implement section

102(2)(C) of the NEPA, E.O. 11514, and the Guidelines.

These interim procedures are applicable to all units and organizations of the AEC reporting to or through the General Manager (GM) of the AEC.

I. *Purpose.* These procedures are intended to provide guidance for:

A. Identifying those AEC actions requiring environmental statements;

B. Obtaining information and internal AEC review required for the preparation of environment statements;

C. Designating the officials who are to be responsible for preparation, review, and signing of the statements;

D. Consulting with and taking into account the comments of appropriate Federal, State, and local agencies; and

E. Meeting requirements for providing timely public information on proposals for legislation and for other major actions having a potential significant adverse effect on the human environment.

II. *Internal review procedure*—A. *Budget process.* 1. The requirements of the NEPA, E.O. 11514, and the Guidelines shall be met through the AEC budget process to the maximum extent practicable.

(a) *Proposed project or activity resulting from fiscal year (FY) 1971 and prior annual authorization and appropriations legislation.* Each Program Division Director shall review such portions of the FY 1971 and prior annual AEC authorization and appropriations legislation for which he has programmatic or budgetary responsibility and identify, after consultation as appropriate with the Field Office Manager, Special Assistant for Environmental Affairs (SA/EA), the Assistant General Manager for Operations (AGMO), and the General Counsel (GC), any proposed project or activity not yet undertaken which appear to have the potential to have a significant adverse effect on the quality of the human environment. A draft statement should be prepared for each such project or activity for consideration by the Commission. Preparation of such statement, to the extent practical, shall be in accordance with A.3. below.

(b) *Proposed projects or activities for FY 1972 and subsequent FY budgets.* (1) Field Office Managers shall promptly instruct all contractors participating in the AEC budget process to prepare and submit by July 31, 1970, brief analyses of any potential adverse environmental impact of proposed line items, major General Plant Projects (GPP) or equipment items, and other proposed new activities provided for in their respective budget submission for FY 1972. Such analyses shall be included as a part of each subsequent FY budget submission.

(2) Such analyses shall be prepared by Field Office Managers (Directors of Program Divisions as appropriate) for such projects or activities to be conducted by AEC directly or through contractors not participating in the budget process.

2. With respect to any such proposed project or activity (i.e., line items, major GPP or equipment items, or other activity identified by II(b) (1) or (2) above) which a Program Division Director decides to support for inclusion in the AEC budget, the Program Division Director, in consultation with the SA/EA, AGMO, and GC, shall determine whether any such proposed project or activity has the potential to have a significant adverse effect on the quality of the human environment. Where such potential is determined to exist, the Program Division Director shall direct the preparation of a draft environmental statement. The statement shall be submitted for the review of SA/EA, AGMO (the AGMO will have the statement reviewed as appropriate by Divisions and offices having special expertise in environmental matters; e.g., Operational Safety, Biology and Medicine, and Division of Reactor Development and Technology), and GC.

3. The draft environmental statement shall be prepared in accordance with Item 7 of the Guidelines, except with respect to water quality aspects. In that case the statement should indicate compliance with the applicable standards of the Federal Water Pollution Control Act, as amended (see sec. 21(a) as amended by the Water Quality Improvement Act of 1970), or an explanation as to why those standards cannot be met.

4. Following such review with respect to projects or activities proposed for inclusion in FY 1972 budgets and subsequent FY budgets, the initiating Division will forward a draft statement to the Controller who will incorporate it as part of the information to be considered by the Budget Review Committee (BRC). The BRC will recommend to the GM whether or not such projects or activities should be included in the AEC budget. With regard to projects or activities so recommended for inclusion and for such other projects as the GM may direct, the AGMO will prepare a paper for discussion with the Commission, which will include recommendations concerning the following:

(a) Whether or not a project or activity should be deemed to constitute a major Federal action which significantly affects the quality of human environment.

(b) The method for obtaining comments of other Federal agencies and the agencies from which comments should be sought.

(c) The method for obtaining comments of State and local agencies and the agencies from which comments should be sought.

(d) Proposed public information program regarding each project or activity.

(e) The content of the draft environmental statement.

5. Projects or activities identified in A.1.(a) above as requiring a draft statement shall be prepared and forwarded by the Program Division Director to the AGMO who will prepare a paper for discussion with the Commission which will include recommendations concerning items (a) through (e) of A.4. The SA/EA will advise the GM with respect to the recommendations.

B. *Major actions involving changes or additions to present operations.* 1. Field Office Managers shall promptly instruct all contractors to prepare brief analyses of the environmental impact of any proposed major change in continuing projects or activities or of proposed new projects or activities, not identified by the process described in A.1. (a) and (b) above, which have a potential for a significant adverse effect on the quality of the human environment. For AEC direct operations and those conducted through contractors not participating in the budget process the analyses shall be prepared by Field Office Managers (Directors of Program Divisions as appropriate). Analyses for which the Field Office Managers are responsible shall be submitted to the appropriate Division Director having program or budgetary responsibility.

2. Where the potential for a significant adverse effect on the human environment is identified from the analyses prepared under B.1. above, the Program Division Director, after consultation as appropriate with the SA/EA, AGMO, and the GC, shall prepare a draft statement and forward it to the AGMO who will follow the applicable procedures set forth in A.5. above.

C. *Comment on environmental statements.* 1. Except as otherwise provided by the Bureau of the Budget, the AGMO shall be responsible for obtaining comments of Federal agencies and State and local agencies in accordance with Item 9 of the Guidelines. Ordinarily, comments of State and local agencies will be obtained by publication of the draft statement in the FEDERAL REGISTER.

2. *Time to be allowed for comment.* (a) Federal agencies—not less than 30 days.

(b) State and local agencies—not less than 60 days.

D. *Final environmental statement.* After receipt of comments from Federal agencies and State and local agencies a final environmental statement shall be prepared taking into account such comments. This statement shall be prepared by the AGMO after appropriate consultation with the Program Director, SA/EA and the GC, for signature by the GM. Copies of the statement will be forwarded to the Council in accordance with F. below.

E. *Responsible official.* All final environmental statements will be prepared for the signature of the GM who is hereby designated the "responsible official."

F. *Distribution of statement to council.* In accordance with Item 10(b) of the Guidelines.

G. *Recommendations for reports on non-AEC proposed legislation.* AEC reports on legislation initiated outside AEC shall be developed in accordance with Item 6 of the Guidelines and as provided by the Bureau of the Budget.

H. *Staff papers.* All papers on which Commission action is expected relating to proposed projects and activities shall include information on the anticipated environment impact.

III. *AEC policy determinations.* In addition to the criteria set forth in IV below for determining whether a proposed project or activity has the potential to significantly affect the quality of the human environment, the AEC has determined as a matter of policy that an environmental statement will be prepared in accordance with section 102(2)(C) of the NEPA in connection with proposed projects or activities which involve the following:

A. New AEC Power and Production reactors.

B. Reactivation of existing AEC Power and Production reactors.

C. Cooperative arrangements with industry for the construction of demonstration nuclear power plants.

D. Establishment of long-term AEC waste storage facilities.

E. Fuel Element Reprocessing facilities.

F. Nuclear cratering tests conducted on the Nevada Test Site (NTS) or the Supplemental Test Site in Nevada (STS).

G. Plowshare experimental projects not conducted at NTS or STS.

H. Nuclear test conducted on the Island of Amchitka, Alaska.

I. Nuclear test of more than one megaton conducted at NTS or STS. Statements will be prepared on an individual test basis.

J. Nuclear test programs of 1 megaton or less conducted at NTS or STS. Statements will be prepared annually covering the total program.

IV. *Criteria for determining whether a proposed project or activity has the potential to have a significant adverse effect on the quality of the human environment.* A. The interim Guidelines. (FEDERAL REGISTER dated May 12, 1970.)

B. The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases.

C. Section 101(b) of the Act indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The Act also indicates that adverse significant effects include those that degrade the quality of the environment or serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if, on balance, the effect will be beneficial. Significant adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.

Dated at Washington, D.C., this 4th day of June 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 70-7260; Filed, June 10, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATEMENT OF ORGANIZATION AND DELEGATION OF AUTHORITY

Change in Numbering

Notice is hereby given of change in numbers for Parts within the Department of Health, Education, and Welfare statement of organization and delegations of authority. The new part numbers are as follows: Office of the Secretary 1; Office of Education 2; Health Services and Mental Health Administration 3; Social Security Administration 4; Social and Rehabilitation Service 5; Food and Drug Administration 6; National Institutes of Health 8; and Enviromental Health Service 9.

Approved: June 3, 1970.

SOL ELSON,
Acting Deputy Assistant Secretary for Administration.

[F.R. Doc. 70-7310; Filed, June 10, 1970; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21866-5]

DOMESTIC PASSENGER-FARE INVESTIGATION—DISCOUNT FARES

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on July 7, 1970, at 10 a.m., e.d.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

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

[SEAL] ARTHUR S. PRESENT,
Hearing Examiner.

[F.R. Doc. 70-7312; Filed, June 10, 1970; 8:51 a.m.]

[Dockets Nos. 20291, 21770; Order 70-6-37]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 5, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement would establish proportional fares to be used in the construction of through fares to/from Kristiansund, and these are specified at the same level as those applying to/from Trondheim.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that Resolution 200 (Mail 022) 072b, which is incorporated in agreement CAB 21795, R-2, affects air transportation within the meaning of the Act;

2. It is not found that Resolutions 200 (Mail 022) 052 and 062, which are incorporated in agreement CAB 21795, R-1, and which do not directly affect air transportation, are adverse to the public interest or in violation of the Act; and

3. It is not found, on a tentative basis, that the following resolutions, incorporated in agreement CAB 21795 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB 21795	*IATA Resolutions*
R-3	JT12 (Mail 743) 054a.
	JT12 (Mail 743) 054b.
	JT12 (Mail 743) 054c.
	JT12 (Mail 743) 070d.
	JT12 (Mail 743) 071d.
	JT12 (Mail 743) 076p.
	JT12 (Mail 743) 084a.
	JT12 (Mail 743) 064a.
	JT12 (Mail 743) 064b.
	JT12 (Mail 743) 064c.
	JT12 (Mail 743) 070f.
	JT12 (Mail 743) 076e.
	JT12 (Mail 743) 083a.
	JT12 (Mail 743) 084f.
R-4	JT23 (Mail 259) 055.
	JT23 (Mail 259) 065.
R-5	JT23 (Mail 259) 058.
	JT23 (Mail 259) 068.
	JT123 (Mail 645) 058.
	JT123 (Mail 645) 068.

Accordingly, it is ordered, That:

1. Jurisdiction is disclaimed with respect to agreement CAB 21795, R-2;

2. Agreement CAB 21795, R-1, be and hereby is approved; and

3. Action on agreement CAB 21795, R-3 through R-5 is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may,

within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-7314; Filed, June 10, 1970; 8:51 a.m.]

[Docket No. 22244; Order 70-6-35]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause

Issued under delegated authority June 4, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 69-4-129, dated April 28, 1969, is currently in effect for the above captioned air taxi, operating under 14 CFR Part 298. The service involved is that described in notice of Intent 69-11 filed by the Postmaster General on March 7, 1969, for the route between Sioux Falls, S. Dak., and AMF Twin Cities, Minneapolis, Minn., via Windom and Willmar, Minn.

The Postmaster General filed a petition on June 2, 1970, stating that a review of air taxi mail service reveals that weekend trips cannot be justified on this route in view of the volume of mail involved, and that he has been authorized by the carrier to petition for a new rate, based on five round trips per week in each direction, of 59.62 cents per great circle aircraft mile.

The carrier and the Post Office Department have agreed that the above proposed rate is a fair and reasonable rate for the services described in Notice of Intent 69-11 as amended by this petition.

The Board finds it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

On and after June 2, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid in their entirety by the Postmaster General to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefore, and the services connected therewith, between Sioux Falls, S. Dak., and AMF Twin Cities, Minneapolis, Minn., via Windom and Wilmar, Minn., shall be 59.62 cents per great circle aircraft mile on the basis of five flights per week in each direction.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its Organization Regulations 14 CFR 385.14(f),

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.,

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR, Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-7313; Filed, June 10, 1970; 8:51 a.m.]

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[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

CIVIL SERVICE COMMISSION

ACCOUNTANTS, AUDITORS, INTERNAL REVENUE AGENTS ET AL.

Notice of Adjustment of Minimum Rates and Rate Ranges

Correction

In F.R. Doc. 70-6643 appearing at page 8460 in the issue for Friday, May 29, 1970, the salary adjustment in the first Per Annum Rates table for GS-8, step 10, should read "13,142", and the salary adjustment in the second Per Annum Rates table for GS-8, step 4, should read "11,946".

FEDERAL COMMUNICATIONS COMMISSION

[FCC 70-593]

"KICKBACKS" OF FEES PAID TO PERFORMERS

JUNE 4, 1970.

Information has been brought to the attention of the Commission that programs have been broadcast without regard to the provisions of sections 317 and 508 of the Communications Act of 1934, as amended, and the Commission's rules thereunder. The violations in question have been engaged in by broadcast licensees, networks, and independent program producers. Three types of such violations have been described in complaints to the Commission.

In the first type, the program producer has arranged for a performer to appear on a program for the fee specified by the performer's union, on condition that part or all of the fee will be reimbursed to the producer. The so-called reimbursement has usually been made by a recording company or other business concern with which the performer was connected. The amount of the reimbursement has in some cases been deducted by the recording company from the royalties or other fees normally paid the performers. The amount of reimbursement was usually the amount paid to the performer by the producer in accordance with the producer's contract with the American Federation of Television & Radio Artists (AFTRA) or other union to which the performer belonged, less usual salary deductions. The programs in connection with which such reimbursements have been made have not contained the sponsorship identification announcement required by section 317 of the Communications Act. In some of these cases, the producer has not disclosed to the licensee broadcasting the program that financial consideration was received for the performer's appearance. It has been customary, however, to add a statement at the end of the program that "promotional assistance" or "promotional consideration" has been received from the record company or other business concern furnishing the reimbursement.

In the second type of case, performing groups constituting a single act have been required to reimburse the program producer in an amount equal to the difference between the union scale for a single performer and the union scale for a performing group. The reimbursement was handled in the same manner as noted above for single performers and the "promotional assistance" or "promotional consideration" credits were similarly added to the program.

In the third type of case, individual artists have been required, as a condition of their employment, to reimburse

the producer, either a part or all of their fees paid by the producer pursuant to the union contract, or to pay for costumes, additional musicians, etc., used in their performance. For example, a performer who received the union scale from the producer would have to reimburse the producer for the fees paid by the latter to musicians, not normally provided in the program, who accompanied the performer.

Under section 508 of the Communications Act, producers of programs who receive money or other valuable consideration for the inclusion of matter in a program are required to report its receipt to the licensee or licensees over whose facilities the program is broadcast. The licensee is, in turn, required by section 317 of the Communications Act to announce that the matter contained in the program is paid for, and to disclose the identity of the person furnishing the money or other valuable consideration. For example, where a performing artist, either personally or through his agent, makes a payment to a producer to reimburse the producer for the fee paid to him, the fact that such payment was made must be disclosed by the producer to each licensee broadcasting the program and must be disclosed to the public in accordance with the requirements of our rules. Sections 73.119, 73.289, and 73.654 of the rules require that the announcement "fully and fairly disclose the true identity of the person or persons" making such payments. The announcements, therefore, must be such as to inform the viewing public of the true nature of the arrangement between the producer and the performer or other person furnishing "reimbursement," and must be given the same prominence as would identification of other sponsors of the program. The use of an audio or video announcement at the conclusion of a broadcast, which merely mentions the receipt of "promotional assistance" or "promotional consideration," does not meet the requirements of the rules.[1] At the very least, an audio announcement must be made which states, in essence, that the performer or an identified person acting on his behalf has paid the program producer in order to appear on the program.

Aside from the statutory considerations set forth above, the practices in question appear to constitute attempts by licensees or producers to violate or evade the provisions of contracts into which they have entered with labor unions. Such practices, whether engaged in by a licensee or condoned by the broadcast of programs in connection with which such practices have been employed, raise serious public interest questions, and if continued in the future will be considered in evaluating its qualifications to be a licensee.

Action by the Commission June 3, 1970. Commissioners Burch (Chairman), Bartley, Robert E. Lee, Cox, H. Rex Lee, and Wells, with Commissioner Johnson concurring in the result.

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

[F.R. Doc. 70-7294; Filed, June 10, 1970; 8:50 a.m.]

[1] Other types of announcements which do not disclose to the audience that a performer's appearance was paid for, and by whom, include "Miss X appeared through the courtesy of Y Recording Company," "Miss X's appearance was by arrangement with ----------," and "Miss X was brought to you through the cooperation of Y."

[Report No. 495]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JUNE 8, 1970.

Pursuant to §§ 1.227(b)(3) and 21.26 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

6939-C2-P-70—Home Telephone Co. (KLF624), C.P. to relocate 2-way facilities operating on 152.66 MHz to: West City Limits, Olive Branch, Miss.

7940-C2-P-70—Liberty Communications, Inc. (KCC485), C.P. to relocate 2-way facilities operating on 454.05 MHz at location No. 2: 20 Yaremich Drive, Bridgeport, Conn.

7944-C2-P-70—Radiocall Inc. (New), C.P. for a new air-ground station to be located at Kamuela Airport, Kamuela, Hawaii, to operate on 454.825 MHz base and 454.675 MHz signaling.

7945-C2-P-70—Radiocall Inc. (New), C.P. for a new air-ground station to be located at 1519 Nuuanu Avenue, Honolulu, Hawaii, to operate on 454.725 and 454.750 MHz base and 454.675 MHz signaling.

7946-C2-P-70—Radiocall Inc. (New), C.P. for a new air-ground station to be located at 20 miles southeast of Wailuku, Mount Haleakala, Hawaii, to operate on 454.975 MHz base and 454.675 MHz signaling.

7947-C2-TC-70—Anserfone Inc. (KIR205), Consent to transfer of control from Lewis P. Beers, Transferor, to: Lamar B. Hill and Elizabeth O. Boling, Transferee.

7976-C2-P-70—Pacific Northwest Bell Telephone Co. (New), C.P. for a new 1-way station to be located at alley between Seventh and Ninth Avenues west of Fir Street, Olympia, Wash., to operate on frequency 35.58 MHz.

7977-C2-P-70—Radio Call Co. (KPJ902), C.P. to relocate control facilities operating on frequency 454.100 MHz at location No. 5: 1601 West Market Street, Johnson City, Tenn.

7983-C2-P-(3)70—ATS Mobile Telephone, Inc. (KBM512), C.P. for additional facilities at a new site described as location No. 2: 1700 Farnam Street (Woodmen Tower Building), Omaha, Nebr., to operate on frequencies 454.175, 454.275, and 454.325 MHz.

8008-C2-P-70—North Shore Communications, Inc. (New), C.P. for a new 2-way station to be located at approximately 0.1 mile west of Route 3A at a point 0.85 mile north of White Horse Road, Plymouth, Mass., to operate on frequency 152.18 MHz.

8060-C2-P-(3)70—General Telephone Co. of California (New), C.P. for a new 1-way station to be located at location No. 1: Baldwin Park, 14436 East Ramona Boulevard, Los Angeles, Calif.; location No. 2: Rolling Hills, 3.7 miles west-southwest of Lomita, Calif.; and location No. 3: 451 South Brand Boulevard, San Fernando, Calif., to operate on frequency 152.84 MHz at all locations.

8061-C2-MP-70—LaFourche Telephone Co., Inc. (KQZ731), Modification of C.P. to relocate 1-way facilities to 1.5 miles southwest of Larose, La., on frequency 152.84 MHz.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

8062–C2–P–70—Southern Message Service, Inc. (New), C.P. for a new air-ground station to be located at Beck Building, Travis and Edwards Streets, Shreveport, La., to operate on frequency 454.750 MHz base and 454.675 MHz signaling.

8064–C2–P–70—Indiana Bell Telephone Co. (KSD323), C.P. to change the antenna system on frequency 152.57 MHz located near township of Columbus, Ind.

8065–C2–P–70—Radio Electronics Products Corp. (KMD687), C.P. to add a repeater frequency, 72.42 MHz, at a new site described as location No. 3: Sugarloaf Lookout, 2.3 miles southwest of Delta, Calif.

8066–C2–P–70—Radiopaging, Inc. (KIE367), C.P. to replace transmitter operating on frequency 43.58 MHz and change antenna system. Location: 111 Northeast Second Avenue, Miami, Fla.

8067–C2–P–70—Mobilfone of Kansas (KLF655), C.P. to change antenna system, replace transmitter, and relocate facilities operating on frequency 454.025 MHz to Merchants National Bank Building, Eighth and Jackson Streets, Topeka, Kans.

8068–C2–P–70—The Pacific Telephone & Telegraph Co. (KMD999), C.P. to relocate base standby transmitter on frequency 152.78 MHz to a new site described as location No. 2: 146 South Broadway, Escondido, Calif.

8081–C2–P–70—General Communication Systems, Inc. (New), C.P. for new air-ground station to be located on Water Tank near Glen Avenue and Marymount Road, Salina, Kans., to operate on signaling frequency 454.675 MHz and base frequency 454.950 MHz.

8082–C2–P–(2)–70—The Chesapeake & Potomac Telephone Co. of Virginia (KIC347), C.P. to add facilities at two new sites described as location No. 2: 3131 Sewell's Point Road, Norfolk, Va., on frequency 152.78 MHz; and location No. 3: 132 Plaza Trail, Virginia Beach, Va., on frequency 152.69 MHz (both base frequencies).

Major Amendments

1796–C2–P–70—Pineland Telephone Co-op. Inc. (KIN648), Amended to change frequency to 152.66 MHz. All other particulars remain the same as indicated in Report No. 461, dated Oct. 13, 1969.

3682–C2–P–69—Tel Page Corp. (KEJ894), To change frequency from 152.03 MHz to 454.150 MHz. All other particulars remain the same as indicated in Report No. 420, dated Dec. 30, 1968.

6973–C2–P–70—Gulf Mobile Alabama, Inc. (New), To add two channels, 454.075 and 454.125 MHz. All other particulars remain the same as indicated in Report No. 490, dated May 4, 1970.

CORRECTION

7667–C2–P–(3)–70—Pacific Northwest Bell Telephone Co. (New), Add: To operate on frequency 152.84 MHz. All other particulars remain the same as indicated in Report No. 494, dated June 1, 1970.

Rural Radio Service

8083–C1–P/L–70—New England Telephone & Telegraph Co. (New), C.P. and license for a new fixed station to be located on Nashawena Island, 2.8 miles east-northeast of Cuttyhunk, Mass., to operate on frequency 157.83 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

7941–C1–P–70—The Bell Telephone Co. of Pennsylvania (KYJ36), C.P. to add frequencies 11,385 and 11,625 MHz toward Ramsey Hill, Pa. Location: 210 Pine Street, Harrisburg, Pa.

7942–C1–P–70—The Bell Telephone Co. of Pennsylvania (KYS58), C.P. to add frequencies 10,755, 10,835, 10,995, and 11,075 MHz and delete frequencies 10,735 and 10,975 MHz all toward York, Pa., and add frequencies 10,735 and 10,975 MHz toward Harrisburg, Pa. Location: Ramsey Hill, 2.6 miles southwest of Lewisberry, Pa.

7943–C1–P–70—The Bell Telephone Co. of Pennsylvania (KYS57), C.P. to change frequencies 11,385 and 11,625 MHz to 11,285 and 11,525 MHz and add frequencies 11,445 and 11,685 MHz toward Ramsey Hill, Pa. Location: 31 South Beaver Street, York, Pa.

7979–C1–P–70—United Telephone Co. of the West (New), C.P. for a new station to be located at 119 West 21st Avenue, Torrington, Wyo. Frequencies: 5945.2 and 6063.8 MHz toward Lingle, Wyo.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

7980–C1–P–70—United Telephone Co. of the West (New), C.P. for a new station to be located at 65 West Sunrise, Guernsey, Wyo. Frequencies: 6226.9 and 6345.5 MHz toward Fort Laramie, Wyo.

7981–C1–P–70—United Telephone Co. of the West (New), C.P. for a new station to be located at 14 East Third Street, Lingle, Wyo. Frequencies: 6226.9 and 6345.5 MHz toward Torrington, Wyo. and 6256.5 and 6375.2 MHz toward Fort Laramie, Wyo.

7982–C1–P–70—United Telephone Co. of the West (New), C.P. for a new station to be located at corner of Merridan and Davis Streets, Fort Laramie, Wyo. Frequencies: 6063.8 and 5945.2 MHz toward Guernsey, Wyo., and 6093.5 and 5974.8 MHz toward Lingle, Wyo.

8040–C1–P–70—New England Telephone & Telegraph Co. (KZI60), C.P. to add frequencies 10,915 and 10,955 MHz toward Laconia, N.H. and 6249.1 and 10,735 MHz toward Moultonboro, N.H. Location: Gilford, 3 miles east-southeast of Laconia, N.H.

8041–C1–P–70—New England Telephone & Telegraph Co. (New), C.P. for a new station to be located at Hollingsworth Hill, 3.6 miles west of Melvin Village, N.H. (Moultonboro). Frequencies: 5997.1 and 11,305 MHz toward Gilford and 6011.9 and 11,345 MHz toward Ossipee, N.H.

8042–C1–P–70—New England Telephone & Telegraph Co. (New), C.P. for a new station to be located at Bennett Hill, 2.1 miles northwest of Ossipee, N.H. Frequencies: 6264.0 and 10,775 MHz toward Moultonboro, N.H., and 6249.1 and 10,735 MHz toward Albany, N.H.

8043–C1–P–70—New England Telephone & Telegraph Co. (New), C.P. for a new station to be located at Chase Hill, 1.5 miles west of Conway, N.H. (Albany). Frequencies: 5997.1 and 11,305 MHz toward Ossipee, N.H.

8044–C1–P–70—Southwestern Bell Telephone Co. (KLV30), C.P. to change antenna system. Location: 24 miles north of Amarillo, Tex.

8045–C1–P–70—New England Telephone & Telegraph Co. (KCL86), C.P. to add frequencies 6219.5 and 11,055 MHz toward Portsmouth, N.H. Location: On Saddleback Mountain, 3 miles west-southwest of Northwood, N.H.

8046–C1–P–70—New England Telephone & Telegraph Co. (KTR40), C.P. to add frequencies 5967.4 and 11,465 MHz toward Northwood, N.H. Location: 56 Islington Street, Portsmouth, N.H.

8047–C1–P–70—General Telephone Co. of Wisconsin (New), C.P. for a new station to be located at 521 Fourth Street, Wausau, Wis. Frequencies: 11,245 and 11,485 MHz toward Rib Mountain, Wis.

8048–C1–P–70—General Telephone Co. of Wisconsin (New), C.P. for a new station to be located at 3 miles south-southwest of junction U.S. 51 and State Trunk Highway 29, Rib Mountain, Wis. Frequencies: 10,715 and 10,955 MHz toward Wausau, Wis., and 6034.2 and 6152.8 MHz toward Marshfield, Wis.

8049–C1–P–70—General Telephone Co. of Wisconsin (New), C.P. for a new station to be located at 201 South Cedar Avenue, Marshfield, Wis. Frequencies: 6256.5 and 6375.2 MHz toward Rib Mountain, Wis.

8050–C1–P–70—Indiana Bell Telephone Co. (KSJ45), C.P. to add frequencies 6286.2 and 6404.8 MHz toward Morgantown, Ind. Location: 240 North Meridian Street, Indianapolis, Ind.

8051–C1–P–70—Indiana Bell Telephone Co. (KTG60), C.P. to add frequencies 6034.2 and 6152.8 MHz toward New Unionville and 6034.2 and 6152.8 MHz toward Indianapolis, Ind. Location: 2.3 miles north-northeast of Morgantown, Ind.

8052–C1–P–70—Indiana Bell Telephone Co. (KTG61), C.P. to add frequencies 6286.2 and 6404.8 MHz toward Morgantown and Bloomington, Ind. Location: 1 mile southwest of New Unionville, Ind.

8053–C1–P–70—Indiana Bell Telephone Co. (KSL95), C.P. to add frequencies 6034.2 and 6152.8 MHz toward New Unionville, Ind. Location: 119 East Seventh Street, Bloomington, Ind.

8054–C1–P–70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 45 East Fifth Avenue, Afton, Wyo. Frequencies: 6041.6 and 6160.2 MHz toward various passive reflectors.

8055–C1–P–70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 7.8 miles west of Big Piney, Wyo. Frequencies: 6397.4 and 11,525 MHz toward Hogback Ridge, Wyo., and 6293.6 and 6412.2 MHz via passive reflectors.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

8056-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPS39), C.P. to add frequencies 6145.3 and 11,075 MHz toward Piney Creek, Wyo. Location: 7.5 miles northwest of La Barge, Wyo.

8057-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPS38), C.P. to add frequencies 6264.0 and 11,445 MHz toward White Mountain, Wyo. Location: 3.5 miles north-northeast of Kemmerer, Wyo.

8058-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPZ69), C.P. to add frequencies 6011.9 and 10,995 MHz toward Kemmerer Hill, Wyo., and 5937.8 and 11,115 MHz toward Rock Springs, Wyo., via passive reflector.

8059-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPZ70), C.P. to add frequencies 6189.8 and 11,565 MHz toward White Mountain, Wyo., via passive reflector. Location: Rock Springs, Wyo.

American Telephone & Telegraph Co., Five applications for C.P. for additional pair of Type TD-3 channels between Putnam Valley and Huntington, N.Y.

8069-C1-P-70—American Telephone & Telegraph Co. (KTQ67), Add frequency 3990 MHz toward South Salem, N.Y. Location: Putnam Valley, 3.9 miles east of Cold Spring, N.Y.

8070-C1-P-70—American Telephone & Telegraph Co. (KYS87), Add frequency 3950 MHz toward Putnam Valley, N.Y. Location: 1.4 miles southeast of South Salem, N.Y.

8071-C1-P-70—American Telephone & Telegraph Co. (KYS88), Add frequency 3990 MHz toward Roslyn Harbor, N.Y. Location: Intersection of Catoona and Mayno Lane, Stamford, Conn.

8072-C1-P-70—American Telephone & Telegraph Co. (KYS89), Add frequency 3950 MHz toward Stamford, Conn. Location: 0.1 mile northeast of Roslyn, N.Y. (Roslyn Harbor).

8076-C1-P-70—Western Carolina Telephone Co. (New), C.P. for a new station to be located at one-half block off Main Street across from Post Office, Robbinsville, N.C. Frequencies: 11,245 and 11,485 MHz toward Bald, N.C.

8077-C1-P-70—Western Carolina Telephone Co. (KIX53), C.P. to add frequencies 10,715 and 10,955 MHz toward Robbinsville, N.C. and 6256.54 and 6375.14 MHz toward Fontana Dam, N.C., via passive reflector.

8078-C1-P-70—Western Carolina Telephone Co. (New), C.P. for a new station to be located at 200 South of Fontana Village Resort Lodge, Fontana Dam, N.C. Frequencies: 6004.50 and 6123.10 MHz toward Teyahallee Bald, N.C., via passive reflector.

Correction

Report No. 493 dated May 25, 1970, on page 11: Delete: Major Amendments; Add: Corrections.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

4707-C1-P-70—American Microwave & Communications, Inc. (KQH75), C.P. to change frequencies from 5959.5, 6059.5, and 6176.5 MHz to 6278.8, 6338.1, and 6397.4 MHz toward Alpena, Mich., on azimuth 57°00' and change transmitting equipment. Transmitter location: Mount Tom, Mich.

7993-C1-P-70—Eastern Microwave, Inc. (New), C.P. for a new station to be located at Helderberg Mountain, 1.75 miles northwest of New Salem, N.Y. at latitude 42°38'12" N., longitude 73°59'45" W. Frequencies: 5960.0, 6019.3 and 6078.6 MHz on azimuth 21°02'. (Informative: Applicant proposes to provide the television signals of WPIX, WOR-TV, and WNEW-TV of New York City to General Electric Cablevision Corp. in Colonie, N.Y.)

7994-C1-P-70—American Microwave & Communications, Inc. (KSV63), C.P. to change frequencies from 6235.0, 6325.0, and 6415.0 MHz to 5982.3, 6041.6, and 6160.2 MHz toward Sault Ste. Marie and Kincheloe Air Force Base. Applicant also requests permission to change transmitters on the above frequencies to Raytheon, type KTR3A. Location: 4 miles east of Trout Lake on Rudyard Hiway, Mich., at latitude 46°11'09" N., longitude 84°56'49" W.

7995-C1-P-70—Microwave Communications Corp. (KNM54), C.P. to power split frequency 6375.2 MHz on azimuth 75°00'. Location: Mount Vaca, 8 miles northwest of Vacaville, Calif., at latitude 38°24'55" N., longitude 122°06'36" W.

(Informative: Applicant proposes to provide television signal of Sierra Microwave, Inc., at Freel Peak, Calif. This arrangement will replace the present off-the-air pickup of this signal at Freel Peak.)

Major Amendments

3705-C1-P-70—Western Tele-Communications, Inc. (New), Application amended to change frequency from 6241.7 MHz to 2128.4 MHz toward Baldy, Mont., on azimuth 103°49'. Other particulars same as reported on public notice dated Jan. 12, 1970.

4196-C1-P-70—Microwave Transmission Corp. (KVU78), Application amended to change point of communication to San Antonio Hill, Calif., latitude 34°50'30" N., longitude 120°-29'23" W., on azimuth of 305°58'.

4197-C1-P-70—Microwave Transmission Corp. (New), Application amended to (a) change station location to San Antonio Hill, Calif. (see above), and (b) change azimuth toward Mountain Lowel (Cuesta Peak), Calif., to 345°51'. Other particulars same as reported on public notice dated Sept. 2, 1969.

5422-C1-MP-70—Microwave Communications, Inc. (WAX64), Major amendment: Change frequencies to 6241.7 and 6360.3 MHz on azimuth 245°49' toward Downers Grove, Ill.

5426-C1-MP-70—Microwave Communications, Inc. (WAX68), Change frequencies to 6197.2 and 6315.9 MHz on azimuth 202°08' toward Bloomington, Ill.

5427-C1-MP-70—Microwave Communications, Inc. (WAX69), Change frequencies to 5945.2 and 6063.8 MHz on azimuth 22°02' toward Gridley, Ill. All other particulars, except for minor changes in antennas same as reported in public notice dated Mar. 30, 1970.

[F.R. Doc. 70-7295; Filed, June 10, 1970; 8:50 a.m.]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL BANCORPORATION, INC.

Order Disposing of Request for Permission To Appeal From Ruling on Motion To Intervene

In the matter of the applications of The First National Bancorporation, Inc., Denver, Colo., pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 for determinations as to Diversified Insurance, Inc., and Guaranty Insurors, Inc., proposed nonbank subsidiaries (Dockets Nos. BHC-100 and BHC-101).

Pursuant to an order of the Board, dated October 31, 1969, notice of which was published on November 7, 1969 (34 F.R. 18070), a hearing was held in Denver, Colo., on December 11, 1969, before a duly selected and designated hearing examiner, on applications filed by The First National Bancorporation, Inc., Denver, Colo., a registered bank holding company, for determinations that the insurance agency activities planned to be undertaken by its proposed subsidiaries, Diversified Insurance, Inc., and Guaranty Insurors, Inc., are of the kind described in section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. sec. 1843(c)(8)) and § 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)), so as to make it unnecessary for the prohibitions of section 4(a) of the Act (12 U.S.C. sec. 1843(a)), respecting the ownership or control of voting shares in nonbanking companies, to apply in order to carry out the purposes of the Act.

At the outset of the hearing, the National Association of Insurance Agents, Inc., the Colorado Insurors Association, Inc., and Mr. Jack Miller, doing business as the Jack Miller Agency ("Intervenors"), appeared by counsel and filed a motion, pursuant to § 263.10(a) of the Board's Rules of Practice for Formal Hearings (12 CFR 263.10(a)), requesting that the hearing examiner rule that they were entitled as of right to be admitted as parties to the proceeding. The merits of the motion were discussed with the hearing examiner and argued by counsel for the Intervenors, by counsel for The First National Bancorporation, Inc., and by Board counsel. Thereafter, and under circumstances described in the statement[1] that accompanies this order, the Intervenors withdrew from the hearing and, by counsel, filed with the Board, pursuant to § 263.10(e) of the Rules of Practice for Formal Hearings (12 CFR 263.10(e)), a request for special permission to appeal from the ruling of the hearing examiner which, it is averred,

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

denied their motion to be made parties to the proceeding.

For the reasons set forth in the statement that accompanies this order:

It is hereby ordered, That the request for special permission to appeal is granted, and that the hearing be reconvened, at a time and place to be determined by the hearing examiner, but as soon as practicable, for the purpose of affording the Intervenors an opportunity to renew their motion to be made parties, and for further proceedings not inconsistent with the Board's statement.

By order of the Board of Governors,[1] June 4, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-7267; Filed, June 10, 1970; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

CONSOLIDATED DOCK AND STORAGE CO. AND RETLA, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Agreement No. T-2420 between Consolidated Dock and Storage Co. (Consolidated) and Retla, Inc. (Retla) provides for Retla to operate and manage Consolidated's marine terminal at Wilmington, Calif. Retla will collect and pay to Consolidated all wharfage, dockage, wharf storage and other charges in accordance with Consolidated's marine terminal tariffs and will receive as compensation fifty percent (50%) of the gross annual profits earned.

Dated: June 5, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-7297; Filed, June 10, 1970; 8:50 a.m.]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Chairman Burns and Governor Brimmer.

[Independent Ocean Freight Forwarder License Nos. 865, 1240]

FREESLATE INTERNATIONAL CORP. AND BARNETT INTERNATIONAL FORWARDERS, INC.

Notice of Revocation and Transfer

By Order dated March 23, 1970, the Federal Maritime Commission approved FMC Agreement No. FF 70-2 concerning a merger between Freeslate International Corp. and Barnett International Forwarders, Inc.

Pursuant to the terms of the merger agreement, Freeslate International Corp. voluntarily relinquished its License No. 1240 for revocation, and Barnett International Forwarders, Inc. relinquished its License No. 865 for transfer to the surviving corporation, Barnett/Freeslate International Corp.

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,

Notice is hereby given that Independent Ocean Freight Forwarder License No. 1240 of Freeslate International Corp. has been revoked effective April 23, 1970; and that Independent Ocean Freight Forwarder License No. 865 of Barnett International Forwarders, Inc. has been transferred, on the same date, to Barnett/Freeslate International Corp.

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

[F.R. Doc. 70-7302; Filed, June 10, 1970; 8:50 a.m.]

[Docket No. 69-23]

GULF-PUERTO RICO LINES, INC.

General Increases in Rates; Supplemental Order of Investigation

By original order in this proceeding served May 9, 1969, the Commission entered into an investigation of a 10 percent general rate increase named on tariff publications listed therein. On May 11, 1970, Gulf-Puerto Rico Lines, Inc., respondent in this proceeding, filed with the Federal Maritime Commission, to become effective on June 10, 1970, 1st Revised Page 170, 2d Revised Page 268 and 1st Revised Page 269 to Tariff FMC-F No. 1 increasing the trailerload rates on beans and rice in bags and the any quantity rate on rice in inner containers.

Upon consideration of said schedules, and a protest thereto, filed by the Commonwealth of Puerto Rico, the Commission is of the opinion that the above designated increased rates should be included in the investigation in this proceeding to determine whether they are unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933, the investigation in this proceeding is hereby expanded to include an investigation into the lawfulness of the designated increased rates on beans and rice with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the new matter hereby placed under investigation is further changed, amended, or reissued, such changed, amended, or reissued matter will be included in this investigation.

It is further ordered, That (I) a copy of this order be forthwith served upon the respondent and protestant herein and published in the FEDERAL REGISTER; and (II) the said respondent and protestant be duly served with notice of time and place of the hearing.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-7301; Filed, June 10, 1970; 8:50 a.m.]

HELLENIC LINES, LTD. AND SEATRAIN LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United

States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joseph Hodgson, Jr., General Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J. 07020.

Agreement No. 9690–1 modifies the basic agreement which covers a through billing arrangement for the movement of general cargo from ports in Puerto Rico to ports of call of the destination carrier (Hellenic Lines, Ltd.) at:.

A. Ports in the Persian Gulf and adjacent waters west of Karachi and northwest of Aden, excluding both ports.

B. Red Sea and Gulf of Aden ports.

C. All ports on the Mediterranean Sea (except Spanish and Israeli ports) on the Sea of Marmara and the Black Sea, and on the Atlantic coast of Morocco.

with transshipment at the Port of New York, by amending Article 1 thereof to provide for additional ports of transshipment, namely: Baltimore, Md., Norfolk, Va., and Charleston, S.C.

Dated: June 8, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–7298; Filed, June 10, 1970; 8:50 a.m.]

HELLENIC LINES, LTD. AND SEATRAIN LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joseph Hodgson, Jr., General Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J. 07020.

Agreement No. 9754–1 modifies the basic agreement, which covers a through billing arrangement for the movement of general cargo from ports in India, Pakistan, East Africa and South Africa to Mayaguez, Ponce, and San Juan, Puerto Rico with transshipment at the Port of New York, by amending Article 1 thereof to provide for additional ports of transshipment, namely: Baltimore, Md., Norfolk, Va., and Charleston, S.C.

Dated: June 8, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–7299; Filed, June 10, 1970; 8:50 a.m.]

[Docket No. 70–3]

UNITED STEVEDORING CORP. AND BOSTON SHIPPING ASSOCIATION

Enlargement of Scope of Proceeding

Upon motion of United Stevedoring Corp. and without objection by the other parties,

It is ordered, That the scope of this proceeding is hereby enlarged to include the issue of whether the practices of the Boston Shipping Association in the allocation of stevedore gangs on the Boston piers result in violations of sections 16 and 17 of the Shipping Act, 1916.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–7300; Filed, June 10, 1970; 8:50 a.m.]

SMALL BUSINESS ADMINISTRATION

KANSAS INVESTMENT CORP., INC.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) for transfer of control of The Kansas Investment Corp., Inc. (Kic), 300 West Douglas, R. H. Garvey Building, Wichita, Kans. 67202, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), License No. 11/09–0005.

Kic was licensed on December 1, 1960. As of September 30, 1969, the paid-in capital and paid-in surplus from all sources totaled $350,000. All of its issued and outstanding shares are owned by Builders, Inc. The proposed transfer of control is subject to and contingent upon the approval of State and Federal regulatory agencies and SBA.

The proposed new officers and directors are as follows:

James W. Howard, Chairman and Director, 505 Lake Shore Drive, Chicago, Ill. 60611.

C. Paul Johnson, President and Director, 6060 North Berkeley Boulevard, Milwaukee, Wis. 53217.

Dennis T. Wollenzien, Executive Vice President and General Manager, 3933 North 79th Street, Milwaukee, Wis. 53222.

Gerald C. Specht, Director, 625 Greenleaf Avenue, Wilmette, Ill. 60091.

John E. Kirkpatrick, Director, 1617 Wadsworth Road, Wheaton, Ill. 60187.

The proposed new owner of Kic is Growth Capital, Inc., 505 North Lake Shore Drive, Chicago, Ill. 60611. James W. Howard owns 90 percent of Growth Capital, Inc., and Gerald Specht owns 6 percent of the stock.

Growth Capital, Inc., proposes to purchase all of the issued and outstanding common stock. The proposed new address is 222 East Erie Street, Milwaukee, Wis. 53202.

The new operating area of The Kansas Investment Corp., Inc., will be Wisconsin, Michigan, Minnesota, Iowa, Indiana, and Illinois.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners, and the probability of successful operations of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such communication should be addressed to Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A. H. SINGER,
Associate Administrator for Investment.

MAY 27, 1970.

[F.R. Doc. 70–7247; Filed, June 10, 1970; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70-1666 etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MAY 28, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 15, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-560	Rocanville Corp. (Operator) et al., 1126 Mecantile Securities Bldg., Dallas, Tex. 75201.	1	7	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	$1,902	5-11-70	[14] 6-11-70	Accepted—Subject to suspension in RI69-560	[13] 14.0	[4] [13] 15.0	
RI70-1666	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	215	21	El Paso Natural Gas Co. (Tip Top Field, Sublette County, Wyo.).	340,117	5-8-70	[2] 6-8-70	11-8-70	17.0	[3] [4] 19.646	RI70-414.
....do		198	11	Transcontinental Gas Pipe Line Co. (High Island Block 10, Offshore Jefferson County, Tex.) (RR. District No. 3).	149,264	5-8-70	[2] 7-1-70	12-1-70	16.05	[4] [5] 26.8137	
....do		43	16	Texas Eastern Transmission Corp. (East Provident City Field, Lajaca County, Tex.) (RR. District No. 2).	193	5-15-70	[2] 6-15-70	11-15-70	15.6	[3] [4] 16.6726	RI67-272.
....do		72	15	Texas Eastern Transmission Corp. (Karon Field, Live Oak County, Tex.) (RR. District No. 2).	289	5-15-70	[2] 6-15-70	11-15-70	14.3733	[4] [5] 14.9384	RI67-272.
....do		120	10	United Gas Pipe Line Co. (Pistol Ridge Field, Forrest and Pearl River Counties, Miss.).	1,290	5-15-70	[2] 6-15-70	11-15-70	[6] 20.0	[4] [5] 23.0	
....do		246	6	Panhandle Eastern Pipe Line Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	343	5-15-70	[2] 6-15-70	11-15-70	[6] 20.0	[4] [5] [7] 23.015	RI70-463.
RI70-1667	Mobile Oil Corp. (Operator) et al.	217	20	El Paso Natural Gas Co. (Hogsback Field, Lincoln and Sublette Counties, Wyo.).	231,710	5-8-70	[2] 6-8-70	11-8-70	17.0	[3] [4] 19.646	RI70-415.
....do		232	14	Transwestern Pipeline Co. (Ellis County Area, Ellis County, Okla.) (Panhandle Area).	43,627	5-8-70	[2] 6-8-70	11-8-70	[10] 20.0	[10] 26.0175	RI70-464.
....do		239	15	Transwestern Pipeline Co. (Feldman Field, Hemphill County, Tex.) (RR. District No. 10).	104,608	5-8-70	[2] 6-8-70	11-8-70	[10] 19.5461	[3] [4] [10] 26.0882	RI70-284.
....do		240	12	Transwestern Pipeline Co. (West Shattuck Field, Ellis County, Okla.) (Panhandle Area).	10,049	5-8-70	[2] 6-8-70	11-8-70	[10] 20.0	[4] [5] [10] 26.0175	RI70-464.
....do		250	4	Texas Gas Transmission Corp. (East Blackburn Field, Claiborne Parish, La.) (North Louisiana Area).	300	5-15-70	[2] 6-15-70	11-15-70	[10] [11] 18.25 [10] [11] 17.375	[4] [5] [10] 19.75 [4] [5] [10] 18.875	
RI70-1668	Phillips Petroleum Co. (operator), Bartlesville, Okla. 74004.	18	[12] 60	Northern Natural Gas Co. (Benedum Plant, Upton County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	52,906	5-8-70	[14] 6-8-70	11-8-70	14.0853	[4] [15] 16.4492	RI70-403.
....do		18	[12] 61	Northern Natural Gas Co. (Andrews Plant, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	233,435 4,247	5-8-70	[14] 6-8-70	11-8-70	[16] 14.0853 [17] 15.1622	[4] [15] [16] 16.4492 [4] [15] [17] 16.4492	RI70-403. RI70-403.
....do		18	[12] 62	Northern Natural Gas Co. (Spraberry Plant, Midland County, Tex.) (RR. District No. 8) (Permian Basin Area).	99,284 2,370	5-8-70	[14] 6-8-70	11-8-70	[16] 14.0853 [17] 14.1256	[4] [15] [16] 16.4492 [4] [15] [17] 16.4492	RI70-403. RI70-403.
RI70-1669	Glen A. Martin et al., 1520 N.B.C. Bldg., San Antonio, Tex. 78205.	2	5	South Texas Natural Gas Gathering Co. (Glen Martin Field, Webb County, Tex.) (RR. District No. 4).	14,724	5-14-70	[2] 6-14-70	11-14-70	[20] [21] 15.0	[4] [5] 18.0675	
RI70-1670	Pan American Petroleum Corp., Post Office Box 1410, Fort Worth, Tex. 76101.	355	[12] 12	Northern Natural Gas Co. (Various Fields, Beaver County, Okla.) (Panhandle Area).	833	5-1-70	[2] 6-1-70	11-1-70	[22] [23] 17.0 [22] [24] 17.0	[4] [5] [23] [25] 18.06750 [4] [5] [23] [24] 18.01556	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1671	Oklahoma Natural Gas Co., Post Office Box 871, Tulsa, Okla. 74102.	30	2	Northern Natural Gas Co. (North Linscott Field, Grant County, Okla.) (Oklahoma "Other" Area).	$106	5- 8-70	[1] 6- 8-70	11- 8-70	[2] 17.015	[3] [4] 18.015	RI68-22.
RI70-1672	White Shield Oil & Gas Corp., Post Office Box 2139, Tulsa, Okla. 74101.	7	2	Northern Natural Gas Co. (Hansford Field, Hansford County, Tex.) (RR. District No. 10).	1,863	5-12-70	[5] 6-12-70	11-12-70	[6] 16.5	[3] [6] 18.57	
RI70-1673	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	352	1	Panhandle Eastern Pipe Line Co. (Guymon Southeast Field, Texas County, Okla.) (Panhandle Area).	20	5- 8-70	[5] 6- 8-70	11- 8-70	17.0	[3] 18.0	
	do	256	4	Panhandle Eastern Pipe Line Co. (Hugoton Field, Stevens County, Kans.).	30	5- 8-70	[5] 6-23-70	11-23-70	12.0025	[3] 13.0025	RI67-213.
RI70-1674	Signal Oil Co. (Operator), 1010 Wilshire Blvd., Los Angeles, Calif. 90017.	28	3	Michigan Wisconsin Pipe Line Co. (Lovedale Field, Woods County, Okla.) (Oklahoma "Other" Area).	63,900	5-11-70	[11] 6-11-70	11-11-70	[8] 15.0	[3] [9] 17.0	
RI70-1675	McCommons Oil Co. et al., 1001 Mercantile Securities Bldg., Dallas, Tex. 75201.	1	6	Natural Gas Pipeline Co. of America (Boonsville Bend Conglomerate Field, Wise County, Tex.).	24,648	[12] 5- 6-70	[11] 6- 6-70	11- 6-70	[13] 16.663	[3] [13] 17.690	RI68-243.
RI70-1676	McCommons Oil Co. (Operator) et al.	2	5	Natural Gas Pipeline Co. of America (Boonsville Bend Conglomerate Field, Wise County, Tex.) (RR. District No. 9).	14,789	[12] 5- 6-70	[11] 6- 6-70	11- 6-70	[13] 16.663	[3] [13] 17.690	RI69-131.
RI70-1677	Anadarko Production Co., Post Office Box 9317, Fort Worth, Tex. 76107.	30	3	Natural Gas Pipeline Co. of America (Brillhart Upper Morrow Field, Hansford County, Tex.) (RR. District No. 10).	10,038	5-18-70	[5] 6-18-70	11-18-70	17.06375	[3] 19.07125	RI70-572.
RI70-1678	J. Cleo Thompson et al., 4500 Republic National Bank Tower, Dallas, Tex. 75201.	[14]	[14]	El Paso Natural Gas Co. (Detrital Field, Crane County, Tex.) (RR. District No. 8) (Permian Basin Area).	504	5- 7-70	[11] 6- 7-70	11- 7-70	16.50	[3] 17.60	

[1] The stated effective date is the effective date requested by respondent.
[2] Increase to contract rate.
[3] Pressure base is 15.025 p.s.i.a.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] Contractually due rate is 27.5 cents at 15.025 p.s.i.a.
[7] Settlement rate.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Subject to a downward B.t.u. adjustment.
[10] High pressure gas (includes 1.75-cent tax reimbursement).
[11] Low pressure gas (includes 0.875-cent tax reimbursement).
[12] Includes letter from buyer agreeing to the filing of the unilateral redetermination.
[13] The stated effective date is the first day after expiration of the statutory notice.
[14] Redetermination rate increase.
[15] Residue gas not derived from new gas-well gas.
[16] Residue gas derived from new gas-well gas.
[17] Increase reflects 1-cent minimum guarantee for liquids.
[18] Rate suspended in Docket No. RI60-560 until Aug. 6, 1969, but not put in effect.
[19] Increase to 15.0563-cent (tax reimbursement increase) suspended for 1 day from Apr. 20, 1970, in Docket No. RI70-1635.
[20] Proposed rate of 16 cents suspended in Docket No. RI65-315 but not yet made effective subject to refund.
[21] For acreage dedicated to contract by Supplement Nos. 3 and 4.
[22] Texas production.
[23] Oklahoma production.
[24] Filing from initial certificated rate to initial contract rate.
[25] Filing completed by correction letter submitted on May 11, 1970.
[26] Includes base rate of 17 cents before increase and 18 cents plus upward B.t.u. adjustment and 0.25-cent dehydration charge paid by buyer and applicable tax reimbursement. Base rate subject to upward and downward B.t.u. adjustment.
[27] No rate schedule on file. Respondent issued a small producer certificate in Docket No. CS67-24. Sale relates to contract dated Oct. 13, 1967.

Phillips Petroleum Co. (Operator) requests that its proposed rate increases be permitted to become effective as of May 8, 1970. Oklahoma Natural Gas Co. requests an effective date of June 1, 1970. Signal Oil Co. (Operator) requests waiver of the notice requirement to permit its rate increase to become effective as of June 1, 1970. Texaco, Inc., requests an effective date of June 2, 1970, for Supplement No. 1 to its FPC Gas Rate Schedule No. 352, McCommons Oil Co. (Operator) and McCommons Oil Co. (Operator) et al., request a retroactive effective date of December 27, 1969, for their proposed rate increases. J. Cleo Thompson et al., request waiver of the notice requirement to permit an effective date of May 7, 1970, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

The proposed rate increase filed by Rocanville Corp. (Operator) et al. (Rocanville), from 14 cents to 15 cents per Mcf, reflects the 1-cent minimum guaranteed payments for liquids. Rocanville filed on February 2, 1969, for a rate increase from 13 cents (reported as 14 cents inclusive of the 1-cent liquid payment) to 14 cents (exclusive of the liquid payment) which was suspended in Docket No. RI69-560 until August 6, 1969, and thereafter until made effective as prescribed by the Natural Gas Act. The proposed rate has not yet been placed in effect subject to refund. The instant increase is filed to correct the former increase by including the liquid payment which Rocanville states it had inadvertently omitted. Rocanville requests an effective date of August 6, 1969. Since the previously proposed rate is still under suspension, there is no justification for granting Rocanville's request. However, we shall accept the rate increase involved here subject to the same suspension period applicable to the previously proposed rate. If Rocanville wishes to place the rate increase involved into effect, subject to refund, it should file a motion to that effect in Docket No. RI69-560 as required by section 4(e) of the Natural Gas Act.

Phillips Petroleum Corp. (Operator) (Phillips) proposes redetermined rate increases to 16.31 cents plus applicable tax reimbursement for sales of gas to Northern Natural Gas Co. (Northern) from gasoline plants located in the Permian Basin Area of Texas. The proposed increases are, in effect, unilateral redetermined increases since Northern has never determined a new price. Northern states in its letter of January 30, 1967, which accompanied the proposed increases, that it has no objection if Phillips proceeds to file for increased rates to 16.31 cents per Mcf but that if a later investigation by Northern shows the prices should be lower than 16.31 cents then Phillips would file new rate changes to the finally determined price. We conclude that Phillips' proposed rate increases should be suspended for 5 months from June 8, 1970, the expiration date of the statutory notice.

The proposed rate increase filed by J. Cleo Thompson et al. (Thompson), a holder of a small producer certificate for a sale in the Permian Basin Area [28] exceeds the rate ceilings as set forth in section 157.40(b) of the Commission's regulations for sales under small producer certificates and should be suspended for 5 months from June 7, 1970, the expiration date of the statutory notice.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, § 2.56).

[F.R. Doc. 70-7193; Filed, June 10, 1970; 8:45 a.m.]

[28] Producers operating under small producer certificates are permitted to file above-ceiling rate increases in the Permian Basin Area without submitting rate schedules as a result of Order No. 394 issued Jan. 6, 1970. Where the words "supplements" or "rate schedules" appear in this order, they refer to the notice of change in rate filed by the small producer herein.

[Docket No. RI70-1225 etc.]

ADOBE OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Adobe Oil Co., Docket No. RI70-1225 et al.; Fluor Corp., Docket No. RI70-1266.

In the order providing for hearings on and suspension of proposed changes in rates, issued February 27, 1970, and published in the FEDERAL REGISTER March 11, 1970, 35 F.R. 4337, Appendix "A", under section provided for footnotes: In footnote 10 change "January 28, 1952" to read "January 1, 1950". In footnote 13 change "July 30, 1951" to read "September 15, 1949".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7229; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. RI70-1420 etc.]

AUSTRAL OIL CO., INC., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Austral Oil Co., Inc., Docket No. RI70-1420 et al.; Coastal States Gas Producing Co., Docket No. RI70-1424.

In the order providing for hearings on and suspension of proposed changes in rates, issued March 26, 1970, and published in the FEDERAL REGISTER April 2, 1970, 35 F.R. 5505, Appendix "A", Docket No. RI70-1424, Coastal States Gas Producing Co. (Opposite Rate Schedule No. 68) under column headed "Proposed Increased Rate" change "25.0" to read "27.256". (Opposite Rate Schedule No. 69) under column headed "Proposed Increased Rate" change "25.0" to read "27.256".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7230; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. RI70-1476 etc.]

CONTINENTAL OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Continental Oil Co., Docket No. RI70-1476 et al.; Gulf Oil Corp., Docket No. RI70-1480.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued April 8, 1970, and published in the FEDERAL REGISTER April 17, 1970, Appendix "A", Docket No. RI70-1480, Gulf Oil Corp.: Under column headed "Supp. No." change "1 to 6" to read "2 to 6".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7231; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. E-7002]

DEPARTMENT OF THE INTERIOR AND SOUTHEASTERN POWER ADMINISTRATION

Notice of Request for Approval of Rate Schedules

JUNE 4, 1970.

Notice is hereby given that the Secretary of the Interior, on behalf of Southeastern Power Administration (SEPA), has filed with the Federal Power Commission, pursuant to the Flood Control Act of 1944 (58 Stat. 887), a request in the above-entitled proceeding for confirmation and approval of new and revised wholesale power rate schedules applicable to the sale of electric power and energy generated at the John H. Kerr and Philpott Projects (Projects) located on the Roanoke and Smith Rivers, respectively, in the southern part of the State of Virginia. Approval by the Commission of the rates and charges currently applicable to the wholesale sale of such power and energy expires June 30, 1970, in accordance with the Commission's order issued June 23, 1965, in Docket No. E-7002 (33 FPC 1284). Approval of the new and revised rate schedules is requested for a 5-year period beginning July 1, 1970, and ending June 30, 1975.

The proposed wholesale power rate schedules provide for the rates and charges set forth below.

(1) *Wholesale Firm Power Rate Schedule KP-1 (Revised).* This rate schedule shall be available to public bodies and cooperatives within a 150-mile radius of the John H. Kerr Project purchasing power generated at the Projects and served through the facilities of Virginia Electric and Power Co. (VEPCO). The rate schedule shall be applicable to firm power and accompanying energy purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each customer's system consisting of one or more delivery points. The power purchased from the Philpott Project shall be considered to come from the John H. Kerr Project. Any proposed new delivery point shall have a monthly maximum demand during the year which will equal or exceed 100 kilowatts. The monthly demand charge is $1.10 per kilowatt of billing demand; the energy charge is 4.25 mills per kilowatt-hour. The minimum bill shall be the demand charge.

(2) *Wholesale Dump Energy Rate Schedule KP-2 (Revised).* This rate schedule shall be available to VEPCO and to Carolina Power and Light Co. (CP&L). The rate schedule shall be applicable to fuel replacement energy generated at the Projects and sold under appropriate contracts between SEPA and VEPCO and SEPA and CP&L. The monthly energy charge is an amount equal to eighty percent (80%) of the calculated saving in the cost of fuel for the purchasing company's operating generating units due to generation avoided therein by the delivery of such dump energy.

(3) *Wholesale Firm Power Rate Schedule KP-3.* This rate schedule shall be available to VEPCO. The rate schedule shall be applicable to electric capacity and energy generated at the Projects and sold under contract between SEPA and VEPCO. The monthly demand charge is (a) $1.10 per kilowatt for dependable capacity made available to VEPCO for its own use; (b) $17,361.15 for nondependable capacity made available to VEPCO by contract at the John H. Kerr Project, subject to certain adjustments; and (c) $1,041.67 for nondependable capacity made available to VEPCO by contract at the Philpott Project subject to certain adjustments. The energy charge is $4.25 mills per kilowatt-hour for energy declared for 60 weekly peak period hours specified by contract.

(4) *Wholesale Firm Power Rate Schedule JHK-1 (Revised).* This rate schedule shall be available to public bodies and cooperatives within a 165-mile radius of the John H. Kerr Project purchasing power generated at that project and served through the facilities of CP&L. The rate schedule shall be applicable to firm power and accompanying energy purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each customer's system consisting of one or more delivery points. The monthly demand charge is $1.10 per kilowatt of billing demand; the energy charge is 4.25 mills per kilowatt hour. The minimum bill shall be the demand charge.

(5) *Wholesale Firm Power Rate Schedule JHK-2.* This rate schedule shall be available to CP&L. The rate schedule shall be applicable to electric capacity and energy generated at the John H. Kerr Project and sold under contract between SEPA and CP&L. The monthly demand charge is (a) $1.10 per kilowatt for dependable capacity made available to CP&L for its own use; and (b) $8,680.57 for nondependable capacity made available to CP&L by contract, subject to certain adjustments. The energy charge is 4.25 mills per kilowatt-hour for energy declared up to a weekly rate of 60 kilowatt-hours for each kilowatt of total capacity available for scheduling by CP&L.

Proposed Wholesale Firm Power Rate Schedules KP-1 (Revised) and JHK-1 (Revised) reflect changes in the rate for dependable capacity and the rate for energy in SEPA's rate schedules currently available to public bodies and cooperatives on the transmission systems of VEPCO and CP&L. The monthly rate per kw. for capacity has been increased from $0.90 to $1.10 and the energy rate per kw.-hr. has been reduced from 4.5 mills to 4.25 mills. Proposed Wholesale Firm Power Rate Schedules KP-3 and JHK-2 covering the sales of capacity and energy to VEPCO and CP&L, respectively, reflect similar rate changes to $1.10 per month for dependable capacity and to 4.25 mills per kw.-hr. for energy generated during peak period hours. Furthermore, the rates and charges for nondependable capacity sold by SEPA to VEPCO and CP&L have been increased with the result that an annual total

payment of $325,000 is anticipated instead of $195,000 provided for under the currently effective rate schedules. Proposed Wholesale Dump Energy Rate Schedule KP–2 (Revised) does not make any changes in the currently approved rate for dump energy available to VEPCO and CP&L.

The rate schedules listed above, together with a repayment study supporting the rates and charges proposed therein, are on file with the Commission for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to the proposed rate schedules should submit the same in writing on or before June 25, 1970, to the Federal Power Commission, Washington, D.C. 20426.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–7239; Filed, June 10, 1970; 8:46 a.m.]

[Docket No. RI70–1079 etc.]

FOREST OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Forest Oil Corp. (Operator) et al., Docket No. RI70–1079 et al.; Sun Oil Co., Docket No. RI70–1080.

In the order providing for hearings on and suspension of proposed changes in rates, issued January 21, 1970, and published in the FEDERAL REGISTER January 29, 1970, 35 F.R. 1185, Appendix "A", Docket No. RI70–1080, Sun Oil Co.: Under column headed "Effective Date Unless Suspended" change "2–1–70" to read "3–1–70". Under column headed "Date Suspended Until" change "7–1–70" to read "8–1–70".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–7232; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. RI70–1386 etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Mobil Oil Corp., Docket No. RI70–1386 et al.; Mobil Oil Corp. (Operator), Docket No. RI70–1388.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued March 20, 1970, and published in the FEDERAL REGISTER, March 31, 1970, 35 F.R. 5369, Appendix "A", Docket No. RI70–1388, Mobil Oil Corp. (Operator) under column headed "Supp. No." change "20" to read "14".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–7233; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. R170–1562 etc.]

PAN AMERICAN PETROLEUM CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Pan American Petroleum Corp. (Operator) et al., Docket No. RI70–1562 et al.; Gulf Oil Corp., Docket No. R170–1566.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued May 1, 1970, and published in the FEDERAL REGISTER, May 9, 1970, 35 F.R. 7325, Appendix "A", Docket No. RI70–1566, Gulf Oil Corp.: Under Column headed "Respondent" change "Gulf Oil Co." to read "Gulf Oil Corp."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–7234; Filed, June 10, 1970; 8:45 a.m.]

[Docket No. CS70–37 etc.]

PETROLEUM CORPORATION OF TEXAS

Findings and Order

JUNE 3, 1970.

Findings and order after statutory hearing issuing certificate of public convenience and necessity, amending order issuing certificate, terminating certificates, canceling FPC Gas Rate Schedules, and redesignating FPC Gas Rate Schedule.

On March 16, 1970, Petroleum Corporation of Texas (Applicant) filed in Docket No. CS79–37 an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a small producer certificate of public convenience and necessity authorizing sales of natural gas in interstate commerce from areas for which just and reasonable rates have been established.

Applicant is making sales pursuant to a certificate issued in Docket No. G–16768. The certificate therein will be amended by substituting Atlantic Richfield Co. as certificate holder since the 50 percent working interest of Atlantic Richfield Co. covered thereunder cannot be covered by applicant's small producer certificate. Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedule No. 22 will be redesignated Atlantic Richfield Co. FPC Gas Rate Schedule No. 633.

Applicant is currently making sales from the Permian Basin authorized in Docket No. G–20374 pursuant to Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedule No. 23; Docket No. CI61–1157 pursuant to Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedules Nos. 24, 25, 26, 27, 28, and 29; and Docket No. CI65–516 pursuant to Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedule No. 30. Said certificates will be terminated and the related FPC gas rate schedules canceled. Applicant had been collecting revenues subject to refund in Docket No. RI60–13 for sales made pursuant to its FPC Gas Rate Schedules Nos. 28 and 29. Termination of the certificate and cancelation of the related FPC gas rate schedules herein do not relieve applicant from its refund obligation.

The Commission's staff has reviewed the application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

Due notice of the application was given by publication in the FEDERAL REGISTER on April 25, 1970 (35 F.R. 6682). No petition to intervene, notice of intervention, or protest to the granting of the application has been received.

At a hearing held on May 28, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the application herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicant will be subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Applicant is an independent producer of natural gas who is not affiliated with natural gas pipeline companies and whose total jurisdictional sales on a nationwide basis together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and a small producer certificate of public convenience and necessity should be issued to Applicant as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicant for sales of natural gas from areas for which just and reasonable rates have been established, which sales will be continued under the small producer certificate issued hereinafter, should be terminated except in Docket No. G–16768 and the

related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate in Docket No. G-16768 should be amended as hereinafter ordered and that the related rate schedule should be redesignated.

The Commission orders:

(A) A small producer certificate of public convenience and necessity is issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicant from areas for which just and reasonable rates have been established, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) The certificate granted in paragraph (A) above is not transferable and shall be effective only so long as applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificate shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicant shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificate granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificate because applicant no longer qualifies as a small producer or fails to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificate. Upon such termination applicant will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificate will still be effective as to those sales already included thereunder.

(D) The grant of the certificate in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicant. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificate aforesaid for service to the particular customers involved shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificate aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificate.

(E) The certificates heretofore issued in Dockets Nos. G-20374, CI61-1157, and CI65-516 are terminated and Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedules Nos. 23, 24, 25, 26, 27, 28, 29, and 30 are canceled.

(F) The termination of the certificate in Docket No. CI61-1157 and the cancellation of the related FPC gas rate schedules do not relieve applicant from its refund obligation in Docket No. RI60-13.

(G) The order issuing a certificate in Docket No. G-16768 is amended by substituting Atlantic Richfield Co. as certificate holder in lieu of Petroleum Corporation of Texas (Operator) et al., and Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedule No. 22 is redesignated as Atlantic Richfield Co. FPC Gas Rate Schedule No. 633; and in all other respects said order shall remain in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-7236; Filed, June 10, 1970; 8:46 a.m.]

[Docket No. RI70-1679 etc.]

PLACID OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JUNE 3, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure [18 CFR 1.8 and 1.37(f)] on or before July 22, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

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[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1679..	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75202.	44	[1] 3	Michigan Wisconsin Pipe Line Co. (Ship Shoal Area, Offshore Louisiana) (Federal Domain).	$11,635	5-13-70	[2] 6-13-70	[3] 6-14-70	[4] 19.5	[5] 20.0	
RI70-1680..	Hunt Industries, 1401 Elm St., Dallas, Tex. 75202.	8	[1] 4	do	1,424	5-14-70	[2] 6-14-70	[3] 6-15-70	[6] 19.5	[5] 20.0	
RI70-1681..	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	66	[1] 3	do	11,635	5-15-70	[2] 6-15-70	[3] 6-16-70	[7] 19.5	[5] 20.0	

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The suspension period is limited to 1 day.
[4] Pursuant to Opinion No. 546-A base on the rate levels established in Opinion No. 567.
[5] Pressure base is 15.025 p.s.i.a.
[6] Initial rate as conditioned by temporary certificate issued May 3, 1968, in Docket No. CI68-936.
[7] Applies only to gas well gas sales from the newly discovered reservoirs.
[8] Documents required by Opinion No. 567 establishing newly discovered reservoirs filed Apr. 1, 1970 is incorporated by reference.
[9] Initial rate as conditioned by temporary certificate issued May 3, 1968, in Docket No. CI68-928.
[10] Initial rate as conditioned by temporary certificate issued May 3, 1968, in Docket No. CI68-929.
[11] Documents previously submitted by Placid Oil Co. on Apr. 1, 1970 as Operator incorporated by reference.

Hunt Oil Co., Hunt Industries and Placid Oil Co. (all referred to herein as the Hunt Entities) request waiver of the statutory notice to permit an effective date of November 1, 1969, for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

The Hunt Entities are proposing increases pursuant to paragraph (A) of opinion No. 546-A with respect to gas well gas determined in accordance with opinion No. 567 to qualify for third vintage prices. Opinion No. 546-A lifted the moratorium imposed in opinion No. 546 as to sales of offshore gas well gas under contracts entitled to third vintage prices and permitted such producers to file for contractually authorized increases up to the 20-cent area base rate established in opinion No. 546 for onshore gas. The proposed increases are from initial rates under temporary certificates which contained a condition (2) provision prohibiting changes in the initial rate. Consistent with prior Commission action on similar filings, we believe that the condition (2) provision with respect to the Hunt Entities' rate increases should be waived, and Hunt Entities' proposed increases should be suspended for 1 day upon expiration of the statutory notice. Thereafter, the proposed rates may be placed in effect subject to refund under the provisions of section 4(e) of the Natural Gas Act pending the outcome of the area rate proceeding instituted in Docket No. AR69-1.

[F.R. Doc. 70-7237; Filed, June 10, 1970; 8:46 a.m.]

[Docket No. RI70-441 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

MAY 28, 1970.

Sun Oil Co. Docket No. RI70-441 et al.; George H. Coates, Docket No. RI70-443.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued November 7, 1969, and published in the FEDERAL REGISTER November 18, 1969, 34 F.R. 18402, Appendix "A", Docket No. RI70-443, George Coates: (Opposite Rate Schedules Nos. 5, 6, and 7) under column headed "Proposed Increased Rate" change "15.0563 cents" to read "15.05625 cents" under each rate schedule.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7235; Filed, June 10, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4516]

CONSOLIDATED OIL AND GAS, INC.

Order Suspending Trading

JUNE 5, 1970.

The common stock, 20 cents par value, of Consolidated Oil and Gas, Inc., being listed and registered on the American Stock Exchange and the Pacific Coast Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Consolidated Oil and Gas, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 7, 1970, through June 9, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-7249; Filed, June 10, 1970; 8:47 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 4, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, 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 June 5, 1970, through June 14, 1970 both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-7275; Filed, June 10, 1970; 8:48 a.m.]

[70-4889]

GULF POWER CO.

Notice of Proposed Issue and Sale of Bonds at Competitive Bidding

JUNE 5, 1970.

Notice is hereby given that Gulf Power Co. ("Gulf"), 75 North Pace Boulevard, Pensacola, Fla. 32502, an electric utility subsidiary company of The Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $16 million principal amount of First Mortgage Bonds, ____ percent Series due _____. The proposed series of bonds will bear a single maturity date within the range of 5 to 30 years, such maturity date to be determined not less than 72 hours prior to the opening of the bids. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Gulf (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the provisions of the Indenture dated as of September 1, 1941, between Gulf and The Chase Manhattan Bank (National Association) and The Citizens & Peoples National Bank of Pensacola, as Trustees, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be dated as of July 1, 1970. It is provided that the bonds will not be refunded prior to July 1, 1975, directly or indirectly, with funds borrowed at a lower interest cost.

The net proceeds received from the issue and sale of the bonds will be used by Gulf (1) to finance, in part, its 1970 construction program estimated at $21,292,000, (2) to pay outstanding short-term notes incurred for construction purposes, and (3) for other corporate purposes. Gulf estimates that it will not be necessary to sell any additional securities in 1970 for construction purposes except for short-term notes estimated to be outstanding in the amount of $1 million on December 31, 1970.

The Florida Public Service Commission has authorized the proposed issue and sale of the bonds. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than June 26, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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. 70-7250; Filed, June 10, 1970; 8:47 a.m.]

[812-2637]

ISI TRUST FUND

Notice of Filing of Application for Order Exempting Certain Transactions

JUNE 2, 1970.

Notice is hereby given that ISI Trust Fund ("Applicant", formerly named Insurance Securities Trust Fund), 100 California Street, San Francisco, Calif. 94120, a California trust registered under the Investment Company Act of 1940 ("Act") as an open-end diversified investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of sections 15 (a), (b), and (c), and 18(i), certain proposed revisions to the voting rights, investment advisory fee, and sales load arrangements of applicant, occasioned by a proposal by applicant to issue permanent share-type securities ("Trust Fund Shares") and cease issuing 10-year Participating Agreements. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Since its organization in 1938, Applicant has issued Participating Agreements as its form of investment security. Participating Agreements are securities which terminate ten years after the date of their issuance. Because of their fixed duration, the management, administration, and trustee fees to be paid by the investor are specified for the full ten-year period in accordance with the terms of the Trust Agreement of applicant. These fees are based generally on the amount which an investor agrees to pay when he procures a Participating Agreement.

On December 11, 1969, investors in the Trust Fund approved certain amendments to the Trust Agreement; the ultimate effect of the amendments will be that applicant will not issue any further Participating Agreements and will thereafter issue instead a new, permanent share-type form of security to be called Trust Fund Shares. After the date on which this occurs, which depends on the effective date of the Securities Act Registration Statement (File No. 2-36552) and its qualification for sale in California, present holders of Participating Agreements may retain these securities for their full 10-year term with no changes or alteration in any of their features, and in addition will have certain rights to convert them prior to maturity into, or to use their proceeds to purchase after maturity, the new Trust Fund Shares at reduced sales load or without load.

Under the amendments to the Trust Agreement, the holders of either Trust Fund Shares or participating agreements will not have, as a class, separate interests in any of the specific assets of Applicant. Each individual investor will have an undivided proportionate interest in the assets of applicant. Neither the Trust Fund Shares nor the Participating Agreements, collectively or individually, will have any priority with respect to the net assets, the distribution of net capital gains, or net ordinary income of applicant. No holder of either security will have preference on voluntary redemption or upon the termination of his interest, or upon liquidation of applicant. Each will be entitled to receive, without preference, the value of his securities, whether Trust Fund Shares or Participating Agreements, upon such redemption, termination, or liquidation. The applicant has filed its application as amended pursuant to section 6(c) with respect to two aspects of its proposed creation of Trust Fund Shares: (1) The respective voting rights of holders of Participating Agreements and Trust Fund Shares; and (2) the basis of charging investment advisory fees.

The amendments to the Trust Agreement provide that holders of Trust Fund Shares and Participating Agreements be allocated voting rights in proportion to their individual interests in the assets of applicant. The amendments provide that except to the extent otherwise provided by law or by order of the Commission, investors shall vote without differentiation as to class. However, the Board of Directors is authorized to apply for an order of exemption under the Act to the end that, and to the extent provided by such order (a) only Participating Agreement investors shall be entitled to vote on matters which affect only Participating investors; and (b) only Trust Fund Shares investors shall be entitled to vote on matters which affect only Trust Fund Share investors.

Pursuant to this provision, the applicant requests an order which will permit voting only by the class affected in certain described circumstances. More particularly, the requested order will provide that the approval, continuance by security holder vote, or amendment of contract which will define the charges to be made for investment advisory services against the accounts of the holders of Trust Fund Shares is to be by a class vote of the holders of those securities only. (However, any vote as to the continuance of the investment advisory contract as such, or as to the termination of the contract, since there is only to be one adviser and since there is no segregation of assets as between Trust Fund Share investors and Participating Agreement investors, is to be by a general vote of all investors in the Fund.) Any vote of

security holders with respect to the agreement whereby a principal underwriter serves as such with respect to Trust Fund Shares, is to be by the Trust Fund Share investors exclusively, voting as a class. In the future, when ISI Trust Fund seeks to amend the Trust Agreement in a manner which affects only Trust Fund Share investors, or affects only Participating Agreement investors and is not within the areas where an exemption has already been obtained and the proposed amendment is to be voted upon only by the class affected, the applicant intends to apply to the Commission for an order permitting such a class vote.

With respect to the investment advisory agreement, the amendments to the Trust Agreement authorize the Board of Directors of applicant to enter into a contract with an investment adviser to prescribe the basis of charges to the account of Trust Fund Share investors for investment advisory services. The initial contract is with ISI Corp., which has been the investment adviser of applicant since its formation in 1938. This contract, by its terms, does not become effective until a registration statement with respect to Trust Fund Shares has become effective and the shares are qualified for sale in California. Applicant has undertaken to submit this contract to Trust Fund Share investors at the first annual meeting subsequent to the effectiveness of the registration statement as to Trust Fund Shares. The contract is similar to typical investment advisory agreements for open-end management companies. The agreement prescribes the basis of charges to be made against the interests of the holders of Trust Fund Shares for investment advisory services, and specifies those services of which the fee will be inclusive. The fee is based on a percentage of the varying value of the assets in the Fund attributable to the holders of Trust Fund Shares, and the percentage decline as specified dollar amounts of such assets so attributable to the interests of the holders of Trust Fund Shares are reached. This agreement pertains only to the Trust Fund Share investors, since, as discussed above, the remuneration for ISI Corp. as investment adviser to be charged against the interest of the holders of the Participating Agreements, and the services to be included in such charges, are specified and fixed for their 10-year term under provisions contained in the Trust Agreement.

Thus, the proposal is that all investors would be entitled to vote on the choice, continuation, or termination of the investment adviser, but only Trust Fund Share investors would vote, in those cases where a vote of security holders is required, on the compensation of the adviser for services to be charged against the holders of Trust Fund Shares. Applicant recognizes that this arrangement will occasion, during the transition period when there are outstanding both Trust Fund Shares and Participating Agreements, an unusual situation whereby two groups of investors with an undifferentiated interest in the same pool of assets will pay compensation to the same investment adviser on different bases.

Applicant asserts that the proposed voting rights described above are consistent with the policy of the Act and the protection of investors in that it provides for joint action of all investors on questions of common concern while preventing one group of investors from affecting the decision on the rights of another group in matters of exclusive concern. Applicant also contends that the arrangements under which the two classes of investors in the Trust Fund will be charged on different bases for investment advisory services is consistent with the policy of the Act and the protection of investors, inasmuch as it maintains the contractual arrangements with the Participating Agreement investors, while providing a basis of charges to the Trust Fund Share investors which is more conventional in nature. Applicant requests an order of exemption from section 18(i) of the Act in order to permit the class voting arrangements referred to above, and from sections 15 (a), (b), and (c) of the Act, to the extent that any investment advisory contract or underwriting contract approved by such a class vote shall be as effective under the Act as if approved "by the vote of a majority of the outstanding voting securities" of the Trust Fund. While applicant contends that the proposal under which there will be two different bases of compensation for advisory services charges against the two classes of investors does not contravene the provisions of section 15(a) of the Act, applicant has nonetheless requested an exemption from the terms of that section to eliminate any possible question thereunder. In requesting such exemption, the applicant has not asked the Commission to determine, nor is the Commission determining, whether the fees charged against investors in the Trust Fund are fair and reasonable.

Section 18(i) of the Act provides that:

> Every share of stock hereafter issued by a registered management company * * * shall be a voting stock and have equal voting rights with every other outstanding voting stock.

Sections 15(a) through (c) of the Act provide that:

> (a) After 1 year from the effective date of this title it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, unless in effect prior to March 15, 1940, has been approved by the vote of a majority of the outstanding voting securities of such registered company and—
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> (1) Precisely describes all compensation to be paid thereunder;
>
> (2) Shall continue in effect for a period more than 2 years from the date of its execution, only so long as such continuance is specifically approved at least annually by the board of directors or by vote of a majority of the outstanding voting securities of such company;
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> (b) After 1 year from the effective date of this title, it shall be unlawful for any principal underwriter for a registered open-end company to offer for sale, sell or deliver after sale any security of which such company is the issuer, except pursuant to a written contract, unless in effect prior to March 15, 1940—
>
> (1) Shall continue in effect for a period more than 2 years from the date of its execution, only so long as such continuance is specifically approved at least annually by the board of directors or by a majority of the outstanding voting securities of such company;
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> * * * * *
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> (c) In addition to the requirements of subsections (a) and (b) it shall be unlawful for any registered investment company having a board of directors to enter into, renew, or perform any contract or agreement, written or oral, except a written agreement which was in effect prior to March 15, 1940, whereby a person undertakes regularly to serve or act as investment adviser of or principal underwriter for such company, unless the terms of such contract or agreement and any renewal thereof have been approved (1) by a majority of the directors who are not parties to such contract or agreement or affiliated persons of any such party, or (2) by the vote of a majority of the outstanding voting securities of such company.

Section 6(c) of the Act provides that:

> The Commission, by rules or regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation hereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

Notice is further given that any interested person may, not later than June 22, 1970, at 5:30 p.m., submit to the Commission in writing a request for 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 applicant 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.

By the Commission.

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

[F.R. Doc. 70-7248; Filed, June 10, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

A & R Food Store, Inc., foodstore; 202 Seventh Street South, Clanton, Ala.; 2-14-71.

Abel's Pharmacy, Inc., drugstore; 101 West Southmore Boulevard, Pasadena, Tex.; 2-15-71.

Ackerman Bros., Inc., variety-department store; 168 East Highland Avenue, Elgin, Ill.; 2-15-71.

Allen's Big Star, foodstore; Second Avenue and Sixth Street North, Amory, Miss.; 2-2-71.

Andy's Red Owl, foodstore; Litchfield, Minn.; 2-25-71.

Angell's Super Valu, foodstore; 318 West Adams Street, Iron River, Mich.; 2-2-71.

Apostolic Christian Home, nursing home; 511 Paramount Street, Sabetha, Kans.; 1-31-71.

Ashton Brothers Co., foodstore; 125 West Main Street, Vernal, Utah; 2-25-70 to 1-28-71.

B. K. of Dallas, Inc., restaurant; No. 150, Dallas, Tex.; 2-15-71.

B & W Super Market, foodstore; Bethel, N.C.; 2-9-70 to 1-31-71.

Regel V. Bakers IGA Food Store, foodstore; Highway 79 South, McKenzie, Tenn.; 2-19-71.

E. W. Banks Co., variety-department store; 20-22 North Jackson Street, Forsyth, Ga.; 2-25-71.

The Barrel Drive-In, Inc., restaurant; 2300 South Minnesota Avenue, Sioux Falls, S. Dak.; 2-20-70 to 1-31-71.

Kay Baum, Inc., apparel store; 166 West Maple, Birmingham, Mich.; 2-18-71.

Becker's Super Valu, foodstore; Morgan, Minn.; 2-11-71.

Ben Franklin Store, variety-department stores: 200 East Main Street, Anamousa, Iowa, 2-10-70 to 2-4-71; No. 0376, Flint, Mich.; 2-9-71.

Best Food Store, foodstore; 4737 Marlboro Pike, Coral Hills, Md.; 2-10-71.

Big Bee Market, foodstore; 600 South State Road, Marysville, Pa.; 2-9-71.

Billy Sunday Retirement Home, nursing home; 6120 Morningside Avenue, Sioux City, Iowa; 2-16-70 to 1-31-71.

Bishop Cafeteria Co., restaurant; 321 First Avenue SE., Cedar Rapids, Iowa; 2-18-70 to 1-31-71.

Boogaart Super Market, foodstore; Third and Kansas, Ellsworth, Kans.; 2-11-70 to 1-31-71.

The Brethren Home, nursing home; New Oxford, Pa.; 2-17-70 to 1-31-71.

Burns Hyklas Grocery, foodstore; Braymer, Mo.; 2-16-70 to 1-31-71.

Bus's High Street Market, foodstore; 70 East Street, London, Ohio; 2-24-71.

Canfield Co., foodstore; George West, Tex.; 2-13-71.

Carmel Home, nursing home; 2501 Old Hartford Road, Owensboro, Ky.; 2-26-71.

Carter Brothers, agriculture; 709 North First Street, Rolling Fork, Miss.; 2-16-71.

Chambers Super Market, foodstore; Wink, Tex.; 2-26-71.

Cherokee Food Town, Inc., foodstore; 427 Cherokee Boulevard, Chattanooga, Tenn.; 2-23-71.

Childs Super Market, foodstore; Atlanta Road, Gray, Ga.; 2-11-71.

Claude's Food Center, foodstore; Hominy, Okla.; 2-17-71.

Coker-Hampton Drug Co., Inc., drugstore; 218 South Main, Stuttgart, Ark.; 2-12-71.

Cosentino Brothers Market, foodstore; 4300 Blue Ridge Boulevard, Kansas City, Mo.; 2-18-70 to 2-13-71.

D & L Market, foodstore; 201 Main, Forreston, Ill.; 2-9-71.

Denny's Department Store, variety-department store; 420-422 Gallatin Street, Vandalia, Ill.; 2-26-71.

The Diamonds, restaurant; Villa Ridge, Mo.; 2-16-70 to 2-12-71.

Dillón Co., Inc., foodstores, from 2-27-70 to 2-23-71: Nos. 2 and 12, Dodge City, Kans.; No. 15, Garden City, Kans.; Nos. 3 and 20, Great Bend, Kans.; No. 22, Greensburg, Kans.; No. 16, Hays, Kans.; Nos. 30, 31, and 33, Wichita, Kans.

Diplomat Inn, hotel; 1511 Farnam Street, Omaha, Nebr.; 2-25-71.

Drake-Mangrum Super Market, foodstore; Batesville, Miss.; 2-15-71.

Dutch's Shopping Mart, foodstore; No. 1, Ada, Okla.; 2-27-71.

Eagle Stores Co., Inc., variety-department stores: No. 42, Pageland, S.C., 2-9-71; No. 7, Elizabethton, Tenn., 2-1-71.

Eastlawn Pharmacy, drugstore; 831 South Saginaw, Road, Midland, Mich.; 2-17-71.

Erdman Country Markets, foodstore; Chatfield, Minn.; 2-20-71.

Farmers Trading Post, foodstore; Salem, S. Dak.; 2-18-71.

Ferri Super Market, Inc., foodstore; Murrysville, Pa.; 2-8-71.

Fischer's Colonial Pharmacy, drugstore; Kendallville, Ind.; 2-5-71.

Food Fair Super Market, foodstore; 890 Second Street, Macon, Ga.; 2-20-71.

Foodland, foodstore; Lexington, Okla.; 2-11-71.

Food Masters Super Market, foodstore; 5614 Central Avenue SW., Albuquerque, N. Mex.; 2-3-71.

Frank's, Inc., foodstore; 113 West McCord Avenue, Albertville, Ala.; 2-4-71.

G & L Foods, Inc., foodstore; 101 South Wilson, Cleveland, Tex.; 2-5-71.

Goldblatt Bros., Inc., variety-department store; 3149 North Lincoln Avenue, Chicago, Ill.; 2-25-71.

The Goldenrod, restaurant; Railroad Avenue, York Beach, Maine; 2-24-71.

Grand Pacific Hotel, hotel; 205 North Fourth Street, Bismarck, N. Dak.; 2-16-70 to 2-12-71.

W. T. Grant Co., variety-department stores: No. 667, Decatur, Ill., 2-7-71; 1027 Main Street, Kansas City, Mo.; 2-9-71.

Buddy Gray Supermarket, foodstore; Waldron, Ark.; 2-18-71.

John Gray & Son Big Star, foodstore; No. 8, Memphis, Tenn.; 2-14-71.

Groveport IGA Market, foodstore; 639 Main Street, Groveport, Ohio; 2-17-71.

Hammell's Cash Store, foodstore; 404 Patterson Street, Trumann, Ark.; 2-8-71.

Handy-Andy, Inc., foodstores, 2-13-71; Nos. 131 and 132, Austin, Tex.; Nos. 42, 241, and 243, Corpus Christi, Tex.; Nos. 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, San Antonio, Tex.

Hardy Super Market, Inc., foodstore; Shepherdsville, Ky.; 2-12-71.

Harrell's Table Supply, Inc., foodstore; Second Street, Soperton ,Ga.; 2-2-70 to 1-31-71.

Headlee Drug Store, Inc., drugstore; 204 North Spring Street, Searcy, Ark.; 2-12-71.

Hollywood Market, Inc., foodstore; 2458 Chelsea, Memphis, Tenn.; 2-6-71.

Holzaepfel Brothers, sporting goods store; 162 Columbus Avenue, Sandusky, Ohio; 2-18-71.

Hook's Foods, Inc., foodstores: Grundy Center, Iowa, 2-26-70 to 2-22-71; Reinbeck, Iowa, 2-25-70 to 2-20-71.

Hudson's Big Country Store, Inc., variety-department store; Coalgate, Okla.; 2-26-71.

J.'s Foodland, foodstore; 324 East Pine, Fitzgerald, Ga.; 2-2-70 to 1-31-71.

John Francis Restaurant, restaurant; 7148 West 80th Street, Overland Park, Kans.; 2-10-70 to 2-4-71.

Johnson's Super Market, foodstore; Washington Street, Bedford, Va.; 2-15-71.

Kelloff's, Inc., foodstore; Antonito, Colo.; 2-19-71.

S. S. Kresge Co., variety-department stores: No. 717, Atlanta, Ga., 2-20-71; No. 117, Terre Haute, Ind., 2-5-71; No. 714, Fort Worth, Tex., 2-25-71.

Landers Brothers Co., foodstore; Nowata, Okla.; 2-26-71.

Lazenby's, foodstore; 1327 North Ripley, Montgomery, Ala.; 2-3-71.

Lesman's Market, Inc., foodstore; 119 East Patterson Street, Kalamazoo, Mich.; 2-5-71.

Liberty Cash, foodstore; No. 42, Winona, Miss.; 2-17-71.

Lumbard-Leschinskt Studio, photography studio; 109 East Third Street, Grand Island, Nebr.; 2-20-70 to 2-4-71.

Manly Drug, Inc., drugstore; 621 G Avenue, Grundy Center, Iowa; 2-18-71.

Marsha, Inc., drugstore; 30 Seventh Avenue South, St. Cloud, Minn.; 2-15-71.

McDonalds Hamburgers, restaurants, 2-28-71, except as otherwise indicated: 11700 East 24 Highway, Sugar Creek, Mo. (2-3-71); 2170 East Lake Road, Erie, Pa.; 4319 Peach Street, Erie, Pa.; 909 Peninsula Drive, Erie, Pa.

McGinley Market, foodstore; 102 South Polk Street, Albany, Mo.; 2-20-70 to 1-31-71.

McNulty's Food Market, foodstore; 101 South Cass Street, Morley, Mich.; 2-1-71.

S. P. McRae Co., Inc., variety-department stores, 2-5-71: 200 West Capitol Street, Jackson, Miss.; 905 Ellis Avenue, Jackson, Miss.; 353 Meadowbrook Road, Jackson, Miss.

Louis Menotti Food Store, foodstore; 1502 21st Street, Galveston, Tex.; 2-2-71.

Metzger Stores, service station; 1399 Diamond Drive, Los Alamos, N. Mex.; 2-17-71.

Micka's Market, Inc., foodstore; 199 Cole Road, Monroe, Mich.; 2-26-71.

Miller Drug Stores, Inc., drugstore; 2309 Como Avenue, St. Paul, Minn.; 2-4-71.

Miller's Supermarket, Inc., foodstore; 702 South Main, Moab, Utah; 2-17-70 to 2-12-71.

Montross Pharmacy, Inc., drugstore; 118-20 North First Avenue, Winterset, Iowa; 2-18-70 to 1-31-71.

Moore's Department Store, Inc., variety-department store; Clarkson, Nebr.; 2-1-71.

Morey's Clothes Shop, apparel store; 620 Fourth Street, Sioux City, Iowa; 2-1-71.

Morimoto Market, foodstore; 6601 Menaul NE., Albuquerque, N. Mex.; 2-17-71.

G. C. Murphy Co., variety-department stores, 2-12-71; No. 216, McConnellsburg, Pa.; No. 217, Mercersburg, Pa.

Bob Nolan's Super Market, Inc., foodstore; 1029 South Sixth Street, Paducah, Ky.; 2-15-71.

Osborn Market, foodstore; Miller, S. Dak.; 2-16-71.

Palmer's Super Market, foodstore; Parkersburg, Iowa; 2-2-70 to 1-31-71.

Park 'N Shop Food Mart, Inc., foodstore; East Broad Street, St. Pauls, N.C.; 2-23-71.

Perry's IGA Foodliner, foodstore; Wedowee, Ala.; 2-10-71.

Piggly Wiggly, foodstores, 2-27-71, except as otherwise indicated: Heflin, Ala. (2-2-71); Van Buren Street, Carthage, Miss.; 300 Southeast Washington, Idabel, Okla.; 707 West Main Street, Clarksville, Tex.; Washington and Bonham, Commerce, Tex.; 1310 11th Street, Huntsville, Tex.; New Boston, Tex. (2-26-71); Nos. 2 and 3, Waco, Tex.; 1404 North 34th Street, Waco, Tex.; Grundy, Va. (2-23-71).

Pleasant Grove Hospital, hospital; 9911 La Grange Road, Anchorage, Ky.; 2-15-71.

Pleasantville IGA Market, foodstore; Columbus and Main Streets, Pleasantville, Ohio; 2-17-71.

Polaykoff Food Market, foodstore; 1001 Court Street, Sioux City, Iowa; 2-11-70 to 1-31-71.

Powers Market, foodstore; 301 Hillsboro Highway, Manchester, Tenn.; 2-14-71.

Prenger's, Inc., restaurant; 116 East Norfolk Avenue, Norfolk, Nebr.; 2-9-70 to 1-31-71.

Pruett's Food Town, Inc., foodstores, 2-23-71: 2108 East Third Street, Chattanooga, Tenn.; Daisy, Tenn.

Raymond's Clothes Shop, apparel store; 614 Fourth Street, Sioux City, Iowa; 2-1-17.

Richardsons Super Food Market, foodstore; Estes Park, Colo.; 2-20-70 to 2-11-71.

Rickaby IGA Market, foodstore; Stephenson, Mich.; 2-17-71.

Rollings Jewelry Co., jewelry store; 623 Main Street, Hattiesburg, Miss.; 2-19-71.

S & M Super Market, foodstore; 935 Broad Street, Camden, S.C.; 2-26-71.

S & V Super Market, foodstore; Washington Street, Williamston, N.C.; 2-6-70 to 1-31-71.

Sabino Food Center, foodstore; 2421 Wyoming Boulevard NE., Albuquerque, N. Mex.; 2-8-71.

St. John Hospital, hospital; Spalding, Nebr.; 2-16-70 to 1-31-71.

Samhat Brothers Food Mart, foodstore; 27222 Grand River, Detroit, Mich.; 2-17-71.

Sav-Way Foods, Inc., foodstore; 400 North Main Street, Dayton, Tex.; 2-5-71.

Schulenberg's Super Valu, Inc., foodstore; Wells, Minn.; 2-2-71.

Seikel's Department Store, variety-department store; McLoud, Okla.; 2-11-71.

Shadid's Food Store, foodstore; 2918 North Pennsylvania, Oklahoma City, Okla.; 2-27-71.

Shawnee Restaurant, Inc., restaurant; 2808 Scioto Trail, Portsmouth, Ohio; 2-24-71.

Sherry Hardware, hardware store; 1716 West Fourth Street, Davenport, Iowa; 2-16-71.

Shop Rite, Inc., foodstores, 2-27-71: Fort Oglethorpe, Ga.; Ringold, Ga.

Silvy's Food Market, foodstore; 1202 West Ponca, Ponca City, Okla.; 2-17-71.

Simmons Model Market, foodstore; Genevia, Ark.; 2-17-71.

Snyder's, variety-department store; Winslow, Ind.; 2-9-71.

Spurgeon's, variety-department stores: East Side of Square, Canton, Ill., 2-25-71; 413 Chestnut Street, Atlantic, Iowa, 2-16-71; 112-114 North Main Street, Charles City, Iowa, 2-16-70 to 1-23-71; 51 East Broadway, Fairfield, Iowa; 2-2-70 to 1-23-71; 103 South Main, Shawano, Wis.; 1-21-71.

Stevenson's Store, foodstore; Lodge Grass, Mont.; 2-3-71.

Sturm's Youth World, apparel store; 535 Main Street, Oak Ridge, Tenn.; 2-3-71.

Sumter Dry Goods Co., variety-department store; 1 South Main Street, Sumter, S.C.; 2-23-71.

Sunflower Food Store, foodstore; No. 25, Hollandale, Miss.; 2-18-71.

Super Drive-Ins, foodstores, 2-18-71: No. 3, Clarksville, Tenn.; No. 1, Nashville, Tenn.

Sutton Super Market, foodstore; Williamsburg, Ky.; 2-14-71.

T. G. & Y. Stores Co., variety-department store; No. 223, Baton Rouge, La.; 2-27-71.

T & E Tractor Co., farm implement dealer; 115 South Crockett, Sequin, Tex.; 2-2-71.

Tates, variety-department store; Heavener, Okla.; 2-25-71.

Taylor Drug Store, drugstore; G-5543 Richfield Road, Flint, Mich.; 2-27-71.

Temple Avenue Department Store, variety-department store; 143 Temple Avenue, Newman, Ga.; 2-2-70 to 1-31-71.

Thornton & Thornton, foodstore; Odem, Tex.; 2-8-71.

Tomlinson Stores, Inc., variety-department store; West Main Street, Dillon, S.C.; 2-12-71.

Tomlinson's Discount Store, variety-department store; 155 North Dargan Street, Florence, S.C.; 2-26-71.

Tom Thumb Stores, Inc., foodstores, 2-23-71; No. 58, Cleburne, Tex.; Nos. 1, 2, 3, 4, 5, 7, 11, 12, 15, 17, 18, 21, and 22, Dallas, Tex.; No. 57, Gainesville, Tex.

Tull Drug Co., drugstore; 6 West Ohio Street, Butler, Mo.; 2-18-71.

The Union Grocery Co., Inc., foodstore; Gary, W. Va.; 2-12-71.

Variety Foods, foodstore; 44th and South Walker, Oklahoma City, Okla.; 2-26-71.

Victoria Pharmacy, drugstore; Victoria, Tex.; 2-12-71.

Viola's R.H.V. Store, foodstore; Abilene, Kans.; 2-19-71.

Vista, Inc., restaurant; 1911 Tuttle Creek Boulevard, Manhattan, Kans.; 2-18-70 to 1-31-71.

Warren's IGA Supermarket, foodstore; Medford, Okla.; 2-17-71.

Warshaw's, Inc., apparel store; Walterboro, S.C.; 2-6-71.

Webb's City, Inc., variety-department store; 128 Ninth Street, St. Petersburg, Fla.; 2-4-70 to 1-31-71.

P. Wiest's Sons, variety-department store; 14-20 West Market Street, York, Pa.; 2-9-71.

Woodbury Market, foodstore; Woodbury, Tenn.; 1-31-71.

Young's Food Market, foodstore; 614 North Mechanic, El Campo, Tex.; 2-26-71.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

A & R Food Store, Inc., foodstores, for the occupations of stock clerk, produce clerk, carryout, meat clerk, 19 to 25 percent, 2-14-71: Brent, Ala.; Calera, Ala.; 2421 Broad Street, Selma, Ala.

Abel's Parkview Manor Pharmacy, Inc., drugstore; 3421 Spencer Highway, Pasadena, Tex.; soda fountain clerk, salesclerk, delivery clerk, cleanup; 14 to 20 percent; 2-19-71.

Ashcraft Market, foodstore; 202 East Cedar Street, Gladwin, Mich.; stock clerk, carryout; 15 to 27 percent; 2-6-71.

B. K. of Dallas, Inc., restaurants, for the occupations of crewmen (women), 10 to 30 percent, 2-15-71: Nos. 124, 155, 202, 263, 303, 407, 472, 534, and 542, Dallas, Tex.

Kay Baum, Inc., apparel stores, for the occupations of stock clerk, 4 to 21 percent, 2-18-71: Liberty at Thompson, Ann Arbor, Mich.; 1550 Woodward Avenue, Detroit, Mich.; 16822 Kercheval, Detroit, Mich.

Bill's Super Market, foodstore; Schleswig, Iowa; carryout, stock clerk, sacker, janitorial, bottle sorter; 18 to 29 percent; 2-16-70 to 1-26-71.

Bill Crook's Food Town, foodstores, for the occupations of sacker, stock clerk, 2-8-71: No. 3, Hendersonville, Tenn.; 9 to 10 percent; No. 4, Nashville, Tenn., 10 to 11 percent.

Boogaart Super Market, foodstores, for the occupations of carryout, maintenance, clerk, 17 to 38 percent, 2-16-70 to 1-31-71, except as otherwise indicated: 413 Buckeye, Abilene, Kans. (2-2-70 to 1-31-71); 219 West Main, Beloit, Kans. (2-11-70 to 1-31-71); 907 Fifth Street, Clay Center, Kans. (2-12-70 to 1-31-71); Seventh and Washington, Concordia, Kans.; 1103 Broadway, Goodland, Kans. (2-9-70 to 1-31-71); 1203 Baker Street, Great Bend, Kans. (2-11-70 to 1-31-71); 2410 Vine Street, Hays, Kans. (6 to 24 percent, 2-11-70 to 1-31-71); 115 West Main, Lindsborg, Kans. (2-10-70 to 1-31-71); 112 North Center, Mankato, Kans. (2-10-70 to 1-31-71); 1500 Center Street, Marysville, Kans.; 401 West Second, Minneapolis, Kans.; 896 West Third Street, Phillipsburg, Kans. (2-10-70 to 1-31-71); 800 Fossill, Russell, Kans.; 109 South Madison, Smith Center, Kans. (2-10-70 to 1-31-71); 401 Russell Avenue, Wa Keeney, Kans. (2-10-70 to 1-31-71); 232 Third Street, Washington, Kans.; 1308 Court Street, Beatrice, Nebr.; 516 Fifth Street, Fairbury, Nebr. (2-17-70 to 2-13-71); 1615 Second Avenue, Kearney, Nebr.

Brittany Buffet, restaurants, for the occupation of general restaurant worker, 4 to 22 percent, 2-8-71: Nos. 601 and 602, San Antonio, Tex.

City Market, Inc., foodstore; No. 14, Farmington, N. Mex.; caddy boy, sacker, sweeper, carryout; 10 percent; 2-24-71.

Crook's Food Mart, foodstore; Senoia, Ga.; stock clerk, checker, bagger, produce clerk, janitorial; 26 to 31 percent; 2-13-71.

Dillon Co., Inc., foodstores, for the occupations of cashier, checker, carryout, clerk, maintenance, wrapper, 11 to 32 percent, 2-23-71: No. 101, Fayetteville, Ark.; No. 103, Ozark, Ark.; No. 102, Paris, Ark.; No. 104, Prairie Grove, Ark.

Dixie Kitchens, Inc., restaurant; 1114 West 103d Street, Kansas City, Mo.; general restaurant worker; 23 to 27 percent; 2-17-71.

Don's Super Market, Inc., foodstore; Oberlin, Kans.; stock clerk, carryout, sacker, cleanup; 10 to 38 percent; 2-18-70 to 1-31-71.

Dutch's Shopping Mart, foodstore; No. 2, Ada, Okla.; stock clerk, package clerk, cleanup; 11 to 22 percent; 2-25-71.

Erdman Super Market, Inc., foodstores, for the occupations of checker, carryout, stock clerk, cleanup, 10 percent, 2-20-71, except as otherwise indicated: 19 Second Avenue NW., Kasson, Minn. (5 to 8 percent); 1402 North Broadway, Rochester, Minn. (2-23-71); 404 Fourth Street SE., Rochester, Minn. (2-23-71); 1652 Highway 52 North, Rochester, Minn.

Handy-Andy, Inc., foodstores, for the occupations of salesclerk, stock clerk, checker-cashier, porter, packager, producer clerk, bottle clerk, 27 percent, 2-13-71, except as otherwise indicated: Nos. 133 and 134, Austin, Tex.; No. 244, Corpus Christi, Tex.; Nos. 3, 24, 26, and 27, San Antonio, Tex.; No. 25, San Antonio, Tex. (31 percent).

Hoosier Drugs, drugstore; 1301 119th Street, Whiting, Ind.; stock clerk, clerk-cashier, office clerk, delivery; 19 to 25 percent; 2-8-71.

Huntsville Grocery Co., Inc., foodstore; 1310 Avenue L, Huntsville, Tex.; stocker, checker, sacker, clerk; 10 percent; 2-27-71.

Huntz Store, foodstores, for the occupations of packager, stock clerk, 11 to 14 percent, 2-23-71: Nos. 408, 409, and 432, Dallas, Tex.

International House of Pancakes, restaurant; 5171 Chouteau, Kansas City, Mo.; bus boy (girl), kitchen help, take-home clerk; 14 to 24 percent; 2-3-71.

Jennings Market, Foodstore; 103 West Dakota Street, Butler, Mo.; stock clerk, carryout; 16 to 45 percent; 2-20-70 to 1-31-71.

Jerry's Quik Chek, foodstore; Osage City, Kans.; stock clerk, bagger; 12 to 21 percent; 2-17-71.

Jiffy Chek, Inc., foodstores, for the occupations of stock clerk, sacker, cashier, 19 to 43 percent, 2-22-71: 2400 Center Point Road, Birmingham, Ala.; Highway 31 North, Fultondale, Ala.; Main Street, Gardendale, Ala.; Pleasant Grove Road, Pleasant Grove, Ala.

Kilpatric's Market, foodstore; North Center Street, Willow Springs, Mo.; carryout, produce clerk, stock clerk; 16 to 23 percent; 3-1-71.

S. S. Kresge Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, checker-cashier, food preparation, customer service, except as otherwise indicated: No. 4308, Birmingham, Ala., 11 to 22 percent, 1-22-71 (salesclerk, checker); No. 4329, Belleville, Ill., 6 to 21 percent, 2-14-71 (salesclerk, stock clerk, office clerk, checker-cashier); No. 4636, Jacksonville, Ill., 5 to 20 percent, 2-3-71 (salesclerk, stock clerk, checker-cashier, office clerk, customer service); No. 4039, South Bend, Ind., 10 percent, 2-6-71 (salesclerk, stock clerk, checker-cashier, office clerk); No. 4635, Oskaloosa, Iowa, 6 to 17 percent, 2-11-71 (salesclerk, stock clerk, checker-cashier, office clerk); No. 235, Louisville, Ky., 2 to 7 percent, 1-25-71 (salesclerk, stock clerk, office clerk, checker-cashier, customer service); No. 4020, Detroit, Mich., 10 percent, 2-26-71; No. 246, Grand Rapids, Mich., 2 to 11 percent, 2-27-71; No. 4038, Saginaw, Mich., 10 percent, 2-5-71; No. 4206, Warren, Mich., 10 percent, 2-18-71; No. 4175, Canton, Ohio, 6 to 17 percent, 2-23-71; No. 4153, Cincinnati, Ohio, 7 to 22 percent, 2-24-71 (salesclerk, stock clerk, checker-cashier, maintenance, display clerk, office clerk); No. 4161, Dallas, Tex., 7 to 27 percent, 2-3-71 (salesclerk); No. 553, Hampton, Va., 0 to 32 percent, 2-2-71 (stock clerk, register operator, customer service, salesclerk, office clerk); No. 4084, Lynchburg, Va., 3 to 10 percent, 2-9-71 (salesclerk).

Land of Oz Grocery, foodstore; 126 East Main Street, Yukon, Okla.; sacker, carryout, stock clerk, checker; 38 to 45 percent; 2-13-71.

Lineville IGA Food Store, foodstore; Lineville, Ala.; janitorial, stock clerk, bagger, checker, wrapper; 17 to 32 percent; 2-10-71.

Madonna Home, Inc., nursing home; 5515 South Street, Lincoln, Nebr.; kitchen helper, nurse's aide; 5 to 8 percent; 2-8-71.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, porter, 10 to 32 percent, 1-31-71, except as otherwise indicated: No. 236, Delray Beach, Fla.; No. 250, Naples, Fla. (1-27-71); No. 183, New Port Richey, Fla.; No. 258, St. Petersburg, Fla. (4 to 15 percent, 2-10-71); No. 178, Seminole, Fla.; No. 264, Augusta, Maine (salesclerk, stock clerk, office, 19 to 36 percent, 2-14-71); No. 169, Latrobe, Pa. (salesclerk, office clerk, stock clerk, 2 to 25 percent, 1-27-71); No. 284, Stephenville, Tex. (salesclerk, stock clerk, 18 to 39 percent, 2-11-71); No. 1079, Ashland, Wis. (salesclerk, stock clerk, office clerk, 10 to 33 percent).

McDonalds Hamburgers, restaurants, for the occupation of general restaurant worker: 8020 South 71 Highway, Kansas City, Mo., 31 to 58 percent, 1-28-71; 4002 North Oak Street, Kansas City, Mo., 27 to 61 percent, 2-17-71; 2336 Northwest 23d Street, Oklahoma City, Okla., 0 to 4 percent, 1-31-71.

Minyard Food Stores, Inc., foodstores, for the occupation of carryout, 11 to 16 percent, 2-19-71: Nos. 12 and 20, Arlington, Tex.; Nos. 1, 2, 3, 4, 6, 8, 10, 11, 14, 15, 18, 19, 21, 22, and 23, Dallas, Tex.; No. 17, Irving, Tex.; No. 9, Lancaster, Tex.; No. 16, Lewisville, Tex.; No. 7, Mesquite, Tex.

Morgan & Lindsey, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 2-4-71: No. 3079, Abbeville, La., 4 to 22 percent; 118 Pine Plaza Shopping Center, Silsbee, Tex., 10 to 27 percent.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, janitorial, 2-4-71: No. 322, Terre Haute, Ind., 11 to 26 percent; No. 191, Sheboygan, Wis., 9 to 20 percent.

Newman's, apparel store; 4027 Franklin, Michigan City, Ind.; office clerk, stock clerk, marking clerk, fitting room checker; 8 to 9 percent; 2-2-71.

Pence Food Center, foodstore; 1501 South Sante Fe, Chanute, Kans.; bagger, carryout, cashier, janitorial, stock clerk; 8 to 25 percent; 2-23-71.

Pence-Garnett, Inc., foodstore; Highway 59 North, Garnett, Kans.; sacker, carryout, stock clerk, janitorial, checker; 8 to 25 percent; 2-16-70 to 2-4-71.

Pfeiffer's Drugs, drugstore; 2501 West Cervantes Street, Pensacola, Fla.; stock clerk, office clerk, delivery clerk; 16 to 28 percent; 2-17-71.

Piggly Wiggly, foodstores, for the occupations of checker, stock clerk, sacker, clerk, 10 percent, 2-27-71, except as otherwise indicated: Wright Shopping Center, Fort Walton Beach, Fla. (sacker, 9 to 10 percent, 1-21-71); Town & Country Shopping Center, Pikeville, Ky. (bagger, carryout, stock clerk, 20 to 32 percent, 2-23-71); Biscoe, N.C. (bagger, checker, stock clerk, 19 to 20 percent, 1-31-71); Mount Gilead, N.C. (bagger, checker, stock clerk, 19 to 20 percent, 1-31-71); 102 West Chestnut Street, Troy, N.C. (bagger, checker, stock clerk, 19 to 20 percent, 1-31-71); Highway 6 and Rosemary, Bryan, Tex.; 407 South Main, Henderson, Tex.; 532 Commerce Street, Jacksonville, Tex.; No. 10, Rockdale, Tex.; No. 11, Temple, Tex.; No. 19, Texarkana, Tex.; Nos. 6, 8, and 9, Waco, Tex.; Williamson, W. Va. (sacker, carryout, stock clerk, 20 to 32 percent, 2-23-71).

Prince, Inc., foodstores, for the occupation of bagger: Eglin Parkway, Brooks Plaza, Fort Walton Beach, Fla., 10 percent, 1-20-71; Eglin Parkway, Towncrest Shopping Center, Fort Walton Beach, Fla., 9 to 10 percent, 2-5-71.

Professional Services, restaurants, for the occupation of general restaurant worker, 4 to 22 percent, 2-8-71: Nos. 622, 652, 653, and 657, San Antonio, Tex.

Pruett's Food Town, foodstores, for the occupation of sacker, 10 percent, 2-23-71, except as otherwise indicated: No. 4, Dayton, Tenn.; 5738 Ringgold Road, East Ridge, Tenn.; 4852 Hixson Pike, Hixson, Tenn. (2-25-71).

Raylass Department Store, variety-department store; 3621 Dayton Boulevard, Chattanooga, Tenn.; salesclerk, stock clerk, office clerk, marking clerk, clean up; 13 to 34 percent; 2-11-71.

The Record Bar, music stores, for the occupation of salesclerk, 13 to 28 percent, 2-8-71: Trade Street, Charlotte, N.C.; Greenville, N.C.; Tarrytown Mall, Rocky Mount, N.C.

Red & White Super Market, foodstore; 1503 Highland Avenue, Montgomery, Ala.; bagger, stock clerk; 10 to 21 percent; 2-17-71.

Rhea's, Inc., foodstore; Allegheny Center Mall, Pittsburgh, Pa.; salesclerk; 18 to 27 percent; 2-19-71.

Rose's Stores, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, checker, 13 to 32 percent, 2-22-71, except as otherwise indicated: No. 92, Jacksonville, Fla.; No. 190, Middlesboro, Ky. (6 to 24 percent); No. 189, Hattiesburg, Miss.; No. 117, Kinston, N.C. (salesclerk, checker, 11 to 27 percent, 2-14-71).

Shop Rite, Inc., foodstores, for the occupations of bagger, stock clerk, 10 percent, 2-27-71: Murray Plaza, Chatsworth, Ga.; West Villanow Street, Lafayette, Ga.

Mr. Smorgasbord, Inc., restaurant; 2800 Niles Avenue, St. Joseph, Mich.; food preparation, bus boy (girl), cashier, dishwasher, cleanup, general restaurant worker; 54 to 82 percent; 2-1-71.

Spurgeon's, variety-department store; 816 Fifth Avenue, Antigo, Wis.; salesclerk, stock clerk, janitorial; 8 to 15 percent; 2-25-71.

Sterling Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, janitorial: Albert Pike Shopping Center, Hot Springs, Ark., 6 to 22 percent, 2-5-71; 4201 East Broadway, North Little Rock, Ark., 11 to 32 percent, 2-8-71.

Style Shop, Inc., apparel store; 420 South Main Street, Elkhart, Ind.; office clerk, stock clerk, marking clerk, fitting room checker; 8 to 9 percent; 2-2-71.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 24 to 30 percent, 2-27-71, except as otherwise indicated: No. 1061, Prichard, Ala. (15 to 30 percent); No. 1501, Phoenix, Ariz. (20 to 30 percent, 2-17-71); No. 1200, Little Rock, Ark. (11 to 30 percent); No. 1800, Denver, Colo. (19 to 30 percent, 2-14-71); No. 742, Tampa, Fla. (10 to 29 percent, 1-21-71); No. 1401, Overland Park, Kans. (15 to 29 percent, 1-21-71); No. 1400, Wichita, Kans. (19 to 30 percent, 1-21-71); No. 719, Alexandria, La. (3 to 30 percent; 1-25-71); No. 316, Baton Rouge, La. (3 to 30 percent); No. 827, Clovis, N. Mex. (13 to 22 percent, 2-12-71); No. 10, Ada, Okla. (20 to 30 percent); No. 1000, Miami, Okla. (20 to 30 percent, 2-14-71); No. 448, Tulsa, Okla. (2-4-71); Nos. 471, 472, and 473, Tulsa, Okla. (2-7-71).

Tom Thumb Stores, Inc., foodstores, for the occupation of package clerk, 9 to 13 percent, 2-23-71, except as otherwise indicated: Nos. 8, 10, 23, 27, 28, 30, 32, 33, 34, and 35, Dallas, Tex.; No. 39, Dallas, Tex. (2-22-71); No. 9, Farmers Branch, Tex.; Nos. 25 and 29, Garland, Tex.; No. 24, Grand Prairie, Tex.; No. 26, Richardson, Tex.

Vista at Emporia, Inc., restaurant, 825 West Sixth Street, Emporia, Kans.; cashier, fountain clerk, cook, dishwasher, general restaurant worker; 4 to 34 percent; 2-1-71.

Ward's Food Store, foodstore; Tuttle, Okla.; stock clerk, carryout; 11 to 15 percent; 1-31-71.

Wilke's Sure Save, foodstore; 124 Main Street, Fredericksburg, Iowa; checker, stock clerk, carryout; 17 to 26 percent; 1-31-71.

Wood's 5 & 10¢ Store, variety-department stores, for the occupations of salesclerk, stock clerk: West Hudson Street, Fayetteville, N.C., 11 to 20 percent, 2-2-71; Garner Shopping Plaza, Garner, N.C., 9 to 34 percent, 2-22-71.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 26th day of May 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70-7245; Filed, June 10, 1970; 8:46 a.m.]

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FEDERAL REGISTER

VOLUME 35 • NUMBER 113

Thursday, June 11, 1970 • Washington, D.C.

PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

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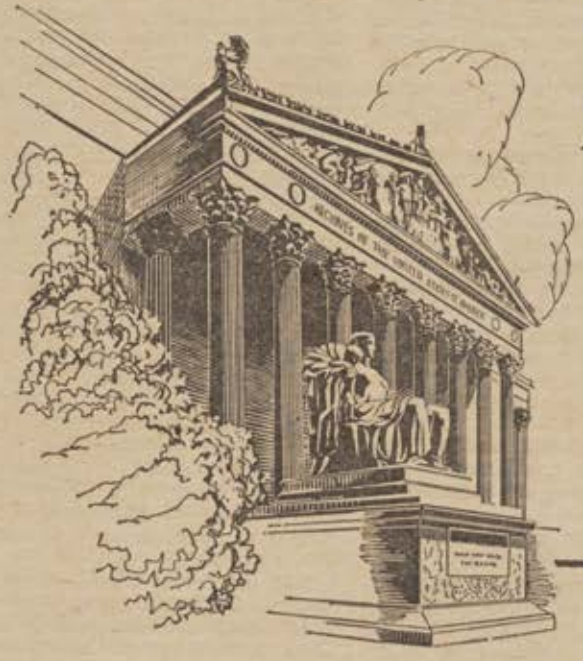
Milk in Greater Cincinnati and Certain Other Marketing Areas

Decision on Proposed Amendments to Marketing Agreements and Orders



DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1005, 1033, 1034, 1035, 1041]

[Dockets Nos. AO-166-A40 etc.]

MILK IN THE GREATER CINCINNATI AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

7 CFR part	Marketing area	Docket No.
1033	Greater Cincinnati	AO-166-A40. AO-166-A40-RO2. AO-166-A40-RO3.
1034	Miami Valley, Ohio	AO-175-A29. AO-175-A29-RO2. AO-175-A29-RO3.
1035	Columbus, Ohio	AO-176-A26. AO-176-A26-RO2. AO-176-A26-RO3.
1041	Northwestern Ohio	AO-72-A36. AO-72-A36-RO2. AO-72-A36-RO3.
1005	Tri-State	AO-177-A35. AO-177-A35-RO2. AO-177-A35-RO3.

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Greater Cincinnati; Miami Valley, Ohio; Columbus, Ohio; Northwestern Ohio; and Tri-State marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Columbus, Ohio, on June 2–6 and 10–13 and July 8–10, 1969, pursuant to notice thereof issued on May 13, 1969 (34 F.R. 7811).

This hearing was reopened on three occasions: December 18, 1969, at Columbus, Ohio, pursuant to notice thereof issued on December 4, 1969 (34 F.R. 19507); January 20, 1970, at Clayton, Mo., pursuant to notices thereof issued on November 26, 1969 (34 F.R. 19078), January 8, 1970 (35 F.R. 435) and January 29, 1970 (35 F.R. 2527); and April 14, 1970, pursuant to notice thereof issued on April 7, 1970 (35 F.R. 5961).

The January 1970 reopened hearing considered the use of an economic formula for changing simultaneously the Class I prices under all Federal milk orders, including the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State orders. The Class I price considerations dealt with in this decision are exclusive of the economic formula issue, which will be considered in a separate decision on all Federal orders.

The April 1970 reopened hearing considered the immediate adoption of a "Louisville" seasonal production incentive plan for the Northwestern Ohio order. A decision on this proposal was issued April 28, 1970 (35 F.R. 6965).

This decision deals with all other matters considered under the listed docket numbers.

Upon the basis of the evidence introduced at the hearings and the records thereof, the Administrator, on April 3, 1970 (35 F.R. 5764; F.R. Doc. 70-4245), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "2. *Need for merger of orders.*", the 10th, 11th, 12th, and 28th paragraphs are changed.

2. Under the heading "3. *Expansion of the merged marketing area.*", the fifth and 21st paragraphs are changed.

3. Under the heading "4. (a) *Milk to be priced and pooled.*":

a. The second, third, 13th, 14th, 18th, and 25th paragraphs under "*Pool plant.*" are changed, and a new paragraph is added after the 25th paragraph.

b. The fourth through the 11th paragraphs under "*Pool plant.*" are deleted and eight new paragraphs are substituted therefor.

c. The paragraph under "*Route disposition.*" is changed.

d. The first and second paragraphs under "*Producer-handler.*" are changed.

e. The fourth paragraph under "*Producer milk.*" is changed and the sixth and seventh paragraphs are deleted and two new paragraphs are substituted therefor.

4. Under the heading "4. (b) *Classification of milk.*":

a. The second, ninth, and 18th paragraphs under "*Classes of utilization.*" are changed.

b. The first, second, and fifth paragraphs under "*Interplant movements.*" are changed, the fourth paragraph is deleted, and a new paragraph is added after the fifth paragraph.

5. Under the heading "4. (c) *Class prices, butterfat differentials, and location differentials.*":

a. The first and second paragraphs under "*Butterfat differentials.*" are changed.

b. The 13th paragraph under "*Location differentials at plants outside the marketing area.*" is changed.

6. Under the heading "4. (d) *Distribution of proceeds to producers.*":

a. The first paragraph is deleted and five new paragraphs are substituted therefor.

b. The entire discussion under "'*Louisville' plan.*" is changed.

c. The 13th paragraph under "*Payments to producers.*" is changed and three new paragraphs are added after the 14th paragraph.

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

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in Ohio, Indiana, Kentucky, and West Virginia;

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk;

(c) Class prices, butterfat differentials, and location differentials;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions; and

5. Whether the order for the proposed merged and expanded marketing area should provide for payments to cooperative associations for marketwide services.

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. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Ohio Valley marketing area", includes contiguous territory in 61 Ohio counties, 20 West Virginia counties, 18 Kentucky counties, 2 Indiana counties and 2 Michigan counties. The specific territory in the proposed marketing area is set forth in the marketing area discussion.

Handlers distributing milk in the proposed marketing area operate plants located in Ohio, Kentucky, West Virginia, and Michigan. The distribution areas of handlers in one State overlap in many cases with the distribution areas of handlers located in other States.

Milk procurement by such handlers likewise involves the movement of milk in interstate commerce. Producers supplying these handlers are located in six States, and the farm-to-plant movements of their milk often entails interstate hauling. At times, milk is brought into the proposed Ohio Valley market from distant areas. Milk shipments originate in such States as Wisconsin, Iowa, Minnesota, and Illinois.

2. *Need for merger of orders.* Marketing conditions in the five marketing areas under consideration justify the issuance of a single order regulating the handling of milk in these areas. This single order is the most appropriate means of effectuating the declared policy of the Act.

The merger of the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State orders, which for brevity shall be referred to herein as the five Ohio orders, was proposed by seven cooperative associations. These groups

represent the major producer cooperatives in each of the regulated areas proposed for consolidation. In May 1969, their membership included about three-fourths of the 8,500 producers supplying the five order areas.

A merger of the Northwestern Ohio order with the other orders being considered was proposed also by a group of handlers regulated under the Northwestern Ohio order. In addition, major handlers in the other four areas supported a merger of the five orders.

When the Northwestern Ohio, Cincinnati, Columbus, Miami Valley, and Tri-State orders were issued, they regulated areas that were generally distinguishable as separate markets for particular groups of producers. However, changes in marketing practices in recent years have caused these areas to become interrelated in both the distribution and procurement of milk. In view of the marketing trends prevailing throughout these areas, it is reasonable to expect that the interrelationship of the several areas will become even more pronounced in the future.

Sales areas of handlers are no longer confined to the proximity of their plants. Better highways, improved transportation equipment, single-service containers, and the increasingly important supermarket business, for example, have encouraged the wide-spread distribution patterns now prevailing. In addition, handlers, in attempting to achieve greater efficiencies, have closed smaller-volume plants and concentrated their processing and packaging operations in larger, centrally located facilities. Distribution from these large plants often extends into several marketing areas as handlers move milk to the outlets formerly served by the smaller plants.

The extensive erosion of individual market boundaries that have prevailed historically is depicted by data on intermarket movements of milk. A study by The Ohio State University, which was entered in the record, analyzed the intermarket route distribution patterns in the five Ohio marketing areas for the period of October 1966 through September 1967. Similar information was presented at the hearing for March 1969 for the purpose of up-dating the earlier study.

During the 12-month study period, an average of 8.5 million pounds of the Columbus market's Class I milk was sold monthly on routes outside the Columbus marketing area. By March 1969, such monthly out-of-area sales had increased to 10.6 million pounds, or 28 percent of the Class I milk priced under the order. Nearly 8.3 million pounds of the latter amount were sold on routes in the other four marketing areas under consideration.

Based on data for March 1969, the equivalent of 12 percent of the total Class I milk in the Columbus pool is sold as packaged fluid milk on routes in the Columbus marketing area by handlers in other Federal order markets. Most of this outside milk (4.1 million pounds) originated in the other four regulated areas included in the proposed merger.

For the Cincinnati market, the monthly out-of-area route sales increased from 10.4 million pounds in the October 1966–September 1967 period to 14.1 million pounds in March 1969. Of this latter amount, which was 32 percent of the total Class I sales by Cincinnati handlers, 10.1 million pounds were distributed in the other four marketing areas proposed to be merged.

With respect to route sales in the Cincinnati marketing area originating from other markets, 4.6 million pounds were distributed on this basis in March 1969, an increase from the 2.7 million pounds monthly in the earlier study period. The March 1969 sales were equivalent to about 10 percent of the Cincinnati market's pooled Class I milk. Of the 4.6 million pounds of in-area sales, handlers regulated under the Miami Valley and Columbus orders accounted for 3.3 million pounds. Northwestern Ohio and Tri-State handlers did not have sales in the Cincinnati marketing area.

Because of an expansion in the Miami Valley marketing area on September 1, 1967, a comparison of data for March 1969 relative to the earlier study period is not made. However, in March 1969, 10.9 million pounds, or 35 percent of the Class I milk in the Miami Valley pool, were sold on routes outside the Miami Valley marketing area. Approximately 6 million pounds were distributed in the four marketing areas proposed to be merged with the Miami Valley area.

Packaged Class I route sales in the Miami Valley marketing area which originated in other markets totaled 6.7 million pounds in March 1969. This was equivalent to over 21 percent of the Class I milk in the Miami Valley pool. Over 5.4 million pounds were sold by handlers in the Cincinnati, Columbus, and Northwestern Ohio markets.

Monthly route sales outside the Tri-State marketing area by Tri-State handlers increased from 5.5 million pounds in the 1966–67 study period to 7.3 million pounds in March 1969. This latter amount was over 23 percent of the Class I milk in the Tri-State pool. The volume of route sales in the other four marketing areas under consideration by Tri-State handlers was rather limited in March 1969, totaling only 699,000 pounds. Such milk moved only into the Columbus and Miami Valley marketing areas. Tri-State handlers distributed 4.9 million pounds of Class I milk in other Federal order markets, primarily the Eastern Ohio-Western Pennsylvania area.

In March 1969, 9.3 million pounds of packaged Class I milk originating in other markets were sold on routes in the Tri-State marketing area. This was equivalent to 30 percent of the Class I milk in the Tri-State pool, and more than twice the 4.3 million pounds distributed monthly on this basis during the earlier 12-month study period. Handlers in the Cincinnati, Columbus, and Miami Valley markets distributed 6.1 million pounds of the 9.3 million pounds coming into the Tri-State marketing area. Northwestern Ohio handlers had no route sales in the Tri-State order area.

For the Northwestern Ohio market, monthly out-of-area route sales by Northwestern Ohio handlers have declined, from 5.1 million pounds in the 1966–67 study period to 4.2 million pounds in March 1969. March sales were about 13 percent of the total producer milk in Class I. Most of the out-of-area route sales in March 1969 were in non-regulated areas. Sales into the areas of the other four orders were limited, amounting to 123,000 pounds.

Route sales in the Northwestern Ohio marketing area from other markets in March 1969 were 10.1 million pounds, equivalent to over 31 percent of the Class I milk in the Northwestern Ohio pool. This was up from the average monthly route sales of 7.5 million pounds coming from other markets in the 12-month study period. In March 1969, 6.6 million pounds of Class I milk were distributed in the Northwestern Ohio area by handlers in the Columbus, Cincinnati, and Miami Valley markets. No sales by Tri-State handlers were reported.

With the "local" character of the five Ohio regulated areas rapidly diminishing, continuation of a separate regulatory plan for each of these areas is no longer practical or desirable. Separate markets within the proposed marketing area for particular groups of producers no longer exist as handlers regulated under one order distribute milk in areas regulated by other orders. In this circumstance, all producers supplying milk to the several parts of the proposed marketing area should share through a single market-wide pool the total proceeds of the Class I sales in the area and the burden of the reserve milk supplies normally associated with such sales.

The five order areas under consideration are characterized by a substantial overlapping of milksheds. In December 1968, for example, 48 Ohio counties were each a source of milk for handlers regulated under two or more of the five Ohio orders. Fourteen of these counties were each a source of milk for three of the regulated areas and six were each a procurement area for four of the order areas under consideration. These latter 20 counties accounted for 30 percent of the producers under the five Ohio orders that month. Some overlapping of procurement areas prevailed in other States, also, with six Indiana counties and four Kentucky counties each supplying milk to two of the five Ohio regulated areas in December 1968.

Each of the five Ohio areas is significantly involved in competition for milk supplies with at least one of the other regulated areas. Such competition for milk supplies in December 1968 existed in 20 counties for the Northwestern Ohio area, in 30 counties for the Cincinnati area, in 27 counties for the Miami Valley area, in 40 counties for the Columbus area, and in 25 counties for the Tri-State area.

With this substantial overlapping of procurement areas, any wide differences in the uniform prices under the separate orders result in much dissatisfaction and unrest on the part of those producers who are receiving the lowest prices. During 1968 and 1969, differences

between the highest and lowest uniform prices under these orders were 30 cents or more per hundredweight in 18 of the 24 months.[1] Also, with the extensive intermarket competition, producer prices can change rapidly and unpredictably. In this circumstance, producers are unable to plan their future production programs with the certainty of marketing conditions needed for sound management decisions. The adoption of a single regulation for an area that has become a common market for the producers now under the separate orders would place all producers in the area on the same pricing basis.

The proposed merger would assist cooperatives in marketing the milk of their members in a more effective and efficient manner without the encumbrances that the separate orders exert on the marketing system. It is the practice of cooperatives to direct the movement of their members' milk and to enter into "full-supply" agreements with many handlers. In performing these functions, cooperatives often move members from one regulated area to another. Producers prefer, of course, to be associated with the area that nets them the highest return. However, overriding factors, such as plant consolidations, changes in handlers' supply requirements, and available surplus outlets, often cause cooperatives to move milk to a less remunerative area, even though the milk may eventually be distributed in the higher-priced market.

Differences in health requirements throughout the proposed marketing area are virtually nonexistent and thus are not an impeding factor in the adoption of a single order for the proposed Ohio Valley marketing area. The State of Ohio has reciprocity arrangements on health requirements with the neighboring States of Kentucky, West Virginia, Indiana, and Michigan, and there is full reciprocity among all political subdivisions within Ohio. Thus, health requirements present no limitation on the movement of milk throughout the proposed marketing area.

The cooperatives proposed that the order for the Ohio Valley marketing area continue the provisions of the Cincinnati order except for certain modifications considered necessary with the merger of the orders. The order proposed herein generally carries out this concept. The Cincinnati order provisions have been appropriate for achieving the ends sought by the regulatory plan for the Cincinnati area. On the basis of the hearing evidence, it is found that these provisions, with certain modifications, will continue to be equally applicable for achieving orderly marketing conditions in the proposed Ohio Valley marketing area.

Many of the Cincinnati order provisions that would be continued are essentially the same as corresponding provisions in the other four orders included in the merger. The several significant differences that do exist in the corresponding provisions of these orders are noted in the decision.

On January 1, 1970, each of the five Ohio orders was amended to incorporate into its regulatory plan the treatment of filled milk. It was proposed at the merger hearing that any filled milk amendments, which at the time of the hearing were still under consideration by the Department, be included in the order for the proposed Ohio Valley marketing area.

The Assistant Secretary's October 13, 1969, decision on 64 milk orders, including the five Ohio orders, set forth the basis for integrating into the regulatory plan of all Federal orders the classification and pricing of filled milk. The findings and conclusions of that decision are equally applicable with respect to the handling of filled milk in the proposed Ohio Valley marketing area and are adopted in their entirety. The filled milk amendments adopted for the separate Ohio orders are incorporated in the proposed merged order.

The order proposed herein would continue the use of the part number for the present Cincinnati order, Part 1033. The amended Part 1033, upon issuance, would supersede Parts 1005, 1034, 1035, and 1041.

Although the present Ohio orders would no longer exist upon effectuation of the Ohio Valley order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures which would need to be carried out after the merger date include the announcement of certain prices, submission of reports, computation of uniform prices, payment of obligations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

3. *Expansion of the merged marketing area.* All territory now within the defined marketing areas of the Northwestern Ohio, Cincinnati, Miami Valley, Columbus, and Tri-State orders should be included in the marketing area of the merged order. The Ohio Valley marketing area should include also certain territory in 31 counties that is not now a part of any Federal order marketing area.

The additional areas proposed herein are (1) in Ohio, the counties of Adams, Auglaize, Brown, Darke, Hardin, Highland, Hocking, Knox, Logan, Mercer, Morgan, Noble, Perry, Ross, Shelby, Vinton, and Wyandot and the unregulated portions of Clinton and Pike Counties; (2) in Kentucky, the counties of Bracken, Robertson, and Mason and the unregulated portion of Lewis County; (3) in West Virginia, the counties of Calhoun, Gilmer, Mingo, Pleasants, Ritchie, and Wirt; and (4) in Indiana, the counties of Dearborn and Ohio.

The inclusion of this unregulated territory in the Ohio Valley marketing area was proposed by the seven cooperatives proposing the merger of the orders. Their proposal to include also certain other unregulated areas is denied. Such areas are Rowan and Carter Counties in Kentucky, the counties of Braxton, Clay, Nicholas, Greenbrier, Monroe, and Summers in West Virginia, and in Ohio, the counties of Williams, Defiance, and Paulding and the unregulated portions of Van Wert and Coshocton Counties.

In many of the new areas proposed herein to be in the marketing area, all of the Class I sales were reported to emanate from regulated sources. In Ohio, handlers that would be regulated under the proposed order are the only distributors of milk in Wyandot, Hardin, Logan, Shelby, Auglaize, Morgan, Perry, Hocking, and Vinton Counties. Such handlers also have most of the fluid milk sales in Noble County and 80–90 percent of such sales in Knox County. The remaining sales in these two counties are by handlers regulated under the Eastern Ohio-Western Pennsylvania order.

With respect to Logan, Shelby, and Auglaize Counties, the marketing situation just described for these areas is different from that depicted at the hearing. At the time of the hearing, handlers regulated under the five Ohio orders accounted for 87 percent of the total Class I sales in Auglaize County, 97 percent of the sales in Logan County, and 36 percent of the sales in Shelby County. An unregulated distributor at Sidney in Shelby County was reported to have the remaining sales in these counties. The milk sold by this distributor, who did not appear at the hearing, was reported to be received in most cases from dairy farmers and processed in his plant at Sidney.

Official notice is taken of the commercial fact that (1) the distributor at Sidney no longer receives milk from dairy farmers or processes and packages milk at his plant, and (2) such plant is now a distribution point for milk processed and packaged at a plant fully regulated under the Miami Valley order.

Handlers under the Ohio orders distribute about 86 percent and 50 percent, respectively, of the Class I milk sold in Mercer and Darke Counties. Handlers regulated by the Indiana order make the rest of the fluid sales in these counties.

Indiana handlers also compete with handlers under the Ohio orders in the proposed Indiana counties of Ohio and Dearborn. Seventy-six percent of the total Class I sales in Ohio County and 88 percent of the total sales in Dearborn County are by Ohio handlers. Indiana handlers account for the remaining sales in those areas.

In West Virginia, all of the Class I milk sold in Wirt and Calhoun Counties is distributed by handlers who would be subject to the merged order. Such handlers also have about 50 percent of the route sales in Gilmer County, 90 percent of the total sales in Ritchie County, and 85 percent of the sales in Pleasants County. The remaining Class I sales in these latter three counties are by Eastern

[1] Official notice is taken of the market administrator's monthly statistical releases issued in January 1970 for the Northwestern Ohio, Cincinnati, Miami Valley, Columbus, and Tri-State orders which show data for December 1969 that were not available at the hearing.

Ohio-Western Pennsylvania order handlers.

An estimated 55–61 percent of the distribution in Mingo County, W. Va., is by handlers who would be regulated under the proposed order. The remainder of the distribution in the county is by handlers regulated under the Appalachian and Louisville-Lexington-Evansville orders.

These 21 counties in which all sales of Class I milk are from regulated sources are an integral part of the sales areas of handlers now regulated under the five Ohio orders. By extending regulation to these counties, the proposed marketing area would more nearly represent the total sales areas of the handlers who would be subject to the merged order. In addition, inclusion of these counties in the marketing area would insure price parity in a principal part of the sales areas of regulated handlers should an unregulated distributor choose to find outlets in such areas.

No objections were raised concerning the addition of the Ohio and Indiana counties in this 21-county group. Inclusion of the six West Virginia counties in the proposed area, however, was opposed by a handler who operates regulated plants under all five of the Ohio orders. Except for Greenbrier and Nicholas Counties, the handler also opposed the inclusion of the other West Virginia counties that are excluded. It was contended that any area expansion involving the West Virginia counties would insure the regulation under the merged order of a major Tri-State handler who has Class I distribution in both the proposed Ohio Valley marketing area and the Eastern Ohio-Western Pennsylvania marketing area. Opponent alleged that the handler in question was "waivering" between regulation under the Tri-State order and the Eastern Ohio-Western Pennsylvania order because of nearly equal sales in each marketing area. Opponent believed that the handler should be regulated under the latter order, although no specific reason for this position was given.

As indicated, the West Virginia counties of Pleasants, Ritchie, Wirt, Calhoun, Gilmer, and Mingo are an integral part of the sales areas of handlers that would be regulated by the Ohio Valley order. Although handlers are not now experiencing unregulated competition in these areas, these counties should be included in the Ohio Valley marketing area for the reasons previously stated.

The inclusion of certain areas in southern Ohio and northern Kentucky in the proposed Ohio Valley marketing area probably would result in three presently unregulated distributors becoming fully regulated under the merged order. These areas in Ohio are Ross, Highland, Brown, and Adams Counties, the townships of Jefferson, Clark, Washington, and Green in Clinton County, and the townships of Perry, Mifflin, Benton, Pebble, and Sun Fish in Pike County. The remaining portion of Clinton County is now in the Miami Valley marketing area, and the remainder of Pike County is in the Tri-State marketing area. The Kentucky areas include Bracken, Robertson, and Mason Counties and all but Magisterial Districts 2, 3, and 8 in Lewis County. These three Magisterial Districts are now in the Tri-State marketing area.

One of the unregulated distributors is located at Chillicothe in Ross County. Another distributor is located at Hillsboro in Highland County. The third one has a plant at Maysville in Mason County. All opposed regulation.

The cooperatives proposing the inclusion of this group of counties in the marketing area contended that the unregulated distributors are a disruptive factor for the regulated handlers who sell Class I milk in these proposed areas. This position was supported by regulated handlers who indicated that they are competitively disadvantaged on sales in these areas because the competing unregulated distributors do not purchase their milk on a classified price basis. Relatively low retail prices in the area were attributed to the unregulated distributors as well as a loss of route sales.

Handlers now regulated under the five Ohio orders have the majority of the Class I sales in each of these Ohio counties. The proportions of total Class I business in these counties by regulated handlers are: Ross County, 60–80 percent; Highland County, 52–77 percent; Clinton County, 90 percent; Brown County, 56–73 percent; Adams County, 45–70 percent; and Pike County, 68 percent.

Regulated sales in Highland County are made by at least two Cincinnati order handlers, three Miami Valley order handlers and one handler under the Columbus order. Unregulated sales in the county are by the Hillsboro distributor. His sales include milk bottled by the unregulated Ross County distributor.

The Hillsboro distributor also has sales of unpriced milk on routes in the unregulated portions of Clinton and Pike Counties.

At least one handler under each of the Cincinnati and Miami Valley orders has distribution in Adams and Brown Counties. Sales in Brown County are also made by a regulated Tri-State handler. Unregulated sales in these counties consist of distribution by the Maysville, Ky., distributor and by the Hillsboro distributor, whose sales also include limited quantities of milk bottled by the Chillicothe distributor. The Maysville distributor testified that he did not oppose the inclusion of these two counties in the Ohio Valley marketing area.

The Hillsboro distributor has 34 percent of his total fluid milk sales in his home county. The proportion of his total sales in other unregulated areas are: Ross County, 28 percent; Adams County, 17 percent; Brown County, 7 percent; Clinton County, 2 percent; and Pike County, 2 percent. The rest of his sales are to a plant in Fayette County which is regulated under the Columbus order. The distributor's obligations under the Miami Valley and Cincinnati orders as the operator of a partially regulated distributing plant are offset by purchases of regulated milk from a Cincinnati order handler.

This unregulated distributor indicated that he has a buying advantage relative to regulated handlers since he pays his 23 producers the Cincinnati order uniform price plus prevailing premiums. In 1968, his average price to producers was $5.67, 14 cents to 42 cents under the average order Class I prices in the nearby Cincinnati, Miami Valley, Columbus, and Tri-State regulated areas. He stated that about 95 percent of his milk was used in Class I products.

In opposing any marketing area expansion that would include his sales area, the Hillsboro distributor contended that there are no disorderly marketing conditions in the southern Ohio area and that his producers are satisfied with the prices which he is paying. Moreover, he contended, this area is not related to the nearby regulated areas from an economic or marketing standpoint.

The Chillicothe distributor has route sales only in Ross County where his plant is located. He also bottles milk for the Hillsboro distributor who in turn packages milk (about 1.5 million pounds per year) in paper containers for sale by the Chillicothe dealer. This dealer indicated that he and the Hillsboro distributor account for 40 percent of the total Class I route sales in Ross County. The other 60 percent of the sales in the county are by handlers regulated under the Cincinnati, Miami Valley, Columbus, and Tri-State orders.

The Chillicothe distributor purchases milk from eight producers. He testified that they are paid the Columbus order uniform price plus any premiums prevailing in the area. His average pay price in 1968 was $5.71 per hundredweight, which was 10 cents to 38 cents under the average Class I prices that year under the Cincinnati, Miami Valley, Columbus, and Tri-State orders. The distributor, who has mostly a Class I operation, claimed that the buying advantage that he has on raw milk relative to regulated handlers is offset by the higher operating costs attendant to his relatively small business.

The Chillicothe distributor opposed any area expansion that would include Ross, Highland, Adams, and Brown Counties and the unregulated portions of Clinton and Pike Counties. Among other reasons, he claimed that regulation of his plant would result in additional costs for him that would eventually force him out of business.

The Maysville, Ky., distributor opposed the inclusion in the marketing area of Bracken, Robertson, and Mason Counties and the unregulated portion of Lewis County for essentially the same reasons as were presented by the Chillicothe distributor. About 70 percent of his fluid milk distribution is in these Kentucky areas. Another 12 percent of his sales is in Brown and Adams Counties, Ohio, that are proposed to be a part of the Ohio Valley marketing area. The remaining 18 percent of his total route sales is in Fleming County, Ky., an area that was not under consideration at the hearing.

Regulated sales in these proposed Kentucky areas are by two handlers under the Cincinnati order and a Miami Valley order handler. Two of these handlers urged the regulation of the Maysville distributor because of his lower cost of milk for fluid use.

Estimates on the proportion of route sales by regulated and unregulated distributors differed somewhat with respect to Mason County where the Maysville distributor is located. Opponent claimed that his sales in Mason County are 65 percent of the total county sales. Proponents, on the other hand, contended that the proportion of total sales by regulated handlers is as much as 74 percent. For the other counties, there was general agreement that regulated handlers have 55 percent of the total sales in Bracken County, about one-half of the sales in Lewis County, and 10 percent or less of the sales in Robertson County. The remaining sales in these areas are by the Maysville distributor. Thus, with the regulation of this dealer, all fluid milk sales in these Kentucky areas would be by handlers under the merged order.

The Maysville distributor processes only fluid milk products. He indicated that he pays the 23 dairy farmers supplying him milk approximately the uniform price of the Cincinnati or Tri-State orders. The distributor is now partially regulated under the Tri-State order on the basis of his limited sales in the regulated portion of Lewis County. His monetary obligations under the Tri-State order because of such sales are offset by his purchases of Class I milk from a Cincinnati order handler.

Regulation of these Ohio and Kentucky areas involving the three unregulated distributors is necessary to assure the handlers who would be regulated under the merged order that they will not be subjected to competition in their primary areas of distribution by unregulated dealers who have a significant buying advantage on their milk supplies for fluid use. With the exception of Robertson County, presently regulated handlers have the majority of the sales in each of these several unregulated counties. In this situation, these handlers should not be subjected to the competitive pressures that unregulated dealers are able to exert because of not being required to purchase their milk on a classified basis. Orderly marketing will be promoted by the application of classified pricing to all fluid milk distributed in these contiguous Kentucky-Ohio areas.

As previously noted, presently regulated handlers have only a limited share of the sales in Robertson County. However, this county should be included in the marketing area since the remaining sales in the county are by the Maysville distributor who would become regulated under the merged order.

The maintenance of orderly marketing for producers and handlers now associated with the five Ohio orders does not require the inclusion of Rowan and Carter Counties, Ky., in the Ohio Valley marketing area. Cooperatives proposed these areas for the purpose of fully regulating a distributor located at Morehead in Rowan County. Their spokesman contended that this distributor's unregulated status provides him a competitive advantage on fluid milk sales relative to competing regulated handlers.

Proponents claimed that a majority of the fluid milk sales in Rowan and Carter Counties are by regulated handlers. The Morehead distributor indicated, on the other hand, that his route sales in Rowan County are 76 percent of the total county sales and in Carter County, 60 percent of the total. He testified that he competes in Rowan County with two Tri-State handlers and a Cincinnati order handler. His competition in Carter County is with two Tri-State handlers.

None of these regulated handlers testified as to specific disorderly marketing conditions in the two counties. However, one handler, in referring to the unregulated status of the Morehead distributor, indicated that he wanted all his competitors to be on the same regulated basis that applies to him.

The Morehead distributor has route sales in 13 unregulated Kentucky counties. He stated that about 15 percent of his total sales are in Rowan and Carter Counties, although other data he presented indicate that this proportion may be much higher. He also has limited sales in Magoffin County, Ky., which is in the Tri-State marketing area. Such sales cause him to be partially regulated under the Tri-State order. This distributor opposed any area expansion involving Carter and Rowan Counties, claiming that the additional costs that he would experience as a regulated handler would jeopardize his competitive position since he is already incurring relatively high costs in servicing his largely rural sales area.

This distributor receives milk from 46 dairy farmers, paying them a price based on the Tri-State order uniform price for the Charleston-Huntington district less 45 cents per hundredweight for hauling and less 7 cents more for certain service charges. He indicated that his Class I utilization averages about 90 percent of his receipts.

A representative of dairy farmers shipping milk to the Morehead distributor appeared at the hearing in opposition to the inclusion of these two counties in the marketing area. He claimed that regulation of this distributor would not benefit the shippers since they are presently receiving as much for their milk as they could receive under any Federal order.

The marketing situation described at the hearing with respect to Rowan and Carter Counties makes difficult any conclusion at this time that regulation of these areas is necessary to carry out the intent of the Act. It does not appear that these areas are primary sales areas for regulated handlers. Although the Morehead distributor is not buying milk on a classified price basis, there was no showing that this distributor is now a disruptive factor with respect to a significant share of regulated Class I sales.

Similar reasons prevail in concluding that Braxton, Clay, Nicholas, Greenbrier, Monroe, and Summers Counties in West Virginia also should be excluded from the proposed marketing area. This marketing area expansion proposed by the cooperatives would result in the regulation of distributors located at Ronceverte in Greenbrier County, at Summersville in Nicholas County, and at Lowell in Summers County. There is also a producer-handler operation in Summers County at Talcott.

Little or no concern was expressed by witnesses about the unregulated status of the latter three distributors, none of whom appeared at the hearing. The Lowell distributor was described as receiving milk from two or three dairy farmers and selling this along with his own production mainly in his home county, and to a limited extent in Monroe and Greenbrier Counties. The Talcott distributor's sales apparently are confined to Summers County where he is located.

The Summersville distributor has route sales in th proposed counties of Nicholas, Clay, Braxton, Greenbrier, and Summers, and also in Webster County which was not under consideration at this hearing. The record does not indicate the proportion of his total sales in each of these counties. This distributor also has Class I sales in Fayette County, which is in the Tri-State marketing area. Such sales cause him to be a partially regulated handler under the Tri-State order. In addition to his own production, he receives milk from eight dairy farmers. The representative for the proponent cooperatives testified that the distributor is paying his shippers nearly the Tri-State Class I price and is not a disruptive factor to regulated handlers in the competition for fluid milk sales.

The unregulated status of the Ronceverte distributor, on the other hand, was described as the cause of disorderly marketing conditions in this general area of West Virginia. Witnesses testified that regulation of this distributor was necessary so that all persons distributing milk in the area would have the same basic cost for their Class I milk purchased from dairy farmers.

The Ronceverte distributor testified in opposition to the regulation of Greenbrier, Monroe, Summers, and Nicholas Counties. In addition to his sales in these four counties, he also distributes milk in Pocahontas County, which was not under consideration at this hearing. Most of his route sales, he indicated, are in Greenbrier, Monroe, and Pocahontas Counties. A more detailed breakdown of the proportion of his total sales in each county was not presented at the hearing. He stated that three Tri-State handlers were his main competitors.

Opposition to the regulation of the Ronceverte distributor was expressed also by one of the dairy farmers who ship milk to this dealer.

About 80–85 percent of this distributor's receipts are sold as fluid milk products. Except for 2 or 3 months, he pays a "flat" price to his 13 shippers for all milk received. During the heavy production months he declares a certain portion of the deliveries as surplus (12 percent in May 1968 and 7 percent in June 1968,

for example) and pays a lower price than is paid for the other receipts. His "flat" price approximates the Tri-State uniform price for the Charleston-Huntington district.

Of the total Class I sales in Greenbrier County, 39–46 percent was reported to be by handlers under the Tri-State and Cincinnati orders. An additional 6 percent of the sales was by Appalachian order handlers, and the remainder by unregulated distributors.

The sales breakdown described for Monroe County was: Tri-State handlers, 30–40 percent of the total county sales; Appalachian handlers, 20–30 percent; and unregulated distributors, 40 percent.

Tri-State and Cincinnati handlers were reported to have the majority of the route sales in Summers County. Of the total sales, 10–17 percent was attributed to Appalachian handlers and 15–31 percent was estimated to be made by unregulated distributors.

In Nicholas County, about 55–60 percent of the total sales is by unregulated distributors. Tri-State handlers accounted for 34–44 percent of the total and the remaining sales emanated from the Eastern Ohio-Western Pennsylvania market.

Although there was testimony that all of the Class I sales in Clay and Braxton Counties were by regulated handlers, other witnesses indicated that the Summersville distributor had sales in those counties.

As many as seven different handlers (regulated under the Tri-State, Appalachian, and Cincinnati orders) were reported to be distributing milk in one or more of these six counties. Support for the regulation of these particular counties was expressed by only two of the handlers. One limited his testimony on this issue to a general indorsement of the regulation of all of the West Virginia counties proposed by the cooperatives. The other handler limited his support to the inclusion in the marketing area of only Greenbrier and Nicholas Counties since it was believed that this would cause the Ronceverte and Summersville distributors to become regulated under the Ohio Valley order. He indicated that although he was not experiencing any competitive problems with respect to the Summersville distributor there were certain advantages for an unregulated distributor who was not subject to the regulatory program and the auditing procedures connected with it. The regulated handler testified, though, that he had lost Class I sales in Greenbrier County and that retail prices in that area were low relative to those prevailing in his local sales area in the marketing area. The record is silent on whether or not the sales in these six counties by each of the regulated handlers is a significant proportion of their total Class I business.

It cannot be concluded from this record that the several regulated handlers distributing milk in these six counties are experiencing disorderly marketing conditions to a degree that warrants the inclusion of these areas in the proposed Ohio Valley marketing area.

The cooperatives' proposal would extend the marketing area to include also the Ohio counties of Williams, Defiance, Paulding, and the unregulated portion of Van Wert. The Northwestern Ohio marketing area now includes the city of Delphos in Van Wert County.

There are five unregulated distributors in these areas, none of whom appeared at the hearing. Their operations were described by the cooperatives' spokesman.

A distributor at Van Wert in Van Wert County, who receives milk from three dairy farmers, is the only unregulated distributor selling milk in that county. His sales were estimated to be 10 percent of the total Class I sales in the county.

Unregulated fluid milk sales are made in the other three counties by a distributor at Defiance in Defiance County. It was estimated that of the total Class I sales in each county this distributor accounted for 34 percent in Defiance County, 16 percent in Paulding County, and 7 percent in Williams County. The distributor, who is supplied by 24 dairy farmers, is partially regulated under the Northwestern Ohio order on the basis of sales in the marketing area.

There are three unregulated distributors in Williams County. The distributor at Bryan receives milk from four dairy farmers, the one at West Unity produces his own supply, and the one at Edgarton has one shipper. The latter distributor is partially regulated under the Indiana order.

Proponents indicated that the unregulated distributors might have as high as 60 percent of the total Class I sales in Williams, Defiance, and Paulding Counties.

The five unregulated distributors were described as paying their shippers approximately the Northwestern Ohio uniform price for the milk disposed of in fluid uses. Regulation of these distributors is necessary, proponents contended, because of their competition with regulated handlers who are subject to classified prices.

The area expansion involving these four counties was supported by nine Northwestern Ohio order handlers. Their spokesman, who operates a regulated distributing plant at Findley, Ohio, indicated that he found the Bryan and Defiance distributors to be a disturbing factor in the retail market.

The limited evidence in the record concerning this four-county area does not permit a proper evaluation of the proposal for extending regulation to these counties. More information on the distribution patterns of regulated and unregulated sellers in the area, for instance, would be helpful in analyzing the alleged competitive problems. Each of the four counties is bordered on the east by the Northwestern Ohio marketing area and on the west by the Indiana marketing area. Proponents indicated that both Northwestern Ohio and Indiana handlers have Class I sales in the four-county area. However, the record is lacking in any indication of how extensive the sales of Indiana handlers are. With Fort Wayne, a major distribution center in the Indiana market, being as close to the four-county area as Toledo, it is reasonable to expect that this area may be an important sales area of Fort Wayne handlers. Reasonable evidence on the amount of Class I business in these counties by Northwestern Ohio handlers was generally lacking also.

In view of the lack of sufficient evidence on the record concerning Williams, Defiance, Paulding, and Van Wert Counties, these areas should not be included in the Ohio Valley marketing area.

Cooperatives proposed that Adams Township in Coshocton County, Ohio, be included in the Ohio Valley marketing area. The remainder of the county is presently in the Columbus marketing area. The only fluid milk sales reported to be made in Adams Township are by a Tuscarawas County handler regulated under the Eastern Ohio-Western Pennsylvania order. Since this township is not a part of the sales area of Ohio Valley handlers, it should not be included in the marketing area of the proposed order.

Although some of the route disposition of handlers to be regulated under the Ohio Valley order will extend beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to extend the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass the great bulk of the fluid milk sales of handlers to be regulated.

All producer milk received at regulated plants must be subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

4. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants, and milk to which the applicable provisions of the order relate.

The following principal definitions included in the proposed order would serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are: "Route disposition," "plant," "distributing plant," "supply plant," "pool plant," and "nonpool plant." Definitions of persons include: "producer," "handler," and "producer-handler." Definitions relating to milk and milk products include "producer milk," "fluid milk product," and "other source milk." A number of these definitions were of particular issue at the hearing and are discussed below.

Plant. A "plant" definition should be provided for the purpose of designating the type of milk handling facilities to which the order provisions would apply. A plant would be the land, buildings, and equipment constituting a single operating unit which contains stationary holding facilities and which handles or processes bulk milk or milk products. Separate intermediary distribution points used in the disposition of packaged fluid milk products would not be plants. Similarly, separate reload points used for transshipping farm bulk tank milk would not be plants. However, if such distribution points or reload points are on the premises of a plant, they would be considered a part of the plant operation. This is necessary since otherwise it cannot be assured that the operations at these ancillary facilities are in all instances and respects separate from the plant operation. Such assurance is required because of the different pricing treatment under the order that would apply to milk handled through the various types of facilities.

A "plant" definition of generally similar scope is now contained in the Cincinnati, Miami Valley, and Northwestern Ohio orders. The Tri-State and Columbus orders do not define a "plant."

Distributing plant and supply plant. Because of the differences in marketing practices and functions between distributing plants and supply plants, separate performance standards should be provided for them. Defining such types of plants would facilitate this.

A "distributing plant" would be a plant in which milk approved by a duly constituted health authority for fluid consumption, or filled milk, is processed or packaged and from which Class I milk is distributed on routes in the marketing area.

A "supply plant" would be a plant from which a fluid milk product approved by a duly constituted health authority for fluid consumption, or filled milk, is transferred to a pool plant.

Pool plant. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants which do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants and supply plants that are contained in the attached order would carry out this concept under the present marketing conditions.

To qualify as a pool plant, the Class I route sales from a distributing plant during the month should be not less than 50 percent for the months of September through February, and 45 percent for the months of March through August, of the plant's total receipts of fluid milk products approved for fluid consumption. The plant's route sales in the marketing area during the month should be not less than 15 percent of its total route disposition.

In determining if either of the qualifying percentages have been met, the route disposition of the plant should include packaged fluid milk products transferred as Class I milk to other plants. Such percentage computations should be exclusive, however, of filled milk receipts and sales and of packaged fluid milk products received from other plants if priced as Class I milk under any Federal order. Also, the 50 percent requirement should be exclusive of bulk fluid milk products received at the distributing plant by transfer or diversion from other plants as Class II or Class III milk. Diversions of milk from the distributing plant, whether by the plant operator or a cooperative, would be included, however, in the plant's receipts for determining if the 50 percent requirement has been met.

The pooling standards for distributing plants should accommodate certain special situations. A distributing plant that fails to meet the total route disposition requirement for the month (50 percent or 45 percent, as the case may be) should not be disqualified as a pool plant for this particular reason if this requirement was met in the preceding month. Also, a distributing plant with route disposition only on the campus of the Ohio State University at Columbus should be required to meet the 50 percent route sales requirement only for the months of January, February, October, and November.

These pooling standards for distributing plants, with the exception of the slightly olwer total route disposition requirement for the months of March through August, were proposed by the seven cooperatives advocating the merger. Although they proposed the continuation of the pooling standards now in the Cincinnati order, recognition should be given also to the standards under the other orders to be merged. The intent of the proposed merger is not the exclusion from the pool of those regulated distributing plants that are now regularly serving the separately regulated marketing areas. The present pooling requirements under the five orders, while varying somewhat from one order to another, nevertheless were established for the same purpose, namely, to distinguish between those plants that are serving the fluid needs of the market and those that are not.

Because of the differences in the pooling provisions of the several orders, a handler objected to the use of the Cincinnati order pooling provisions under the merged order and proposed instead the Miami Valley order pooling requirements for distributing plants. Under the Miami Valley order, the proportion of the plant's receipts that must be distributed on routes is 50 percent for the months of August through January, 45 percent for February and March, and 40 percent for April, May, June, and July.

The handler requesting the Miami Valley pooling standards operates six distributing plants that are presently regulated under four of the five Ohio orders involved. Two are pooled under the Miami Valley order, two under the Columbus order, and one each under the Northwestern Ohio and Tri-State orders. The handler pointed out that his New Bremen plant under the Miami Valley order, in addition to processing and packaging fluid milk products, also manufactures a number of products, including cottage cheese, sour cream, and sour cream products (dips). These cultured products are transferred to his other regulated Ohio distributing plants at Dayton, Lima, Zanesville, and Westerville. The handler claimed that under the distributing plant pooling requirements proposed by producers, the New Bremen plant would not be able to qualify as a pool plant in all months without a major change in its operations. The proportion of total route disposition relative to receipts at the plant would be less than 50 percent at times because of the plant's manufacturing activities. The handler urged that the pooling provisions for the merged order accommodate the specialized operations at the New Bremen plant that has been regularly pooled under the Miami Valley order.

In the recommended decision, it was proposed that a "unit" pooling provision be included in the merged order to accommodate the operations of the multiple-plant operator just described. Under this provision, two or more distributing plants of a handler would have been considered as a unit for the purpose of meeting the 50 percent total route sales requirement. In their exceptions, certain handlers pointed out, however, that such a provision accommodates only a multiple-plant operator and does not give recognition to those single-plant operators who also may be processing a relatively large amount of Class II or Class III items in conjunction with their fluid milk operations.

On the basis of a further review of the evidence in light of the exceptions received, it is concluded that the unit pooling provision should not be included in the order. Instead, the 50 percent total route sales requirement initially proposed for each month should apply only for the months of September through

February. For the other months, a distributing plant should be required to dispose of only 45 percent of its receipts on routes.

The lower disposition requirement will recognize not only the specialized operations of presently regulated handlers but also the proposed classification scheme and its possible effect on the qualification of distributing plants for pooling. As described later, cream products no longer would be Class I items. Thus, cream sales would not count for pooling purposes as a part of a handler's route sales. This could make it more difficult for pool distributing plants that have been regularly associated with the separate markets to maintain their pool status under the merged order.

It should be noted that handlers would have some short-term pooling flexibility under the 1-month grace period that is proposed. A distributing plant that fails to meet the total route sales requirement in 1 month would not be disqualified for this reason if the plant had been pooled in the preceding month.

The period of March through August when the lower pooling percentage would apply coincides with the period of seasonally lower Class I utilization in the proposed Ohio Valley area. This same period is proposed herein as that time when supply plants should not be required to make minimum shipments to distributing plants for pool qualification purposes.

A supply plant, to qualify for pooling, should transfer to pool distributing plants during the month at least 50 percent of the milk approved for fluid consumption (excluding that diverted from other plants) which it physically receives from dairy farmers and cooperatives acting as bulk tank handlers. Any route disposition of fluid milk products (except filled milk) which the plant may have should also count toward the 50 percent disposition requirement.

If a supply plant is pooled under the order in each of the immediately preceding months of September through February, it should be designated as a pool plant for the months of March through August irrespective of its shipments to pool distributing plants. The plant would have nonpool status during these months if such were elected by the plant operator, or if the milk received at the plant did not continue to meet the proper health requirements.

These pooling standards for supply plants are the same as those now contained in the Cincinnati order and are quite similar to those in the Northwestern Ohio order. The Cincinnati and Northwestern Ohio orders are the only two of the five Ohio orders under which supply plants of the type being considered at this point are now qualifying as pool plants. All of such plants are proprietary plants. The one at Covington, Ohio, is pooled under the Cincinnati order and the two at Belle Center and Defiance, Ohio, are pooled under the Northwestern Ohio order.

A supply plant at Dayton that is operated by a cooperative association qualifies as a pool plant under the Miami Valley order under a different type of pooling standard. This situation will be described later.

Cooperatives proposed that a pool supply plant be required to ship at least 65 percent of its receipts from producers to pool distributing plants in each of the months of September through February and 35 percent of such receipts in each of the other months. No automatic pooling would be permitted under their proposal.

The cooperatives considered the more stringent pooling requirements necessary because of the different pricing structure which they were proposing for the enlarged market. Proponents pointed out that the three supply plants would be located within the proposed Ohio Valley marketing area where no location differentials would apply. It was their position that with the removal of the location differentials presently applicable at such plants any less stringent pooling requirements could result in producer milk supplies being attracted to these plants solely for manufacturing purposes.

The handler operating two of the three regulated supply plants (at Covington and Belle Center) proposed the adoption of the pool supply plant provisions of the Cincinnati order, which, as indicated, are the same as proposed herein for the merged order. He supported these provisions to assure continued pooling of his two supply plants which have been qualifying under these or very similar shipping requirements. The handler contended that milk from the two supply plants is available at all times to meet the demands of the fluid market.

The Belle Center plant was described as a receiving station for graded and ungraded milk delivered from farms in cans. It also receives surplus milk from handlers under other orders. The producer milk that is not shipped to Northwestern Ohio order distributing plants is moved to the handler's Covington plant. The Belle Center plant has no manufacturing facilities. A minus location adjustment of 4.5 cents per hundredweight currently applies to Class I milk at this plant.

The Covington plant, in addition to its supply function, has manufacturing facilities for handling both graded and ungraded milk. Deliveries from the farm are in cans. The plant is a major outlet for milk not needed for fluid use, with such milk being received at times from the Northwestern Ohio, Cincinnati, Miami Valley, Columbus, Louisville-Lexington-Evansville, and Indiana markets. Class I milk at this plant is now subject to a minus location adjustment of 13 cents per hundredweight.

The operator of the supply plant at Defiance proposed the adoption of the supply plant pooling requirements provided under the Northwestern Ohio order. The principal difference between these requirements and those proposed for the merged order relates to the months involved in qualifying for automatic pool status. Under the Northwestern Ohio order, a supply plant that meets the 50 percent shipping requirement during each of the preceding months of September through December is designated a pool plant for the months of January through August. The handler maintained that these pooling standards would facilitate the continued pooling of his plant under the merged order in the same manner as it has been regularly pooled under the Northwestern Ohio order. He claimed that milk supplies at his plant are always available to the market for fluid use.

The Defiance plant, at which a minus 7.5-cent location adjustment now applies, is a manufacturing plant that receives both graded and ungraded milk in bulk tanks and cans from dairy farmers. Milk is shipped from the plant to Northwestern Ohio distributing plants and the supply plant regularly receives surplus milk which Northwestern Ohio handlers do not need.

The more stringent pooling standards proposed by the cooperatives are not supportable at this time. Their claim for the higher shipping requirements was based on anticipated conditions under the proposed merger rather than on any problems being experienced currrently in the separately regulated areas. The three supply plants, as indicated by their regulated status under the Northwestern Ohio and Cincinnati orders, have been supplying the regulated areas to the extent that was considered necessary under those orders. The operators of these plants stressed that they are always ready to make milk available to distributing plants. This was not refuted by any witness at the hearing. Their shipments to regulated handlers have not been limited to the minimum quantities and months required for pooling of their plants. Continuation under the merged order of the 50 percent shipping requirement that now applies to these supply plants should assure that supply plants pooled under the order are adequately associated with the market.

The cooperatives proposed that supply plant shipments be required each month throughout the year. However, the demand for supply plant milk is less during the flush production months than during other months. Requiring qualifying shipments during these months of heavy production when they are not needed for fluid use would result in the uneconomical movement of milk. Thus, no minimum shipments should be required in such months for a plant that has demonstrated its association with the market.

For the present five-market area, the Class I utilization of all receipts at pool plants is generally the lowest in the months of March through August. It would be during these months when distributing plants would have the least need for supplemental milk from supply plants. Thus, any supply plant that has made the required shipments during the months of September through February should be accorded pool plant status irrespective of shipments during the March through August period.

It was proposed in the recommended decision that March not be included in the automatic pooling period. Handler

exceptions stressed, however, that the failure to include January, February, and March in the automatic pooling period would jeopardize the Defiance supply plant's pool status. The demand for milk for fluid use in the Ohio Valley area is such in January and February that pool supply plants should be required to ship at least half of their producer receipts to distributing plants. Since the seasonal decline in Class I utilization tends to start in March, however, it is reasonable to not require mandatory shipments by supply plants in this month.

The cooperatives' concern about the availability of milk at supply plants that would be pooled under the merged order is not unreasonable. If the minimum shipping requirements are set too low, supply plants could keep milk at their plants for manufacture when it is to their advantage to do so rather than make the milk available to distributing plants when needed for fluid use. Including in the pool milk primarily acquired for manufacturing purposes can dissipate the proceeds of the higher-valued Class I utilization of the market otherwise returnable to those producers who regularly furnish the market's fluid needs.

It is difficult, of course, to determine at this time what effect the removal of the location adjustments now applicable at the supply plants in the proposed area may have on the allocation of the available milk supplies in the Ohio Valley market to the various regulated plants. It is possible that reconsideration of the supply plant pooling standards may be necessary after some experience has been gained under the merged order.

The pooling provision in the Miami Valley order for a supply "equalization" plant operated by a cooperative association should be continued under the merged order. This provision permits such a plant to be pooled if, during the month, more than 50 percent of the producer milk of the members of the cooperative is either delivered directly from their farms to pool distributing plants of other handlers or transferred to such pool plants from the cooperative's plant.

Presently, only one plant, at Dayton, would qualify under this provision. This plant assists the principal cooperative in the Miami Valley area in allocating supplies of member milk to distributing plants in response to their fluctuating needs and is used to manufacture milk that is unneeded for fluid use on weekends, holidays, and during the heavy production months. Its receipts and shipments fluctuate widely as handlers' demands vary. The efficient allocation and movement of milk to distributing plants that this balancing plant permits does not make it possible, however, for this plant to qualify for pooling under the normal shipping requirements prescribed for supply plants.

This pooling provision for a cooperative's equalization plant has contributed to the orderly marketing of producer milk in the Miami Valley marketing area. It should promote the orderly and economical marketing of milk equally as well in the Ohio Valley market.

Route disposition. "Route disposition" should be defined as a delivery, either directly or through any distribution facility (including disposition from a plant store or by a vendor or vending machine), of a fluid milk product classified as Class I, except a delivery in bulk form to a plant. However, for the single purpose of determining the pool status of a distributing plant, packaged fluid milk products transferred from such plant to another plant should be considered as route disposition of the transferor plant. Such transfers should be considered as route disposition in the marketing area to the extent of the in-area route disposition of the transferee plant. This proposed definition carries out essentially the same concept of what constitutes route sales that is now reflected in the corresponding provisions in the Cincinnati, Miami Valley, and Northwestern Ohio orders.

Handler. The "handler" definition in the proposed order is patterned on the corresponding provisions of the Cincinnati, Miami Valley and Tri-State orders. The definition contains an additional handler category not provided in the Columbus and Northwestern Ohio orders. This category would include any cooperative association with respect to producer milk which is delivered for its account from the farm to the pool plant of another handler in a tank truck or trailer owned or operated by, or under contract to, the cooperative.

Requiring the cooperative to be the handler for milk handled in this manner affords a practicable basis of accounting for such milk. Once milk from a producer has been commingled with milk of other producers in a tank truck, there is no further opportunity to measure, sample, or reject the milk of any indvidiual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity to determine only the weight and butterfat test of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weight and butterfat tests of milk at the farm. In some instances, handlers may not even know from which farms their milk is shipped.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. The pool plant operator's obligation for such milk to the producer-settlement fund and to the administrative expense fund would be the same as for producer milk received directly from the farm of an individual producer.

In some instances, as discussed elsewhere in this decision, differences between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative. For such differences the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement fund and administrative expense fund.

Producer-handler. The "producer-handler" definitions in the five orders are basically the same and should be continued in the proposed order. However, the present orders differ somewhat as to the quantity of milk that a producer-handler may receive to supplement his own production and as to the allowable sources of such milk.

The cooperatives proposed that a producer-handler be permitted to receive milk from pool plants and other order plants, but not more than 2,500 pounds in any month. This limitation is now provided in the Miami Valley order. The other four orders place no volume limitation on receipts from plants. The Tri-State, Cincinnati and Columbus orders permit supplemental receipts only from pool plants. Other Federal order plants may also be a source of milk under the Northwestern Ohio and Miami Valley orders.

A producer-handler should be permitted to purchase fluid milk products from pool plants and other order plants without losing his producer-handler status. The provision, customary in Federal orders, that classifies such purchases as Class I is included in the proposed order. Thus, any such purchases by a producer-handler could not be from a lower-price source than is available to his regulated competitors, as might be the case if he were permitted to purchase fluid milk products from unregulated plants.

The volume limitation proposed by cooperatives is not necessary to maintain orderly marketing conditions in the Ohio Valley market. Producer-handlers were not described as a disruptive factor in this market. The absence of such a limitation in four of the five Ohio orders has caused no problems and the limitation appears unneeded for the enlarged market.

Producer milk. The basic provisions of the "producer milk" definition proposed by the cooperatives should be adopted for the merged order. The purpose of this definition is to delineate that milk of a producer that is to be pooled and priced under the order.

The producer milk definition proposed herein would also establish which milk is the producer milk of each handler who handles the milk. This would define for each handler the producer milk for which he is responsible with respect to reports, classification, payments, and administrative assessments.

The producer milk of a pool plant operator would include the milk that is physically received at his plant directly

from a producer (except that received as a diversion from another pool plant). Also included would be milk received at his plant from a cooperative acting as a bulk tank handler. However, any difference between the quantity of milk received from producers by the cooperative, as based on farm tank measurements, and that claimed to be received by the plant operator would be producer milk reported by the cooperative. In addition, milk which a handler receives from producers and diverts from his pool distributing plant to another plant (other than a producer-handler plant) would also be his producer milk.

A cooperative association, other than as a plant operator, could have producer milk for which it is accountable in two situations. One would be where, as just described, not all of the milk which it receives from producers is claimed to be received by the operator of the plant to which delivered. In the other situation, milk received from producers which the cooperative diverts for its account from the pool distributing plant of another handler to a pool plant or a nonpool plant that is not a producer-handler plant would be producer milk of the cooperative.

The proposed producer milk definition would establish several conditions that would apply to producer milk diverted from pool distributing plants to other plants. Milk of a producer could be diverted only if at least 2 days' production of the producer is physically received during the month at the plant from which his milk is diverted. During the months of September through February, the quantity of milk of a producer diverted to nonpool plants, measured in terms of days of production, could not exceed the quantity of the producer's milk physically received at pool plants. Any "overdiversions" would not be considered to be producer milk. If the diverting handler fails to designate the deliveries to nonpool plants that are not producer milk, no milk diverted by him to nonpool plants would be producer milk.

Milk diverted from pool distributing plants to other plants should be priced at the location of the plant to which it is diverted. When milk is delivered by producers directly to a pool plant, it is priced at the class and blend prices applicable at the location of the plant. Any producer milk that is diverted to this same plant is, in essence, no different than the plant's regular receipts of producer milk. This milk takes on the same location value as the plant's regular producer supply, and, likewise, it should be priced at the same location.

Also, with milk priced at the plant to which it is diverted, there is not the incentive as under the opposite pricing arrangement for distant milk supplies to become associated with the market primarily for manufacturing use. Milk of distant producers, after being attached to a pool distributing plant in the central market, can be diverted to a nonpool manufacturing plant near the farms of such producers. In this situation, the transportation costs on the milk are reduced when it is diverted to the nearby manufacturing plant. If milk were priced at the plant from which diverted, these producers would receive, nevertheless, the central market blend price even though the milk was not actually moved to that location. This results in a payment from the pool to the distant producers for transportation costs which, in fact, were not actually incurred.

These conditions relating to diverted milk were in most respects proposed by the cooperatives. While differing somewhat from the corresponding diversion provisions in each of the five orders, a reconciliation of the several producer milk definitions is, of course, necessary for the merged order. The various diversion provisions advocated by the cooperatives, which were not opposed at the hearing, are reasonable in light of the marketing conditions in the Ohio Valley area.

Although not proposed at the hearing, the merged order should continue the provision in the Tri-State order regarding milk diverted to an other order plant. Unless it is diverted for manufacturing purposes, producer milk should not include any milk moved from a farm directly to an other order plant. Such milk's eligibility to be pooled under a Federal order would more appropriately be determined at the other order plant where received. In fact, diversion to such plants, if permitted unconditionally, possibly could result in the pricing and pooling of the same milk under two orders.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes would contribute to orderly marketing by facilitating the movement of milk for this purpose. In some instances, a pool plant operator or cooperative may find that the most accessible outlet for unneeded supplies is an other order plant.

For this same reason, the order should contain corollary provisions regarding milk diverted to an Ohio Valley pool plant from an other order plant. Handlers under other orders may divert surplus milk to Ohio Valley pool plants for manufacturing. If such milk is designated as Class II or Class III milk under the Ohio Valley order, it should not be producer milk under this order unless the other order does not pool and price the milk.

To facilitate the accountability of producer milk, the producer milk definition should provide that if milk is delivered by a pool plant operator in the same tank truck to more than one plant, the entire load shall be deemed to have been received at the first pool plant where milk is withdrawn from the truck. The remaining milk that is delivered to other plants would be treated as a transfer of milk from the first plant.

(b) *Classification of milk.* Each of the orders to be merged provides for the classification of milk according to use, including specific rules for milk moved from one plant to another. Also, each order sets forth a procedure for allocating a handler's receipts from various sources to the different classes in order to determine the classification of producer milk. The classification provisions of the separate orders differ in several respects, though, and various modifications were proposed by cooperatives and handlers. These are discussed below.

Classes of utilization. The merged order should provide for three classes of utilization.

Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, milk shake mixes containing less than 15 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. All such products or mixtures, including those that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted, should be in this class whether in fluid or frozen form. These proposed Class I products would be designated in the order as "fluid milk products." Yogurt, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing 6 percent or more nonmilk fat (or oil) should not be a fluid milk product.

Class I milk should include also packaged fluid milk products that are in a plant's inventory at the end of the month. In addition, any skim milk and butterfat specifically not accounted for in Class II or Class III (other than shrinkage within the limits permitted) should be included in Class I.

Most of the products proposed herein to be Class I milk are now classified as Class I under each of the separate orders. The Northwestern Ohio and Tri-State orders do not include any milkshake mixes in Class I, and under the Miami Valley order eggnog is not a Class I item.

The present orders include certain additional products in Class I that would not be so classified under the Ohio Valley order. Each order now includes sour cream and half and half as Class I items. Sweet cream, except in frozen, aerated or sterilized form, is also a Class I product under each of the five orders.

In addition to the products proposed herein as Class I items, the cooperatives proposed that Class I milk include half and half and fluid sweet cream, whether in aerated or sterilized form. Proponents stated that the type of package used, method of processing the product, or health requirements should have no bearing on the classification of these items. They pointed out that fluid cream not in aerated or sterilized form is now a Class I product under each of the orders to be merged. It was their contention that sterilizing the cream and putting it in hermetically sealed containers, or packaging the cream in pressurized cans, does not warrant a different classification for the product.

A number of handlers now regulated under the Ohio orders proposed that the fluid milk product definition in the

merged order be patterned after the corresponding definition in the Indiana order. Of particular concern to these handlers was the classification of eggnog, aerated cream, sterilized cream, and certain milk shake mixes, items that are Class II products under the Indiana order but which the cooperatives proposed be in Class I under the Ohio Valley order. The handlers stressed that their proposal would establish for the Ohio Valley order a category of Class I products that would be reasonably comparable with that applicable to competing handlers in the neighboring Indiana and Eastern Ohio-Western Pennsylvania markets.

The operator of an unregulated milk plant at Washington Court House, Ohio, proposed that sterilized cream products and aerated cream be considered as Class III rather than Class I products. He claimed that a Class I classification of these products, which he distributes throughout Ohio, would make them noncompetitive with nondairy cream substitutes, particularly in view of the relatively high processing and packaging costs associated with the handling of sterilized products. He also pointed to the fact that the State of Ohio does not require that sterilized products be made from Grade A milk, a basis that has been commonly used for determining which milk products should be in Class I.

Most of the products proposed herein to be in Class I are those for which handlers in the Ohio Valley area require a regular and dependable supply of high quality milk. In general, they are bulky, highly perishable products that are processed on a day-to-day basis. They are products that are consumed by the public in fluid form.

Most of these proposed Class I products are required by health authorities having jurisdiction in the proposed marketing area to be made from bottling grade (inspected) milk. Handlers who are also processing the few fluid items not requiring inspected milk nevertheless use graded milk for such items since health regulations do not permit them to process graded and ungraded milk in the same facilities. It is this market for inspected milk for which the regulatory plan is intended to assure an adequate supply of pure and wholesome milk.

Delineation of this Class I category of products is necessary for the purpose of insuring a price to producers for milk used in Class I that is considerably above the manufacturing milk price. This is necessary because of the cost of getting inspected milk produced and delivered to the market in the quantities required.

Fluid cream, including aerated and sterilized cream, and half and half should not be Class I products. The classification of these products will be discussed later relative to the Class II milk classification.

The proposed order should continue the provision now in the five Ohio orders that all nonfat milk solids used by a handler be accounted for on a skim milk equivalent basis. Certain fluid milk products are often modified by the addition of nonfat dry milk. In accounting for the total skim milk used by the handler, the normal quantity of water originally associated with the solids added to the modified product would be included in his receipts of milk.

Questions were raised at the hearing about the present and proposed methods of classifying the skim milk equivalent of solids added to a Class I product. The proposed order should provide that the weight of the modified product to be classified in Class I be the weight of an equal volume of the same product made without the addition of the nonfat milk solids. Thus, the increase in the volume of the fluid milk product that is due to the addition of the nonfat milk solids would be classified in Class I at the same weight of the product before modification. The skim milk equivalent of the solids added, less the weight represented by the volume increase of the product due to the added solids, would be classified as Class III milk. This classification procedure is commonly used under Federal orders and its use here would be equally in keeping with the purposes of the classified pricing plan.

Inventories of fluid milk products at the end of each month enter into the accounting for a handler's current receipts and utilization. Such inventories in packaged form should be Class I. This is the case now under the Cincinnati and Miami Valley orders, and the cooperatives proposed that this be continued. Certain handlers under the other orders, which now classify both bulk and packaged month-end inventories of fluid milk products in the lowest class, objected to this on the basis that handlers would have additional funds tied up in inventories of fluid milk products. It is reasonable, nevertheless, that ending inventories of fluid milk products in packaged form be classified as Class I milk. This classification would conform with the ultimate utilization of most of the packaged inventory.

Under this arrangement, it is necessary to insure that ending inventories of packaged fluid milk products are accounted for on the basis of the Class I price prevailing in the month of actual disposition. If the Class I price increases over the previous month's price (at which the inventories were first accounted for), the handler should be charged the difference between the Class I price for the current month and the Class I price for the preceding month on the quantity of ending inventory classified as Class I in the preceding month. If the current Class I price is less than that for the preceding month, however, the handler would receive a corresponding credit.

Since the ultimate use of month-end inventories of bulk fluid milk products is not necessarily apparent, such inventories should be classified in Class III. In the following month they would be subtracted under the allocation procedure from any available Class III milk. If they are allocated to the higher classes, the higher use value of the inventories would be reflected in the returns to producers.

The proposed order provides that the inventories of packaged fluid milk products on hand at the beginning of the month be allocated to the pool plant's Class I utilization before the allocation of all other receipts, except receipts of packaged fluid milk products from other order plants and, under certain conditions, from unregulated supply plants. This recognizes the previous month's accounting for such inventories at the Class I price. This preferential allocation should apply to those plants that were fully regulated in the preceding month under either the Ohio Valley order or any other order providing for a similar allocation of beginning inventories. In the case of plants not so regulated, the packaged inventories should be allocated, along with bulk inventories, to available milk in the lower classes before allocating receipts of other source milk and producer milk that are permitted a pro rata share of the plant's Class I utilization.

This procedure will preserve the priority assignment of producer milk to the plant's current Class I utilization. Such procedure is necessary also to accommodate under the first month's operation of the merged order the present differences in the five orders in classifying ending inventories of fluid milk products in packaged form and in bulk form.

To insure the integrity of the classification plan, skim milk and butterfat not accounted for in Class II or Class III utilizations, other than allowable shrinkage, should be classified as Class I. Otherwise, a handler could gain a cost advantage by not fully accounting for the disposition of the milk handled in his plant. In view of this, it is necessary that the Class II and Class III utilizations be explicitly set forth in the order.

Four of the five orders to be merged provide for only two classes of utilization. The proposed Ohio Valley order would have three classes. Class III would correspond generally with the present Class II under the four orders and a new intermediate classification, Class II, would be established.

Class II milk should include all skim milk and butterfat disposed of as fluid cream (including aerated cream and sterilized cream) or as mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat, such as half and half. Frozen desserts and milk shake mixes would be excluded, however. Any month-end packaged inventory of fluid cream or these mixtures would be included in Class II. Class II should include also skim milk and butterfat used to produce yogurt, sour cream, sour mixtures such as dips and dressings, cottage cheese, cottage cheese curd, pancake mixes, and puddings. Milk, skim milk, or cream disposed of in bulk to any commercial food processing establishment for the manufacture of packaged food products for consumption off the premises likewise should be classified as Class II milk. These are milk utilizations for which producers should receive a higher return than for milk used in such manufactured products as butter, nonfat

dry milk and hard cheese, but which are not competitive at the Class I price level.

The Cincinnati, Columbus and Northwestern Ohio orders, which now provide for only two classes of milk, classify milk used in cottage cheese as Class II milk. Under the Miami Valley order, cottage cheese is also a Class II product, but the price for skim milk used to produce cottage cheese is 20 cents over the price that applies to skim milk in the other Class II products.

The Tri-State order provides for three classes of milk, with Class II including only skim milk and butterfat used in cottage cheese. The Tri-State Class II price is 15 cents over the Class III price. Effective January 1, 1970, the 15-cent differential over the Class III price was temporarily suspended on the basis of the December 18, 1969, session of the hearing on which this decision is based. Official notice is taken of this suspension (35 F.R. 219).

Sweet and sour cream and half and half are now Class I products under each of the separate orders. At the time of the hearing, these orders also included yogurt in Class I.

Milk used in pancake mixes, puddings, and sour mixtures commonly known as "dips" is now classified in the lowest class under each of the five orders. A similar classification applies under all but the Miami Valley order to dispositions to commercial food processors. The Miami Valley order classifies fluid milk products sold to food processors as Class I milk.

The cooperatives advocating the merged order proposed that the Class II products be cottage cheese, sour cream, and yogurt. They pointed out that these products have similar characteristics in that they all go through a souring process and have a thick consistency. Proponents contended that handlers nevertheless rely upon producers for a regular supply of high quality milk for making these products and that producers should be compensated to the extent possible for making such milk available for these uses.

A number of handlers in the Ohio Valley area opposed an intermediate classification of products priced at a level above the Class III price. Opposition centered on the inclusion of cottage cheese in the Class II category. Handlers contended that this could seriously jeopardize their competitive position for cottage cheese sales relative to handlers in neighboring markets. They noted particularly the nearby Indiana and Eastern Ohio-Western Pennsylvania markets, where cottage cheese is now priced at the Class III price level adopted herein for the merged order.

All items proposed herein as Class II products constitute an important and continuous outlet for reserve supplies of producer milk. Handlers process these products on a regular basis and demand an adequate supply of high quality milk at all times for such uses. There is little, if any, relationship between the volume of the proposed Class II products made and the amount of reserve milk available in the market, as in the case of butter and nonfat dry milk, for instance. In addition to the Class I requirements of the market, producers are generally expected to produce sufficient supplies of milk for these Class II products. This undoubtedly is due in part to the fact that many of the proposed Class II products, including cottage cheese, yogurt, sour cream, half and half, and cream (other than sterilized cream) must be made from inspected milk if sold throughout much of the proposed marketing area.

The proposed Class II products should not be priced at the same level as those products proposed herein to be in Class III. The regular demand by handlers for a high quality supply of milk from producers for these Class II items warrants that such milk be priced above the Class III price. The classified pricing plan of the merged order should reflect this situation by providing for a third class of utilization.

Classifying the several types of cream items, including aerated cream, sterilized cream and half and half, in Class II places in the same price category a group of generally competing products. Light cream and half and half are used principally by consumers in coffee. Whipping cream, sterilized cream and aerated cream are used as dessert toppings.

Presently, fluid cream and half and half are Class I products under the separate orders and sterilized and aerated cream are in the lowest class. This classification scheme results in wide disparity in pricing to handlers for products that are competing in the same trade channels for the same consumers. The manner in which sterilized cream and aerated cream are processed and packaged does not change significantly the similar purposes of use of these cream items and thus does not constitute a basis for classifying them differently from the other cream items.

As noted earlier, the Cincinnati and Miami Valley orders now classify ending inventories of packaged fluid milk products in Class I. Thus, in the last month that these separate orders are effective, handlers will have paid the Class I price for most fluid cream items, sour cream, and half and half that are in packaged form. Since such packaged products in opening inventory would be classified in Class II under the merged order, the handlers under these two orders should receive a credit on such products in the first month that the Ohio Valley order is effective. Such credit would be at the difference between the Cincinnati or Miami Valley Class I price applicable to these products in the preceding month and the Ohio Valley Class II price for the current month. This price adjustment is necessary to assure that these proposed Class II products will be priced at the same level to handlers whether they enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

As in the case of ending inventories of bulk fluid milk products, the ultimate use of month-end inventories of bulk cream is not usually apparent. Such inventories of bulk cream thus should be classified in Class III, with the final classification to be determined the following month through the allocation procedure.

Class III milk should include all skim milk and butterfat used to produce butter, nonfat dry milk, dry whole milk, dry whey, dry buttermilk, casein, cheese (except cottage cheese and cottage cheese curd), frozen cream, milk shake mixes containing 15 percent or more total milk solids, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing 6 percent or more nonmilk fat (or oil). These products represent in general the residual uses of milk in the market that is not needed for those products proposed herein as Class I and Class II products.

Class III should apply also to those products otherwise considered as Class I and Class II products that are dumped, spilled or disposed of for animal feed. Month-end inventories of bulk fluid milk products and bulk cream, and the skim equivalent of the nonfat milk solids added to a fluid milk product that was not classified as Class I, likewise should be Class III.

As under the separate orders, the proposed merged order should permit the classification of a limited amount of shrinkage in the lowest class. The maximum shrinkage allowance in Class III at each pool plant should be 2 percent of the milk received directly from individual producers, plus 1.5 percent of the bulk fluid milk products received by transfer from other pool plants. The same allowance should apply to receipts of bulk fluid milk products from other order plants and unregulated supply plants, exclusive of the quantity for which Class II or Class III classification is requested.

As described earlier in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck operated by, or under contract to, the cooperative. The plant operator receiving the milk from the cooperative would account for this milk in the same manner as a receipt from individual producers. In this situation, however, the full 2 percent allowance for shrinkage in Class III should be permitted the plant operator only if he purchases the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum Class III shrinkage allowance for the plant operator should be 1.5 percent and the cooperative should be the responsible handler for any difference between the farm weights and the weight at which the plant operator purchased the milk. Of this difference, up to 0.5 percent of the producer milk at farm weights should be allowed as Class III shrinkage to the cooperative. Any such difference in excess of the maximum allowable Class III shrinkage of 0.5 percent should be Class I milk.

In the case of milk diverted from a pool plant to another plant by a cooperative or a proprietary handler, the plant operator receiving the milk in his plant should be allowed up to 2 percent Class III shrinkage on the milk if it is purchased on the basis of farm weights. With this purchase arrangement, the handler picking the milk up at the farm should not be allowed any shrinkage on the milk. If the milk is purchased on some other basis, the handler receiving the milk in his plant should be allowed 1.5 percent Class III shrinkage and the handler picking up the milk at the farm should be allowed up to 0.5 percent Class III shrinkage as measured by the farm weights.

The shrinkage provisions proposed herein are generally similar to those provided in the Cincinnati order, which the cooperatives proposed be adopted.

Interplant movements. The provisions in the attached order concerning the classification of milk tranferred or diverted from a pool plant to another plant are basically the same as the corresponding provisions in the five orders to be merged. An additional provision now contained in the Cincinnati order that was proposed in the recommended decision to be continued should not be adopted. This provision provides that bulk milk transferred or diverted between pool distributing plants may be classified by agreement between the handlers involved. However, such "agreed on" classification is not allowed if the producer milk at the transferee plant exceeds 115 percent of the remaining Class I milk at the plant after the allocation to the plant's utilization of other source receipts, shrinkage and beginning inventories. In this case, the movements of bulk milk are allocated first to any available Class III use at the transferee plant.

The 115 percent factor was objected to by a handler who claimed that this percentage was too low to give him the flexibility in supply sources that is required by his fluctuating Class I disposition. He contended that a factor of 125 percent was more reasonable.

Another handler opposed the restrictions on classification by agreement between the handlers involved on the basis that this would delay the submission of accurate monthly reports of receipts and utilization to the market administrator.

On the basis of exceptions and a further review of the record evidence on this matter, it is concluded that this particular provision is unnecessary under the conditions expected to prevail under the merged order. When incorporated in the Cincinnati order, this provision was directed toward a specific problem on location adjustment credits on milk moved between pool plants. Other provisions of the proposed merged order will tend to mitigate this problem under the current marketing situation.

A handler objected to the continued use of a transfer provision now standard in most orders. This provision, as adopted herein, specifies that if the form in which any fluid milk product transferred to an other order plant is not defined as a fluid milk product under the other order, the transferred product shall be classified according to the classification provisions of the Ohio Valley order. The handler contended that this would keep an Ohio Valley handler from competing in another market for sales of a fluid milk product when the product for which he must pay the Class I price is not similarly priced in the other market.

The handler is proposing in effect price discrimination between producer milk sold inside and that sold outside the marketing area. This goes to the problem of establishing a Class I price that would induce an adequate supply of quality milk for the Ohio Valley market. Such price should bring forth a sufficient supply for the Ohio Valley marketing area but not necessarily to fulfill the requirements of outside markets.

There is no basis in this price determination for discriminating between milk sold inside and outside the marketing area. The milk sold outside by a regulated plant is processed in the same plant and is produced under similar conditions as milk sold in the marketing area. Thus, the milk moving through the regulated handler's plant, whether it is sold inside or outside the marketing area, is part of the same supply and demand situation upon which the price level determination must be made.

If the price to farmers were higher for milk sold inside than for milk sold outside the marketing area, returns for disposition in the area would bear the burden of providing the incentive for milk production for both. To the extent such discrimination in pricing at the procurement level is reflected in higher prices to consumers inside than outside the marketing area, consumers in the marketing area would be subsidizing consumers outside the marketing area.

Allocation. The system of allocating a handler's receipts of milk to the various classes of utilization under the merged order should be basically unchanged from that now used under the separate orders. The allocation provisions of these orders are based on the findings and conclusions of the June 19, 1964 (29 F.R. 9002), and October 13, 1969 (34 F.R. 16881), decisions of the Assistant Secretary issued with respect to most of the Federal orders applicable throughout the country. These decisions dealt with the treatment under the various orders of milk which is not subject to classified pricing under any order, receipts of milk at pool plants from other order plants, and filled milk.

A handler opposed the inclusion in the merged order of certain allocation provisions which are standard in most orders and which cooperatives proposed be continued. One provision specifies that if a handler receives packaged fluid milk products from an other order plant, 2 percent of such receipts shall be allocated to the lowest class. The handler contended that this down-allocation of some of the packaged receipts results in his having to pay in effect a premium on the milk because his purchase price (which is outside the scope of the order) does not reflect the lower value of the down-allocated portion of his purchase. The handler opposed also any down-allocation of bulk receipts from other order plants. He claimed that this makes it uneconomical for a handler to import milk supplies from other regulated markets.

The June 1964 decision set forth the reasons for the necessary treatment under Federal orders generally of milk received at pool plants from other order plants. It is necessary that the same allocation system be used under the merged order so that it will be coordinated with the applicable regulations on all movements of milk between Federal order markets. The findings and conclusions of the June 1964 decision as they relate to a handler's receipts from all nonpool sources are equally applicable under current conditions in the proposed marketing area.

The merged order should provide, however, that there be no pool obligation on milk received at a pool plant from an unregulated supply plant if such milk has been priced, in effect, as Class I milk under this or any other Federal order. Bulk milk could be transferred, for example, from a pool plant under this or another order to a non-federally regulated plant and, on the basis of its ultimate utilization, classified and priced as Class I milk. The unregulated plant, in turn, could transfer bulk or packaged milk to an Ohio Valley pool plant. To the extent that this milk has been priced, in effect, as Class I milk under a Federal order, the Ohio Valley handler receiving the milk should not have any pool obligation on such milk. On any unpriced milk received from an unregulated supply plant, the Ohio Valley handler would continue to have an obligation to the producer-settlement fund at the difference between the Class I price and the weighted average price, as now required under the separate orders.

(c) *Class prices, butterfat differentials, and location differentials—Class I price.* The Class I price under the proposed Ohio Valley order should be a basic formula price plus a stated Class I differential of $1.50, and plus an additional 20 cents. Such Class I price should apply at plants located in a "Central" pricing zone within the proposed marketing area. The Class I price should be increased 5 cents at plants in a "Southeastern" in-area pricing zone and decreased 5 cents at plants in a "Northwestern" in-area pricing zone. In 1969, the Class I prices for the Central, Southeastern, and Northwestern Zones would have averaged $6.11, $6.16 and $6.06, respectively.

Cooperatives proposed that the Ohio Valley order continue to use the basic formula price now used under the separate orders. This would include the present "flooring" of such price at $4.33.

The present basic formula price is based on pay prices for manufacturing grade milk at plants in the heavy milk production States of Minnesota and Wisconsin. Such pay prices are used in setting Class I prices under all other Federal orders and their continued use here,

along with the $4.33 "floor", will assist in achieving adequate supplies for the market.

Cooperatives also proposed that a Class I differential of $1.75 apply throughout the entire Ohio Valley marketing area. This, they claimed, was the average price differential (including supply-demand adjustments) prevailing under the five orders combined during a recent period when milk supplies were in reasonable balance with the Class I requirements of regulated handlers. They contended also that the resulting Class I prices at major milk consuming centers such as Cincinnati, Dayton, and Columbus would be at a reasonable level in relation to the cost of milk brought to these cities from alternative supply areas, particularly from Wisconsin.

Three handlers regulated under the Cincinnati order proposed the use of four pricing zones within the marketing area. Zone 1 would include all points in the marketing area (e.g., Toledo, Cincinnati, Dayton, and Columbus) within 320 miles of Chicago. The more distant zones, as measured from Chicago, would be 321–370 miles (Coshocton and Zanesville, Ohio), 371–420 miles (Portsmouth and Marietta, Ohio), and 421 miles and over (Charleston, W. Va.). The Class I differentials proposed for the four zones are $1.64, $1.72, $1.80, and $1.88, respectively.

In supporting the latter proposal, the spokesman for the three handlers emphasized in particular the large size of the marketing area being proposed by the cooperatives and the consequent need for several pricing zones. The levels of zone prices, he indicated, should take into account the cost of obtaining alternative milk supplies from surplus production areas such as in Wisconsin. Support for this particular zone pricing arrangement was expressed also by two major handlers at Coshocton and Columbus.

A somewhat similar zone pricing arrangement was suggested at the hearing by a producer association whose members are mainly associated with markets other than those involved in the proposed merger. Its concern was primarily with the alignment of the Ohio Valley Class I price with the Class I prices in the neighboring Appalachian and Louisville-Lexington-Evansville Federal order markets. According to the association's spokesman, the pricing zones should be structured in such a way as to have increasingly higher prices applying at locations from Toledo southeastward to Charleston. Under its scheme, Class I differentials of $1.70 and $2.04 would apply at the Toledo and Charleston locations, respectively.

Tri-State handlers at Charleston, Beckley, Marietta, and Portsmouth opposed the zone pricing schemes just described. They claimed that such pricing structures for their areas would place them at a price disadvantage relative to their principal competitors who would be in the lower price zones.

The Class I price differentials now applicable under the five Ohio orders are: Northwestern Ohio—$1.70, Columbus—$1.45, Miami Valley—$1.44, Cincinnati—$1.50, and Tri-State—$1.75 for the Charleston-Huntington district and $1.67 for the Athens-Scioto district. These figures include the "plus 20 cents" that each order now adds to the stated Class I differential in computing the Class I price.

Class I differentials in the Columbus, Miami Valley and Cincinnati areas are subject monthly to supply-demand adjustments. Until recently, prices in the Tri-State and Northwestern Ohio areas were similarly adjusted. The supply-demand adjustment provisions were removed from these two orders effective May 1, 1969, and September 1, 1968, respectively.

The cooperatives proposed that the effect of the supply-demand adjustors on prices under the separate orders be recognized in establishing the Class I price level for the merged order. In 1968, supply-demand adjustments averaged +32.5 cents under the Cincinnati and Miami Valley orders, +12 cents under the Columbus order, +5 cents under the Northwestern Ohio order, and −6.5 cents under the Tri-State order. Supply-demand adjustments in 1969 averaged +28 cents under the Cincinnati and Miami Valley orders and +18 cents under the Columbus order.

With the effective supply-demand adjustments, the weighted average Class I differential for the five-market area for both 1968 and 1969 was $1.70 ($1.50 plus 20 cents).

The Class I price for the Ohio Valley order should be established at a level which, in conjunction with the Class II and Class III prices, would result in returns to producers sufficient to insure an adequate quantity of pure and wholesome milk for the market, including the necessary market reserves. Under present marketing conditions in the Ohio Valley area, the Class I pricing plan adopted herein should meet this criterion.

The average Class I utilization of producer milk in the five regulated areas combined was 76 percent in 1968, and 74 percent in 1969. Proponent cooperatives indicated that this utilization represented a satisfactory balance between producer milk supplies and the Class I requirements of regulated handlers. In view of this adequacy of supplies, measured by handler demands, returns to producers under the proposed Ohio Valley order should be maintained at the same average level as under the separate orders. Had the proposed order been in effect in 1968 and 1969, the Class I price adopted herein, together with the proposed Class II and Class III prices, would have resulted in approximately the same total returns that producers in the five areas combined actually received under the present orders.

As is the case with most Federal orders, each of the separate orders now provides that 20 cents shall be added to the stated Class I price differential in computing the monthly Class I price. The merged order should continue to express the Class I price computation in this manner as a matter of uniformity among orders.

Although cooperatives proposed that a single Class I price differential apply throughout the entire Ohio Valley marketing area, location price zones within the proposed marketing area will assist in assuring that not only will milk supplies be adequate in total but also that each segment of the marketing area will be adequately supplied.

A "Central Zone" should include all territory in the marketing area not specified below as being in the other in-area location price zones. The Central Zone would be the "base" zone for announcing the Class I and uniform prices.

The Central Zone would include all plants now regulated under the Cincinnati, Miami Valley and Columbus orders except the Miami Valley pool plant at New Bremen, Ohio, and the Columbus order pool plants at Zanesville, Dresden, and Crooksville, Ohio. Included also would be plants at Ashland and Russell, Ky., and at Portsmouth, Waverly, and Wheelersburg, Ohio, that are now pooled under the Tri-State order. The three presently unregulated plants at Chillicothe and Hillsboro, Ohio, and at Maysville, Ky., that would be newly regulated under the Ohio Valley order likewise would be in the Central Zone.

A "Northwestern Zone" should include that portion of the marketing area in Michigan and in the Ohio counties of Allen, Auglaize, Crawford, Fulton, Hancock, Hardin, Henry, Logan, Lucas, Marion, Mercer, Morrow, Putnam, Richland, Sandusky (Woodville and Madison Townships only), Seneca, Van Wert (city of Delphos only), Wood, and Wyandot. This zone would encompass the present Northwestern Ohio marketing area and the plants that were regulated under the Northwestern Ohio order at the time of the hearing. Also in this zone would be a plant at New Bremen that is presently a Miami Valley order pool plant.

The Class I price to be applicable at plants in the Northwestern Zone should be the Central Zone Class I price less a location adjustment of 5 cents per hundredweight.

A "Southeastern Zone" should include that part of the marketing area in West Virginia, in the Kentucky counties of Floyd, Johnson, Lawrence, Magoffin, Martin, and Pike, and in the Ohio counties of Athens, Coshocton (except Adams Township), Guernsey (except Oxford, Londonderry, and Millwood Townships), Meigs, Morgan, Muskingum, Noble, Perry, and Washington. The applicable Class I price for this zone should be the Central Zone Class I price plus a location adjustment of 5 cents.

Plants located within the proposed Southeastern Zone include those at Charleston, Beckley, and Parkersburg, W. Va., and at Athens, Marietta, Waterford, and Coshocton, Ohio, which are now pooled under the Tri-State order. Included also are the previously mentioned Zanesville, Dresden, and Crooksville plants that are presently regulated under the Columbus order.

To carry out the objective of assuring adequate supplies, it is essential to establish a proper Class I price relationship

between the Ohio Valley market and nearby markets as well as among the various segments of the Ohio Valley area. It is necessary that milk for Class I use in this market be competitively priced with milk supplies for other nearby markets and with milk that may be distributed in the Ohio Valley area in competition with local producer milk.

The proposed Ohio Valley area is bordered by five Federal order marketing areas. The milkshed of the Ohio Valley market overlaps extensively with the areas from which each of the neighboring markets draws its milk supplies. The distribution areas of Ohio Valley handlers and handlers in the surrounding markets also overlap, with handlers under other orders selling in the Ohio Valley area. In these circumstances, it is essential to the orderly marketing of producer milk that the Class I prices in the Ohio Valley area be coordinated closely with the Class I prices in the nearby markets, with consideration given not only to the cost of transporting milk between such markets and the various segments of the Ohio Valley market but also to the opportunities available to Ohio Valley producers to move their milk to alternative outlets. Thus, opportunity costs as well as actual transportation costs play a part in the availability of milk to handlers.

Relatively high Class I prices in the Ohio Valley market not only could encourage additional supplies to attach to the Ohio Valley area (usually at the expense of neighboring markets) but also might cause Ohio Valley handlers to lose fluid milk sales to other markets. The latter, in turn, could mean a disruptive loss of Class I sales for those producers who are regular suppliers of milk for the Ohio Valley market. If the Class I prices paid by Ohio Valley handlers result in producer returns substantially under the returns to farmers in the nearby markets, on the other hand, such handlers could experience difficulty in attracting an adequate supply of milk for their Class I needs.

The Class I prices in the surrounding markets, as well as those for the separately regulated areas proposed to be merged, were established to recognize such intermarket relationships. In order to continue this pricing concept under the proposed merger, the Class I prices throughout the Ohio Valley area must be in proper relationship with the price structure for the region.

It is concluded that the establishment of location price zones within the proposed marketing area, in conjunction with the Class I price levels proposed, will provide the proper price relationships not only among the segments of the Ohio Valley area but also with the nearby markets. The following table shows the Class I price levels for the proposed Ohio Valley order and for orders in surrounding markets, as expressed for different locations in terms of a price differential over the basic formula price.

Order	*Class I price differential*
Ohio Valley:	
(Central Zone)	$1.70
(Southeastern Zone)	1.75
(Northwestern Zone)	1.65
Southern Michigan (Detroit)	1.60 [1]
Indiana:	
(Fort Wayne)	1.43
(Indianapolis)	1.47
Louisville-Lexington-Evansville	1.49
Eastern Ohio-Western Pennsylvania:	
(Cleveland)	1.87
(Wheeling)	1.97
Appalachian	2.13

[1] A direct delivery differential of 8 cents per hundredweight applies to all producer milk received at the Detroit location, thereby increasing the cost of Class I milk to handlers by this amount.

Because of the competitive situations among handlers who would be regulated under the merged order, the difference between Class I prices in adjoining in-area price zones should be limited to 5 cents. There is substantial competition, both for milk supplies and route sales, between plants that would be in adjoining price zones. Because plants are dispersed throughout each of the zones, handlers in many cases need only to extend their procurement and sales areas a relatively short distance from their plants before overlapping the procurement and sales areas of handlers in a neighboring zone. A price difference between zones of more than 5 cents per hundredweight could adversely affect the competitive balance among Ohio Valley handlers that is necessary for orderly marketing of producer milk.

Although, as previously stated, the cooperatives proposed a single Class I price level for the entire marketing area, a 5-cent per hundredweight higher price in the eastern and southeastern portions of the marketing area was contemplated by them. Their proposal included a direct delivery differential of 5 cents (which is described later in detail in this decision) to apply on all producer milk received at plants located in what is proposed herein as the Southeastern Zone and in certain additional nearby territory. While the direct delivery differential is denied, the 5-cent higher Class I price for the Southeastern Zone is warranted for the reasons previously stated.

The Class I price level under the order should not be substantially higher than the cost of obtaining quality milk on a regular basis from alternative sources. This will tend to assure producers in the Ohio Valley area of a continuing outlet for their milk. If a significant price advantage exists long enough, handlers customarily relying on local supplies will recognize the advantage of another supply and be encouraged to change their buying arrangements.

The Chicago milkshed has been a major source of supplemental supplies for the markets here to be merged as well as for many other markets throughout much of the United States. Class I prices gradually increase the more distant the markets are from the Chicago area, as a reflection of the increasing cost of moving milk from the Midwest to the distant markets. This accounts generally for the graduated levels of prices in the markets surrounding the Ohio Valley market and lends further support to the need for a gradation of Class I prices west to east across the Ohio Valley marketing area.

As an example of such milk movements, the spokesman for the major cooperative in the Cincinnati area testified that during a 6-month period in 1968–69 his organization imported 5 million pounds of milk from Madison, Wis., which is in the Chicago milkshed. The cooperative paid a transportation cost of 63 cents per hundredweight for moving the milk over the 435-mile distance. This is virtually equivalent to the transportation rate of 1.5 cents per hundredweight for each 10 miles provided in the location differential provisions.

The Class I price differential under the Chicago Regional order, which uses the same basic formula price proposed herein, is $1.12 at Madison. Based on the order minimum price at Madison plus transportation, the cost of this alternative supply to Cincinnati handlers would be just slightly more than the Ohio Valley Class I price for producer milk.

The Class I price under the proposed Ohio Valley order should not be subject to a supply-demand adjustor. While three of the five orders involved in the proposed merger now contain supply-demand adjustment provisions, cooperatives proposed that such provisions not be continued under the merged order. No objections were raised at the hearing.

The mobility of milk under today's marketing conditions tends to make questionable the possibility that a supply-demand adjustor in this market would be a useful pricing factor. None of the orders for the five surrounding markets contains a supply-demand adjustor. To include a supply-demand adjustor in the Ohio Valley order Class I price provisions could make for disparate pricing with nearby markets and could impede orderly marketing.

Class II price. The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. In 1969, the Class II price adopted herein would have averaged $4.52.

As indicated earlier in the discussion on classification of milk, the regular demand by handlers for a high quality supply of milk from producers for use in the proposed Class II products warrants that such milk be priced above the Class III price adopted herein. The Tri-State and Miami Valley orders already reflect this pricing concept in their classified price structure. Under the Tri-State order, milk used in cottage cheese is priced 15 cents over the Class III price of that order, which is the Minnesota-Wisconsin manufacturing milk price. As noted earlier, this 15-cent differential

was temporarily suspended on January 1, 1970, in recognition of certain manufacturing class price levels prevailing at the time in nearby markets. The Miami Valley order now prices skim milk used in cottage cheese at 20 cents over the proposed Class III price.

Cooperatives proposed that the Class II price be the Class III price adopted herein, plus 20 cents. They contended that producer milk supplied to handlers in the Ohio Valley area for their proposed Class II uses (cottage cheese, sour cream, and yogurt) is worth at least that much over the Class III price to the handlers. Handlers, on the other hand, claimed that as long as there are markets nearby, such as the Indiana and Eastern Ohio-Western Pennsylvania markets, where no intermediate class price applies, they will be competitively disadvantaged on the sale of Class II products.

Making producer milk available to handlers for Class II uses warrants at least a minimum compensation to producers of 10 cents over the Minnesota-Wisconsin manufacturing milk price. As noted in the classification discussion, the products proposed herein as Class II items are processed by handlers on a regular basis. Producers are generally expected by handlers to produce adequate supplies of high quality milk for such uses and to deliver the milk to central points in the market for processing. The Class I price should not compensate alone for the costs involved in inducing the necessary supplies for these regular outlets for producer milk. The Class II price should bear a reasonable portion of these costs.

Other than the local producer supply, there are no dependable sources of graded milk for Class II use within the normal milkshed for the market. The only nearby milk of the necessary quality is attached to other fluid milk markets surrounding the Ohio Valley area and would be available only sporadically to Ohio Valley handlers. Graded milk supplies are usually available from more distant heavy production areas such as in Wisconsin. However, the value of such milk in that area would be expected to be no less than the Minnesota-Wisconsin manufacturing price for ungraded milk. With the additional cost of transporting the milk to the Ohio Valley area, the cost of such milk would be in excess of the Class II price adopted herein.

Class III price. The Class III price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price), but not to exceed a butter-nonfat dry milk formula price. This is the present surplus milk price under the Northwestern Ohio, Cincinnati, Miami Valley, and Columbus orders. Cooperatives proposed that it be continued under the merged order, and no other proposal was presented. In 1969, such price averaged $4.25 per hundredweight.

The proposed Class III price has facilitated the disposal of milk not needed for Class I use under the separate orders. There was no testimony that this is an unsatisfactory price level at this time. Such price should result in the orderly disposition of surplus milk in the Ohio Valley market.

Butterfat differentials. The Class I butterfat differential under the merged order should be 12 percent of the Chicago butter price for the preceding month. The Class II and Class III butterfat differentials should be 11.5 percent of the Chicago butter price for the current month.

These butterfat differential rates are presently used under each of the separate orders and the cooperatives proposed that they be continued. Although they proposed that the rate of 0.115 times the Chicago butter price apply to both Class II and Class III milk, it was proposed in the recommended decision that the Class II differential be the Chicago butter price times 0.12. This was recommended on the basis of having included in Class II those cream products now in Class I under each of the orders.

In their exceptions, cooperatives continued to maintain that the 0.115 factor should be used in computing the Class II butterfat differential, thereby facilitating pricewise the disposal of butterfat not needed for Class I use. In view of the substantial support from producers for a lower return from the butterfat in milk which they deliver to handlers, it is concluded that the Class II butterfat differential should be 11.5 percent of the Chicago butter price.

The butterfat differential to producers should be the average of the Class I, Class II and Class III butterfat differentials weighted by the proportion of butterfat in producer milk assigned to each class. This procedure for computing producer butterfat differentials, which was proposed by the cooperatives, is currently provided in four of the five orders to be merged and will be equally appropriate for the remainder of the market. The present producer differential under the Tri-State order, being 12 percent of the Chicago butter price for the month, is only slightly at variance with the other markets. The adopted method of computing the producer butterfat differential will assure producers that their returns reflect the market utilization of butterfat in each of the respective classes.

Location differentials at plants outside the marketing area. In addition to the location price adjustments already described for plants in the marketing area, the merged order should provide for the appropriate adjustment of Class I and uniform prices at plants located outside the marketing area.

The Class I and uniform prices at plants outside the marketing area should be based on the respective prices for the nearest in-area zone, as measured from designated points in the marketing area. For this purpose, the city halls of Cincinnati, Coshocton, Dayton, Lima, Marietta, and Toledo, Ohio, Ashland and Maysville, Ky., and Beckley and Charleston, W. Va., are appropriate locations from which to make such determinations.

Competition in procurement and/or sales of an out-of-area plant that is nearer the Northwestern Zone than the Southeastern Zone, for example, is mainly with plants in the Northwestern Zone rather than with Southeastern Zone plants. Consequently, the price at such a plant should be related to the price for such nearest in-area zone.

For plants located outside the marketing area and 60–70 miles from the nearest of the designated measuring points, the Class I and uniform prices at such plants should be 11 cents less than the price at the applicable measuring point. At plants beyond the 70-mile limit, such prices should be reduced an additional 1.5 cents for each 10 miles or fraction thereof that such plants are more than 70 miles from the nearest of the designated cities.

Each of the orders to be merged uses the same location differential rate of 1.5 cents per 10 miles adopted herein for adjusting prices at plants beyond the first location differential zone. The orders vary, however, as to the distance from the designated measuring points to the first zone and as to the differential for that zone.

Under the Cincinnati order, location differentials first apply at plants 50–60 miles from Cincinnati. The Class I and uniform prices in this zone presently are reduced 10 cents. The Miami Valley location differential is 9 cents per hundredweight at plants outside the marketing area and 50–60 miles from the nearest of Dayton, Piqua, Springfield, Urbana, or Wilmington, Ohio. In the Columbus area, the location differential is 15 cents for plants 80–90 miles from the nearer of Columbus or Zanesville, Ohio.

The Tri-State location differential is 15 cents per hundredweight at plants outside the marketing area and 100–110 miles from the nearest of Ashland, Paintsville, and Pikeville, Ky., Coshocton, Gallipolis, Jackson, Portsmouth, and Marietta, Ohio, and Bluefield, Charleston, Hinton, Huntington, and Williamson, W. Va.

Under the Northwestern Ohio order, the Class I and uniform prices at plants located outside an 18-county area in Ohio (Allen, Auglaize, Crawford, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Morrow, Ottawa, Richland, Sandusky, Seneca, Wood, and Wyandot Counties) and more than 40 miles from Toledo and 15 miles from Mansfield, Marion, and Lima, Ohio, are reduced at the rate of 1.5 cents for each 10 miles that such plants are from the nearest of these cities. No location differentials apply at plants nearer Cleveland than the distance between Cleveland and Mansfield.

Cooperatives proposed that under the merged order location differentials apply at plants outside the marketing area and 65 miles or more from the nearest highway intersection with the boundary of the marketing area. For plants in a 65–100 mile zone, the location differential would be 15 cents. An additional 1.5 cents per 10 miles would apply under their proposal at plants beyond the 65–100-mile zone.

The principal basis for proposing this particular location differential structure

was to assure that no location differential would apply at Goshen, Ind. The major cooperative in the Northwestern Ohio area operates a nonpool manufacturing plant at Goshen and diverts substantial quantities of milk from distributing plants to this facility. As proposed by the cooperatives, milk would be priced at the location of the plant to which diverted. The cooperative contended that milk diverted to the Goshen plant should not be priced lower than producer milk delivered to area distributing plants since the diverted milk is a part of the total supply for the Class I market.

Because of its bulky, perishable nature, milk moved considerable distances incurs a relatively high transportation cost. Thus, milk delivered directly from farms to plants distant from the urban center is worth less, or has less utility, to a handler than milk which is delivered to his distributing plant located in or near the urban center. Providing location differentials based on the cost of moving milk to the market is necessary to insure uniform pricing to all handlers at the market, regardless of the plant location where the milk is received from producers, and to reflect its proper value at the latter location. Such location value will be affected, of course, by actual transportation costs to market, and by the alternative market opportunities available to the producer. The location differential provisions adopted herein are needed to carry out this concept for the Ohio Valley market.

The order should insure, however, that producers will not bear the cost of unnecessary transfers of milk from a distant pool plant to a pool distributing plant at the market center for Class I use when the distributing plant already has adequate supplies of producer milk. Since the distant plant would receive a location differential credit on milk so moved, the total pool proceeds available for distribution to all producers could be affected adversely.

The limitations on allowable location differential credits now contained in the Cincinnati order, which cooperatives proposed be continued for the larger market, are adopted. In determining such credits, fluid milk products transferred as Class I milk from pool plants to a pool distributing plant in a higher price zone would be assigned pro rata with the transferee plant's producer receipts to the Class I milk remaining at the transferee plant after the allocation of other source receipts, beginning inventory, and shrinkage. If there are transfers from more than one plant, the Class I utilization assignable to the transfers would be allocated first to receipts of milk from plants at which the Class I price is not less than the Class I price at such pool distributing plant. Further assignments would then be made to receipts of milk from plants at which the Class I price is lower than the price at the transferee plant, in sequence beginning with the plant having the highest Class I price.

Because of variations in daily Class I demand at distributing plants, some milk moved to such plants and intended for Class I use may not be so utilized. The proposed manner for determining the allowable location differential credit recognizes this situation. The assignment to Class I of interplant transfers pro rata with producer receipts provides a reasonable margin for handlers in balancing receipts with day-to-day bottling requirements.

Each of the orders to be merged provides that a pool plant operator's obligation to the producer-settlement fund shall include payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the milk involved and giving him a credit on such milk at the uniform price. Both prices are adjusted for the location of the unregulated supply plant. The adjustment of the uniform price, though, is limited to not less than the lowest class price. No limitation is applied currently to the Class I price adjustment.

In the merged order, a limitation on the Class I price adjustment should be provided. Otherwise, the Class I price adjustment could result under certain conditions in the handler receiving a payment from the producer-settlement fund on the Class I milk obtained from the unregulated supply plant. Such payment could result when the location differential at the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be giving the handler a credit sufficient to reduce his cost for the distant milk below its value for manufacturing use at the point of purchase.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the "weighted average" price or the Class III price. For the reasons stated above, the proposed order should provide that the Class I price, as adjusted for location, not be less than the Class III price in computing the obligation of these handlers.

A so-called "direct delivery differential" should not be adopted. The proponent cooperatives stated that producers whose milk is delivered to pool plants located in a 50-county area should receive an additional 5 cents per hundredweight over the uniform price for their milk. The effect of this proposal on handlers would be to increase their cost of producer milk used in each class 5 cents per hundredweight over the applicable class prices.

The proposed 50-county area includes primarily the present Tri-State marketing area, with the exception of Pike County, Ohio. Included also are the additional West Virginia counties that the cooperatives proposed be added to the marketing area, plus Rowan and Carter Counties, Ky., and Coshocton, Muskingum, Guernsey, Noble, Morgan, and Perry Counties, Ohio. Considering only those plants that are expected to be regulated under the merged order, this differential would apply at three plants now pooled under the Columbus order, and at all but one (in Pike County, Ohio) of the pool plants under the Tri-State order.

Although the 5-cent differential was proposed for a large geographical area, the alleged need for the differential centered for all practical purposes on the problem of a supply for the relatively large distributing plant at Coshocton, Ohio, which now is pooled under the Tri-State order. A representative of one of the proponent cooperatives that is a major supplier of Tri-State handlers testified that his cooperative was having no trouble in furnishing adequate supplies of milk to other handlers at Charleston, Marietta, and Beckley, which are in the Tri-State marketing area. Tri-State handlers at these locations corroborated this testimony.

The Coshocton plant, which receives milk from about 400 producers, first became operational in 1968. At that time, the plant operator closed his distributing plant at Athens, Ohio, which had been pooled under the Tri-State order and moved that plant's operations to the new Coshocton facility. Also, distributing plants which this handler operated at Cleveland and Clarksburg were likewise closed and their operations consolidated at Coshocton. Distribution is made from this plant into the Tri-State, Columbus, Miami Valley, and Eastern Ohio-Western Pennsylvania marketing areas.

The consolidation of processing and packaging operations at the Coshocton plant necessitated a substantial rearrangement of hauling routes by cooperatives to get adequate milk supplies delivered from farms to the plant. A representative of the cooperative that formerly supplied the Clarksburg plant testified that over 300 producers were shifted among various plants in the Eastern Ohio-Western Pennsylvania market in order to follow the Class I sales of the former Clarksburg plant that were moved to the Coshocton plant. The witness indicated that the hauling costs for the cooperative's members who were shifted to the Coshocton plant are nine cents per hundredweight higher than formerly. This added expense is presently being borne by the cooperative.

The representative of another cooperative supplying the Coshocton plant testified that to follow the former Athens plant's Class I sales, the cooperative considered it necessary to shift milk that had been going to the Athens plant to Coshocton. In addition to increased hauling rates of 2 to 7 cents per hundredweight being paid by individual producers, the cooperative is paying haulers an additional 13 cents per hundredweight on such movements of milk. The witness indicated that because of distance it was not economically feasible to shift to Coshocton all the milk formerly associated with the Athens plant. Some milk was redirected to the Cincinnati area, with producers experiencing a 4-cent higher hauling cost than previously. Other milk was shifted to a nearby Marietta plant,

which permitted some milk already associated with the Marietta plant to be shifted to Coshocton.

Proponents claimed that the higher hauling costs being experienced in getting milk to the Coshocton plant warrants the 5-cent differential which they proposed.

The handler operating the Coshocton plant opposed such a payment on the basis that this differential is not necessary to attract sufficient milk to his plant. He pointed to the fact that the cooperatives were adequately supplying his plant on a continuing basis. He contended further that there are many more producers within a reasonable distance of his plant than are needed to furnish his supply.

The hauling problems encountered by proponents in supplying the Coshocton plant, while serious to the producers and cooperatives affected, are not to be unexpected in a period of transition caused by plant closings and consolidations. For many years, distributing plants were relatively numerous and producers seldom had to ship their milk any great distance. More recently, the consolidation of processing operations in large, centrally located facilities has required many producers to move their milk much farther, and at greater hauling cost, in order to continue participating in a Class I market. Such is the case described by proponents.

The marketing situation presented relative to the direct delivery differential proposal indicates that it is not a matter of individual plants being unable to attract sufficient milk for their Class I needs, but rather a case of producers being unable to find Class I outlets at the same hauling cost. For the reasons stated earlier in this decision, the Class I price that would be applicable in much of this 50-county area would be higher than elsewhere in the marketing area. Under this pricing, Southeastern Zone plants should be able to attract adequate milk supplies for Class I use. Handlers operating plants in this zone should not be required under the order to pay producers an additional 5 cents per hundredweight over the proposed Class I price, as well as over the Class II and Class III prices, as cooperatives proposed.

With the application of a single order to the now separately regulated areas, cooperatives should be able to realize greater efficiencies than presently in moving their members' milk to market outlets. It is reasonable to expect that cooperatives, as they strive to attain the highest returns possible for their members, would actively seek to maximize such hauling efficiencies.

(d) *Distribution of proceeds to producers.* A marketwide pool should be used under the merged order as a means of distributing among producers supplying the market a total dollar value based on the use of all producer milk by all handlers. The same method of distribution is now provided in each of the orders to be merged. This results in a minimum uniform price to be paid to producers or associations of producers irrespective of how a particular producer's milk is used by the handler to whom it is delivered.

In receiving payment at the uniform, or blend, price, each producer will share proportionately for the prescribed accounting period in the higher value of the Class I use by all handlers as well as in the lower value of the milk used by them in the lower valued classes. The percentage of producer receipts used by handlers in each of the classes established by an order normally varies from season to season, month to month, week to week, and even day to day. Consequently, any period of time selected for which a blend price shall be computed identifies automatically, and somewhat arbitrarily, the volumes of milk used in each of the several classes and the values represented in the blend price, irrespective of whether or not a particular producer delivers milk throughout the entire period thus selected.

Nevertheless, periodic price computations must be made and periodic partial or final payments provided to keep the producer in business. The period of a month has been customarily used for this purpose as a matter of common business practice or convenience, and should be used under the merged order. In order to lessen the burden on the producer of unduly extending credit on his deliveries of milk while the necessary functions of order administration are carried out, partial payments are required before final payment is made for all milk delivered during the month.

The distribution of the total dollar value of milk among producers inevitably carries over to some degree to future months. This occurs with the maintenance of an operating reserve in the producer-settlement fund. Such reserve is established by deferring the distribution of certain portions of monies paid by handlers to the producer-settlement fund for producer milk. This provides a balance for adjusting accounts after audit or for payment of any obligated amounts. The distribution of pool monies may extend over several months also because of deferred payments by handlers or because of payment of past due obligations resulting from audit adjustments.

Minimum blend prices to be paid periodically to producers out of the total use value of milk must be such as will insure a sufficient quantity of pure and wholesome milk each month throughout the year and be in the public interest. This necessitates consideration of the inherent seasonal characteristics of milk production and the nature of consumer demand that must be satisfied throughout the year. Commensurate with the production and demand conditions for this market, the blend price, insofar as possible, should stimulate the necessary production when and as needed in the area covered by the merged order and remove or reduce unnecessary seasonal surpluses. One method for achieving this is the "Louisville" plan, which is described below.

The separate orders have varying provisions concerning the computation of the uniform price and distribution of the pool proceeds. These are discussed below relative to the proposed merged order.

"Louisville" plan. The Ohio Valley order should continue the seasonal production incentive plan now used under as the "Louisville" plan, is to encourage a more even seasonal pattern of milk pose of the plan, commonly referred to the five orders to be merged. The purproduction.

At the time of the hearing and the issuance of the recommended decision, the Northwestern Ohio order did not provide for any type of seasonal incentive plan. Subsequent to the recommended decision, a Louisville plan was incorporated in that order, with the plan first applying to April 1970 producer deliveries. With this revision of the Northwestern Ohio order, the orders to be merged contain identical Louisville plan provisions.

Under the Louisville plan adopted herein, a portion of the total value of milk delivered to all handlers, which value is based on handlers' utilization of milk at class prices, would be retained as an obligated balance in the producer-settlement fund. As has always been the case under marketwide pool orders, the uniform price payable periodically to producers does not reflect any "obligated" balance. However, when certain monies are no longer obligated, the funds involved are merged with other unobligated funds in the producer-settlement fund and are distributed to producers through the announced order uniform prices. In the case of funds retained as a part of the "obligated" balance under the Louisville plan, the order itself contains provisions for the systematic release of such funds together with whatever interest has been earned during the period in which they are held as an obligated balance.

The amount to be retained as an obligated balance would be equivalent to 6 percent of the average basic formula price for the preceding calendar year, but not more than 25 cents per hundredweight. These obligated funds would be accumulated automatically in the producer-settlement fund when settlement is made by handlers for producer milk delivered in each of the months of April, May, June, and July. This obligated balance would be subject to short-term investment, with the interest earned being included in such balance when the monies withheld are included in the uniform price computation.

The uniform price computed for milk delivered in April, May, June, and July, after the retention of the moneys indicated above, is expected to be sufficient to stimulate the necessary production of milk during such months for the fluid needs of the market.

The proposed plan also provides that one-fourth of the obligated balance previously established be included in the computation of the uniform price payable to producers for milk delivered during each of the months of September through December. The interest earned on this obligated balance would be included in the computation of the December uniform price.

This method of paying uniform prices to producers each month and distributing among producers the amounts paid

by handlers throughout the year, based on their individual uses of such milk, will promote orderly marketing and is in the public interest. It permits the total utilization value paid by handlers, and ultimately by consumers, to have an enhanced influence in attracting sufficient quantities of milk to satisfy the needs and habits of the consuming public, and tends to minimize the production of burdensome market surpluses. Thus, the producer, by careful herd control, can benefit from higher fall prices and become a more efficient producer. The consumer can be assured that he is receiving maximum value for his milk dollar and does not have to bear the inherent cost involved in maintaining the additional supplies throughout the year which inevitably result from meeting minimum market requirements each month under an uneven production pattern.

If a Louisville plan is not used for establishing seasonal prices to producers, the Class I price to handlers, which is relatively constant, might have to be adjusted seasonally in order to achieve comparable seasonality in producer prices. While such an alternative might result in approximately the same prices to producers each month as would be provided by the Louisville plan, it could create greater and undesirable variation in resale prices, thereby contributing to consumer unrest and market instability rather than orderly marketing.

The Louisville plan is a particular method of distributing to producers the total utilization value of all milk over a multi-month period. A handler's obligation under the order is not affected by the plan.

The decisions of the Assistant Secretary issued March 22, 1968 (33 F.R. 5040) and April 28, 1970 (35 F.R. 6965), of which official notice is here taken, set forth the basis for the current provisions of the Louisville plans now applicable under the separate orders. The rates of "takeout" and "payback" established for these regulated areas should be equally appropriate for the Ohio Valley market.

Payments to producers. Payments to producers and cooperative associations at the uniform price for milk deliveries should be made by the market administrator.

Different methods of paying producers are now provided under the orders to be merged. Payments to producers and cooperatives under the Miami Valley, Tri-State, and Northwestern Ohio orders are made directly to them by handlers. Under the Columbus order, handlers have the option of making payments to producers who are not members of a cooperative, or of paying all the money to the market administrator who then pays such producers. For milk received from members of a cooperative, handlers under the Columbus order make all payments to the market administrator. The market administrator then pays the cooperative or its members. In the Cincinnati area, handlers make a partial payment to producers and cooperatives for milk delivered during the first half of the month. The remainder of their obligations for producer milk is paid to the market administrator who then pays producers and cooperatives the balance of the money due them.

Under any payment method it is necessary, in paying the uniform price to all producers, that part of the money paid by handlers with higher than market average Class I utilization be used in paying producers supplying other handlers with less than average Class I utilization. Four of the orders accomplish this exchange of money through an "equalization" fund operated by the market administrator. Handlers with the higher than market average Class I utilization pay any excess of the value of their producer milk over its value at the uniform price into this fund. Other handlers receive from the fund payments which are included in the uniform price they pay to producers.

Cooperatives proposed that the payments to all producers in the expanded market be handled in the same manner as under the Cincinnati order. Under the cooperatives' proposal, each handler would make partial payments to producers on the 27th day of the month for milk received during the first 15 days of the month at a rate of $3.50 per hundredweight. The remainder of the handler's obligation for the month for producer receipts would be paid to the market administrator, subject to deductions authorized by producers and deductions for partial payments previously made.

Proponents urged continuation of the Cincinnati payment plan primarily on the basis that it is working satisfactorily in the Cincinnati area and that it offers several advantages, relative to the payment plans under the other orders, which they believe will be beneficial for the Ohio Valley market.

Of the approximately 60 proprietary handlers in the proposed Ohio Valley area, only four testified against the adoption of the Cincinnati payment plan. The basis of their opposition was that (1) no substantial increase in administrative efficiency could be expected, (2) there is no widespread problem of handlers failing to pay producers promptly, (3) the risk of loss to producers would not be reduced, and (4) the proposed payment plan would interfere with normal handler-producer relationships.

Only one method of payment can be adopted, of course, for the merged order, and changes in present payment methods necessarily will apply for some producers and handlers under whichever method might be employed. Although both types of payment plans have proved satisfactory methods for paying producers and cooperatives, there are factors to be considered that support extending the application of the Cincinnati plan to the enlarged market.

In some instances, at least, the proposed payment method will represent a savings in accounting and administrative work. Where handlers have been paying an individual check to each producer, they can, under the proposed system, pay the entire obligation with one check to the market administrator. The producer payroll of each handler, rather than being kept by the handler, would be an original record of the market administrator and would not require an audit as in the case when the handler makes the payment to the producer. Any saving in auditing or administrative functions, whether extensive or small, favors direct payment by the market administrator to producers and cooperatives.

Although late payments by handlers in these markets to be merged have not been a burdensome problem, the payment plan here adopted should aid in insuring timely payments to producers. Under this plan, the fact of payment to producers is a matter of the market administrator's immediate knowledge. When handlers pay producers directly, on the other hand, a failure to make full payment to producers by the dates specified in the order does not become known to the market administrator immediately. Discouragement of delinquent payments is beneficial not only to producers, of course, but also to each handler who should have maximum assurance that all other handlers under the order are paying by the required dates the minimum class prices for their producer milk.

Moreover, the plan is self-policing in that payment would not be made by the market administrator to those producers delivering their milk to a handler who fails to pay his obligation to the producer-settlement fund. Such producers consequently are made aware immediately when their handler falls in his payment and have opportunity to consider other arrangements for their milk pending enforcement action.

An additional benefit to producers of the proposed payment plan is that it will reduce pressure on a cooperative to grant credit to a handler who is delinquent in paying the cooperative the uniform price for milk received from member-producers. Extension of credit by a cooperative should be minimized if the handler's payment must be made directly to the market administrator.

While some handlers claim that making payments by a handler directly to individual producers aids in maintaining good relations with producers, the proposed payment method does not interfere with various other means a handler may use to foster producer relationships. Where there is a full supply contract between the handler and a cooperative, this question, of course, does not arise. Full supply contracts are prevalent in this market.

As previously stated, the cooperatives' proposal would provide that partial payments be made by handlers to producers for milk delivered during the first 15 days of the month. This feature of the payment plan would be the same as now used under the Cincinnati order, but is not adopted herein. Under the adopted plan, each handler would be required to make a partial payment to the market administrator for producer milk received during the first 15 days of the month at a rate per hundredweight equal to the basic formula price for the preceding

month. Such payment would be due by the 25th day of the same month. The market administrator, in turn, would distribute these partial payments by the 28th day of the same month to producers who do not receive their payments through a cooperative association. Payments to a cooperative would be made by the market administrator a day earlier. The benefits of having the market administrator pay producers and cooperatives can be realized even more fully if partial payments, as well as final payments, are made by the market administrator.

Handlers' partial and final payments to the market administrator would be subject to deductions authorized in writing by producers. The market administrator, in paying producers and cooperative associations, would take these deductions into account in his payments from the producer-settlement fund.

The partial payment rate adopted herein is somewhat higher than the $3.50 rate proposed in the recommended decision. In their exceptions, the cooperatives contended that the $3.50 rate, which is now provided in the Cincinnati order, is no longer a reasonable amount in view of the level of the basic formula price and the partial payment rates now applicable under other orders being merged.

It is concluded that producers should receive as a partial payment for their deliveries during the first half of the month the Minnesota-Wisconsin manufacturing price. This is not an unreasonable amount to be paid by handlers who have had the use of the milk for at least 10 days, and for some milk even longer, before any payments for such milk are due.

Of the orders to be merged, three already provide for partial payments at rates higher than the initially proposed $3.50 level. The rate under the Northwestern Ohio order is basically the uniform price for the preceding month minus 75 cents. Under the Tri-State order, partial payments by handlers are at the rate adopted herein. The Miami Valley order provides for partial payments at not less than the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price, whichever is lower. The partial payment rate here adopted is in line with current practice in a large part of the proposed Ohio Valley market.

Final payment by the handler to the market administrator for all producer milk received during the month would be required by the 14th day of the following month. Final payments would be made by the market administrator to cooperatives by the 16th day of the month following the month of delivery and to individual producers who do not receive payments through a cooperative by the 17th day of the following month.

The various dates proposed herein for making final payments for producer milk will result in producers receiving the returns from their milk deliveries as soon as possible after the submission of handler reports and the computation of the uniform price. Reports of receipts and utilization for the previous month would be required of handlers by the sixth day of the month. The market administrator would be required to announce the uniform price by the 12th day of the month. These particular dates are necessary to permit handlers time for preparing their reports and the market administrator time to receive such reports and compute the uniform price.

(e) *Administrative provisions—Marketing services deductions.* The maximum deduction from producer payments for marketing services furnished by the market administrator should be 6 cents per hundredweight. This is the current maximum rate under four of the five orders to be merged. The Columbus order provides for a 5-cent maximum deduction.

The 6-cent rate should provide the market administrator with sufficient funds to conduct a marketing service program for those producers not receiving such services from a cooperative association. If experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Administrative assessment. The maximum rate of payment by handlers for the cost of administering the proposed order should be 4 cents per hundredweight. Such payments are required if the market administrator is to perform the necessary functions of administering the order.

Currently, the maximum rates are 4 cents for the Tri-State order, 3 cents for the Northwestern Ohio order, and 2 cents for the Cincinnati, Miami Valley, and Columbus orders. The adopted maximum rate of administrative assessment will bring the rate more in line with that in other Federal orders. Most Federal orders, several of which are applicable in markets comparable in size to the proposed Ohio Valley area, provide for maximum rates of either 4 or 5 cents per hundredweight. Such rates have been found adequate but not excessive, in providing the necessary funds to successfully administer the respective orders. If experience indicates that the administration of the Ohio Valley order can be performed at a lesser rate, the order provides that the Secretary may adjust the rate downward without the necessity of a hearing.

Interest payments on overdue accounts. No provision is made in the proposed order for the payment of interest on obligations due the market administrator. Although such interest payments are provided currently under the Tri-State and Columbus orders, proponents of the merged order did not support similar provisions for the Ohio Valley order.

Merger of administrative expense, marketing service, and producer-settlement funds. To accomplish the merger of the five Ohio orders effectively and equitably, the assets in the administrative expense funds which have accrued under the separate orders should be combined. Similar procedure should be carried out with respect to each of the marketing services and producer-settlement fund reserves. Any liabilities of such funds under the individual orders should be paid from the new funds so created. Similarly, obligations which are due the funds under the separate orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. All handlers currently regulated under the separate orders are expected to continue to be regulated under the merged order. It is equitable to combine the monies accumulated under the separate funds and to pay any liabilities of each of the present funds from the consolidated fund.

The money accumulated in the marketing service funds of the separate orders is that paid by producers for whom the market administrator is performing such services as verifying the tests and weights of producer milk and furnishing market information. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the expanded market. The consolidation of the assets in the separate marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement fund balances in the five orders should be combined so that the producer-settlement fund under the merged order may be continued without interruption. The producers currently supplying the five separately regulated areas are expected to continue to supply milk for the Ohio Valley market. Thus, monies now in the separate producer-settlement funds would provide a working reserve in computing the uniform prices of the producers who will benefit from the merged order. The combined fund would also serve as a contingency fund from which money would be available for meeting obligations (resulting from audit adjustments and otherwise) accruing under one or the other of the separate funds.

5. *Cooperative service payments.* The proposed Ohio Valley order should not provide for payments from pool proceeds to a cooperative association or federation of cooperatives in compensation for marketwide services of assumed benefit to all producers on the market.

Such payments, referred to as "cooperative payments", were proposed by the seven producer associations proposing the five-order merger. These groups contended that cooperatives are providing, at the expense of their members, certain marketing services which benefit all producers on the market. Such services, they stated, were of general benefit in that they promote orderly marketing and assist in improving and stabilizing prices to producers. Proponents maintained that producers not belonging to qualified cooperatives should be required to bear a portion of the cost of performing these services. Otherwise, such nonmember producers would continue to have a favorable position in the market relative to members of cooperatives.

As a means of apportioning such costs among all producers, it was proposed

that money be deducted from the total pool proceeds due producers, for payment to those cooperatives or federations of cooperatives performing specified marketwide services. Up to 2 cents per hundredweight of all producer milk in the pool could be paid a cooperative or federation if it performed all the following types of services:

1. Supplying handlers with their total Class I needs, which would entail making available both local producer supplies and any supplemental supplies to be purchased in other markets;

2. Participating in all Federal milk order activities, such as determining the need for order amendments, formulating proposals, and participating in hearings;

3. Conducting a comprehensive educational program, through producer meetings and regularly issued publications, that is directed to all producers on the market; and

4. Continuously analyzing marketing conditions and data and disseminating the resulting information to all producers.

Up to 1 cent per hundredweight of all pool milk could be paid to a cooperative or federation if it operates a pool manufacturing plant that is determined to be benefiting all producers on the market through its supply balancing, and surplus disposal, functions.

As envisioned by proponents, payments to a cooperative or federation from the producer-settlement fund would be made only as the expenses for these marketwide services are actually incurred. Payment to the cooperative would be contingent upon the market administrator's determination that the marketing services for which reimbursement is sought are within the scope of the services outlined in the provisions of the order.

To be eligible for cooperative payments, proponents proposed that a cooperative should have as members at least 40 percent of the producers supplying the market. A similar representation would be required of a federation.

The only organization in the proposed Ohio Valley market that would be able to meet this 40 percent membership requirement at this time is a federation whose members are the seven proponent cooperatives. The collective membership of these federated cooperatives accounts for about three-fourths of the producers associated with the proposed Ohio Valley area. In terms of producer-members associated with each of the five presently regulated areas, two of the federated groups are the principal cooperatives in the Cincinnati area, one is the major cooperative in the Miami Valley area, and another is the major cooperative in the Northwestern Ohio area. Three other groups are the principal cooperatives in the Tri-State area, and one of these also is the major cooperative in the Columbus area.

Having been formed only a short time, the federation's activities up to the time of the hearing had been limited to preparing for, and appearing at, the hearing. Proponents maintained, though, that having organized as a federated group, the member cooperatives are in position to make available the necessary personnel and milk handling facilities that would be required by the federation for carrying out a marketing service program of marketwide scope.

In support of cooperative payments, proponents cited various marketing activities which the individual cooperatives are now performing and described how such activities benefit nonmember producers on the market.

The major cooperative in the Cincinnati area claimed that nearly one-third of its annual expenses (excluding those incurred in supply management activities noted later) is spent on services that benefit the approximately 200 nonmember producers who are on farm routes completely serviced by the cooperative, and in some cases all nonmembers in the Cincinnati area. Services provided include testing for brucellosis, pesticides and antibiotics, meetings with health authorities, handlers, and milk haulers, and producer contacts by fieldmen. The cooperative indicated it is not reimbursed by nonmembers for such services.

Proponents claimed further that cooperatives must, and do, undertake the function of allocating available supplies among handlers and providing handlers with their total milk supply at all times. Otherwise, handlers would develop producer supplies on their own to meet their year-round needs. This, proponents claimed, could lower the Class I utilization of the market, thereby lowering the returns to all producers—members and nonmembers alike—since the market would need to carry additional supplies on this basis.

The experience of the Cincinnati cooperative was cited also to support proponents' position of how certain procurement activities benefit all producers. In providing Cincinnati handlers with their total milk supply, the cooperative spent in 1968 about $400,000 in moving producer milk to the market from distant reload points and in obtaining supplemental other source milk. Although much of this expense was recovered through overorder prices paid by handlers, the cooperative still had to bear about $90,000 of the expenses incurred. Proponents maintained that a cooperative should be reimbursed through cooperative payments for such expenses since this type of supply management benefits all producers on the market through a better utilization of the milk.

Supply management activities are being carried on also by other major cooperatives in the Ohio Valley area. These consist of moving producer milk from farms to distributing plants in the quantities and at the times needed and of disposing of unneeded supplies through their own manufacturing plants and other available outlets. Nonmembers and small cooperatives, proponents claimed, are not able to provide this marketing service for themselves, but benefit nevertheless from the higher producer returns which result from the efforts of the larger cooperatives.

The major cooperative in the Miami Valley regulated area operates a pool plant at Dayton which proponents expect would qualify for the "one-cent" cooperative payment provided in their proposal. The plant, which manufactures nonfat dry milk, serves as a balancing plant for the Miami Valley market area, and to some extent for the Cincinnati and Columbus areas. In May 1969, about 25 percent of the milk received at the plant from handlers for surplus disposal was that of producers who were not members of the cooperative operating the plant. Proponents claimed that the plant operates at a loss because the balancing function precludes maximum, and thus economical, use of the manufacturing operation. The 1968 operating loss was described as $97,775.

Proponents maintained that such operating losses should be shared, through cooperative payments, by nonmembers who benefit along with members from the improved market Class I utilization, and thus higher prices to producers, that results from the balancing function of the plant.

In further support of cooperative payments, proponents stated that cooperatives play the key role in milk order hearings. They pointed out that cooperatives must, and do, continually analyze the market situation, make hearing proposals when necessary in response to changed marketing conditions, and participate in the hearing proceedings. Although the related costs are borne entirely by cooperatives, they contended nonmembers share fully in the benefits of the Federal order.

The marketing activities for which reimbursement is requested are activities which the major cooperatives in the Ohio Valley area are pursuing, and would continue to pursue, in the interest of their own members. In the case of each of these cooperatives, the producer-members have banded together voluntarily to market their milk at joint risk and expense in the expectation that by joint action they will derive improved returns. The expenses incurred for various marketing activities are merely those which its members consider necessary for attaining the highest possible returns for their milk.

Actually, many of these expenses are recovered through charges to handlers for providing the various marketing services which they demand. Many handlers rely entirely upon cooperatives for their total milk supply. They want the milk delivered to their plants in the quantities and at the times that fit their processing and distributing operations. The 4- and 5-day bottling weeks and the heavy mid-week bottling schedules of handlers place a substantial burden on cooperatives in handling milk that is produced daily. Cooperatives are called upon sporadically for supplemental supplies and are expected to have such milk available. Charges for handling and transportation and other markups over class prices are a matter of common trade practice in these situations.

Proponents claimed, though, that to the extent that they are unable to achieve full recovery of marketing expenses their members are placed in an inequitable relationship with nonmembers who are not incurring the same marketing costs. Producers in the proposed

Ohio Valley area not belonging to any cooperative association represent about 15 percent of all area producers, a relatively small proportion of the total. The unrecovered expenses described by proponents, spread over the milk of all producers as compared to member milk of cooperatives, would represent a minimal per hundredweight saving to member-producers. Any incidental benefits that may accrue to the relatively few nonmembers on the Ohio Valley market from activities currently engaged in by cooperatives in the direct interest of their members cannot be construed, under the conditions in this market, as a reason for requiring by law that all producers must share the cost of such activities.

The important positions which the cooperatives have acquired in their respective segments of the proposed Ohio Valley market are the direct result of the enterprise and initiative that they have shown individually in advancing the interests of their member producers. Each of the cooperatives, in performing activities such as balancing supplies, handling the market's reserves, and participating in Federal order actions, is acting as any alert, intelligent, organized participant in the market would be expected to do. Where cooperatives can achieve and retain, as voluntary organizations, a dominant market position, as the proponent cooperatives have, without outside help in the collection of income for the normal range of cooperative services, it would not be sound to provide assistance in the form of a subsidy by regulation. In such circumstances, assistance of this kind could hardly strengthen such cooperatives in the long run, and it could actually weaken them through their increased dependence on the regulation and the supervision that follows from providing such funds as a public function.

There is no historical or current situation that warrants the application of cooperative payment provisions in the proposed Ohio Valley market. The cooperatives in this area are strong, successful organizations that have been carrying on various marketing activities on behalf of their members for many years. No condition was shown which supports a need to provide cooperative payments in this market.

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 agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Ohio Valley Marketing Area," and "Order amending and Merging the Orders Regulating the Handling of Milk in the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State Marketing Areas", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order amending and merging the orders regulating the handling of milk in the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State marketing areas is approved or favored by producers, as defined under the terms of the attached order, and who, during the representative period, were engaged in the production of milk for sale within the marketing area defined in the attached order.

The representative period for the conduct of such referendum is hereby determined to be April 1970.

The agent of the Secretary to conduct such referendum is hereby designated to be C. T. McCleery.

Signed at Washington, D.C., on June 8, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending and Merging the Orders Regulating the Handling of Milk in the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State Marketing Areas

Findings and Determinations

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

(1) The Ohio Valley order, which amends and merges the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State orders and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(i) His producer milk (including such handler's own farm production);

(ii) Other source milk allocated to Class I pursuant to § 1033.46(a) (6), (7), and (11) and the corresponding steps of § 1033.46(b), except such other source milk on which no handler obligation applies pursuant to § 1033.60(g); and

(iii) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the Class I milk:

(a) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(b) Specified in § 1033.57(b)(2)(ii).

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State marketing areas (Parts 1033, 1034, 1035, 1041, and 1005, respectively) shall be amended and merged into one order. The handling of milk in the merged and expanded marketing area, to be designated as the "Ohio Valley" marketing area, shall be in conformity to and in compliance with the terms and conditions of Part 1033, as hereby amended. Parts Nos. 1034, 1035, 1041, and 1005 are superseded by the revision of Part 1033. Part 1033 is hereby amended as follows:

The provisions of the proposed marketing agreement and order amending and merging the Cincinnati, Miami Valley, Columbus, Northwestern Ohio, and Tri-State orders contained in the recommended decision issued by the Administrator on April 3, 1970, and published in the FEDERAL REGISTER on April 8, 1970 (35 F.R. 5764; F.R. Doc. 70-4245) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modifications:

Changes are made in §§ 1033.5(a), 1033.7, 1033.8, 1033.12 (a)(2) and (b), 1033.15 (b) and (d), 1033.27(k)(1), 1033.30(b)(2), 1033.41 (a)(1) and (c)(4), 1033.43 (a) and (e)(3), 1033.46(a)(8), 1033.51(c), 1033.52, 1033.53, 1033.57(a)(1)(i) and (b)(2), 1033.71(a), 1033.72(a), 1033.74(b), and 1033.76 (b) and (c).

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DEFINITIONS

§ 1033.1 Act.

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

§ 1033.2 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the functions of the U.S. Department of Agriculture.

§ 1033.3 Secretary.

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

§ 1033.4 Person.

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

§ 1033.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act" (7 U.S.C. 291, 292);

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) Has its entire organization and all of its activities under the control of its members.

§ 1033.6 Ohio Valley marketing area.

The "Ohio Valley marketing area" hereinafter called the "marketing area", means all the territory, by designated zones, within the boundaries of the following geographical units, including all

waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) The "Northwestern Zone" shall include the following territory:

OHIO COUNTIES

Allen.	Morrow.
Auglaize.	Putnam.
Crawford.	Richland.
Fulton.	Sandusky (Woodville and Madison Townships only).
Hancock.	Seneca.
Hardin.	Van Wert (city of Delphos only).
Henry.	Wood.
Logan.	Wyandot.
Lucas.	
Marion.	
Mercer.	

MICHIGAN COUNTIES

Lenawee (Blissfield, Deerfield, Ogden, Palmyra, and Riga Townships only).
Monroe (except Ash, Berlin, Dundee, Exeter, London, and Milan Townships).

(b) The "Central Zone" shall include the following territory:

OHIO COUNTIES

Adams.	Jackson.
Brown.	Knox.
Butler.	Lawrence.
Champaign.	Licking.
Clark.	Madison.
Clermont.	Miami.
Clinton.	Montgomery.
Darke.	Pickaway.
Delaware.	Pike.
Fairfield.	Preble.
Fayette.	Ross.
Franklin.	Scioto.
Gallia.	Shelby.
Greene.	Union.
Hamilton.	Vinton.
Highland.	Warren.
Hocking.	

KENTUCKY COUNTIES

Boone.	Harrison.
Boyd.	Kenton.
Bracken.	Lewis.
Campbell.	Mason.
Grant.	Pendleton.
Greenup.	Robertson.

INDIANA COUNTIES

Dearborn.	Ohio.

(c) The "Southeastern Zone" shall include the following territory:

OHIO COUNTIES

Athens.	Meigs.
Coshocton (except Adams Township).	Morgan.
Guernsey (except Oxford, Londonderry, and Millwood Townships).	Muskingum.
	Noble.
	Perry.
	Washington.

KENTUCKY COUNTIES

Floyd.	Magoffin.
Johnson.	Martin.
Lawrence.	Pike.

WEST VIRGINIA COUNTIES

Boone.	Mingo.
Cabell.	Pleasants.
Calhoun.	Putnam.
Fayette.	Raleigh.
Gilmer.	Ritchie.
Jackson.	Roane.
Kanawha.	Wayne.
Lincoln.	Wirt.
Logan.	Wood.
Mason.	Wyoming.

§ 1033.7 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, milk shake mixes containing less than 15 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include yogurt, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing 6 percent or more nonmilk fat (or oil).

§ 1033.8 Route disposition.

"Route disposition" means a delivery, either directly or through any distribution facility (including disposition from a plant store or by a vendor or vending machine), of a fluid milk product classified as Class I pursuant to § 1033.41(a), except a delivery in bulk form to a plant. However, for the single purpose of determining the qualification of a distributing plant as a pool plant pursuant to § 1033.12(a), packaged fluid milk products transferred as Class I milk from the distributing plant to another plant shall be considered as route disposition of the transferor plant and shall be considered as route disposition in the marketing area to the extent of in-area route disposition of the transferee plant.

§ 1033.9 Plant.

(a) Except as provided in paragraph (b) of this section, "plant" means the land and buildings, together with their surroundings, facilities, and equipment, constituting a single operating unit or establishment which contains stationary holding facilities and which is operated for the bulk handling or processing of milk or milk products (including filled milk).

(b) The term "plant" shall not include distribution points (separate facilities used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants) or bulk reload points (separate facilities at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant). If a distribution point or bulk reload point is on the premises of a plant, it shall be considered a part of the plant operation.

§ 1033.10 Distributing plant.

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

§ 1033.11 Supply plant.

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

§ 1033.12 Pool plant.

"Pool plant" means a plant specified in paragraph (a), (b), or (c) of this section that is not an other order plant or a producer-handler plant.

(a) A distributing plant with:

(1) Route disposition in the marketing area during the month of not less than 15 percent of its total route disposition, such route disposition in both cases to be exclusive of packaged fluid milk products received from other plants if priced as Class I milk under this or any other Federal order and of route disposition of filled milk; and

(2) Route disposition during the month of not less than 50 percent for each of the months of September through February, and 45 percent for each of the months of March through August, of its total receipts of fluid milk products (including milk diverted from such plant by the plant operator or a cooperative association but excluding bulk fluid milk products received by transfer or diversion from other plants as Class II or Class III milk) that are approved by a duly constituted health authority for fluid consumption, subject to the following further conditions:

(i) Both such route disposition and receipts shall be exclusive of filled milk and of packaged fluid milk products received from other plants if priced as Class I milk under this or any other Federal order;

(ii) A distributing plant that does not meet such percentage requirement in the current month shall not be disqualified under this subparagraph as a pool plant if such percentage was met in the preceding month; and

(iii) A distributing plant with route disposition only on the campus of The Ohio State University at Columbus, Ohio, shall be required to meet such percentage requirement only for the months of January, February, October, and November.

(b) A supply plant from which during the month the total quantity of fluid milk products (except filled milk) transferred to and physically received in a plant(s) qualified under paragraph (a) of this section, plus route disposition within the marketing area from the supply plant, is not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is received from dairy farmers (excluding any such milk received by diversion from other plants) and from handlers described in § 1033.16 (c). A plant that was qualified under this paragraph in each of the months of September through February shall be a pool plant for the immediately following months of March through August unless the milk received at the plant does not continue to meet such requirements of a duly constituted health authority, or the plant operator files with the market administrator prior to any such month a

written request that the plant be designated as a nonpool plant. Such nonpool plant status shall be effective, beginning with the first month following such notice, until the plant qualifies under this section on the basis of shipments.

(c) A plant, other than a distributing plant, that is approved by a duly constituted health authority to handle milk for fluid consumption and is operated by a cooperative association, if during the month more than 50 percent of the producer milk of members of such cooperative association is delivered directly from their farms, or transferred from such plant, to plants of other handlers qualified under paragraph (a) of this section. If the cooperative association files with the market administrator prior to any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify pursuant to paragraph (b) of this section on the basis of shipments.

§ 1033.13 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of such 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 distributing plant that is not an other order plant or a producer-handler plant.

(d) "Unregulated supply plant" means a supply plant that is not an other order plant or a producer-handler plant.

§ 1033.14 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved, by farm permit or other approval, by a duly constituted health authority for fluid consumption, which milk is received at a pool plant or diverted within the limitations of § 1033.15 from a pool distributing plant to another pool plant or to a nonpool plant that is not a producer-handler plant. The term "producer" shall not include any such person with respect to milk that is received at a pool plant by diversion from an other order plant if a Class II or Class III classification is designated under this order for such milk, and such milk is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1033.15 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) With respect to a handler described in § 1033.16(a):

(1) Received at the handler's pool plant directly from the producer, excluding any such milk received by diversion from another pool plant. If milk is delivered in the same tank truck to more than one plant, the entire load shall be deemed to have been received at the first pool plant where milk is withdrawn from the tank truck;

(2) Received at the handler's pool plant under the conditions described in § 1033.16(c); and

(3) Diverted for the handler's account from a pool distributing plant to another pool plant or a nonpool plant that is not a producer-handler plant, subject to the further conditions set forth in paragraph (d) of this section;

(b) With respect to a handler described in § 1033.16(b), diverted for such handler's account from the pool distributing plant of another handler to a pool plant or a nonpool plant that is not a producer-handler plant, subject to the further conditions set forth in paragraph (d) of this section; and

(c) With respect to a handler described in § 1033.16(c), received by the handler from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section. Such producer milk of the handler shall be deemed to have been received by the handler at the location of the pool plant to which the greatest quantity of the milk on the tank truck or trailer load was delivered.

(d) The following conditions shall apply to milk of a producer diverted from a pool distributing plant to another pool plant or a nonpool plant that is not a producer-handler plant:

(1) Not less than 2 days' production of the producer must be physically received during the month at such pool distributing plant;

(2) In any month of September through February, the quantity of milk of any producer diverted to nonpool plants that exceeds the quantity of such producer's milk physically received at pool plants, as measured by days of production, shall be deemed not to have been received by the diverting handler and shall not be producer milk. The diverting handler shall designate such deliveries to nonpool plants that are not producer milk pursuant to this subparagraph. If the handler fails to make such designation, no milk diverted by him to nonpool plants shall be producer milk;

(3) Diverted milk shall be priced at the location of the plant to which the milk is diverted; and

(4) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act, and such milk is not subject to the pricing and pooling provisions of the other order.

§ 1033.16 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool distributing plant of another person to a pool plant or a nonpool plant that is not a producer-handler plant;

(c) Any cooperative association with respect to producer milk which is delivered for its account from the farm to the pool plant of another person in a tank truck or trailer owned or operated by, or under contract to, such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined in § 1033.17; and

(f) Any person in his capacity as the operator of an other order plant described in § 1033.56.

§ 1033.17 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production, pool plants, and other order plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing, packaging, and distribution business are the personal enterprise and risk of such person.

§ 1033.18 Other source milk.

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

(a) Fluid milk products and bulk cream from any source except producer milk, fluid milk products and bulk cream from pool plants, and fluid milk products and bulk cream in inventory at the beginning of the month;

(b) Products, other than fluid milk products and Class II products listed in § 1033.41(b) (1) and (3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1033.32.

§ 1033.19 Chicago butter price.

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

§ 1033.20 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).

MARKET ADMINISTRATOR

§ 1033.25 Designation.

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

§ 1033.26 Powers.

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

(a) Administer this part in accordance with its terms and provisions;

(b) Make rules and regulations to effectuate the terms and provisions of this part;

(c) Receive, investigate, and report complaints of violations to the Secretary; and

(d) Recommend amendments to the Secretary.

§ 1033.27 Duties.

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

(a) Execute and deliver a bond to the Secretary within 45 days after he enters upon his duties. Such bond shall be:

(1) Effective as of the date he enters upon his duties;

(2) Conditioned upon the faithful performance of his duties; and

(3) In an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of persons necessary to enable him to administer the terms and provisions of this part;

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

(d) Pay out of funds provided by the administrative assessment the cost of:

(1) His bond and the bonds of his employees;

(2) His own compensation; and

(3) All other expenses incurred in the maintenance and functioning of his office, except expenses specifically associated with the performance of marketing services;

(e) Keep books and records which will clearly reflect the transactions provided for in this part, and upon request by the Secretary surrender them to:

(1) His successor; or

(2) Such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary;

(g) Furnish the information and reports requested by the Secretary;

(h) Announce publicly, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such act, has not filed the reports or made the payments required by this part;

(i) Verify the reports and payments of each handler by audit and such other investigation deemed necessary;

(j) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning the operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information;

(k) On or before the dates specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the following:

(1) The fifth day of each month, the Class I price pursuant to § 1033.51(a) and the Class I butterfat differential pursuant to § 1033.52(a), both for the current month, and the Class II and Class III prices pursuant to § 1033.51 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 1033.52(b), all for the preceding month; and

(2) The 12th day after the end of each month, the uniform price computed pursuant to § 1033.61, and the producer butterfat differential computed pursuant to § 1033.73;

(l) On or before the 12th day after the end of each month:

(1) Provide each pool handler with a written statement of his obligations under this part; and

(2) Report to each cooperative association the class utilization of milk received at each pool plant during the month from producers who have authorized such association to receive payments for them under § 1033.72(c). For the purpose of this report, the milk so received shall be prorated to each class in the proportions that the total receipts of producer milk at such plant were used in each class, adjusted to eliminate transfers of fluid milk products to other pool plants;

(m) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1033.46(a)(12) and the corresponding step of § 1033.46(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1033.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk cream to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk cream were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1033.30 Reports of receipts and utilization.

On or before the sixth day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and bulk cream from other pool plants;

(iii) Other source milk, with the identity of each source; and

(iv) Products listed in § 1033.41(b)(1) from other plants;

(2) Inventories of fluid milk products and products listed in § 1033.41(b)(1) at the beginning and the end of the month, showing separately such inventories in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants; and

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

(b) Each cooperative association shall report:

(1) The quantities of skim milk and butterfat contained in milk from producers for which it is the handler pursuant to § 1033.16 (b) or (c), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds and butterfat test of the milk and the number of days of production involved;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, except that contained in producer milk described in § 1033.15(a)(2); and

(3) Such other information with respect to its receipts and utilization of

skim milk and butterfat as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the amount of reconstituted skim milk in route disposition in the marketing area.

§ 1033.31 Other reports.

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

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

(c) On or before the 25th day of the month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, his receipts of producer milk during the first 15 days of the month.

(d) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1033.57(a) shall report to the market administrator, in the detail and on forms prescribed by the market administrator, his payroll for such month for dairy farmers from whom he received bottling grade milk. Such payroll shall show for each dairy farmer the total pounds of milk received from him, the average butterfat content thereof, and the rate and net amount of the payment made to such dairy farmer, together with the amount and nature of any deductions involved.

(e) On or before the 22d day after the end of each month, each cooperative association with respect to milk of each member producer shall submit to the market administrator the association's completed producer payroll which shall list the pounds of milk received, the average butterfat content thereof, and the rate and net amount of payment, together with the amount and nature of any deductions involved.

§ 1033.32 Records and facilities.

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

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

(b) The weights and butterfat and other content of all milk 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 each month; and

(d) Payments to the producer-settlement fund, including the amount and nature of any deductions authorized by producers and the disbursement of money so deducted.

§ 1033.33 Retention of records.

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

CLASSIFICATION

§ 1033.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1033.30 shall be classified each month in accordance with §§ 1033.41 through 1033.46.

§ 1033.41 Classes of utilization.

Subject to §§ 1033.43 and 1033.44, skim milk and butterfat shall be classified in the following classes:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section. Any fluid milk product that is modified by the addition of nonfat milk solids shall be Class I milk in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

(2) In inventory of packaged fluid milk products at the end of the month; and

(3) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of as fluid cream (including aerated cream and sterilized cream) or as mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat;

(2) In packaged inventory at the end of the month of the products listed in subparagraph (1) of this paragraph;

(3) Used to produce yogurt, sour cream, sour mixtures (such as dips and dressings), cottage cheese, cottage cheese curd, pancake mixes, and puddings; and

(4) Disposed of in bulk as milk, skim milk, or cream to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce butter, nonfat dry milk, dry whole milk, dry whey, dry buttermilk, casein, cheese (except cottage cheese and cottage cheese curd), frozen cream, milk shake mixes containing 15 percent or more total milk solids, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing six percent or more nonmilk fat (or oil);

(2) Skim milk and butterfat in fluid milk products and products listed in paragraph (b) (1) and (3) of this section that are dumped, spilled, or disposed of for animal feed;

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

(4) Skim milk in any modified fluid milk product that is in excess of the pounds of skim milk in such product that were classified as Class I milk pursuant to paragraph (a)(1) of this section;

(5) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler described in § 1033.16(c));

(ii) Plus 1.5 percent of producer milk received from a handler described in § 1033.16(c) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(iv) Plus 1.5 percent of bulk fluid milk products received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification is requested by the operators of both plants;

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

(vii) Less 1.5 percent of bulk fluid milk products transferred to other plants;

(6) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1033.42(b)(2); and

(7) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a nonpool plant by a cooperative association acting as a handler pursuant to § 1033.16(b) or in shrinkage of milk from

producers for which a cooperative association is the handler pursuant to § 1033.16(c), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1033.42 Shrinkage.

The market administrator shall:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the receipts used in the computations pursuant to § 1033.41(c)(5); and

(2) Skim milk and butterfat, respectively, in other source milk in bulk fluid form, exclusive of that specified in § 1033.41(c)(5).

§ 1033.43 Interplant movements.

Skim milk or butterfat in the form of a fluid milk product or bulk cream shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1033.46(a)(12) and the corresponding step of § 1033.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1033.46(a)(6) and the corresponding step of § 1033.46(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1033.46(a)(11) or (12) and the corresponding steps of § 1033.46(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) Skim milk and butterfat transferred or diverted in bulk to a pool supply plant from another pool plant shall be assigned in sequence beginning with Class III to the milk remaining in each class at the transferee plant after the computations pursuant to § 1033.46(a)(12) and the corresponding step of § 1033.46(b);

(b) As Class I milk, if transferred from a pool plant to a producer-handler plant. If Class II or Class III utilization is requested by the operators of both plants, such classification shall be as Class II or Class III milk to the extent of such utilization at the transferee plant;

(c) As Class I milk, if transferred as packaged fluid milk products to a nonpool plant that is not an other order plant or a producer-handler plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1033.30 for the month within which such transaction occurred;

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

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of bottling grade milk for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts of fluid milk products from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of bottling grade milk for such nonpool plant;

(iii) Class I utilization (exclusive of that resulting from transfers of milk to pool plants and other order plants) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply of bottling grade milk for such nonpool plant, and any remaining Class I utilization (including that resulting from transfers of milk to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent that Class II utilization is available and the remainder as Class III milk; and

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III milk to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk product transferred to another order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1033.41.

§ 1033.44 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. In the case of milk received from producers by a handler described in § 1033.16(c) for delivery to a pool plant, such handler shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1033.15(c), and the operator of such pool plant shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1033.15(a)(2).

(b) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

§ 1033.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1033.30 and shall compute for each handler the pounds of skim milk and butterfat in each class, subject to the following conditions:

(a) The skim milk contained in any product utilized, produced, or disposed of by a handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(b) If a handler with two or more pool plants has no fluid milk products to be assigned under § 1033.46(a) (11) or (12) and the corresponding steps of § 1033.46 (b), allocations under § 1033.46 shall be determined separately for each of his pool plants. Otherwise, the market administrator shall combine the receipts and utilization in each of the respective classes at all pool plants of such handler for purposes of § 1033.46; and

(c) The classification, allocation, and pool obligation with respect to producer milk for which a cooperative association is the handler pursuant to § 1033.16 (b) and (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1033.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1033.45, the market administrator shall determine the classification of producer milk for each handler (or each pool plant, if applicable) as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1033.41(c)(5);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) 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 (6)(v) of this paragraph, as follows:

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

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

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall apply only to a plant that was fully regulated in the immediately preceding month under this order or any other Federal order providing for a similar allocation of beginning inventories of packaged fluid milk products;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged products listed in § 1033.41(b)(1) that are received from other plants or in inventory at the beginning of the month;

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

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

(ii) Receipts of fluid milk products (except filled milk) and bulk cream for which bottling grade certification is not established and receipts of fluid milk products and bulk cream from unidentified sources;

(iii) Receipts of fluid milk products and bulk cream 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 that were not subtracted pursuant to subparagraph (2) of this paragraph; 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;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk cream received from nonpool plants that were not subtracted pursuant to subparagraph (6)(iii) of this paragraph;

(8) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III) but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6)(iv) of this paragraph:

(*a*) For which the handler requests Class III classification; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts of fluid milk products from other pool handlers, and receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (6)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (6)(v) of this paragraph, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk cream at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(11) 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 that were not subtracted pursuant to subparagraphs (2), (6)(iv), and (8)(i) of this paragraph;

(12) 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 an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraphs (6)(v) and (8)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1033.27(m) or the percentage that the Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk cream received from other pool plants according to the classification of such products pursuant to § 1033.43(a); and

(14) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1033.50 Basic formula price.

The basic formula price shall be the price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported on a 3.5 percent butterfat basis by the Department for the month. For the purpose of computing Class I prices, the basic formula price shall not be less than $4.33.

§ 1033.51 Class prices.

Subject to the provisions of §§ 1033.52 and 1033.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $1.50, plus 20 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply the Chicago butter price by 4.2;

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

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1033.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1033.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the Chicago butter price for the preceding month by 0.12.

(b) *Class II and Class III milk.* Multiply the Chicago butter price for the month by 0.115.

§ 1033.53 Location differentials.

(a) For producer milk at a plant located outside the Central Zone that is classified as Class I milk, subject to the limitation set forth in paragraph (b) of this section, and for other source milk to which a location adjustment applies, the Class I price specified in § 1033.51(a) shall be adjusted as follows:

(1) At a plant in the Southeastern Zone, the Class I price shall be increased 5 cents;

(2) At a plant in the Northwestern Zone, the Class I price shall be decreased 5 cents;

(3) At a plant outside the marketing area and 60 miles or less from the city hall of the city listed below that is nearest such plant, the Class I price shall be the Class I price applicable at the location of such nearest city hall:

OHIO

Cincinnati.	Lima.
Coshocton.	Marietta.
Dayton.	Toledo.

KENTUCKY

Ashland.	Maysville.

WEST VIRGINIA

Beckley.	Charleston.

(4) At a plant outside the marketing area and more than 60 miles from the city hall of each of the cities listed in subparagraph (3) of this paragraph, the Class I price shall be the Class I price applicable at the location of the nearest city hall of such cities, less 11 cents and less an additional 1.5 cents for each 10 miles or fraction thereof in excess of 70 miles that such plant is located from such nearest city hall; and

(5) For the purpose of this paragraph, distances shall be measured by the shortest hard-surfaced highway distance as determined by the market administrator.

(b) For the purpose of determining the quantity of Class I producer milk on which a location adjustment shall apply under paragraph (a) of this section, the quantity of fluid milk products transferred as Class I milk from pool plants to a pool distributing plant at which the Class I price is greater than the Class I price at the transferor plant shall be assigned pro rata with the receipts of producer milk at the transferee plant to the Class I milk remaining at such transferee plant after the assignments pursuant to § 1033.46(a) (1) through (12) and the corresponding steps of § 1033.46(b). The Class I utilization so assigned to the transferred fluid milk products then shall be allocated first to receipts from plants at which the Class I price is not less than the Class I price at the transferee plant, and then to receipts from plants with lower Class I prices, in sequence beginning with the plant having the highest Class I price.

§ 1033.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1033.56 Plants subject to other Federal orders.

(a) Except as specified in § 1033.31 and in paragraph (b) of this section, the provisions of this part shall not apply to a distributing plant or a supply plant during any month in which the milk at such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless the following conditions are met:

(1) The plant is qualified as a pool plant pursuant to § 1033.12 during the current month and the preceding month; and

(2) A greater volume of fluid milk products, except filled milk, is disposed of from such plant as route disposition in the Ohio Valley marketing area and to pool plants qualified on the basis of route disposition in the Ohio Valley marketing area than is disposed of from such plant as route disposition in the marketing area regulated pursuant to the other order and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

(b) Each handler operating a distributing plant described in paragraph (a) of this section 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:

(1) 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 marketwide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to the route disposition in each marketing area; and

(2) Compute the value of the quantity of reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class III price) and subtract its value at the Class III price.

§ 1033.57 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1033.30(c) and 1033.31(d) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1033.60 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 or Class III 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 III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1033.60(g) and a credit in the amount

specified in § 1033.71(b) 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 III price, unless an obligation with respect to such plant is computed as specified below in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1033.30(c) and 1033.31(d) similar reports 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 § 1033.12(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.

(2) From this obligation deduct the sum of:

(i) The gross payments made by such handler for bottling grade milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order issued pursuant to the Act under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct 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 (not to be less than the Class III price) subtract its value at the weighted average price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk at the Class III price.

COMPUTATION OF UNIFORM PRICE

§ 1033.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler described in § 1033.16 (a), (b), and (c) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class as computed pursuant to § 1033.46(c) by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.46(a)(14) and the corresponding step of § 1033.46(b) by the applicable class price;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1033.46(a)(9) and the corresponding step of § 1033.46(b);

(d) Add the amount obtained from multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(4) and the corresponding step of § 1033.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(e) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable in the preceding month to the following products and the Class II price for the current month by the hundredweight of skim milk and butterfat in the products listed in § 1033.41(b) (1) and (3) that were in Class I inventory at the end of the preceding month under the Greater Cincinnati (this Part 1033) and Miami Valley (Part 1034 of this chapter) Federal orders;

(f) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a) (6) and (7) and the corresponding steps of § 1033.46 (b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1033.46(a)(6) (iv) and (v) and the corresponding steps of § 1033.46(b)(6) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class III price); and

(g) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received, but not to be less than the Class III price, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(11) and the corresponding step of § 1033.46(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

§ 1033.61 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight as follows:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers who filed the reports prescribed by § 1033.30 for the month and who made the payments required pursuant to § 1033.71 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential pursuant to § 1033.73, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1033.74(a);

(d) Subtract an amount equal to the total value of the plus location differentials computed pursuant to § 1033.74(a);

(e) Add an amount representing not less than one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1033.60(g);

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers at plants located in the Central Zone;

(h) For the months specified in paragraphs (i) and (j) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (e) of this section the amount obtained by multiplying the hundredweight of milk specified in paragraph (f)(2) of this section by the weighted average price;

(i) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (f)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the

nearest cent) for the preceding calendar year but not to exceed 25 cents;

(j) Add for each of the months of September, October, and November one-fourth of the total amount subtracted pursuant to paragraph (i) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(k) Divide the amount resulting from the computations pursuant to paragraphs (h), (i), and (j) of this section by the hundredweight of producer milk specified in paragraph (f)(1) of this section; and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers at plants located in the Central Zone.

PAYMENTS FOR MILK

§ 1033.70 Producer-settlement fund.

The market administrator shall maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1033.56(b), 1033.57, 1033.71, and 1033.77 shall be deposited in this fund, and all payments made pursuant to §§ 1033.72 and 1033.77 shall be made out of this fund;

(b) All amounts subtracted pursuant to § 1033.61(i) shall be deposited in this fund and shall remain therein as an obligated balance until withdrawn for the purpose of effectuating § 1033.61(j); and

(c) The difference between the amount added pursuant to § 1033.61(e) and the amount resulting from the subtraction pursuant to § 1033.61 (g) or (l) shall be deposited in, or withdrawn from, this fund, as the case may be.

§ 1033.71 Payments to the producer-settlement fund.

(a) On or before the 25th day of the month, each handler shall pay to the market administrator an amount determined by multiplying the hundredweight of producer milk received by him during the first 15 days of the month by the basic formula price for the preceding month, less proper deductions and charges authorized in writing by producers from whom he received milk.

(b) On or before the 14th day after the end of the month, each handler shall pay to the market administrator an amount equal to his net pool obligation computed pursuant to § 1033.60 less:

(1) The amount obtained from multiplying the weighted average price applicable at the location of the plants from which the other source milk is received (not to be less than the Class III price) by the hundredweight of other source milk for which a value is computed pursuant to § 1033.60(g);

(2) Payments made pursuant to paragraph (a) of this section for such month; and

(3) Proper deductions and charges authorized in writing by producers from whom he received milk, except that the total deductions and charges made under this section for the month for each producer shall not be greater than the total value of the milk received from such producer during the month.

§ 1033.72 Payments from the producer-settlement fund.

(a) On or before the 28th day of the month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the first 15 days of the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71 (a) at a rate per hundredweight equal to the basic formula price for the preceding month, less the authorized deductions and charges made by the handlers with respect to such milk;

(b) On or before the 17th day after the end of the month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71 (b) at the uniform price per hundredweight as adjusted pursuant to §§ 1033.73, 1033.74, and 1033.75, less:

(1) Payments made pursuant to paragraph (a) of this section for such month; and

(2) Authorized deductions and charges made by the handlers with respect to such milk;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the day prior to the dates specified in such paragraphs, to each cooperative association for all producers who market their milk through the association and who are certified to the market admistrator by the association as having authorized the association to receive such payment an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(d) If the market administrator does not receive the full payment required of a handler pursuant to § 1033.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete the payments to producers on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler; and

(e) If the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, except those payments due producers as described in paragraph (d) of this section, the market administrator shall reduce uniformly per hundredweight his payments to producers and shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the funds become available.

§ 1033.73 Butterfat differential to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth percent that the butterfat content of the milk is above or below 3.5 percent, respectively, at the rate determined as follows:

(a) Compute the percentage of the total butterfat in producer milk assigned to each class pursuant to § 1033.46;

(b) Multiply each such percentage figure by the butterfat differential for the respective class pursuant to § 1033.52; and

(c) Add into one total the values obtained in paragraph (b) of this section, rounding the result to the nearest even one-tenth cent.

§ 1033.74 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk at a plant outside the Central Zone shall be the Central Zone uniform price adjusted according to the location of the plant at the rates set forth in § 1033.53(a); and

(b) For the purpose of computations pursuant to § 1033.71(b)(1), the weighted average price shall be adjusted at the rate set forth in § 1033.53(a) that is applicable at the location of the nonpool plant from which other source milk was received.

§ 1033.75 Marketing services.

(a) The market administrator, in making payments to each producer pursuant to § 1033.72, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk (except a handler's own farm production) of such producer for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the Secretary.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

§ 1033.76 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own farm production);

(b) Other source milk allocated to Class I pursuant to § 1033.46(a) (6), (7), and (11) and the corresponding steps of § 1033.46(b), except such other source milk on which no handler obligation applies pursuant to § 1033.60(g); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the Class I milk;

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1033.57(b)(2)(ii).

§ 1033.77 Correction of errors.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the fifth day after such notice. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler except that the market administrator shall offset any monies due a handler against monies due from such handler.

EFFECTIVE TIME AND SUSPENSION OR TERMINATION

§ 1033.80 Effective time.

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

§ 1033.81 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. In any event, this part shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1033.82 Continuing powers, duties, and obligations.

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

(a) Continue in such capacity until discharged by the Secretary;

(b) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such other person, to such person as the Secretary shall direct; and

(c) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1033.83 Liquidation after suspension or termination.

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

MISCELLANEOUS PROVISIONS

§ 1033.90 Agents.

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

§ 1033.91 Separability of provisions.

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

§ 1033.92 Termination of obligations.

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

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of this part shall terminate 2 years after the last day of the month during which the market administrator receives the handler's monthly report of receipts and utilization on which such obligation is based, 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:

(2) The month(s) on which such obligation is based; and

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator, within the 2-year period provided for in paragraph (a) of this section, may notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

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

(d) Unless a handler files a petition pursuant to section 8c(15)(A) of the Act for a review of the validity of any such handler's obligation within the 2-year period specified in this paragraph, any obligation on the part of the market administrator to revise or rescind such handler's obligation or to pay 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 obligation involved in the claim (including deduction or offset by the market administrator) was due and payable under this part.

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