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Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

[Docket No. R-361; Order 331-1]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Report of Events Affecting Bulk Power Supply; Correction

JUNE 11, 1970.

In the order prescribing report of events affecting bulk power supply, Order No. 331-1, issued May 21, 1970, and published in the FEDERAL REGISTER May 28, 1970 (35 F.R. 8356), paragraph (d), change "* * * duration of * * *" to "* * * duration or * * *".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7952; Filed, June 23, 1970; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that one position of Special Assistant to the Chairman of the National Endowment for the Arts is excepted under Schedule A until June 30, 1971. Effective on publication in the FEDERAL REGISTER, subparagraph (1) is added to paragraph (a) of § 213.3182 as set out below.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) Until June 30, 1971, one Special Assistant to the Chairman.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-7967; Filed, June 23, 1970; 8:47 a.m.]

PART 213—EXCEPTED SERVICE

Selective Service System

Section 213.3346 is amended to show that one position of Private Secretary to the General Counsel is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (b) is added to § 213.3346 as set out below.

§ 213.3346 Selective Service System.

* * * * *

(b) One Private Secretary to the General Counsel.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-7968; Filed, June 23, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

NOVOBIOCIN

The Commissioner of Foods and Drugs has evaluated a supplemental new animal drug application (12-375V) filed by The Upjohn Co., Kalamazoo, Mich. 49001, regarding the safe and effective use of novobiocin in the feed of chickens, turkeys, and mink. The supplemental application is approved regarding revisions of the indications for use of the drug as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), § 121.212(c) is amended in the table, as follows:

1. For items 1 and 2, the text under "Indications for use" is revised to read "Aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin."

2. For items 3 and 4, the text under "Indications for use" is revised to read "Treatment of staphylococcal synovitis and generalized staphylococcal infections susceptible to novobiocin."

3. For item 5, the text under "Indications for use" is revised to read "For the treatment of generalized staphylococcal infections, staphylococcal abscesses, and urinary infections of staphylococcal origin; also for urinary or generalized infections caused by organisms shown to be novobiocin-sensitive based on laboratory diagnosis."

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. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: June 16, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-7927; Filed, June 23, 1970; 8:45 a.m.]

Title 30—MINERAL RESOURCES

Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER A—COAL MINE HEALTH

PART 501—PERMITS FOR NONCOMPLIANCE

Time for Completion of Applications

The Interim Compliance Panel has received information which indicates that the number of instruments necessary for measurement of respirable dust levels in underground coal mines will not be sufficient prior to June 30 to allow all applicants to complete their applications by that date, and the number of certified engineers whose services will be required in the preparation of the applications is also insufficient to meet the

needs of the coal mining industry. Production of measuring instruments has been increased and engineers continue to be trained and certified. The Panel believes that this shortage of measuring instruments and of certified engineers will be substantially alleviated within 30 to 40 days. Accordingly, the Panel has determined that the date by which applications must be completed should be extended. The amendments set forth below extend that date to August 15, 1970. Since these amendments merely ease the requirement on those operators who have prior to this time filed applications with the Panel, good cause is found to omit notice of proposed rule making and delay of the effective date. The amendments will become effective on publication.

1. Section 501.4(a) is revised to read as follows:

§ 501.4 Contents of applications for permits.

(a) Each application for a permit (ICP Form 1) shall contain the name and address of the mine and the operator thereof and a list of working sections with respect to which such permit is requested.

* * * * *

2. Section 501.5(b) is revised to read as follows:

§ 501.5 Issuance of initial permits.

* * * * *

(b) No initial permit will be issued for working places in a working section (1) that is not in existence on June 30, 1970, and (2) for which a completed application has not been filed on or before August 15, 1970.

* * * * *

Dated: June 22, 1970.

CHARLES F. BROWN,
Chairman,
Interim Compliance Panel.

[F.R. Doc. 70-8054; Filed, June 23, 1970; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-644]

PART 73—RADIO BROADCAST SERVICES

Noncommercial, Educational FM, and Television Broadcast Service; Order Postponing Effective Date

In the matter of amendment of those provisions of Part 73 of the Commission's rules which describe and delimit the nature of noncommercial, educational FM and television broadcast service, and related matters (§§ 73.503 and 73.621).

1. On May 6, 1970, released May 11 and published in the FEDERAL REGISTER May 15, 1970,[1] the Commission amended certain of the rules relating to FM and Television noncommercial educational stations (§§ 73.503 and 73.621), particularly with respect to the number and character of permissible announcements as to the parties furnishing program material, funds for the production of programs, or funds for station operation generally. The effective date of these rules was specified as June 17, 1970.

2. On June 3, 1970, the National Association of Educational Broadcasters (NAEB) filed a "Petition for Declaratory Ruling and/or Modification of Order", asking that certain clarifications and modifications be made in the rules as amended. Some of these appear appropriate and quite simple, but others require more extensive consideration. In order to permit such consideration, it is appropriate to postpone the effective date of these rules for approximately 45 days.

3. In view of the foregoing, and pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended: *It is ordered*, That the changes in §§ 73.503 and 73.621, adopted May 6, 1970, and set forth in FCC 70-487 and published at 35 F.R. 7558, are effective August 4, 1970.

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

Adopted: June 17, 1970.

Released: June 19, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-7969; Filed, June 23, 1970; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Four Point Tripartite Promotional Advertising Plan

§ 15.418 Four point tripartite promotional advertising plan.

(a) The Commission responded to a request for an advisory opinion regarding the legality of a proposed four point three-party promotional advertising program to be offered suppliers and retailers in the grocery field.

(b) Under the program as presented for consideration, the first point involves contracting with retailers for the use of one or more mass display areas in their stores by suppliers. (A mass display area is defined as that space set aside for the display of merchandise of the same manufacturer, usually at the end of an aisle.) Suppliers would be charged and retailers remitted (less 15 percent agency fee) one-half cent per display area for each person entering the store each week, the number to be determined by the number of sales slips run through each cash register. Supplier's customers would be notified of the program's availability through bulletins included in suppliers' and wholesalers' mailing, through letters to direct buyers, and directly by mail to any other of the suppliers' customers. Suppliers would be limited to 10 percent of the available mass display areas in a given market during a calendar year.

(c) The second point involves the offer of a plan to suppliers for making funds available to retailers for the advertising of suppliers' product as a supplement to each mass display. Suppliers would be charged and retailers remitted (less 15 percent agency fee) one-fourth cent per person entering the store (as determined by cash register sales slips) per week for inclusion of the supplier's product as a feature in the body of the retailer's newspaper advertising. Retailers would also qualify for this allowance through distribution of handbills and/or mailers reasonably covering his trading area. Supplier's customers would be notified of the program's availability through bulletins included in supplier's and wholesaler's mailing, through letters to direct buyers, and directly by mail to any other of the supplier's customers.

(d) The third point involves arranging radio/television commercials for suppliers announcing that their products are available at named retail outlets. The commercials would supplement the mass display promotions. Time requirements for spot commercials would be pooled so as to obtain the best "frequency rate." Each customer of a participating supplier would receive at least one commercial without cost. The total number of commercials furnished a customer would be computed by dividing an amount computed by multiplying the retailer's customer count (as determined by cash register sales slips) by one-eighth cent per person and dividing by the cost per commercial.

(e) Under the fourth point it was proposed to supply to retailers and suppliers a sales survey which would include consumer reaction to a product, reasons for consumer purchases of a product and, when possible, a reaction to the product after use, and with retailer cooperation, comparison of sales with competing products.

(f) The Commission advised it was of the view that were the program, other than the proposed sales survey under point four, implemented in the manner described no law administered by the Commission would be violated. The sales survey in point four of the plan, which calls for the exchange of price or quantity sales information among retailers, or between retailers and suppliers, might be used in such manner as to lessen competition and since the legality of any such survey depends on the manner of its implementation, the Commission is unable to advise on this aspect of the plan.

[1] FCC 70-487; 35 F.R. 7558.

[2] Commissioner Burch Chairman; and Wells absent.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: June 23, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-7961; Filed, June 23, 1970; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Tripartite Promotion Based on Television Game Show

§ 15.419 Tripartite promotion based on television game show.

(a) The Commission rendered an advisory opinion relative to the legality of a television game entitled "Your Name's a Winner" sponsored by a local retailer and national food suppliers.

(b) It was proposed that a television game show type program be produced and sponsored primarily by a local grocery retailer at a contract price determined by the number of "game pieces" (resembling Bingo cards) distributed by that retailer to customers for the play of the game. Home viewers cross off the letters of their own names on a game piece against those flashed on the television screen and receive all prizes appearing in the squares of the crossed-off row, including a hidden prize. The show producer would sell each square as advertising space to national manufacturers and suppliers, some of whom will be suppliers to the sponsoring retailer. The products involved in each advertising space would be prominently displayed during the course of the game show, and the suppliers of each would be featured at all times.

(c) The Commission expressed the view that insofar as a supplier to a retailer-sponsor is an advertising contributor to the game show problems under the amended Clayton Act would be present. The advertising rights of a national supplier purchasing a square constitutes a payment of something of value to or for the benefit of a customer within the meaning of that Act. On the other hand, if the advertising rights to all such squares are sold to non-suppliers of the sponsoring merchant so that a supplier-customer relationship would not exist, the Act's prohibitions are not applicable.

(d) The Commission advised, because the proposed program contemplates that some of the advertisers would be suppliers to a sponsoring retailer, implementation and production of the television game show "Your Name's a Winner" in the manner outlined would raise serious questions under sections 2(d) and 2(e) of the amended Clayton Act and section 5, of the Federal Trade Commission Act.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: June 23, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-7962; Filed, June 23, 1970; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Multiple Foreign Origin of Parts Disclosure on Partially Imported Toys

§ 15.420 Multiple foreign origin of parts disclosure on partially imported toys.

(a) The Commission rendered an advisory opinion concerning a proposed country of origin labeling on the containers of sets of toy racing cars and tracks. The labeling would include the following language:

Contents made in Great Britain and/or U.S.A. and/or Canada, as specified therein.
Box printed in Great Britain.

(b) Seven different sets of toy racing cars would be sold through retail stores to the general public, with the most expensive set retailing at $22.50. At present, it is not known what percentage of the parts would originate in Great Britain, Canada or the United States. The plastic track would be made either in the United States or Canada, and the metal cars would originate in Great Britain. The paper container would also be made in Great Britain. The imported parts will be clearly and conspicuously marked as to their foreign country of origin. The cars and tracks will be packaged in a container which can, and normally would be opened for inspection by prospective purchasers prior to the purchase thereof.

(c) On the basis of the presentation, the Commission advised that it would interpose no objection to the proposed language being printed on the toy containers.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: June 23, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-7963; Filed, June 23, 1970; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Origin Disclosure on Imported (9 Percent to 15 Percent) Air Filter Parts

§ 15.421 Origin disclosure on imported (9 percent to 15 percent) air filter parts.

(a) The Commission responded to a request for an advisory opinion regarding a foreign country of origin marking on aquarium valves and filters.

(b) According to the presentation the marchandise in question is a two-, three-, or four-outlet gang valve connected by a plastic tubing to an air filter. The entire device is mounted on a plastic bracket designed to be hung over the top edge of an aquarium. All parts of the assembly are manufactured in the United States except for the bracket and filter which are produced in and imported from Hong Kong. These parts are identical and represent about 15 percent of the total cost of the two-way gang valve, about 11 percent of the total cost of the three-way gang valve, and about 9 percent of the total cost of the four-way gang valve. The filter, including the filteration material with which it is filled, is designed for use for the life of the gang valve and in ordinary use it is not replaced.

(c) The Commission expressed the view that in the absence of any affirmative representation that the product is made in the United States or any misrepresentation that might mislead the purchasing public as to the country of origin of the bracket and filter, under the facts presented, the failure to mark the origin of the products would not be regarded as deceptive.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: June 23, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-7964; Filed, June 23, 1970; 8:47 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF AND U.S. SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

Miscellaneous Amendments

Correction

In F.R. Doc. 70-7573 appearing at page 9915 in the issue of Wednesday, June 17, 1970, the following changes should be made:

1. The last word in § 54.190 should read "plant".

2. The second word in the second line of § 54.195(c) should read "adequately".

3. The first two lines of § 55.62(a) should read "The fee to be charged for any appeal grading, inspection, or laboratory".

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Third Apportionment of the School Breakfast Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1970

Pursuant to section 4 of the Child Nutrition Act of 1966, Public Law 89-642,

80 Stat. 886, food assistance funds available for the fiscal year ending June 30, 1970, are reapportioned among the States as follows in order to effect a further apportionment of funds.

State	Total apportionment	State agency	Withheld for private schools
Alabama	$183,617	$181,721	$1,896
Alaska	11,130	11,130	.....
Arizona	149,956	149,956	.....
Arkansas	116,094	113,999	2,095
California	975,953	975,953	.....
Colorado	105,228	93,705	11,523
Connecticut	122,767	122,767	.....
Delaware	8,593	8,593	.....
District of Columbia	88,246	88,246	.....
Florida	337,720	337,720	.....
Georgia	280,291	280,291	.....
Guam	26,198	26,198	.....
Hawaii	35,444	35,444	.....
Idaho	.....	.....	.....
Illinois	267,244	267,244	.....
Indiana	135,285	135,285	.....
Iowa	113,110	108,483	4,627
Kansas	41,535	41,535	.....
Kentucky	763,479	763,479	.....
Louisiana	567,223	567,223	.....
Maine	38,899	33,378	5,521
Maryland	157,567	148,255	9,312
Massachusetts	59,471	59,471	.....
Michigan	219,154	215,322	3,832
Minnesota	77,162	61,187	15,975
Mississippi	430,240	430,240	.....
Missouri	60,000	60,000	.....
Montana	38,055	31,362	6,693
Nebraska	39,780	30,409	9,371
Nevada	16,708	16,306	402
New Hampshire	24,406	24,406	.....
New Jersey	246,156	236,248	9,908
New Mexico	84,833	84,833	.....
New York	280,715	280,715	.....
North Carolina	410,578	410,578	.....
North Dakota	10,582	10,582	.....
Ohio	953,278	948,430	4,848
Oklahoma	266,368	266,368	.....
Oregon	35,175	35,175	.....
Pennsylvania	108,182	76,334	31,848
Puerto Rico	244,766	244,766	.....
Rhode Island	62,154	62,154	.....
South Carolina	223,939	223,939	.....
South Dakota	53,300	53,300	.....
Tennessee	281,424	281,424	.....
Texas	473,385	457,593	15,792
Utah	18,600	18,600	.....
Vermont	31,331	31,331	.....
Virginia	233,205	232,205	1,000
Virgin Islands	22,674	22,674	.....
Washington	71,974	66,776	5,198
West Virginia	310,764	310,764	.....
Wisconsin	63,425	48,545	14,880
Wyoming	22,457	22,457	.....
Samoa, American	.....	.....	.....
Total	10,000,000	9,845,279	154,721

(Secs. 2, 4, 6, and 8 through 16, 80 Stat. 885–890; 42 U.S.C. 1771, 1773, 1775, 1777–1785)

Dated: June 18, 1970.

EDWARD J. HEKMAN,
Administrator.

[F.R. Doc. 70-7950; Filed, June 23, 1970; 8:46 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—White-Fringed Beetle

MISCELLANEOUS AMENDMENTS

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), §§ 301.72(b), 301.72–1 (m) and (q), 301.72–3, and 301.72–4 of the regulations under notice of quarantine No. 72 (7 CFR 301.72(b), 301.72–1 (m) and (q), 301.72–3, and 301.72–4) relating to the white-fringed beetle are hereby revised and a new § 301.72–1(t) is added to the regulations, to read as follows:

§ 301.72 Quarantine; restriction on interstate movement of specified regulated articles.

* * * * *

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the articles listed in subparagraph (1) or (2) of this paragraph, except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area or any area, outside the regulated areas, in a quarantined State:

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

(ii) Plants with roots;

(iii) Grass sod;

(iv) Plant crowns and roots for propagation;

(v) True bulbs, corms, rhizomes, and tubers of ornamental plants when freshly harvested or uncured;

(vi) Potatoes (Irish) when freshly harvested;

(vii) Peanuts in shells and peanut shells, except boiled or roasted peanuts;

(viii) Uncleaned grass, grain, and legume seed;

(ix) Hay and straw;

(x) Seed cotton;

(xi) Scrap metal and junk;

(xii) Brick, stone, concrete slabs, drainage pipes, and building blocks;

(xiii) Forest products, such as pulpwood, stumpwood, logs, lumber and cross ties;

(xiv) Used mechanized cultivating equipment and used harvesting machinery;

(xv) Used mechanized soil-moving equipment;

(xvi) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (xv) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the white-fringed beetle and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Bulk soil;

(ii) Used mechanized soil-moving equipment;

(iii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) and (ii) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the white-fringed beetle and the person in possession thereof has been so notified.

§ 301.72–1 Definitions.

* * * * *

(m) *Regulated articles.* Any articles as listed in § 301.72(b) (1) or (2).

* * * * *

(q) *Suppressive area.* That part of a regulated area where all establishments handling regulated articles, except products being produced on the farm, have been treated for eradication of the white-fringed beetle and where eradication of the entire infestation in that part of the regulated area is undertaken as the objective, as designated by the Director under § 301.72–2(a).

* * * * *

(t) *Resistant white-fringed beetles.* Species of the genus Graphognathus in any stage of development known by the Director to have developed resistance to insecticides.

§ 301.72–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

(a) Any regulated articles, except those moved from premises in a regulated area where resistant white-fringed beetles have been found and the property owner has been so notified and soil samples for processing, testing, or analysis, may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.72–4 and 301.72–7, if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by the inspector that the regulated articles present a hazard of spread of the white-fringed beetle and the person in possession thereof has been so notified;

(v) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (2) (v) of this paragraph; or

(2) Without certificate or permit, if moved:

(i) From any generally infested area or any suppressive area under the provisions of § 301.72–2b which exempts certain articles from certification and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the white-fringed beetle exists; or

[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

(v) Through or reshipped from any generally infested area or suppressive area if the articles originated outside of the regulated areas and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(*a*) The regulated articles are exempt under the provisions of § 301.72–2b; or

(*b*) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Director in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved[3] by the Director and so listed by him in a supplemental regulation.[4] A certificate or permit will not be required to be attached to such soil samples except when required under paragraph (c) of this section or in those situations where the Director has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.72–4 and 301.72–7. A certificate or permit will not be required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(c) Any regulated articles moved from premises in a regulated area where resistant white-fringed beetles have been found and the property owner has been so notified may be moved interstate only when accompanied by a certificate or permit issued in accordance with §§ 301.72–4 and 301.72–7.

§ 301.72–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic-plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow the interstate movement of regulated articles (except soil samples for processing, testing, or analysis), not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the white-fringed beetle and the requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles, and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations, may be issued by the Director under such conditions as may be prescribed in each specific case by the Director.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments of regulated articles (except soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made appropriate determinations as specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for the interstate movement of regulated articles to specified destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Director if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 33 F.R. 15485)

The foregoing amendments with respect to §§ 301.72(b) and 301.72–1 (m), (q), and (t) change the definitions of regulated articles and suppressive area, provide a definition for resistant white-fringed beetles and place additional restrictions on the movement of articles from premises infested with such beetles, and specifically designate only bulk soil and used mechanized soil-moving equipment as regulated articles when moved from a suppressive area, although, under the amendments, other articles may be so designated when it is determined that they present a hazard of spreading the white-fringed beetle. The amendments of §§ 301.72–3 and 301.72–4 provide that soil samples for processing, testing, or analysis may be moved from the regulated areas (without a certificate or permit) only to approved laboratories or only in emergencies under authorization from the Director of the Plant Protection Division. The amendment of § 301.72–4 (f) clarifies the long-standing administrative interpretation of said section by expressly stating the power of the Director to withdraw certificates or permits.

Notice of rule making was published in the FEDERAL REGISTER on November 7, 1969 (34 F.R. 18042), with respect to proposed amendments of the regulations relating to the movement of soil samples. Due consideration has been given to all comments received pursuant thereto and to all other relevant information. The amendment of § 301.72–4(f) concerning the authority of the Director to withdraw certificates and permits relates to a matter of agency organization and procedure. Insofar as the amendments impose more stringent requirements than have heretofore applied concerning the interstate movement of regulated articles from the quarantined States, they should be made effective without delay in order to prevent the spread of white-fringed beetles. Insofar as they relieve restrictions previously applicable, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that further public rule-making procedures concerning the amendments would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further public rule-making procedures in connection with the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after their publication in the FEDERAL REGISTER.

[3] Pamphlets containing provisions for laboratory approval may be obtained from the Director, Plant Protection Division, ARS, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Maryland 20782.

[4] For list of approved laboratories, see PPD 639.

The amendments of §§ 301.72(b), 301.72–1 (m) and (q), 301.72–3, and 301.72–4 and new § 301.72–1(t) shall become effective July 1, 1970, when said amendments shall supersede the corresponding provisions of the regulations which became effective September 24, 1968.

Done at Washington, D.C., this 18th day of June 1970.

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

[F.R. Doc. 70–7983; Filed, June 23, 1970; 8:48 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—White-Fringed Beetle

EXEMPTIONS

Under the authority of § 301.72–2 of the White-Fringed Beetle Quarantine regulations (7 CFR 301.72–2, as amended), a supplemental regulation exempting certain articles from specified requirements of the regulations is hereby issued to appear in 7 CFR 301.72–2b as set forth below. The Director of the Plant Protection Division has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided therein.

§ 301.72–2b Exempted artitcles.[1]

(a) The following articles are exempt from the certification, permit, or other requirements of this subpart if they meet the applicable conditions prescribed in subparagraphs (1) through (3) of this paragraph and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(1) Compost, decomposed manure, humus, and peat, if dehydrated, ground, pulverized, or compressed.

(2) Brick, stone, concrete slabs, drainage pipes, and building blocks, if not exposed to infestation in storage, or if the storage site has been treated with an approved pesticide.

(3) Forest products, such as pulpwood, stumpwood, logs, lumber, and crossties, if not exposed to infestation in storage, or if the storage site has been treated with an approved pesticide.

(b) The following article is exempt from the certification, permit, or other requirements of this subpart under the applicable conditions as prescribed in the following paragraph:

(1) Seed cotton, if moving to a designated gin.[2]

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 7 CFR 301.72–2)

[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[2] Information as to designated gins may be obtained from an inspector. Any gin is eligible for designation under this subpart if the operator thereof enters a compliance agreement (as defined in § 301.72–1(b)).

This list of exempted articles shall become effective July 1, 1970, when it shall supersede the list of exempted articles in 7 CFR 301.72–2b which became effective September 24, 1968.

The purpose of this revision is to delete from the list of exempted articles soil samples of any size if collected and shipped to a U.S. Army Corps of Engineers soil laboratory located within the conterminous United States; and soil samples of 1 pound or less which are so packaged so that no soil will be spilled in transit, and are consigned to a laboratory approved by the Director for such purposes.

Effective July 1, 1970, except when specifically authorized by the Director in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved by the Director and so listed by him.

Done at Hyattsville, Md., this 18th of June 1970.

D. R. SHEPHERD,
Director,
Plant Protection Division.

[F.R. Doc. 70–7982; Filed, June 23, 1970; 8:48 a.m.]

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

[Orange Reg. 65, Amdt. 4]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, other than Navel, Temple, and Murcott Honey 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 amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of oranges, other than Navel, Temple and Murcott Honey oranges, grown in Florida.

Order. In § 905.521 (Orange Regulation 65; 35 F.R. 72; 35 F.R. 1043, 5461, 7411), the provisions of subdivisions (i) and (ii) of paragraph (a)(2) are amended to read as follows:

§ 905.521 Orange Regulation 65.

(a) * * *

(2) * * *

(i) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet except that during the period June 22, 1970, through July 5, 1970, no handler shall ship oranges, other than Navel, Temple, and Murcott Honey oranges, grown in the production area, that grade less than U.S. No. 1 Golden;

(ii) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter 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 Oranges and Tangelos: *Provided*, That during the period July 6, 1970, through September 13, 1970, any handler may ship oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, that are not smaller than 2$^{4}/_{16}$ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter 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 Oranges and Tangelos: *Provided further*, That in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2$^{8}/_{16}$ inches in diameter such percentage shall be based only on those oranges in such lot which are of a size 2$^{4}/_{16}$ inches in diameter or smaller and in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2$^{4}/_{16}$ inches in diameter such percentage shall be based only on those oranges in such lot which are of a size 2$^{0}/_{16}$ inches in diameter or smaller;

* * * * *

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

Dated, June 18, 1970, to become effective June 22, 1970.

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

[F.R. Doc. 70–7951; Filed, June 23, 1970; 8:46 a.m.]

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

[Milk Order No. 4]

PART 1003—MILK IN WASHINGTON, D.C., MARKETING AREA

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

PART 1016—MILK IN UPPER CHESAPEAKE BAY (MARYLAND) MARKETING AREA

Order Amending Orders

7 CFR Part	Market merged	Docket No.
1003	Washington, D.C.	AO-208-A23. AO-208-A23-ROL.
1004	Delaware Valley	AO-160-A43. AO-160-A43-ROL.
1016	Upper Chesapeake Bay	AO-312-A20. AO-312-A20-ROL.

Findings and Determinations

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

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

(1) The Middle Atlantic order which amends and merges the Washington, D.C., Delaware Valley and Upper Chesapeake Bay 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 Middle Atlantic marketing area, and the minimum prices specified in the Middle Atlantic 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 Middle Atlantic 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 Middle Atlantic order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk handled during the month as follows:

(i) Each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1004.10(c), and a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant) with respect to his receipts of producer milk (including such handler's own-farm production, milk received from a cooperative association pursuant to § 1004.10(c), and milk transferred in bulk from a pool plant owned and operated by a cooperative association) and other source milk allocated to Class I pursuant to § 1004.46(a) (5) and (9) and the corresponding step of § 1004.46(b);

(ii) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area in excess of his receipts of Class I milk from pool plants, cooperative associations as handlers pursuant to § 1004.10(b), and other order plants assigned to such disposition.

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

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

(2) The issuance of this order, which amends and merges the Washington, D.C., Delaware Valley, and Upper Chesapeake orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the Middle Atlantic order;

(3) The issuance of the Middle Atlantic order, exclusive of the base and excess plan of payment to producers is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Middle Atlantic marketing area; and

(4) The issuance of the base and excess plan of payments to producers, which is included in this order, is approved or favored by at least two-thirds of the producers who participated in a separate referendum in which each individual producer had one vote and who during the determined representative period were engaged in the production of milk for sale in the Middle Atlantic marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the orders regulating the handling of milk in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay marketing areas (Parts 1003, 1004, and 1016, respectively) shall be amended and merged into one order which is to be designated as the "Middle Atlantic marketing area." The consolidated order is to be designated Part 1004 in the Code of Federal Regulations and Parts 1003 and 1016 are hereby vacated. The handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with, the following terms and conditions:

Subpart—Order Regulating Handling

Definitions

Market Administrator

Reports, Records and Facilities

Classification

Minimum Prices

APPLICATION OF PROVISIONS

AUTHORITY: The provisions of this Part 1004 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

DEFINITIONS

§ 1004.1 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.).

§ 1004.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States to whom authority may be delegated to act in his stead.

§ 1004.3 Department of Agriculture.

"Department of Agriculture" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the functions of the U.S. Department of Agriculture.

§ 1004.4 Person.

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

§ 1004.5 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, as amended, known as the "Capper-Volstead Act";

(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 activities under the control of its members.

§ 1004.6 Middle Atlantic marketing area.

"Middle Atlantic marketing area" (hereinafter called the "marketing area") means all territory within the boundaries of the following places, including piers, docks and wharves and territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) The District of Columbia.

(b) The State of Delaware.

(c) In the State of Maryland:

(1) The counties of:

Anne Arundel.	Howard.
Baltimore.	Kent.
Calvert.	Montgomery.
Caroline.	Prince Georges.
Carroll.	Queen Annes.
Cecil.	Somerset.
Charles.	St. Marys.
Dorchester.	Talbot.
Frederick.	Wicomico.
Harford.	Worcester.

(2) The city of Baltimore.

(3) Fort Ritchie.

(d) In the State of New Jersey:

(1) The counties of:

Atlantic.	Cumberland.
Burlington.	Gloucester.
Camden.	Mercer.
Cape May.	Salem.

(2) In Ocean County:

(i) The townships of:

Eagleswood.	Ocean.
Lacey.	Stafford.
Long Beach.	Union.
Little Egg Harbor.	

(ii) The boroughs of:

Barnegat Light.	Ship Bottom.
Beach Haven.	Tuckerton.
Harvey Cedars.	

(e) In the State of Pennsylvania:

(1) The counties of:

Delaware.	Philadelphia.

(2) In Montgomery County:

(i) The townships of:

Springfield.	Upper Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).
Cheltenham.	
Abington.	
Lower Merion.	
Lower Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).	

(ii) The boroughs of:

Bryn Athyn.	Rockledge.
Narberth.	Jenkintown.

(3) In Bucks County:

(i) The townships of:

Bensalem.	Lower Makefield.
Bristol.	Lower Southampton.
Falls.	Middletown.

(ii) The boroughs of:

Bristol.	Morrisville.
Hulmeville.	Penndel.
Langhorne.	Tullytown.
Langhorne Manor.	Yardley.

(f) In the State of Virginia:

(1) The counties of:

Arlington.	Loudoun.
Fairfax.	Prince William.

(2) The cities of:

Alexandria.	Fairfax.
Falls Church.	

§ 1004.7 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, processing or packaging of milk or milk products (including filled milk). However, a separate facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck or only as a distribution depot for fluid milk products in transit for route distribution shall not be included under this definition.

§ 1004.8 Pool plant.

"Pool plant" means a plant (except an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1004.10(e)) specified in paragraphs (a) through (e) of this section.

(a) A plant from which during the month a volume not less than 50 percent of its receipts described in subparagraph (1) or (2) of this paragraph is disposed of as Class I milk (except filled milk) and a volume not less than 10 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

(1) Milk received at such plant directly from dairy farmers (including milk diverted as producer milk pursuant to § 1004.15, by either the plant operator or by a cooperative association, but excluding the milk of dairy farmers for other markets) and from a cooperative in its capacity as a handler pursuant to § 1004.10(c); or

(2) In the case of a plant with no receipts described in subparagraph (1) of this paragraph, receipts of fluid milk products (other than filled milk) from other plants.

(b) Any plant not meeting the conditions of paragraph (a) of this section from which during the month a quantity of fluid milk products (other than filled milk) not less than the applicable percentage (as specified in subparagraph (1) of this paragraph) of such plant's receipts of milk from dairy farmers (including milk diverted as producer milk pursuant to § 1004.15 by either the plant operator or by a cooperative association) and from a cooperative association

in its capacity as a handler pursuant to § 1004.10(c) is moved to a plant(s) meeting the percentage disposition requirements specified in paragraph (a) of this section with respect to its total receipts of fluid milk products (other than filled milk) from dairy farmers, cooperative associations as handlers pursuant to § 1004.10(c) and from other plants. However, a plant shall not qualify pursuant to this paragraph in any month in which a greater proportion of its qualifying shipments are made to a plant(s) regulated under another Federal order than to plants regulated under this order.

(1) The applicable percentage for the purpose of this paragraph shall be:

(i) 50 percent for any month of September through February; and

(ii) 40 percent for any month of March through August.

(c) A reserve processing plant which was a pool plant under the Delaware Valley, Upper Chesapeake Bay or Washington, D.C., orders in each of the 12 months preceding the effective date of this order and which does not meet the conditions for pool status pursuant to paragraph (a) or (b) of this section shall continue to hold such status in each consecutive succeeding month in which:

(1) It is owned and operated by a handler who also operates a plant qualified pursuant to paragraph (a) of this section;

(2) The handler files a written request with the market administrator on or before the effective date of this order requesting pool status for such plant under this paragraph;

(3) The plant does not qualify as a pool plant pursuant to the provisions of another Federal order;

(4) The plant, in combination with a distributing plant of such handler, meets the performance standards of paragraph (a) of this section;

(5) No plant of such handler is a means for qualification of any other plant for pooling pursuant to paragraph (b) of this section; and

(6) The handler notifies the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(d) A reserve processing plant operated by a cooperative association at least 70 percent of the members of which are producers whose milk is received throughout the month at plants qualified pursuant to paragraphs (a), (b), or (e) of this section (including the milk of such producers which is delivered to such plants by the cooperative in its capacity as a handler pursuant to § 1004.10 (c): *Provided*, That such cooperative shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(e) Subject to the conditions of subparagraph (1) of this paragraph, a plant that was qualified pursuant to paragraph (b) of this section during each of the immediately preceding months of September through February shall remain so qualified during the following months of March through August, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month of such period during which it does not otherwise qualify pursuant to said paragraph (b): *Provided*, That pool plant status under the Delaware Valley, Upper Chesapeake Bay, or Washington, D.C., orders during each of the months of September 1969 through February 1970 shall be considered qualification for such automatic pooling status for purposes of this paragraph for the period through August 1970;

(1) The automatic pooling status of any plant pursuant to this paragraph shall be canceled beginning on the first day of any month during the March through August period in which another supply plant is qualified for pooling through shipments to the same plants through which such automatic pooling status was acquired.

§ 1004.9 Nonpool plant.

"Nonpool plant" means a plant other than a pool plant. The following categories of nonpool plants are further defined:

(a) "Other order plant" means a plant that is fully subject to the pricing and payment 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 plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant to § 1004.10(e), from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant to § 1004.10(e), from which fluid milk products are shipped during the month to a plant qualified under § 1004.8.

§ 1004.10 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of:

(1) A pool plant;

(2) A partially regulated distributing plant;

(3) An unregulated supply plant; or

(4) An other order plant.

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of § 1004.15 to a nonpool plant for the account of such cooperative association.

(c) Any cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant of another person in a tank truck owned and operated by or under contract to such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator in writing prior to the first day of the month that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests based on samples taken at the farm. Milk for which the cooperative association is qualified pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered.

(d) A producer-handler.

(e) A governmental agency in its capacity as the operator of a plant with route disposition in the marketing area.

(f) Any other person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant.

§ 1004.11 Pool handler.

"Pool handler" means any person in his capacity as the operator of a pool plant or a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c).

§ 1004.12 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a plant with route disposition in the marketing area, and whose sole source of supply of fluid milk products is his own farm production and transfers of such products from pool plants: *Provided*, That,

(a) the quantity of fluid milk products received from pool plants during the month shall not exceed 10,000 pounds; and

(b) such person furnishes proof satisfactory to the market administrator that the maintenance and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding transfers from pool plants), and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1004.13 Dairy farmer.

"Dairy farmer" means any person who produces milk which is delivered in bulk to a plant.

§ 1004.14 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer with respect

to milk reported pursuant to § 1004.8 (c)(6) or the proviso of paragraph (d) of said § 1004.8.

§ 1004.15 Producer.

Subject to the conditions of paragraph (d) and the exceptions of paragraph (e) of this section, "producer" means any person described in paragraphs (a) through (c) of this section.

(a) A dairy farmer with respect to milk which is received at a pool plant directly from the farm including milk received at a pool plant pursuant to § 1004.8 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e).

(b) A dairy farmer with respect to milk received by a cooperative association in its capacity as a handler pursuant to § 1004.10(c).

(c) A dairy farmer with respect to milk which is diverted to a nonpool plant (other than a producer-handler plant) in accordance with the conditions of subparagraphs (1) and (2) of this paragraph.

(1) During any month of March through August.

(2) Not more than 10 days production during any month of September through February unless all of the diversions of member and nonmember milk, as the case may be, are pursuant to subdivision (i) or (ii), respectively, of this subparagraph and they fall within the limits prescribed thereunder. If a handler diverting milk pursuant to this subparagraph diverts milk of any dairy farmer in excess of the limits prescribed such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant.

(i) All of the diversions of milk of members of a cooperative association to nonpool plants are for the account of such cooperative association and the amount of member milk so diverted does not exceed 15 percent of the volume of milk of all members of such cooperative association received at all pool plants during such month.

(ii) All of the diversions of milk of dairy farmers who are not members of a cooperative association diverting milk for its own account during the month are diversions by a handler in his capacity as the operator of a pool plant from which the quantity of such nonmember milk so diverted does not exceed 15 percent of the total of such nonmember milk delivered to such handler during the month.

(d) Milk which is diverted in accordance with the provisions of this section shall be deemed to have been received by the handler for whose account it is diverted at a pool plant at the location of the plant from which it is diverted, except that, for the purpose of applying location adjustments pursuant to §§ 1004.51 and 1004.82 and the direct-delivery differential pursuant to § 1004.83, milk which is diverted in the manner described in subparagraph (1), (2), or (3) of this paragraph shall be treated as though received at the location of the plant to which diverted.

(1) Diverted from a pool plant at which no location adjustment credit is applicable to a plant at which a location adjustment credit is applicable.

(2) Diverted from a pool plant at which a location adjustment credit is applicable to a plant at which a greater location adjustment credit is applicable.

(3) Diverted from a pool plant in the direct-delivery zone to a plant outside such direct-delivery zone.

(e) This definition shall not include a:

(1) Producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Dairy farmer for other markets;

(3) Government agency which is a handler pursuant to § 1004.10(e);

(4) Dairy farmer with respect to milk reported as milk diverted to an other order plant if any portion of such dairy farmer's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Dairy farmer with respect to milk physically received at a pool plant as diverted milk from an other order plant if all of the milk so received from such dairy farmer is assigned to Class II and the milk is treated as producer milk under the provisions of such other order.

§ 1004.16 Milk and milk products.

(a) "Fluid milk product" means milk, skim milk (including concentrated and reconstituted milk or skim milk), buttermilk, cultured buttermilk, flavored milk, milk drinks (plain or flavored), filled milk, and (except ice cream, ice cream mixes, ice milk mixes, milkshake mixes, eggnog, yogurt, condensed or evaporated milk, and any product which contains six percent or more nonmilk fat [or oil]) any mixture in fluid form of cream and milk or skim milk containing less than 10 percent butterfat: *Provided*, That when the product is modified by the addition of nonfat milk solids, the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of unmodified product of the same nature and butterfat content.

(b) "Producer milk" means any skim milk or butterfat contained in milk:

(1) Received at a pool plant directly from producers (including milk received at a pool plant pursuant to § 1004.8 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e);

(2) Received from producers by a cooperative association in its capacity as a handler pursuant to § 1004.10(c); or

(3) Diverted to a nonpool plant in accordance with the provisions of § 1004.15.

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

(1) Receipts in the form of fluid milk products from any source other than producers, pool plants, or from a cooperative association in its capacity as a handler pursuant to § 1004.10(c);

(2) Receipts (including any Class II product produced in the handler's plant during a prior month) in a form other than as a fluid milk product which are reprocessed, converted, or combined with another product during the month; and

(3) Receipts in a form other than a fluid milk product for which the handler fails to establish a disposition.

(d) "Base milk" means milk received from a producer by a pool handler which is not in excess of such producer's daily base computed pursuant to § 1004.63 multiplied by the number of days in such month on which such producer's milk was so received: *Provided*, That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for purposes of this paragraph.

(e) "Excess milk" means milk received from a producer by a pool handler which is in excess of base milk received from such producer during the month.

(f) "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).

(g) "Certified milk" is milk which is produced, packaged, and sold under the label of certified milk in accordance with the rules and regulations promulgated by the American Association of Medical Milk Commissions, Inc.

§ 1004.17 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to a retail or wholesale outlet (including any delivery through a distribution depot, by a vendor, from a plant store or through a vending machine) except any delivery to a plant.

MARKET ADMINISTRATOR

§ 1004.20 Designation.

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

§ 1004.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1004.22 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or

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

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

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

(d) Pay out of the funds received pursuant to § 1004.89:

(1) The cost of his bond and the bonds of his employees,

(2) His own compensation, and

(3) All other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1004.30 and 1004.31, or payments pursuant to §§ 1004.80 through 1004.89;

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

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

(i) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation of this part as do not reveal confidential information;

(j) On or before the date 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:

(i) The Class I price for the current month computed pursuant to § 1004.50 (a); and

(ii) The Class II price computed pursuant to § 1004.50(b) and the producer butterfat differential computed pursuant to § 1004.81 both for the preceding month.

(2) The 13th day of each month, the uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 for the preceding month.

(k) On or before the 15th day after the end of each month, report to each cooperative association which so requests, the class utilization of milk purchased from such association or delivered to the pool plant(s) of each handler by producers who are members of such cooperative association. For the purpose of this report, the milk so purchased or received shall be allocated to each class in the same ratio as all producer milk received by such handler during such month;

(l) On or before February 25 of each year, notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the daily base established by such producer;

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1004.46(a)(10) and the corresponding step of § 1004.46(b), the market administrator shall 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 § 1004.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products 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

§ 1004.30 Reports of receipts and utilization.

(a) On or before the eighth day after the end of each month each handler with respect to each of his pool plants shall report for the month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in:

(i) Receipts of producer milk (including such handler's own production);

(ii) Receipts of fluid milk products from other pool plants and milk received from a cooperative association for which it is a handler pursuant to § 1004.10(c); and

(iii) Receipts of other source milk;

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

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately in-area route disposition, except filled milk, and filled milk route disposition in the area;

(b) Each handler who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(c) Each producer-handler and each handler pursuant to § 1004.10(e) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) On or before the eighth day after the end of each month, each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1004.10 (b) or (c) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants; and

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler.

§ 1004.31 Other reports.

(a) Each pool handler shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(1) On or before the 25th day after the end of the month for each pool plant, his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer;

(iii) The average butterfat content of such milk; and

(iv) The net amount of the handler's payment, together with the price paid and the amount and nature of any deduction;

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

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to a pool handler, the handler shall file with the market administrator a report stating the producer's name and post office address, the health department permit number, if applicable, the date on which the changes took place, and the farm and plant location involved.

(c) In making payments to producers pursuant to § 1004.80(a)(2), or to a cooperative association pursuant to § 1004.80(b), each pool handler shall

furnish such producer or cooperative association with respect to each of its producer members from whom the handler received milk during the month, a written statement showing:

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

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

(3) The minimum rate at which payment to such producer is required under § 1004.80(a)(2);

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

(5) The nature and amount of any deductions made in payment due such producer; and

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

(d) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1004.62(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom he receives milk.

(e) On or before the 20th day after the end of the month, each handler pursuant to § 1004.10(f) shall report to the market administrator, in the detail and on forms prescribed by the market administrator, all transactions wherein milk was bought or dealt in, giving the following information:

(1) The name and address of any cooperative association or producer for whom the handler by either purchase or direction caused milk of producers to be moved to a plant;

(2) The total pounds of milk involved in the transaction, and the average butterfat content of such milk; and

(3) Such other information with respect to such transaction as the market administrator may prescribe.

§ 1004.32 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;

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

(c) The pounds of skim milk and butterfat contained in or represented by all items in inventory at the beginning and end of each month required to be reported pursuant to § 1004.30(a)(2); and

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

§ 1004.33 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 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

§ 1004.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported by each handler pursuant to § 1004.30 shall be classified each month by the market administrator pursuant to the provisions of § 1004.41 through § 1004.46.

§ 1004.41 Classes of utilization.

Subject to the conditions set forth in § 1004.42 through § 1004.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat;

(1) Disposed of as a fluid milk product except as provided in paragraph (b)(2), (3), or (7) of this section;

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month; and

(3) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of for livestock feed;

(3) Contained in fluid milk products which are dumped, if the handler gives the market administrator such advance notice of intent to dump as the market administrator may prescribe;

(4) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.42(b)(1), but not to exceed the following:

(i) Two percent of producer milk received at a pool plant; plus

(ii) One and one-half percent of milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1004.10(c); plus

(iii) One and one-half percent of milk received at a pool plant in bulk tank lots from other pool plants; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the handler (and by the operator of such other order plant if such receipt is fully subject to the classification and pricing provisions of such other order); plus

(v) One and one-half percent of receipts from dairy farmers for other markets pursuant to § 1004.14 and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk moved in bulk tank lots from a pool plant to other plants; and plus

(vii) One-half of 1 percent in receipts of producer milk by a cooperative association in its capacity as a handler pursuant to § 1004.10(c);

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.42(b)(2);

(7) Disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which fluid milk products were used only in the manufacture of food products other than milk products; and

(8) In skim milk represented by the nonfat milk solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1004.16(a).

§ 1004.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

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

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts described in § 1004.41(b)(5); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1004.41(b)(5).

§ 1004.43 Responsibility of handlers and the reclassification of milk.

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

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

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1004.10(c), the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I, and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler pursuant to § 1004.10(c) shall be responsible for proving that such skim milk and butterfat should be classified other than as Class I.

§ 1004.44 Transfers.

Skim milk and butterfat in the form of any fluid milk product shall be classified:

(a) As Class I milk if diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e) to a pool plant pursuant to § 1004.8 (c) or (d), or transferred from a pool plant or by a cooperative association as a handler pursuant to § 1004.10(c) to a pool plant, unless Class II utilization is indicated by the transferee and transferor handlers (or by the handler if such transaction is between two pool plants of the same handler) in their reports pursuant to § 1004.30(a) for the month, subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1004.46(a)(10) and the corresponding step of § 1004.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1004.46(a)(5), 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 § 1004.46(a) (9) or (10), and the corresponding steps of § 1004.46(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;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred or diverted from a pool plant or delivered by a cooperative association in the capacity as a handler pursuant to § 1004.10 (c) to a handler pursuant to § 1004.10(e).

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1004.10(e), 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 § 1004.30 for the month within which such transaction occurred;

(2) The operator of such nonpool transferee 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;

(3) The skim milk and butterfat so transferred 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, and thereafter pro rata to receipts from other order plants;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and thereafter pro rata to receipts from pool plants and other order plants not regulated by such order;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to the receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant, and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool pool plant from all pool and other order plants; and

(iv) Any remaining receipts from pool plants or other order plants shall be assigned to Class II: *Provided*, That if on inspection of the books and records of the nonpool plant the market administrator finds that the remaining unassigned receipts at such plant exceed the available Class II utilization, the transfer shall be classified as Class I up to the amount of such excess.

(e) As follows, if transferred to another 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 in bulk form, classification shall be in the classes to which allocated as a fluid milk product 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 in bulk form shall be classified as Class II to the extent of the Class II 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 more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1004.41.

§ 1004.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1004.30(a) by each handler and compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1004.10 (b) and (c) and was not received at a pool plant: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

§ 1004.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1004.45, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1004.10 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1004.10(c) at each pool plant for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1004.41(b)(5);

(2) Subtract from the total pounds of skim milk in Class I, the pounds of skim milk in receipts of certified milk in packaged form;

(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 (5) (vi) of this paragraph as follows:

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

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

(4) Except for the first month this order is effective, with respect to plants which in the immediately preceding

month were either unregulated plants or pool plants under Orders 3 or 16, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month;

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

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

(ii) Receipts of fluid milk products from dairy farmers for other markets pursuant to § 1004.14 and from unidentified sources;

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

(iv) Receipts of fluid milk products from a handler pursuant to § 1004.10(e);

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

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant and is not assigned under this step at a plant regulated under another market pool order;

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

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in any case to exceed the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

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

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, receipts from pool plants of other handlers, from a cooperative association in its capacity as a handler pursuant to § 1004.10(c), and in receipts in bulk from other order plants; and

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

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

(iii) The pounds of skim milk in remaining receipts of fluid milk products in bulk from an other order plant which are in excess of similar movements to such plant, if such receipts were classified and priced pursuant to the other order and if Class II utilization was requested by the operator of such plant and the transferee handler, but not in excess of the pounds of skim milk remaining in Class II milk;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products in bulk (and for the first month this order is effective, in packaged fluid milk products not subtracted pursuant to subparagraph (4) of this paragraph) on hand at the beginning of the month;

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

(9) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and from other order plant(s) if not classified or priced pursuant to the order regulating such plant, that were not subtracted pursuant to subparagraph (6) (i) or (ii) of this paragraph;

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

(10) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk in remaining receipts of fluid milk products in bulk from other order plants (except receipts from other order plants not classified and priced pursuant to the order regulating such plant), in excess in each case of similar movements to the same plant, pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1004.22(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case, the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1004.10(c) according to the classification assigned pursuant to § 1004.44(a); and

(12) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. 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

§ 1004.50 Class prices.

Subject to the provisions of § 1004.51 the minimum class prices per hundredweight of milk containing 3.5 percent butterfat for the month shall be as follows:

(a) *Class I milk.* The price per hundredweight of Class I milk shall be $7.11

plus any amount by which the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the preceding month on a 3.5 percent butterfat basis, exceeds $4.33.

(b) *Class II milk.* The price per hundredweight of Class II milk shall be determined for each month as follows:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, 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

(iii) From the sum of the results arrived at under subdivision (i) and (ii) of this subparagraph subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	Amount
January	+$0.05
February	+.04
March	−.03
April	−.07
May	−.10
June	−.09
July	+.05
August	+.12
September	+.08
October	+.08
November	+.08
December	+.08

§ 1004.51 Location differential to handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1004.10(c) at a pool plant located 55 miles or more by shortest highway distance from the city hall in Philadelphia, Pa., and also 75 miles or more by the shortest highway distance from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all such distance to be determined by the market administrator), and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the Class I price shall be reduced at the rate of 1.5 cents per 10-mile distance or fraction thereof that such plant location is from the nearest of such basing points.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which such Class I disposition exceeds 95 percent of the sum of receipts at such plant from producers, cooperative associations pursuant to § 1004.10(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and from dairy farmers for other markets pursuant to § 1004.14. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply: *Provided*, That for the purposes of this paragraph, transfers from a pool plant to a second pool plant which are in turn transferred to a third pool plant shall be treated as though the transfer was direct from the originating plant to the plant of final receipt.

§ 1004.52 Equivalent prices or indexes.

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

APPLICATION OF PROVISIONS

§ 1004.60 Producer-handler.

Sections 1004.40 through 1004.46, 1004.50 through 1004.52, 1004.62 through 1004.65, 1004.70 through 1004.72 and 1004.80 through 1004.89 shall not apply to a producer-handler.

§ 1004.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall, except as specified in paragraphs (c) and (d) of this section, be exempt from the provisions of this part:

(a) Any plant qualified pursuant to § 1004.8(a) which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the Secretary determines that a greater volume of Class I milk, except filled milk, is disposed of from such plant as route disposition in the Middle Atlantic marketing area than is so disposed of in a marketing area regulated pursuant to such other order; or

(b) Any plant subject to the classification and pricing provisions of another order issued pursuant to the Act, notwithstanding its status under this order pursuant to § 1004.8 (a) or (b).

(c) Each handler operating a plant described in paragraph (a) or (b) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of reports pursuant to §§ 1004.30 and 1004.31) and allow verification of such reports by the market administrator.

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

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

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

§ 1004.62 Obligations of a handler operating a partially-regulated distributing plant.

Each handler who operates a partially-regulated distributing plant shall pay to the market administrator for the producers-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 §§ 1104.30(b) and 1004.31(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 § 1004.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant, a cooperative association as a handler pursuant to § 1004.10 (b), 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 clasified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk,

except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1004.70(e) and a credit in the amount specified in § 1004.85 (b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1004.30(b) and 1004.31(d) similar reports with respect to the operations of any other 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 § 1004.8(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 there will be deducted the sum of (i) the gross payments made by such handler for milk (approved by a duly constituted health authority for fluid disposition) 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) any payments to the producer-settlement fund of another order 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 disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants, cooperative associations in their capacity as handlers pursuant to § 1004.10(b), and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

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

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

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (but not less than the Class II price), subtract its value at the weighted average price applicable at such location (not to be less than the Class II 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 (but not less than the Class II price), less the value of such skim milk at the Class II price.

§ 1004.63 Computation of base for each producer.

After February 1971, for each month of the year, the market administrator shall compute, subject to the rules set forth in § 1004.64, a base for each producer described in paragraphs (a) through (d) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 153 (by 154 in the case of a producer on every-other-day delivery schedule who delivered August 1) less the number of days, if any, during the applicable base-forming period of August through December for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a) through (d) of this section under which such producer's base is computed: *Provided*, That in no event shall the number of days used to compute a producer's base pursuant to this section be less than 120.

(a) For any producer, except as provided in paragraphs (b) through (e) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of August through December;

(b) Except as provided in paragraph (c) of this section, for any producer whose milk was received at a plant which first became a pool plant after the beginning of the preceding August–December period, which plant was a pool plant for at least 120 days during such period, the quantity of milk receipts to be used in the computation of such producer's base shall be the total pounds of milk received from such dairy farmer at such plant during the entire August–December period.

(c) For any producer who on August 1 was an Order 2 (New York-New Jersey) producer and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under both orders throughout the August–December period.

(d) For any producer whose milk was received during the preceding August through December period at a plant which became a pool plant pursuant to § 1004.8(a) during or after such August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such August–December period by pool handlers as producer milk and at such plant as a nonpool plant.

(e) Any producer who made no qualifying milk deliveries during the base-forming period of August through December, or who relinquishes his established base pursuant to § 1004.65, shall have a base reflecting the percentage of his average daily deliveries of producer milk each month as set forth in the following table. A new base is earned on the basis of his milk deliveries during the subsequent August through December period.

Month	Percentage of production as base
January and February	60
March through June	50
July	60
August through November	70
December	60

§ 1004.64 Base rules.

After February 1971, the following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to paragraph (a) through (d) of § 1004.63 (except as provided in paragraph (e) of said section) shall be effective for the subsequent months of March through February, inclusive.

(b) A base computed pursuant to paragraphs (a) through (d) of § 1004.63 may be transferred only in its entirety to another dairy farmer and only upon discontinuance of milk production because of the entry into military service of the baseholder.

(c) Base transfers shall be accomplished only through written application to the market administrator on forms prescribed by the market administrator and shall be signed by the baseholder and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, except as provided in paragraph (e), the entire base only is transferrable and only upon receipt of such application signed by all joint holders.

(d) If a producer operates more than one farm and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm.

(e) Only one base shall be allocated with respect to milk produced by one or more persons where a dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total interest of the partners in the base is filed with the market administrator before the end of the base-forming period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right or to transfer in conformity with the provisions of paragraph (b) or (c) of this section (including transfer to a partnership of which he is a member). Such termination of partnership shall become effective as of the end of any month during which an application for such division of base signed by each member of

such partnership is received by the market administrator.

(f) Two or more producers with bases may combine such bases upon the formation of a bona fide partnership operating from one farm. Such a combination shall be considered a joint base under paragraph (e) above.

(g) Subject to approval by the market administrator, the name of the baseholder may be changed to that of another member of the baseholder's immediate family but only under circumstances where the base would be applicable to milk production from the same herd and on the same farm.

§ 1004.65 Relinquishing a base.

After February 1971, a producer holding an established base can, upon notification to the market administrator, relinquish his established base and be paid pursuant to the provisions of § 1004.63(e) beginning with the first day of the month in which such notification is received by the market administrator and extending until March 1, next.

DETERMINATION OF UNIFORM PRICE

§ 1004.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant, and of each cooperative association handler pursuant to § 1004.10 (b) and (c) with respect to milk which was not received at a pool plant, shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantiy of milk received from a cooperative association as a handler pursuant to § 1004.10(c) and allocated pursuant to § 1004.46(a)(11) and the corresponding step of § 1004.46 (b) and the quantity of producer milk in each class, as computed pursuant to § 1004.46(c), by the applicable class prices (adjusted pursuant to § 1004.51);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1004.46(a)(12) and the corresponding step of § 1004.46(b) by the applicable class prices adjusted by the applicable differentials pursuant to §§ 1004.51, 1004.81, and 1004.83;

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.46(a)(7) and the corresponding step of § 1004.46(b) for the current month;

(2) Multiply the difference between the applicable Class I price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.46(a)(4) and the corresponding step of § 1004.46(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.

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1004.46(a)(5) and the corresponding step of § 1004.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1004.46 (a)(5) (v) and (vi) and the corresponding step of § 1004.46(b) the Class I price shall be adjusted to the location of the transferor plant but not less than the Class II price; and

(e) Add an amount equal to the value at the Class I price of skim milk and butterfat assigned to Class I pursuant to § 1004.46(a)(9) and the corresponding step of § 1004.46(b) (excluding receipts from partially-regulated distributing plants for which disposition a specific allocation is made to Federal order receipts from this or any other order) adjusted for the location of the nearest plant from which such types of receipts were received and by the butterfat differential pursuant to § 1004.81 to reflect variation in butterfat content from 3.5 percent.

§ 1004.71 Computation of weighted average prices.

For each month the market administrator shall compute the weighted average price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1004.70 for all handlers who filed the reports prescribed by § 1004.30 for the month and who made the payments pursuant to § 1004.85 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1004.82;

(c) Subtract if the average butterfat content of milk specified in subparagraph (2) of paragraph (e) of this section is more than 3.5 percent, or add if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1004.81 and multiplying the result by the total hundredweight of such milk.

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund.

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1004.70(e).

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1004.72 Computation of uniform prices for base milk and excess milk.

For each month after February 1971 the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1004.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(c) From the amount resulting from the computations of § 1004.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1004.71(e)(2) by the weighted average price;

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to paragraph (f) of this section the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk.

PAYMENTS

§ 1004.80 Time and method of payment.

(a) Except as provided in (b) and (d) of this section, each pool handler shall make payment as specified in subparagraphs (1) and (2) of this paragraph to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class II price for the preceding month per hundredweight for his deliveries of producer

milk during the first 15 days of the month; and

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.72 (c) through (f) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.72 (a) and (b) for excess milk received from such producers subject to the following adjustments:

(i) Proper deductions authorized in writing by such producers;

(ii) Partial payments made pursuant to subparagraph (1) of this paragraph;

(iii) The butterfat differential computed pursuant to § 1004.81; and

(iv) Less the location differential received pursuant to § 1004.82: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.86 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) In the case of milk received by a handler from a cooperative association in its capacity as the operator of a pool plant such handler shall on or before the second day prior to the date on which payments are due individual producers, pay to such cooperative association for milk so received during the month, an amount not less than the value of such milk computed at the applicable class prices for the location of the plant of the buying handler.

(d) Each handler who receives milk from a cooperative association handler pursuant to § 1004.10(c), shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a)(1) of this section; and

(2) A final payment equal to the value of such milk at the uniform price(s) adjusted by the applicable differentials pursuant to §§ 1004.81 and 1004.82, less the amount of partial payment on such milk.

§ 1004.81 Butterfat differential.

In making the payments to producers and cooperative associations required pursuant to § 1004.80, each handler shall add for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of 1 percent of average butterfat content below 3.5 percent, as a butterfat differential an amount per hundredweight which shall be computed by the market administrator as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

§ 1004.82 Location differential to producers.

(a) Subject to the exception pursuant to § 1004.15(d), for that milk received from producers and from cooperative association handlers pursuant to § 1004.10 (c) at a pool plant located 55 miles or more from the city hall in Philadelphia, Pa., and also at least 75 miles from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all distances to be the shortest highway distance as determined by the market administrator), the weighted average price computed pursuant to § 1004.71 during any month from the effective date hereof through February 1971 and the uniform price for base milk computed pursuant to § 1004.72 for any month after February 1971 shall be reduced 1.5 cents for each 10 miles distance or fraction thereof that such plant is from the nearest of such basing points.

(b) For purposes of computations pursuant to §§ 1004.85 and 1004.86 the weighted average price shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e).

§ 1004.83 Direct-delivery differential.

For producer milk received at a plant located within 55 miles of the city hall in Philadelphia, Pa., the handler in making payments to producers and cooperative association handlers pursuant to § 1004.10(c), in addition to any amounts required by other provisions of this part, shall pay 6 cents per hundredweight of milk so received.

§ 1004.84 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1004.61 and 1004.62, 1004.85, and 1004.87 and out of which he shall make all payments from such fund pursuant to §§ 1004.86 and 1004.87: *Provided*, That the market administrator shall offset the payment due to a handler against payment due from such handler.

§ 1004.85 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1004.70 for such handler;

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1004.10(c) at the applicable uniform price(s) pursuant to §§ 1004.71 and 1004.72 adjusted by location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.10(c), the amount due from other handlers pursuant to § 1004.80(d), exclusive of differential butterfat values; and

(2) The value at the weighted average price adjusted by the applicable location differential on nonpool milk pursuant to § 1004.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.70(e).

§ 1004.86 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1004.85(b) exceeds the amount computed pursuant to § 1004.85(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1004.87 Adjustment of accounts.

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

§ 1004.88 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, is making payments directly to producers for milk (other than milk of his own production) pursuant to § 1004.80(a) shall de-

duct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator on or before the 20th day after the end of the month. Such money shall be expended by the market administrator to provide market information and to verify the weights, samples and tests of milk of producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 1004.80(a) as are authorized by such producers on or before the 18th day after the end of each month and pay such deductions to the cooperative rendering such services.

§ 1004.89 Expense of administration.

As his pro rata share of the expense of administration, each handler shall pay to the market administrator on or before the 20th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe with respect to milk handled during the month as follows:

(a) Each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1004.10(c), and a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant) with respect to his receipts of producer milk (including such handler's own-farm production, milk received from a cooperative association pursuant to § 1004.10(c), and milk transferred in bulk from a pool plant owned and operated by a cooperative association) and other source milk allocated to Class I pursuant to § 1004.46(a) (5) and (9) and the corresponding step of § 1004.46(b);

(b) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area in excess of his receipts of Class I milk from pool plants, cooperative associations as handlers pursuant to § 1004.10(b), and other order plants assigned to such disposition.

§ 1004.89a Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1004.90 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1004.91.

§ 1004.91 Suspension or termination.

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

§ 1004.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1004.93 Liquidation.

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

MISCELLANEOUS PROVISIONS

§ 1004.100 Agents.

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

§ 1004.101 Separability of provisions.

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

Effective date: August 1, 1970.

Signed at Washington, D.C., on June 19, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-7990; Filed, June 23, 1970; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e) (1) relating to the State of Alabama, subdivision (ii) relating to Morgan and Cullman Counties is deleted.

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

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

The amendment excludes portions of Morgan and Cullman Counties in Alabama 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 excluded areas.

The amendment relieves certain restrictions presently imposed and must be made effective immediately 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 amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of June 1970.

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

[F.R. Doc. 70-7980; Filed, June 23, 1970; 8:48 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Pennsylvania, and a new subparagraph (20) relating to the State of Pennsylvania is added to read:

(20) *Pennsylvania.* That portion of Chester County bounded by a line beginning at the junction of State Highway 82 and the Pennsylvania-Delaware State line; thence, following State Highway 82 in a northwesterly direction to Baltimore Pike (previously U.S. Highway 1); thence, following Baltimore Pike (previously U.S. Highway 1) in a southwesterly direction to State Highway 41; thence, following State Highway 41 in a southeasterly direction to the Pennsylvania-Delaware State line; thence, following the Pennsylvania-Delaware State line in a northeasterly direction to its junction with State Highway 82.

2. In § 76.2, in paragraph (e) (16) relating to the State of Texas, subdivision (v) relating to Hale County; subdivision (vii) relating to Jones County; and subdivision (x) relating to Tarrant County are deleted; and a new subdivision (v) relating to Hidalgo County is added to read:

(16) *Texas.* * * *

(v) That portion of Hidalgo County bounded by a line beginning at the junction of U.S. Highway 83 and Farm-to-Market Road 2557; thence, following U.S. Highway 83 in a generally westerly direction to Farm-to-Market Road 1016 (also the Mission City limits); thence, following the Mission City limits in a generally southeasterly direction to the north bank of the Rio Grande River at a point near Anzalduas Dam; thence, following the north bank of the Rio Grande River in a generally southeasterly direction to the western boundary of the Santa Anna National Wildlife Refuge; thence, following the western boundary of the Santa Anna National Wildlife Refuge in a northeasterly direction to Farm-to-Market Road 2557; thence, following Farm-to-Market Road 2557 in a northeasterly direction to its junction with U.S. Highway 83.

3. In § 76.2, in paragraph (e) (4) relating to the State of Illinois, subdivision (i) relating to Clay County is deleted.

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

The amendments also exclude a portion of Clay County, Ill., and portions of Tarrant, Hale, and Jones Counties in Texas from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

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

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

Done at Washington, D.C., this 18th day of June 1970.

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

[F.R. Doc. 70-7981; Filed, June 23, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-SW-39]

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

Revocation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Borger, Tex., control zone.

Frontier Airlines, whose personnel have been taking weather observations at the Hutchinson County Airport at Borger, Tex., will terminate operations at that airport June 9, 1970. No other arrangements have been made for continuing these observations which are a requirement for control zone designation. Therefore, action is taken herein to revoke the Borger control zone.

Since this amendment is less restrictive in nature and imposes no additional burden on the public, notice and public procedure hereon are unnecessary and good cause exists for making this rule effective in less than 30 days.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 10, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Borger, Tex., control zone is revoked.

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

Issued in Fort Worth, Tex., on June 15, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-7942; Filed, June 23, 1970; 8:46 a.m.]

[Airspace Docket No. 70-AL-7]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the effective period of the Iliamna, Alaska, control zone, and to provide for future changes of a minor nature in the part-time designation.

The effective period of the Iliamna control zone is from 0745 to 1545 local time daily. It is necessary to reduce the effective period to 5 days per week immediately because the weather observations are no longer available on Wednesday and Thursday of each week. Therefore, the effective time of the Iliamna control zone requires redesignation to coincide with the periods of the weather reporting service.

Additionally, in order to provide for minor adjustment to the part-time designation of the control zone caused by changes in aeronautical activity or scheduled weather observations, the effective time of the control zone will hereafter be established in advance by notice to airman and continuously published in the U.S. Government Flight Information Publication, Supplement Alaska.

The proposed change is less restrictive since it will result in a reduction of controlled airspace. Moreover, in view of the unavailability of official weather observations, a situation exists which requires immediate action. Therefore, compliance with the notice and public procedures provisions of chapter 5, title 5 of the United States Code of Administrative Procedure is impracticable, and good cause exists for making this amendment effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended upon publication in the FEDERAL REGISTER as hereinafter set forth.

In § 71.171 (35 F.R. 2054) Iliamna, Alaska, control zone is amended by deleting "from 0745 to 1545 hours, local time, daily," and substituting therefor "from 0745 to 1545 hours, local time, Friday through Tuesday, or during the specific days and times established in advance by Notice to Airman. The effective times will thereafter be continuously published in the U.S. Government Flight Information Publication, Supplement Alaska."

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

Issued in Anchorage, Alaska, on June 12, 1970.

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 70-7943; Filed, June 23, 1970; 8:46 a.m.]

[Airspace Docket 70-EA-34]

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

Revocation and Alteration of Control Zones and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Westhampton Beach, New York control zone (35 F.R. 2131) and transition area (35 F.R. 2282) and alter the Calverton, New York control zone (35 F.R. 2064), Calverton, N.Y. (35 F.R. 2155) and Shirley, N.Y. (35 F.R. 2265) transition areas.

Suffolk County Air Force Base, N.Y., has been deactivated and the standard instrument approach procedures for that airport have been canceled, thereby making the need for terminal control airspace unnecessary.

Since this amendment is less restrictive and does not create any additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to:

(a) Revoke the Westhampton Beach, N.Y., control zone.

(b) Amend the Calverton, N.Y., control zone by deleting in the description of the control zone, the words: "excluding the portion within the Suffolk County AFB control zone, Westhampton Beach, N.Y."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to:

(a) Revoke the Westhampton Beach, N.Y., transition area.

(b) Delete in the description of the Calverton, N.Y., transition area, the words: "excluding the portion within the Westhampton Beach, N.Y. transition area."

(c) Delete in the description of the Shirley, N.Y., transition area, the words: "Calverton, N.Y., and Westhampton Beach, N.Y.," and insert the following in lieu thereof: "and Calverton, N.Y."

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 5, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7944; Filed, June 23, 1970; 8:46 a.m.]

[Airspace Docket No. 70-EA-38]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Frederick, Md. transition area (35 F.R. 804).

A refinement of the coordinates for the geographic position of the Frederick Municipal Airport, Frederick, Md., presently a part of the description of the transition area, requires that the description of the transition area be amended to reflect this change.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended as follows effective upon publication in the FEDERAL REGISTER: Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Frederick, Md. transition area the coordinates 39°25'00" N., 77°22'00" W., and insert in lieu thereof 39°24'50" N., 77°22'35" W.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 5, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7945; Filed, June 23, 1970; 8:46 a.m.]

[Airspace Docket No. 70-EA-41]

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

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Hampton Roads, Va. control zone (35 F.R. 2084).

The Morrison, Virginia military radio beacon has been decommissioned. Reference is made to this radio beacon in the description of the control zone. It is necessary to delete the reference to this radio beacon in the description of the control zone.

Since the amendment is editorial rather than substantive, notice and public procedure hereon are unnecessary and the amendment may be effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is as follows effective upon publication in the FEDERAL REGISTER.

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Hampton Roads, Va., control zone; "066° bearing from the Morrison RBN, extending from the 5-mile radius zone to the RBN", and insert in lieu thereof; "Langley AFB Runway 7 ILS localizer course, extending from the 5-mile radius zone to the OM".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655 (c))

Issued in Jamaica, N.Y., on June 8, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7941; Filed, June 23, 1970; 8:46 a.m.]

[Docket No. 9901; Amdt. 171-6]

PART 171—NON-FEDERAL NAVIGATION FACILITIES

Funding Policy and ILS Installation Requirements

The purpose of these amendments to Part 171 is to eliminate the requirement that a sponsor of a non-Federal navigation facility must pay all the costs of any flight or ground inspections made before the facility is commissioned, and to provide the conditions under which these costs may be borne by the Federal Aviation Administration.

These amendments also make discretionary with the Administrator of the Federal Aviation Administration whether a stand-by system will be required for localizer, glide slope and monitor accessories to supplement the primary system, unless primary power is supplied from at least two independent sources, and whether a facility will be required to have dual transmitting equipment with automatic changeover for localizer and glide slope components.

These amendments are based on a notice of proposed rule making (Notice No. 69-43) published in the FEDERAL REGISTER on October 18, 1969. Two comments were received and both were favorable.

Both commentators suggested that the Federal Aviation Administration be specific as to which facilities would be required to have stand-by power and dual transmitting systems, either by stating the conditions whereby such equipment would be required, or by requiring such equipment at airports involving airline operations. To do so, the Federal Aviation Administration would have to establish general rules based on basic minimums and density of air traffic criteria for all potential sponsors under Part 171. The Federal Aviation Administration does not believe that satisfactory criteria in this regard can be established. Even if such criteria could be established, any final determination would be contingent on Federal Aviation Administration ground and flight inspection of the location and equipment concerned. The deletion of the mandatory requirements for backup power and transmitting systems is designed to give the Federal Aviation Administration discretion to require such equipment only where it is deemed necessary in the interest of aviation safety. The need for such equipment can be best made on a case-by-case basis whereby the individual requirements of the location in question can be assessed. Additionally, all ground communication requirements will also be decided on a case-by-case basis.

It is the intent of the Federal Aviation Administration in these changes and other requirements in Part 171 to require non-Federal Navigation Facilities to meet and be maintained at the same standards as Federal Aviation Administration facilities.

In consideration of the foregoing, Part 171 of the Federal Aviation Regulations is amended effective July 24, 1970, as follows:

1. Section 171.5(a)(6) is amended to read as follows:

§ 171.5 Minimum requirements for approval.

(a) * * *

(6) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the Federal Aviation Administration may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

* * * * *

2. Section 171.25(a)(6) is amended to read as follows:

§ 171.25 Minimum requirements for approval.

(a) * * *

(6) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the Federal Aviation Administration may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

* * * * *

3. Section 171.45(a)(6) is amended to read as follows:

§ 171.45 Minimum requirements for approval.

(a) * * *

(6) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the Federal Aviation Administration may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

* * * * *

4. Paragraphs (b), (c), and (e)(1) of § 171.49 are amended to read as follows:

§ 171.49 Installation requirements.

* * * * *

(b) The facility must have a reliable source of suitable primary power, either from a power distribution system or locally generated. A determination by the Administrator as to whether a facility will be required to have stand-by power for the localizer, glide slope and monitor accessories to supplement the primary power, will be made for each airport based upon operational minimums and density of air traffic.

(c) A determination by the Administrator as to whether a facility will be required to have dual transmitting equipment with automatic changeover for localizer and glide slope components, will be made for each airport based upon operational minimums and density of air traffic.

* * * * *

(e) * * *

(1) At facilities outside of and not immediately adjacent to air traffic control zones or areas, there must be ground-air communications from the airport served by the facility. The utilization of voice on the ILS frequency should be determined by the facility operator on an individual basis.

* * * * *

(Secs. 305, 307, 313(a), 601, and 606, Federal Aviation Act of 1958, 49 U.S.C. 1346, 1348, 1354(a), 1421, and 1426; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 16, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-7946; Filed, June 23, 1970; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-626]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Minimum Rates for Logair and Quicktrans Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of June 1970.

On April 14, 1970, by notice of proposed rule making EDR-181 (35 F.R. 6398), the Board proposed to amend Part 288 of the economic regulations (14 CFR Part 288) by setting new minimum rates for Logair and Quicktrans domestic military cargo charters. Written data, views, and arguments have been filed in response to the notice by Airlift International, Inc. (Airlift), Overseas National Airways,

Inc. (ONA), Universal Airlines, Inc. (Universal), and the Department of Defense (DOD). In addition, Universal filed a motion for leave to file an unauthorized reply to DOD's comments concerning utilization, alleging that DOD's comments present incomplete data on Universal's operations and that the proffered reply provides additional information on this issue. We find that good cause has been shown for submitting the reply document and, accordingly, we have determined to grant Universal's motion. All comments and supporting materials have been carefully considered, and all contentions not otherwise disposed of herein are rejected.

Upon consideration of the comments, the Board has determined to establish as the fair and reasonable minimum rates the rates listed as adopted in the following table, which also sets forth the current minimum rates and the minimum rates proposed in the notice:

Aircraft type	Linehaul rate per course-flown statute mile		Rate per directed landing
	Logair	Quicktrans	
Current minimum rates			
C-46	$0.8645	$0.8305	$50
AW-650	1.3334		125
DC-6A	1.1535	1.1535	125
L-188C [1]	1.4144	1.4573	150
DC-9-30 [1]	1.4144	1.4573	150
L-100-20	1.6953	1.7494	150
Proposed minimum rates			
DC-9-30	1.6120	1.6032	150
L-188C	1.6120	1.6032	150
B-727-100	1.8687	1.9184	150
L-100-20/30	1.8687	1.9184	150
AW-650	1.7111		125
DC-6A	1.1535	1.1535	125
DC-8-55F	2.5540	2.6178	225
DC-8-61CF	2.9437	3.0110	275
Minimum rates adopted			
DC-9-30	1.6108	1.6092	150
L-188C	1.6108	1.6092	150
B-727-100	1.8837	1.9334	150
L-100-20/30	1.8837	1.9334	150
AW-650	1.7111		125
DC-6A	1.1535	1.1535	125
DC-8-55F	2.5540	2.6178	225
DC-8-61CF	2.9437	3.0110	275

[1] A proposed increase in these rates for the period Apr. 7-June 30, 1960, is presently under consideration in Dockets 21557 and 21633.

Utilization. DOD has challenged the utilizations for the DC-9-30 and L-188C. The utilizations upon which the rates proposed in EDR-181 were based are as follows:

	Logair	Quicktrans
DC-9-30	8 hours	7.5 hours.
L-188C	7.5 hours	7.0 hours.

DOD claims that the Logair utilizations should be 10.2 hours for the DC-9-30 and 9.5 hours for the L-188C. These utilizations are predicated upon a compilation of flight advisory reports received by MAC three times daily for the period March 31-April 23, 1970, which show the aircraft, identified by the tail number, in use at the time of report. DOD construes these reports as indicating a requirement for a lesser number of aircraft, and accordingly a higher utilization rate, than proposed in the notice. Apart from the statistical questions which are raised by the use of data based on such a limited sampling of aircraft deployments, the conclusions derived from the flight advisory reports are deficient in that the backup requirements and the requirements for aircraft down for maintenance are not fully reflected. In our judgment, the reasonableness of the Logair utilizations in EDR-181 are not contradicted by the above data and, accordingly, we have determined to adopt the Logair utilizations in the notice.[1]

As for Quicktrans utilizations, DOD's original comments accepted the utilization of 7.5 hours for the DC-9-30 proposed in EDR-181, and argued for an L-188C utilization of 7.2 hours based upon ONA's fiscal 1970 experience, assuming the use of five aircraft. Subsequently, DOD filed an addendum which proposed a utilization of 7.2 hours, without specifying aircraft types, for the sharply reduced operations indicated in its fiscal 1971 RFP's. The 7.2-hour utilization appears to approximate the average utilization forecast used in EDR-181 for both aircraft. For the purpose of establishing rates, however, it is necessary to compute utilization rates for each individual aircraft type since the impact of uilization on costs varies wih the relative depreciated cost of the equipment types. In this case, the L-188C has a substantially lower depreciated cost than the DC-9-30. Accordingly, under these circumstances we believe that no adjustment should be made to the EDR-181 utilizations.

Fuel prices. In EDR-181, we based fuel costs on the current military fuel prices. ONA comments that in its Quicktrans operations it must buy fuel from commercial sources at Indianapolis and Payne Field at 17.58 cents per gallon and 23.90 cents per gallon, respectively (the military price being 14.7 cents per gallon). The comment indicates that this extra cost only affects Quicktrans operations and amounts to $122,208 annually or 4.91 cents per mile for the DC-9-30.

In principle, the higher commercial price should be recognized. However, it is our judgment that not all of ONA's claim should be allowed. ONA computed the extra cost on the basis of all miles for departures from these airports. Since there must be some flexibility to fly many miles out of these stations with fuel carried over from previous stops or opportunity to avoid filling up 100 percent, not all miles need be flown with fuel purchased at these stations. Moreover, some Quicktrans stops are at Air Force bases where fuel is 1 cent per gallon cheaper than the Navy price. Therefore, the entire claim does not appear to be merited. On balance, we conclude that two-thirds of the claim, or 3.25 cents per mile, should be recognized.

Universal contends that its L-188C Logair fuel cost was based on experience and cannot be adjusted by any averaging method. The L-188C fuel costs in EDR-181 were determined by averaging the fuel consumption rates of Universal and ONA, weighted by the number of aircraft, in accordance with our regular practice. Universal has not shown in what respect this technique is erroneous and in what manner the carrier is prejudiced. Accordingly, no adjustment should be made.

Maintenance. EDR-181 included an allowance for premature engine removals of $20.12 per hour. DOD contends that this is improper because such removals were "transient" and "* * * should be corrected within fifteen or eighteen months." DOD asks for a "normalized" approach.

The notice reflects an allowance of $20.12 per hour based upon the carrier's 1969 experienced premature engine failure rate of 0.25 per 1,000 hours.[2] The carrier's experience is in fact well below the industry average of premature removals for DC-9 equipment, based upon a study conducted by Pratt & Whitney, as shown in the following table.

Carrier:	*Premature Engine removals per 1,000 hours*
Air West	0.23
Allegheny	.28
Caribair	.61
Continental	.48
Delta	.36
Eastern	.40
Hawaiian	.23
North Central	.79
Northeast	.41
Ozark	.46
Trans Texas	.30
TWA	.40
ONA	.25
Weighted average	.38

That an allowance is required is persuasively demonstrated by the above data. Moreover, the fact that in 1969 ONA's nine premature removals affected six different engine components, underscores the lack of any pattern that indicates alleviation of premature engine failures. Accordingly, we have determined to retain the allowance of $20.12 per hour for premature engine removals.

Mileage and speed. DOD claims that ONA erred in forecasting its Logair miles for the DC-9-30, which produced an error in the forecast speed. DOD states that the carrier acknowledged the error

[1] With respect to the number of L-188C aircraft required for the fiscal 1970 operations after Jan. 1, 1970, the geographical distribution of Universal's Logair system into three routes coupled with the practical necessity of providing for schedule disruptions due to ground delays, weather, mechanical difficulties, and occasional minor damage to aircraft together with the demands for major maintenance indicate that an allowance of three aircraft in addition to the nine that are actually flying schedules is reasonable. Twelve aircraft would result in 7.54 hours' utilization based upon the January-February hours flown in Logair services, compared with the EDR-181 forecast of 7.5 hours.

[2] This allowance represents a reduction of the carrier's original claim of $30, based upon a rate of 0.44 experienced in the year ended June 30, 1969.

to a DOD analyst and claims that the speed of 417 m.p.h. should be 423 and that EDR–181 "rejected" the correction. DOD did not explain the error or "correction" in its recommendations to the Board and the matter was not brought up at the carrier conference at which it was a participant. DOD accepts the Quicktrans speed as being 423 m.p.h. If the 423 speed is correct for Quicktrans, we believe that 417 m.p.h. is correct for Logair in view of the stage lengths of 450 and 400 miles, respectively. A computation based upon the manufacturer's data for cruise and descent shows that the variance in speed between a 400-mile and a 450-mile hop is 7 miles per hour.

Hull insurance. DOD contends that EDR–181 failed to reflect ONA's experience credit refund for the DC–9–30 which would reduce its insurance costs for Logair operations from 6.57 cents per mile to 5.92 cents per mile. Airlift claims that the insurance rate for the L–100–20 has approximately doubled, effective June 1970. We believe both claims ar meritorious. The ommission of the experience credit in EDR–181 was an inadvertent oversight and, accordingly, Logair and Quicktrans costs for the DC–9–30 should be reduced by 0.56 cent and 0.59 cent per mile, respectively.[3] Airlift's claim regarding L–100–20 insurance costs is documented in a letter from the carrier's insurance broker. Accordingly, we have determined to recognize cost increases of 5.21 cents per revenue mile for Logair and 5.20 cents for Quicktrans for this aircraft.

Flight equipment investment. DOD contends that the notice improperly recognized "anticipated" airframe modifications and planned purchases of rotable parts by ONA for the DC–9–30 and L–188C. Form 41 reports show that as of December 31, 1969, all the modifications on the L–188C, and all but 10 percent of the modifications on the DC–9–30, had been recorded. Although rotables, being common to all aircraft, are not reported in detail, ONA's reports show increases in flight equipment accounts through December 31, 1969, that are consistent with the plan on which the forecast is predicated. With respect to the L–188C, the carrier explained the magnitude of the purchases as due in part to a lag in stocking up until experience shows what parts and at what quantity they are required. In addition, since Eastern, which performs ONA's L–188 maintenance, is phasing out its own L–188's, ONA must build up its own stocks. The rotable allocations are supported by ONA data showing the purchases during July–December 1969 and its budget for additional spares in 1970. Accordingly, we believe that no change in the recognition of the foregoing items is warranted.

Other comments. Universal criticized various adjustments made in the notice to its cost estimates for L–188C and AW–650 Logair operations on the ground that its first quarter fiscal 1970 experience reflects actual experience and inflationary cost increases. The Board's consistent practice in MAC rate reviews, however, has been to predicate costs upon a base year period. However, the Board does recognize documented cost increases not totally reflected in the base year data.[4] No other party has challenged the base year methodology, and accordingly, we are not persuaded that we should depart from prior practice.

DOD's comments serve notice that any minimum rate for the AW–650 will be used only for a short time or to meet unforeseen requirements. We find that since there may be a need for AW–650 rates and no persuasive reason for change has been offered, the proposed rates should be made final.

DOD also contends that the rates adopted herein should apply for an indefinite period. Since a rate review may be initiated whenever circumstances should require it, we have determined to grant DOD's request.

No other comments were received with respect to the minimum rates proposed, and, except to the extent modified herein, the costs and other findings contained in the notice are incorporated by reference. For the convenience of the users, the modified costs are summarized below: [5]

[3] The discrepancy between the Logair adjustment we are making and that proposed by DOD is due to the fact that DOD's calculations assumed a higher speed, and consequently a greater total mileage, than we recognized. See above.

[4] In this proceeding, for example, we recognized Airlift's claim of higher insurance rates.

[5] These costs are detailed in the appendix which is filed as part of the original document.

Carrier	Aircraft type	Number aircraft	Stage length		Adjusted cost per course—flown statute mile	
			Logair	Quicktrans	Logair	Quicktrans
					Cents	*Cents*
Group A:						
ONA	DC–9–30	6	400	450	192.62	200.50
ONA	L–188C	8	400	450	205.25	209.09
Universal	L–188C	13	400	450	197.22	200.02
Weighted average					198.58	203.25
Group B:						
Airlift	L–100–20	3	400	450	229.68	230.33
Saturn	L–100–30	5	400	450	223.97	225.84
World	B–727–100	3	400	450	225.22	224.40
Weighted Average					225.87	226.67

Because the fiscal 1971 contracts are to be effective July 1, 1970, and since the parties had notice that the rates prescribed herein are to be effective as of that date, we find that good cause exists for making the rule effective prior to the expiration of the 30-day notice period.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 288 of the economic regulations (14 CFR Part 288), effective July 1, 1970, as follows:

1. Section 288.7(b) is revised to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

Aircraft type	Linehaul rate per course-flown statute mile		Rate per directed landing
	Logair	Quicktrans	
DC–9–30	$1.6108	$1.6992	$150
L–188C	1.6108	1.6992	150
B–727–100	1.8837	1.9334	150
L–100–20/30	1.8837	1.9334	150
AW–650	1.7111		125
DC–6A	1.1535	1.1535	125
DC–8–55F	2.5540	2.6178	225
DC–8–61CF	2.9437	3.0110	275

* * * * *

2. Section 288.18(a) is revised to read as follows:

§ 288.18 Expiration.

(a) With respect to Logair and Quicktrans services and substitute service within the 48 contiguous States, this part shall remain in effect indefinitely.

* * * * *

(Secs. 204, 403, 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70–7905; Filed, June 23, 1970; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7048]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Withholding Not Required With Respect to Certain Employees Incurring No Income Tax Liability

On April 11, 1970, notice of proposed rule making with respect to the amendment of the Employment Tax Regulations (26 CFR Part 31) under section 3402 of the Internal Revenue Code of 1954, as amended by section 805(f)(1) of the Tax Reform Act of 1969 (83 Stat. 707), relating to income tax collected at source, and under section 6051 of the Internal Revenue Code of 1954, as amended by section 805(f)(2) of the Tax

Reform Act of 1969, relating to receipts for employees, was published in the FEDERAL REGISTER (35 F.R. 6007). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of regulations as proposed is hereby adopted, subject to the changes set forth below which are intended to provide in the regulations for the use of Form W–4E.

PARAGRAPH 1. Paragraph (a) of § 31.3402(f)(2)–1, as set forth in paragraph 1 of the notice of proposed rule making, is revised.

PAR. 2. That part of paragraph (c) of § 31.3402(f)(4)–1 which precedes subparagraph (1), as set forth in paragraph 3 of the notice of proposed rule making, is revised.

PAR. 3. Section 31.3402(f)(5)–1 is amended.

PAR. 4. Paragraph (a)(13) of § 31.6001–5 is amended.

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

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

Approved: June 18, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

In order to conform the Employment Tax Regulations (26 CFR Part 31) under sections 3402, 6001, and 6051 of the Internal Revenue Code of 1954 to section 805(f) of the Tax Reform Act of 1969 (83 Stat. 707), such regulations are amended as follows:

PARAGRAPH 1. Section 31.3402(f)(2)–1 is amended by revising paragraph (a), by revising the heading of paragraph (b) and adding new subparagraphs (3) and (4) to that paragraph, and by revising the heading of paragraph (c), redesignating subparagraph (2) as subparagraph (3), and inserting a new subparagraph (2) in that paragraph. These amended, added, and redesignated provisions read as follows:

§ 31.3402(f)(2)–1 Withholding exemption certificates.

(a) *On commencement of employment.* On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed withholding exemption certificate relating to his marital status and the number of withholding exemptions which he claims, which number shall in no event exceed the number to which he is entitled, or, if the statements described in § 31.3402(n)–1 are true with respect to an individual, he may furnish his employer with a signed withholding exemption certificate which contains such statements in lieu of the first-mentioned certificate. For form and contents of such certificates, see § 31.3402(f)(5)–1. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as a single person claiming no withholding exemptions.

(b) *Change in status which affects calendar year.* * * *

(3) If, on any day during the calendar year, the statements described in § 31.3402(n)–1 are true with respect to an employee, such employee may furnish his employer with a withholding exemption certificate which contains such statements.

(4) If, on any day during the calendar year, it is not reasonable for an employee, who has furnished his employer with a withholding exemption certificate which contains the statements described in § 31.3402(n)–1, to anticipate that he will incur no liability for income tax imposed under subtitle A (as defined in § 31.3402(n)–1) for his current taxable year, the employee must within 10 days after such day furnish the employer with a new withholding exemption certificate which does not contain such statements. If, on any day during the calendar year, it is not reasonable for such an employee whose liability for income tax imposed under subtitle A is determined on a basis other than the calendar year to so anticipate with respect to his taxable year following his current taxable year, the employee must furnish the employer with a new withholding exemption certificate which does not contain such statements within 10 days after such day or on or before the first day of the last month of his current taxable year, whichever is later.

(c) *Change in status which affects next calendar year.* * * *

(2) If, on any day during the calendar year, it is not reasonable for an employee, who has furnished his employer with a withholding exemption certificate which contains the statements described in § 31.3402(n)–1 and whose liability for such tax is determined on a calendar-year basis, to anticipate that he will incur no liability for income tax imposed under subtitle A (as defined in § 31.3402(n)–1) for his taxable year which begins with the next calendar year, the employee must furnish his employer with a new withholding exemption certificate which does not contain such statements, on or before December 1 of the first-mentioned calendar year. If it first becomes unreasonable for the employee to so anticipate in December, the new certificate must be furnished within 10 days after the day on which it first becomes unreasonable for the employee to so anticipate.

(3) Before December 1 of each year, every employer should request each of his employees to file a new withholding exemption certificate for the ensuing calendar year, in the event of change in the employee's exemption status since the filing of his latest certificate.

* * * * *

PAR. 2. Section 31.3402(f)(3)–1 is amended by revising paragraph (c) to read as follows:

§ 31.3402(f)(3)–1 When withholding exemption certificate takes effect.

* * * * *

(c) A withholding exemption certificate furnished the employer as required by paragraph (c) of § 31.3402(f)(2)–1 which effects a change for the next calendar year, shall not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished. A withholding exemption certificate furnished the employer by an employee who determines his income tax liability on a basis other than a calendar-year basis, as required by paragraph (b)(4) of § 31.3402(f)(2)–1, which effects a change for the employee's next taxable year, shall not take effect, and may not be made effective, with respect to the taxable year of the employee in which the certificate is furnished.

* * * * *

PAR. 3. Section 31.3402(f)(4)–1 is amended to read as follows:

§ 31.3402(f)(4)–1 Period during which withholding exemption certificate remains in effect.

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section, a withholding exemption certificate which takes effect under section 3402(f) of the Internal Revenue Code of 1954, or which on December 31, 1954, was in effect under section 1622(h) of the Internal Revenue Code of 1939, shall continue in effect with respect to the employee until another withholding exemption certificate takes effect under section 3402(f).

(b) [Reserved]

(c) *Statements under section 3402(n) eliminating requirement of withholding.* The statements described in § 31.3402(n)–1 made by an employee with respect to his preceding taxable year and current taxable year shall be deemed to have been made also with respect to his current taxable year and his taxable year immediately thereafter, respectively, until either a new withholding exemption certificate furnished by the employee takes effect or the existing certificate which contains such statements expires. In no case shall a withholding exemption certificate which contains such statements be effective with respect to any payment of wages made to an employee—

(1) In the case of an employee whose liability for tax under subtitle A is determined on a calendar-year basis, after April 30 of the calendar year immediately following the calendar year which was his original current taxable year for purposes of such statements, or

(2) In the case of an employee to whom subparagraph (1) of this paragraph does not apply, after the last day of the fourth month immediately following his original current taxable year for purposes of such statements.

PAR. 4. Section 31.3402(f)(5)–1 is amended to read as follows:

§ 31.3402(f)(5)–1 Form and contents of withholding exemption certificate.

Forms W–4 and W–4E are the forms prescribed for the withholding exemption certificate required to be filed under section 3402(f)(2). Form W–4 is the form to be used unless the employee desires, in accordance with the provisions

of § 31.3402(f)(2)–1, to use a withholding exemption certificate which contains the statements described in § 31.3402(n)–1, in which case Form W–4E is the form to be used. A withholding exemption certificate shall be prepared in accordance with the instructions and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Blank copies of Forms W–4 and W–4E will be supplied employers upon request to the district director. In lieu of the prescribed form, employers may prepare and use a form the provisions of which are identical with those of the prescribed form.

PAR. 5. The following new sections are added immediately after § 31.3402(k)–1.

§ 31.3402(n) Statutory provisions; income tax collected at source; employees incurring no income tax liability.

SEC. 3402. *Income tax collected at source.* * * *

(n) *Employees incurring no income tax liability.* Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary or his delegate may prescribe) furnished to the employer by the employee certifying that the employee—

(1) Incurred no liability for income tax imposed under subtitle A for his preceding taxable year, and

(2) Anticipates that he will incur no liability for income tax imposed under subtitle A for his current taxable year.

The Secretary or his delegate shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f).

[Sec. 3402(n) as added by sec. 805(f)(1), Tax Reform Act 1969 (83 Stat. 707)]

§ 31.3402(n)–1 Employees incurring no income tax liability.

Notwithstanding any other provision of this subpart, an employer shall not deduct and withhold any tax under chapter 24 upon a payment of wages made to an employee after April 30, 1970, if there is in effect with respect to the payment a withholding exemption certificate furnished to the employer by the employee which contains statements that—

(a) The employee incurred no liability for income tax imposed under subtitle A of the Code for his preceding taxable year; and

(b) The employee anticipates that he will incur no liability for income tax imposed by subtitle A for his current taxable year.

For purposes of section 3402(n) and this section, an employee is not considered to incur liability for income tax imposed under subtitle A if the amount of such tax is equal to or less than the total amount of credits against such tax which are allowable to him under part IV of subchapter A of chapter 1 of the Code, other than those allowable under section 31 or 39. For purposes of this section, an employee who files a joint return under section 6013 is considered to incur liability for any tax shown on such return. An employee who is entitled to file a joint return under such section shall not certify that he anticipates that he will incur no liability for income tax imposed by subtitle A for his current taxable year if such statement would not be true in the event that he files a joint return for such year, unless he filed a separate return for his preceding taxable year and anticipates that he will file a separate return for his current taxable year.

Example (1). Employee A, an unmarried, calendar-year basis taxpayer, files his income tax return for 1970 on April 15, 1971. A has adjusted gross income of $1,200 and is not liable for any tax. He had $180 of income tax withheld during 1970. A anticipates that his gross income for 1971 will be approximately the same amount, and that he will not incur income tax liability for that year. On April 20, 1971, A commences employment and furnishes his employer an exemption certificate stating that he incurred no liability for income tax imposed under subtitle A for 1970, and that he anticipates that he will incur no liability for income tax imposed under subtitle A for 1971. A's employer shall not deduct and withhold on payments of wages made to A on or after April 20, 1971. Under paragraph (c) of § 31.3402(f)(4)–1, unless A files a new exemption certificate with his employer, his employer is required to deduct and withhold upon payments of wages to A made on or after May 1, 1972. (Under § 31.3402(f)(3)–1(b), if A had been employed by his employer prior to April 20, 1971, and had furnished his employer a withholding exemption certificate not containing the statements described in § 31.3402(n)–1 prior to furnishing the withholding exemption certificate containing such statements on April 20, 1971, his employer would not be required to give effect to the new certificate with respect to payments of wages made by him prior to July 1, 1971 (the first status determination date which occurs at least 30 days after April 20, 1971). However his employer could, if he chose, make the new certificate effective with respect to any payment of wages made on or after April 20 and before July 1, 1971.)

Example (2). Assume the facts are the same as in example (1) except that for 1970 A has taxable income of $8,000, income tax liability of $1,630, and income tax withheld of $1,700. Although A received a refund of $70 due to income tax withholding of $1,700, he may not state on his exemption certificate that he incurred no liability for income tax imposed by subtitle A for 1970.

PAR. 6. Paragraph (a)(13) of § 31.6001–5 is amended to read as follows:

§ 31.6001–5 Additional records in connection with collection of income tax at source on wages.

(a) Every employer required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by) such employees. Such records shall show with respect to each employee—

* * * * *

(13) The withholding exemption certificates (Forms W–4 and W–4E) filed with the employer by the employee.

* * * * *

PAR. 7. Section 31.6051 is amended by revising so much of section 6051(a) as precedes paragraph (1) thereof, and by revising the historical note. These amended provisions read as follows:

§ 31.6051 Statutory provisions; receipts for employees.

SEC. 6051. *Receipts for employees.*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101, 3201, or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, or on before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

* * * * *

[Sec. 6051 as amended by sec. 412, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879); sec. 202(a)(4), Peace Corps Act (75 Stat. 626); secs. 107 and 313(e)(1), Social Security Amendments 1965 (79 Stat. 337, 384); sec. 502(c)(1), Social Security Amendments 1967 (81 Stat. 934); sec. 805(f)(2), Tax Reform Act 1969 (83 Stat. 708)]

PAR. 8. So much of paragraph (a)(1)(i) of § 31.6051–1 as precedes inferior subdivision (*a*) is amended to read as follows:

§ 31.6051–1 Statement for employees.

(a) *Requirement if wages are subject to withholding of income tax.*—(1) *General rule.* (i) Every employer, as defined in section 3401(d), required to deduct and withhold from an employee a tax under section 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to section 3402(n)) if the employee had claimed no more than one withholding exemption, shall furnish to each such employee, in respect of the remuneration paid by such employer to such employee during the calendar year, the tax return copy and the employee's copy of a statement on Form W–2. For example, if the wage bracket method of withholding provided in section 3402(e)(1) is used, a statement on Form W–2 must be furnished to each employee whose wages during any payroll period are equal to or in excess of the smallest wage from which tax must be withheld in the case of an employee claiming one exemption. If the percentage method is used, a statement on Form W–2 must be furnished to each employee whose wages during any payroll period are in excess of one withholding exemption for such payroll period as shown in the percentage method withholding table contained

in section 3402(b)(1). Each statement on Form W-2 shall show the following:

* * * * *

[F.R. Doc. 70-7940; Filed, June 23, 1970; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-19—MANAGEMENT OF BUILDINGS AND GROUNDS

Physical Protection and Establishment of Facilities Self-Protection Organization

Subpart 101-19.5 is added to prescribe policies and methods for the physical protection of Government-owned and Government-leased buildings and grounds.

The table of contents for Part 101-19 is amended by the addition of new Subpart 101-19.5, as follows:

Subpart 101-19.5—Physical Protection

Sec.
101-19.500 Scope of subpart.
101-19.501 [Reserved]
101-19.502 [Reserved]
101-19.503 [Reserved]
101-19.504 [Reserved]
101-19.505 [Reserved]
101-19.506 Facilities self-protection.
101-19.506-1 Scope of section.
101-19.506-2 Definitions.
101-19.506-3 Responsibilities.
101-19.506-4 Initiating action.

AUTHORITY: The provisions of this Subpart 101-19.5 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Part 101-19 is amended by the addition of the following subpart:

Subpart 101-19.5—Physical Protection

§ 101-19.500 Scope of subpart.

This subpart prescribes the policies and methods provided by GSA for the physical protection of Government-owned and -leased buildings and grounds. These guidelines are required by Federal agencies to perform their assigned missions.

§ 101-19.501 [Reserved]

§ 101-19.502 [Reserved]

§ 101-19.503 [Reserved]

§ 101-19.504 [Reserved]

§ 101-19.505 [Reserved]

§ 101-19.506 Facilities self-protection.

§ 101-19.506-1 Scope of section.

This section prescribes policies and methods for the establishment of Facilities Self-Protection Organizations by agencies in GSA-controlled space.

§ 101-19.506-2 Definitions.

(a) "Facility Self-Protection Plan" means a plan that will provide for the protection of life and property during all types of emergencies.

(b) "Facility Self-Protection Organization" means an organization of employees of a Federal agency(ies) in a building designated to carry out the requirements established in the Facility Self-Protection Plan.

(c) "Emergency" includes, but is not limited to, situations occasioned by bomb threats, civil disorders, fires, explosions, natural disasters, and potential or actual enemy attack.

(d) "Primary occupant agency" means the agency having the largest number of employees in a building.

(e) "Designated official" means the highest ranking official of the primary occupant agency or an alternate high ranking official designated in advance by agreement of occupant agency officials. He shall be responsible for the development of the plan, establishment and staffing of the organization, and for execution of the plan in all emergencies, including evacuation, except in the event of enemy attack.

§ 101-19.506-3 Responsibilities.

Facility Self-Protection Organizations for federally owned and federally occupied buildings shall be developed through the coordinated efforts of the Federal agencies occupying buildings and GSA. The Facility Self-Protection Organization (hereinafter referred to by the short title "Organization") of each building shall be established under a Facility Self-Protection Plan (hereinafter referred to by the short title "Plan").

(a) Each occupant Federal agency is responsible for cooperating in the development of the Plan and the full cooperation of all agencies with the designated official is paramount to the successful operation of the Plan.

(b) GSA has continuing responsibility for the protection of all facilities under its charge and control and for the safety of occupants of those buildings. The GSA representative (buildings manager) shall assist appropriate officials of the occupant agency(ies) and cooperate with the local authorities in achieving the objectives of the Plan. In this connection, the buildings manager shall provide information and guidance, including copies of appropriate publications dealing with emergencies in Federal buildings. The buildings manager, to the extent possible and in accordance with established criteria, shall provide the Organization with members who are technically qualified in the operation of utility systems and the installation and maintenance of protective equipment such as warning devices and firefighting apparatus, and promote training for buildings employees, and others as required. In leased space, GSA is responsible for coordinating activities with the primary occupant agency and the lessor to ensure that a comprehensive plan is available for the occupants of the GSA-leased space.

§ 101-19.506-4 Initiating action.

The decision to activate the Organization shall be based upon the best intelligence available, tensions in the locality, previous experience, sensitivity of target agency(ies), and the advice of local, State, and Federal law enforcement agencies. When there is an immediate danger to persons, such as fire, explosion, or the discovery of an actual explosive device (not a bomb threat), the premises shall be evacuated at once, without consultation, by sounding the fire alarm system or through other means in accordance with the Plan. During normal duty hours when there is advance information of an emergency, the designated official shall initiate action, according to the Plan, including evacuation. After normal duty hours, the senior Federal official present as a representative of the designated official shall initiate action to cope with emergencies, including evacuation, in accordance with the Plan. Immediately thereafter, he shall advise the designated official of the action taken and apprise him of current conditions. Action initiated to cope with civil defense emergencies shall be taken in accordance with established civil defense instructions and warning signals.

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

Dated: June 17, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-7955; Filed, June 23, 1970; 8:46 a.m.]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

ADP Sharing Program

This amendment provides current organizational titles and addresses of automatic data processing (ADP) sharing exchanges in GSA regions and provides for cross-reference to Part 101-35 for telecommunications services when used in conjunction with sharing ADP resources.

The table of contents for Part 101-32 is amended as follows:

Sec.
101-32.4801 ADP sharing exchange addresses.

Subpart 101-32.2—Automatic Data Processing Resources Utilization

1. Section 101-32.202 is revised to read as follows:

§ 101-32.202 Program administration.

The Government-wide ADP sharing program is administered by the Office of Automated Data Management Services,

Federal Supply Service, General Services Administration. ADP sharing exchanges (addresses are shown in § 101–32.4801, locations and designations are illustrated in § 101–32.4802) assist in the administration of this program.

2. Section 101–32.203(b) is revised and paragraph (c) is added thereto to read as follows:

§ 101–32.203 Government-wide ADP Sharing Program.

* * * * *

(b) A sharing exchange is operated by the Federal ADP resources staff in each GSA region. Where ADP resources are highly concentrated, additional sharing exchanges are operated within GSA regions by GSA or other Federal activities. Those sharing exchanges operated by Federal activities other than GSA are established by an interagency agreement between GSA and the concerned Federal agency and are managed by the agencies concerned under the technical supervision and guidance of the appropriate regional Federal ADP resources staff. Each ADP sharing exchange assists in obtaining ADP services through this program's nationwide information and referral system.

(c) When telecommunications services are required in conjunction with sharing of ADP resources provided by GSA, other Government ADP resources, or in obtaining commercial time, agencies shall comply with the applicable provisions of Part 101–35. The information required by Part 101–35 shall be submitted at the time the request for ADP services is submitted. In those instances where the provisions of Part 101–35 apply and the ADP resources are to be provided by GSA, the regional Federal ADP resources staff will coordinate the necessary telecommunications review for the requesting agency.

3. Section 101–32.203–1(a) is revised to read as follows:

§ 101–32.203–1 ADP sharing procedures.

(a) Each regional Federal ADP resources staff will furnish ADP units (with ADPE) located in its region with a listing of ADPE available for sharing as reported by Federal agencies under the ADP Management Information System. These units shall screen the listing to locate and directly negotiate for the services desired. If the result of the screening is unsuccessful, the requirement shall be referred to the appropriate ADP sharing exchange for assistance. Requests for assistance may be made by mail, telephone, teletype, or personal contact. GSA Form 2068, Request for ADP Services (illustrated at § 101–32.4902–2068), should be used for mail requests.

* * * * *

Subpart 101–32.48—Exhibits

4. Sections 101–32.4800, 101–32.4801, and 101–32.4802 are revised to read as follows:

§ 101–32.4800 Scope of subpart.

This subpart contains the addresses, locations, and designations of ADP sharing exchanges.

§ 101–32.4801 ADP sharing exchange addresses.

GSA Region 1, ADP Sharing Exchange, Boston, Mass.:

Federal ADP Resources Staff—1FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, Post Office and Courthouse, Boston, Mass. 02109. Telephone: Area Code 617, 223–6277.

GSA Region 2, ADP Sharing Exchange, New York, N.Y.:

Federal ADP Resources Staff—2FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, 26 Federal Plaza, New York, N.Y. 10007. Telephone: Area Code 212, 264–8349.

Philadelphia ADP Sharing Exchange, Veterans Administration, Post Office Box 8079, Philadelphia, Pa. 19101. Telephone: Area Code 215, 438–5629.

GSA Region 3, ADP Sharing Exchange, Washington, D.C.:

Federal ADP Resources Staff—3FTR Automated Data Management Services Division, Federal Supply Service, General Services Administration, 7th and D Streets SW., Washington, D.C. 20407. Telephone: Area Code 202, 963–4900 or 202, 962–3341, IDS Code 13–34900 or 13–23341.

Tidewater ADP Sharing Exchange, Headquarters 5th Naval District, Norfolk, Va. 23511. Telephone: Area Code 703, 444–7557.

GSA Region 4, ADP Sharing Exchange, Atlanta, Ga.:

Federal ADP Resources Staff—4FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Telephone: Area Code 404, 526–5772.

GSA Region 5, ADP Sharing Exchange, Chicago, Ill.:

Federal ADP Resources Staff—5FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill. 60604. Telephone: Area Code 312, 353–5406.

GSA Region 6, ADP Sharing Exchange, Kansas City, Mo.:

Federal ADP Resources Staff—6FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, Federal Building, 1500 East Bannister Road, Kansas City, Mo. 64131. Telephone: Area Code 816, 361–7540 (FTS calls only) and Area Code 816, 361–0860 ext. 7540 (commercial/long distance).

St. Louis ADP Sharing Exchange, Federal Supply Service, General Services Administration, 9700 Page Boulevard, St. Louis, Mo. 63132. Telephone: Area Code 314, 268–7152.

GSA Region 7, ADP Sharing Exchange, Fort Worth, Tex.:

Federal ADP Resources Staff—7FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, 819 Taylor Street, Fort Worth, Tex. 76102. Telephone: Area Code 817, 334–3684.

South Texas ADP Sharing Exchange, National Aeronautics and Space Administration, Manned Spacecraft Center, Houston, Tex. 77058. Telephone: Area Code 713, 483–5075.

GSA Region 8, ADP Sharing Exchange, Denver, Colo.:

Federal ADP Resources Staff—8FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, Building 41, Denver Federal Center, Denver, Colo. 80225. Telephone: Area Code 303, 233–8495 (FTS calls only) and Area Code 303, 233–3611 extension 8495 (commercial/long distance).

GSA Region 9, ADP Sharing Exchange, San Francisco, Calif.:

Federal ADP Resources Staff—9FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, 49 Fourth Street, San Francisco, Calif. 94103. Telephone: Area Code 415, 556–7877.

Southern California ADP Sharing Exchange, Headquarters 11th Naval District, San Diego, Calif. 92130. Telephone: Area Code 714, 293–5587.

Las Vegas ADP Sharing Exchange, Nevada Operations Office of Atomic Energy Commission, Post Office Box 14100, Las Vegas, Nev. 89114. Telephone: Area Code 702, 734–3121.

Hawaii ADP Sharing Exchange, Federal Supply Service, General Services Administration, Hickam AFB, Hawaii 96824. Telephone: Area Code 808, 443–951.

GSA Region 10, ADP Sharing Exchange, Auburn, Wash.:

Federal ADP Resources Staff—10FTR, Automated Data Management Services Division, Federal Supply Service, General Services Administration, Regional Headquarters Building, Auburn, Wash. 98002. Telephone: Area Code 206, 833–6500 extension 281 (commercial/long distance) and Area Code 206, 833–5281 (FTS only).

Oregon ADP Sharing Exchange, Bonneville Power Administration, Post Office Box 3621, Portland, Oreg. 97208. Telephone: Area Code 503, 234–3513 or Area Code 503, 234–3607.

Alaska ADP Sharing Exchange, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. Telephone: Area Code 907, 272–5561, extension 519 or 623.

§ 101–32.4802 Map showing GSA regions and locations of ADP sharing exchanges.

NOTE: Map illustration filed as part of original document.

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

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

Dated: June 17, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–7956; Filed, June 23, 1970; 8:46 a.m.]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

SHELF-LIFE ITEMS

This amendment prescribes a procedure for the utilization by Federal agencies or donation to eligible donees of items of a deteriorative nature which have a predetermined expiration date, generally referred to as shelf-life items, when such items are determined to be excess to the needs of the holding agency.

The table of contents for Subchapter H is amended by adding two entries, as follows:

Sec.
101-43.313-9 Shelf-life items.
101-44.322 Donation of shelf-life items.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Subpart 101-43.3—Utilization of Excess

Section 101-43.313 is amended by adding new § 101-43.313-9 as follows:

§ 101-43.313-9 Shelf-life items.

(a) When quantities on hand of an item of a deteriorative nature which has a predetermined expiration date exceed requirements for the period ending on the expiration date, or for the period ending on the extended expiration date, such quantities shall be determined excess to the needs of the holding agency, provided that the overages cannot be utilized, cross-serviced, or returned for credit. Management of such items prior to determination as excess shall be governed, for executive agencies, except the Department of Defense, by Subpart 101-27.2, and for the Department of Defense by appropriate Department of Defense instructions.

(b) Drugs and biologicals requiring refrigeration or deep freeze subsistence items, and ammunition are excepted from the provisions of this § 101-43.313-9.

(c) Shelf-life items which have a remaining useful life of 3 or more months before reaching the expiration date and are not otherwise utilized as provided in paragraph (a) of this section, shall be reported as excess in accordance with § 101-43.311. However, agencies may at their option also report shelf-life items not required to be reported by § 101-43.-311. The report shall identify the items as shelf-life items by carrying the designating symbol "SL" and by showing the expiration date. If the item has an extendible-type expiration date, there also shall be furnished an indication as to whether the expiration date is the original or an extended date.

(d) Normally, items reported in accordance with paragraph (c) of this section will be given a surplus release date effective 60 days after the receipt of the report in the appropriate GSA office. This date may be shortened or extended consistent with utilization objectives and with the remaining useful shelf-life.

(e) Reported items will be circularized or otherwise made known by GSA to other using agencies during the period ending on the surplus release date. In the case of items reported by a facility or agency of the Department of Defense, requests by any other facility or agency of the Department of Defense will be given a priority during the first 15 days of the screening period. In the case of circularized items, this priority period will begin with the issue date of the catalog or bulletin. In the case of items not circularized, the priority will begin with the date of receipt of the report in the appropriate GSA office.

(f) Shelf-life items which have a remaining useful life of 3 or more months before reaching the expiration date, but which are not reported, shall be made available for utilization by other Federal agencies as provided in § 101-43.306. Documents listing such items shall identify the items by carrying the designating symbol "SL," shall show the expiration date, and in the case of items with an extendible-type expiration date, shall indicate whether the expiration date is the original or an extended date. A surplus release date shall be established by the holding agency upon determination that such items are excess so as to provide a minimum of 15 calendar days for selection or set-aside of the item for Federal utilization. The surplus release date may be extended by the holding agency when such items are selected by an authorized screener for transfer or set aside by a GSA representative for potential or actual transfer.

(g) Shelf-life items which have a remaining useful life of less than 3 months, regardless of acquisition cost or condition, shall be made available for utilization by other Federal agencies in the manner provided in paragraph (f) of this section.

(h) Transfers among Federal agencies of shelf-life items which have been determined to be excess by the holding agency shall be accomplished as set forth in § 101-43.315. Transfers shall be made without reimbursement.

(i) Shelf-life items determined to be excess, on which a surplus release date has been established in accordance with paragraph (d) or (f) of this section, and not transferred to other agencies, shall become surplus at the close of business on the surplus release date.

(j) Shelf-life items determined to be surplus in acordance with paragraph (i) of this section shall not be disposed of until a period of 15 calendar days has been afforded for donation program screening, in accordance with Part 101-44. In the event that no donation action is initiated during the period afforded for donation screening, items may be offered for sale or other disposition at the termination of the donation screening period, in accordance with Part 101-45.

PART 101-44—DONATION OF PERSONAL PROPERTY

Subpart 101-44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

Subpart 101-44.3 is amended by adding new § 101-44.322 as follows:

§ 101-44.322 Donation of shelf-life items.

(a) Shelf-life items determined to be surplus in accordance with § 101-43.313-9(i) shall be made available for donation screening for educational, public health, civil defense, and public airport purposes, pursuant to the provisions of § 101-44.304.

(b) Prior to donation, drugs, biologicals, and reagents, other than narcotics, except those requiring refrigeration or deep freeze which are excepted from the provisions of § 101-43.313-9, shall be processed as provided in § 101-44.321.

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

Effective date. This amendment is effective 60 days after publication in the FEDERAL REGISTER.

Dated: June 17, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-7957; Filed, June 23, 1970; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4846]

[Oregon 5344]

OREGON

Reservation for Constructed Forest Road

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and to the provisions of existing withdrawals, the following described public land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, nor the disposal of materials under the Act of July 31, 1947, 61 Stat. 681, as amended, 30 U.S.C. secs. 601-604 (1964), and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the Act of October 13, 1964, 78 Stat. 1089, 16 U.S.C. secs. 532-533 (1964):

WILLAMETTE MERIDIAN

T. 8 S., R. 10 W.,
Sec. 27, NE¼.

A strip of land 100 feet in width, being 50 feet on each side of the centerline of the Euchre Mountain Road No. S-889 in and through the above subdivision as shown on a plat filed in the Land Office, Bureau of Land Management, Portland, Oreg.

Containing 12 acres in Lincoln County.

2. The withdrawal made by this order shall not preclude agricultural entries, or sales, exchanges or leases under applicable public land laws, of any legal subdivision traversed by any cooperator road constructed on any land withdrawn by this order: *Provided*, That any such entry, sale, exchange, or lease shall be subject to this order and to any road

right-of-way easement over the land issued by the Department of Agriculture.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 17, 1970.

[F.R. Doc. 70-7930; Filed, June 23, 1970; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Rev. 5), Amdt. 21]

OI REG. 1—OIL IMPORT REGULATION

Canadian Overland Imports; Districts I–IV

In the FEDERAL REGISTER of May 9, 1970 (35 F.R. 7305), notice was given of proposed regulations to allocate overland imports of Canadian crude oil and unfinished oils into Districts I–IV for the period July 1, 1970, through December 31, 1970.

Timely comments were received from 28 persons. Full consideration was given to all comments received. There were objections to restrictions being placed upon overland imports from Canada and to the volume of imports permitted; however, these matters are governed by Proclamation 3969 and could not be considered with regard to these regulations. Also, it was not considered desirable for the short term to change the base period of October 1, 1968, through September 30, 1969, upon which some allocations are computed.

Paragraphs (a) and (g) of the proposal have been modified to eliminate any possible construction that the geographical area of consumption is determinative as to whether or not an allocation or license is necessary for importation.

The proposal published on May 9 indicated in paragraph (e) that no person could receive an allocation under subparagraph (1) of paragraph (d) in excess of 30 percent of the operating capacity of the facility or facilities covered by the application. The comments concerning this provision were persuasive that 30 percent was too restrictive; therefore, the percentage has been changed to 35 percent.

Paragraph (f) of the proposal provided that allocations made by the Oil Import Appeals Board pursuant to paragraph (m) of section 23 during the period March 1, 1970, through June 30, 1970, would be deducted from allocations granted under section 29. Several comments were made confirming that such action would make the Oil Import Appeals Board grants useless; therefore, this provision has been removed. Paragraph (f) has been confined to the deductions required by paragraph (l) of section 23.

Two of the comments were addressed to the difficulties presented by pipeline operations with respect to the entry by July 1 of all imports under allocations made pursuant to section 23. Paragraph (g) has been expanded to provide that under certain circumstances the termination date of licenses issued pursuant to section 23 may be extended to July 15, 1970. Because of this change, paragraph (h)(i) has been changed to provide that the period included in the report should be March 1 through July 15, 1970.

The proposed restrictions upon exchanges appear, in light of comments made, to be too severe. For this reason, paragraph (i) has been changed to provide for exchange privileges under specific provisions for those persons who have previously demonstrated their capability to process Canadian overland imports.

Paragraph (k)(2) of the proposal provided that persons who on or before July 15, 1970 relinquished all or part of an allocation made under section 29 would not incur a penalty for failure to import and process. It is believed that the date of July 15 would not provide adequate time within which allocation holders could explore the possibilities for importing Canadan oil; therefore, the date has been extended to August 1, 1970.

Section 29 reading as follows is added to Oil Import Regulation 1, Revision 5, as amended:

Sec. 29 Canadian Overland Imports—Districts I–IV—July 1, 1970–December 31, 1970.

(a) As used in this section the term "Canadian overland imports" means crude oil and unfinished oils (1) which are in Districts I–IV entered for consumption or withdrawn from warehouse for consumption, (2) which, if crude oil, was produced in Canada, and, if unfinished oils, were processed from crude oil or natural gas produced in Canada, and (3) which were or are transported into the United States by pipeline, rail, or other means of overland transportation.

(b) In accordance with this section, the Administrator shall make allocations of approximately 395,000 barrels daily of Canadian overland imports into Districts I–IV for the period July 1, 1970 through December 31, 1970.

(c) To be eligible for an allocation of imports under this section, a person must have in Districts I–IV a facility or facilities for processing Canadian overland imports or pipeline facilities using crude oil as fuel.

(d)(1) Except as provided in subparagraph (2) of this paragraph, each eligible applicant shall receive an allocation in an equal share of the remainder of the imports that is available for allocation after allocations are made pursuant to subparagraph (2) of this paragraph.

(2) If an eligible applicant processed Canadian overland imports in his facility or facilities during the period October 1, 1968 through September 30, 1969, and if an allocation computed under subparagraph (1) of this paragraph would be less than the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities during the period October 1, 1968 through September 30, 1969, multiplied by 184 multiplied by 1.05, the applicant shall receive an allocation under this section equal to the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities during the period October 1, 1968 through September 30, 1969, multiplied by 184 multiplied by 1.05.

(3) No person shall receive an allocation under both subparagraphs (1) and (2) of this paragraph.

(4) Under an allocation made pursuant to this section, a person may import the full amount of the allocation as unfinished oils.

(e) Except for a person having pipeline facilities using crude oil as fuel, who shall be limited to his operational use requirement, no person shall receive an allocation under subparagraph (1) of paragraph (d) of this section in excess of 35 percent of the operating capacity as of January 1, 1969, of the facility or facilities covered by his application expressed in average barrels daily multiplied by 184. Such operating capacity shall be subject to verification by the Administrator.

(f) If an allocation made under section 23 was increased pursuant to paragraph (l) of that section, an allocation made to the same person under this section 29 shall be reduced as required by paragraph (l) of section 23.

(g)(1) Licenses issued under allocations made pursuant to this section shall permit only Canadian overland imports to be entered for consumption or withdrawn from warehouse for consumption.

(2) In instances in which a person is unable to enter by June 30, 1970, the full amount of Canadian oil imports allocated to him pursuant to section 23 and if such inability is attributable to the normal operating procedures of the pipeline system through which such imports were sought to be made, or damage to a facility by fire, explosion, or act of God, the Administrator shall, upon request, extend the license issued under the allocation for a period of not to exceed 15 days.

(h) A person to whom an allocation is made by the Administrator under this section shall report and certify in writing to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240 not later than September 15, 1970 (1) the total quantity of Canadian overland imports which that person imported pursuant to licenses made under section 23 of the regulations during the period March 1, 1970 through July 15, 1970 and (2) the quantity of such imports that were processed in his facility or facilities before August 31, 1970. The amount so reported and certified shall be subject to verification by the Administrator. If a person to whom an allocation is made under this section 29 fails to file by September 15, 1970, the written report and certification required by this paragraph, the Administrator shall suspend all licenses issued under an allocation made under section 29 until the written report and certification is received.

(i) (1) An allocation made pursuant to this section shall not be sold, assigned, or otherwise transferred. Except as provided in subparagraph (2) of this paragraph (i), each person who imports Canadian overland imports under an allocation made pursuant to this section shall process or consume such imports only in his own facility or facilities.

(2) (i) Subject to the provisions of this subparagraph (2), a person who imported Canadian overland imports during the period March 1, 1970 through June 30, 1970 pursuant to section 23 of this regulation may exchange his Canadian overland imports for domestic crude oil or domestic unfinished oils.

(ii) No person will be permitted to exchange a quantity of Canadian overland imports, expressed in average barrels daily for the period July 1, 1970 through December 31, 1970, which would exceed the average barrels daily of such imports made by such person during the period March 1, 1970 through June 30, 1970 under an allocation made pursuant to section 23 of this regulation.

(iii) A proposed agreement for each such exchange must be reported to the Administrator before any action involved in the exchange is taken.

(iv) Each such exchange must be effected on a ratio of not less than one barrel of domestic oil for each barrel of Canadian overland imports.

(v) In any such exchange the person who is exchanging oil imported pursuant to section 29 for domestic oil must take delivery on the domestic oil and process it in his own facility located in Districts I–IV not later than 120 days after the day on which the imported oil is delivered to the other party to the exchange but in no event later than March 1, 1971.

(vi) Unless the recipient of Canadian overland imports under an exchange arrangement processes such imports in his facility before March 1, 1971, he shall be subject to the penalty provided by paragraph (k) of this section 29.

(j) An application for an allocation under this section shall be made by letter or telegram to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240. Applications must be received by the Administrator on or before June 27, 1970. An application must contain the following information, which shall be certified by an officer of the applicant:

(1) The nature of the applicant's facility or facilities,

(2) The location or locations of the facility or facilities,

(3) The average barrels daily of Canadian overland imports processed or consumed in the applicant's facility or facilities during the period October 1, 1968 through September 30, 1969,

(4) The operating capacity, as of January 1, 1969, expressed in average barrels per calendar day, of the facility or facilities in which Canadian imports will be processed.

An officer of an applicant shall also certify in his application that, if an allocation of Canadian overland imports is made to the applicant under this section 29, the applicant will (unless an exchange is approved) process or consume all such imports in his facility or facilities before March 1, 1971.

(k) If a person who receives an allocation of Canadian overland imports under this section 29 fails to import the total quantity of such imports specified in the allocation or (unless an exchange is approved) if he fails to process all such imports in his facility or facilities before March 1, 1971, then any allocation for Districts I–IV to which such person may otherwise be entitled under sections 9, 10, or 25 of this regulation for the first allocation period beginning after March 1, 1971 shall be reduced by the Administrator by the amount of Canadian overland imports which such person has failed to import or which such person has failed to process in his facility or facilities before March 1, 1971, except that the Administrator need not make such a reduction to the extent that (1) such person demonstrates to the satisfaction of the Administrator that such failures were without such person's fault and were beyond his control, or (2) such person on or before August 1, 1970 in writing relinquishes all or part of an allocation made under this section and returns to the Administrator licenses issued thereunder.

(l) The Oil Import Appeals Board may modify or make allocations of Canadian overland imports pursuant to section 21 of this regulation from imports which are made available to the Board by the Secretary.

FRED J. RUSSELL,
Acting Secretary of the Interior.

I concur: June 23, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70-8083; Filed, June 23, 1970; 11:12 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 201]

DISTILLED SPIRITS PLANTS

Notice of Proposed Rule Making

Regulations proposed to be prescribed in 26 CFR Part 201 were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for March 27, 1970 (35 F.R. 5179). Notice is hereby given that such proposed regulations are withdrawn.

Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco, and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the standard for vodka, and the labeling requirements respecting distilled spirits shipped in intrastate traffic, prescribed in 26 CFR Part 201, Distilled Spirits Plants, to similar provisions prescribed in 27 CFR Part 5, Labeling and Advertising of Distilled Spirits, the regulations in 26 CFR Part 201 are amended as follows:

PARAGRAPH 1. The definition of "Spirits or distilled spirits" in § 201.11 is amended by adding a sentence imposing certain limitations in applying the definition on and after July 1, 1972. As amended, the definition reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include, whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated. Effective July 1, 1972, for the purposes of the requirements of this part relating to liquor bottles, labels, and strip stamps, the term "spirits" or "distilled spirits" shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

* * * * *

PAR. 2. Section 201.442 is amended to revise the standard for vodka to conform with 27 CFR 5.22(a)(1). As amended, § 201.442 reads as follows:

§ 201.442 Vodka.

Vodka produced from pure spirits on bottling premises is exempt from the rectification tax (as provided in § 201.29 (e)) only if so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color, and, if bottled, bottled at not less than 80° of proof. Vodka is not exempt from the rectification tax (a) if it is mixed after production with other spirits or with any other substance or material except pure water, or (b) if any substance or material which imparts to the product any distinctive character, aroma, taste, or color is added to the spirits before or during production. The vodka shall be gaged by the proprietor and shall then be drawn into metal, porcelain, glass, or paraffin-lined containers, bottled, or transferred by pipeline or bulk conveyance to other bottling premises as provided in § 201.465. Vodka exempt from the rectification tax may be filtered to remove materials held in suspension, but the use of filters or filter aids or the use of any process which changes the composition or character of the vodka will subject the product to the rectification tax.

(72 Stat. 1328; 26 U.S.C. 5025)

PAR. 3. Section 201.457 is amended by adding a proviso regarding the use of liquor bottles, effective July 1, 1972, for certain products made with wine. As amended, § 201.457 reads as follows:

§ 201.457 Liquor bottles.

Liquor bottles may not be used for wines containing 24 percent alcohol by volume or less or for products manufactured with such wines unless such products contain spirits other than wine spirits used in wine production: *Provided*, That, effective July 1, 1972, liquor bottles may not be used for such products, bottled at 48° proof or less, if the product contains more than 50 percent wine on a proof gallon basis. Liquor bottles may be used, but need not be used, in bottling spirits for export. (See Subpart Pa of this part for provisions respecting liquor bottles.)

(72 Stat. 1374; 26 U.S.C. 5301)

PAR. 4. Paragraph (a)(3) of § 201.517 is amended by adding a proviso to the subparagraph in order to avoid a conflict with the designation "Grain spirits" in 27 CFR 5.22(a)(2) which becomes effective July 1, 1972 As amended, paragraph (a)(3) reads as follows:

§ 201.517 Kind of spirits or wine.

(a) *Designation.* * * *

(3) Spirits distilled at less than 190° of proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, may be designated "Spirits", preceded or followed by a word or phrase descriptive of the material from which produced: *Provided*, That, on and after July 1, 1972, spirits distilled as provided in this subparagraph may not be designated "Spirits grain" or "Grain spirits".

* * * * *

(72 Stat. 1360; 26 U.S.C. 5206)

§ 201.540a [Amended]

PAR. 5. Section 201.540a is amended by changing "201.540u", in the last sentence, to read "201.540v".

§ 201.540b [Amended]

PAR. 6. Section 201.540b is amended by changing "Subpart H", wherever such term appears, to read "Subpart E".

PAR. 7. Section 201.540n is amended by changing "201.540u", in the first sentence, to read "201.540v" and to provide for a statement of "age and percentage" on labels. As amended, § 201.540n reads as follows:

§ 201.540n Statements required on labels under an exemption from label approval.

All labels to be used on bottles of spirits for domestic use under an exemption from label approval shall contain the applicable information required in §§ 201.540o through 201.540v. Where a statement of age or age and percentage is required, it shall have the meaning given, and be stated in the manner provided, in 27 CFR Part 5.

PAR. 8. Section 201.540o, and its heading, are amended to conform with 27 CFR Part 5 with respect to showing the State of distillation on labels for certain whiskies. As amended, § 201.540o reads as follows:

§ 201.540o Brand name, class and type, alcohol content, and State of distillation.

The brand name, class and type as set out in 27 CFR Part 5, and alcohol content of the distilled spirits, by proof,

shall be shown on the label except that the alcohol content may be stated in percentage, by volume, in the case of liqueurs, cordials, bitters, cocktails, highballs, or other such specialties. Except in the case of "light whisky," "blended light whisky," "blended whisky," "a blend of straight whiskies," or "spirit whisky," the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The Director may, however, require the State of distillation to be shown on the label or he may permit such other labeling as may be necessary to negate any misleading or deceptive impression which might be created as to the actual State of distillation. In the case of "light whisky," as defined in 27 CFR 5.22(b)(3), the State of distillation shall not appear in any manner on any label when the Director finds such State is associated by consumers with an American type whisky (as provided in 27 CFR 5.22), except as part of a name and address as set forth in 27 CFR 5.36(a).

PAR. 9. Section 201.540q is amended to permit the use on labels, except on labels for spirits bottled in bond, of any trade name the distiller or rectifier has been authorized to use, at the time of bottling of the product; to permit the use on labels of the words "Packed by" and "Filled by" as well as the words "Bottled by"; and to delete the requirement with respect to showing the State of distillation on labels of whisky. As amended, § 201.540q reads as follows:

§ 201.540q Name and address of bottler.

There shall be stated on the label of distilled spirits the phrase "Bottled by," "Packed by," or "Filled by," immediately followed by the name (or trade name) of the bottler and the place where such spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants: *Provided*,

(a) That, where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "Bottled by," "Packed by," or "Filled by," followed by the bottler's name (or trade name) and address, the phrase "Distilled by," followed by the name (or trade name) under which the particular spirits were distilled, or (except in the case of distilled spirits bottled in bond) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller;

(b) That, where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "Bottled by," "Packed by," or "Filled by," followed by the bottler's name (or trade name) and address, the phrase "Blended by," "Made by," "Prepared by," "Manufactured by," or "Produced by" (whichever may be appropriate to the act of rectification involved), followed by the name (or trade name) and the address (or addresses) of the rectifier; and

(c) That, on labels of distilled spirits bottled for a retailer or other person who is not the actual distiller or rectifier of such distilled spirits, there may also be stated the name and address of such retailer or other person, immediately preceded by the words "Bottled for," or "Distributed by," or other similar statement.

For the purpose of this section, the term "bottler" shall include the proprietor of a distilled spirits plant qualified to bottle distilled spirits in bond.

PAR. 10. Section 201.540r, and its heading, are amended to conform with 27 CFR 5.40(a) respecting statements of age on labels. As amended, § 201.540r reads as follows:

§ 201.540r Age of whisky containing no neutral spirits.

In the case of whisky containing no neutral spirits, statements of age and percentage shall be stated on the label as provided in 27 CFR Part 5.

PAR. 11. Section 201.540s, and its heading, are amended to conform to 27 CFR Part 5 respecting statements of age and percentage on labels. As amended, § 201.540s reads as follows:

§ 201.540s Age of whisky containing neutral spirits.

In the case of whisky containing neutral spirits, the age of the whisky or whiskies and the respective percentage by volume of whisky or whiskies and neutral spirits, shall be stated on the label as provided in 27 CFR Part 5.

PAR. 12. Section 201.540u, and its heading, are amended to conform with 27 CFR 5.39 respecting stating on labels the presence of neutral spirits and coloring, flavoring, and blending materials. As amended, § 201.540u reads as follows:

§ 201.540u Presence of neutral spirits and coloring, flavoring, and blending materials.

The presence of neutral spirits and coloring, flavoring, and blending materials shall be stated on labels in the manner provided in 27 CFR Part 5.

PAR. 13. A new section, § 201.540v, is added immediately following § 201.540u to require, in conformity with 27 CFR 5.36(e), the country of origin to be stated on labels of imported distilled spirits. As added, § 201.540v reads as follows:

§ 201.540v Country of origin.

On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form: "Product of _____," the blank to be filled in with the name of the country of origin.

[F.R. Doc. 70-7939; Filed, June 23, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 55]

METAL AND NONMETALLIC OPEN PIT MINES

Health and Safety Standards

This notice sets forth proposals to amend, revise, or redesignate health and safety standards which either have been proposed or have been promulgated for open pit mines under the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740). A procedure for variance also is proposed. Interested persons may, within a period of 45 days following publication of this notice in the FEDERAL REGISTER, submit written data, views, or arguments with respect to the proposals. Any person who is adversely affected by a proposal to amend or revise a standard designated as mandatory or by a proposal to designate a standard as mandatory may, within the period of 45 days, file written objections thereto stating the grounds for such objection and requesting a hearing. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

WALTER J. HICKEL,
Secretary of the Interior.

JUNE 10, 1970.

[§ 55.3 Ground control]

Standard 55.3–4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3661), as an advisory standard and reads as follows:

55.3–4 Safe means for scaling pit-banks should be provided. Exposed banks should be scaled before any other work is performed in the exposed bank area.

It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 55.4 Fire prevention and control]

1. Standard 55.4–23 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 658). It is proposed to revise this standard to read as follows:

55.4–23 *Mandatory.* Firefighting equipment provided on the mine property shall be strategically located, readily accessible, plainly marked, properly maintained, and inspected periodically. Records shall be kept of such inspections.

2. Standard 55.4–28 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3661), as an advisory standard and reads as follows:

55.4–28 Portable cutting and welding equipment should be equipped with suitable fire extinguishers.

It is proposed that this standard be designated and phrased as a mandatory standard.

3. Standard 55.4–40 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3661), as an advisory standard and reads as follows:

55.4–40 Fire-alarm systems should be provided and maintained in operating condition to warn employees endangered by a fire.

It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 55.5 Air quality]

Standards 55.5–1, 55.5–3, and 55.5–6 were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 658). In lieu of these standards it is proposed to promulgate the following standards:

55.5–1 *Mandatory.* Except as permitted by standard 55.5–5:

(a) The exposure to airborne contaminants of a person working in a mine shall not exceed, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the most recent edition of the Conference's publication entitled "Threshold Limit Values of Airborne Contaminants." Excursions above the listed threshold limit values shall not be of a greater magnitude than is characterized as permissible by the Conference. This paragraph (a) does not apply to airborne contaminants given a "C" designation by the Conference—for example, nitrogen dioxide.

(b) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant given a "C" designation by the Conference which exceeds the threshold limit value (ceiling "C" limit) listed for that contaminant.

* * * * *

55.5–5 *Mandatory.* Respirators shall not be substituted for environmental control measures. However, where environmental controls have not been developed or when necessary by nature of the work involved (for example, welding, sand blasting, lead burning), a person may work for short periods of time in concentrations of airborne contaminants which exceed ceiling "C" limits or the limit of permissible excursions referred to in standard 55.5–1, if such person wears a respiratory protective device approved by the Bureau of Mines as protection against the particular hazards involved.

[§ 55.6 Explosives]

1. Standard 55.6–5 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662), as an advisory standard. It is proposed that this standard be designated a mandatory standard and revised to read as follows:

55.6–5 *Mandatory.* Areas surrounding magazines or facilities for the storage of blasting agents shall be kept clear of all trash and other combustible materials for a distance not less than 25 feet in all directions.

2. Standard 55.6–6 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–6 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any magazine or other place where explosives and detonators are stored, handled, or placed, or are being used in a mine.

3. Standard 55.6–8 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–8 *Mandatory.* Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

4. Standards 55.6–6 and 55.6–7, relating to electrical fixtures in magazines, were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 658). It is proposed that these standards be eliminated and a new standard substituted in lieu thereof to read as follows:

55.6–11 *Mandatory.* Neither permanently installed nor temporary electrical circuits shall be permitted in a magazine. If artificial lighting is needed within a magazine, it shall be supplied only by permissible cap lamps, flashlights, or lanterns; or by safety flashlights or lanterns.

5. Standard 55.6–25 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 659). It is proposed to renumber the standard 55.6–65 and to revise it to read as follows:

55.6–65 *Mandatory.* Vehicles containing explosives, other than blasting agents, or detonators shall not be left unattended except in blasting areas where loading or charging is in progress.

6. Standard 55.6–38 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 659). It is proposed to renumber this standard 55.6–56 and to revise it to read as follows:

55.5–56 *Mandatory.* Substantial nonconductive closed containers shall be used to carry explosives, other than blasting agents, to blasting sites.

7. Standard 55.6–45 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662) and reads as follows:

55.6–45 Vehicles containing explosives or detonators should not be taken to a repair garage or shop for any purpose.

It is proposed that this standard be designated and phrased as a mandatory standard.

8. Standard 55.6–50 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–50 *Mandatory.* Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured non-sparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

9. Standard 55.6–52 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–52 *Mandatory.* No person shall smoke, carry matches or any other flame-producing device, firearms, or loaded cartridges while he is carrying or transporting explosives or detonators.

10. Standard 55.6–90 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–90 *Mandatory.* Persons who use or handle explosives or detonators shall be experienced men who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced men.

11. Standard 55.6–91 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662), as an advisory standard and reads as follows:

55.6–91 Blasting operations should be under the direct control of authorized persons.

It is proposed that this standard be designated and phrased as a mandatory standard.

12. Standard 55.6–95 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–95 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any place where explosives or detonators are stored, handled or placed, or are being used in a mine.

13. Standard 55.6–101 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662), as an advisory standard and reads as follows:

55.6–101 No tamping should be done directly on a capped primer.

It is proposed that this standard be designated and phrased as a mandatory standard.

14. Standard 55.6–112 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–112 *Mandatory.* The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all men concerned with blasting.

15. Standard 55.6–113 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662). It is proposed to revise this standard to read as follows:

55.6–113 *Mandatory.* When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the followng table for a particular size round:

Number of holes in a round	*Minimum burning time, minutes*
1	2
2–5	2½
6–10	3½
11–15	5

In no case shall any 40 second per foot safety fuse less than 36 inches long or any 30 second per foot safety fuse less than 48 inches long be used.

16. Standard 55.6–115 was promulgated in the FEDERAL REGISTER for

July 31, 1969 (34 F.R. 12505), and reads as follows:

55.6-115 A safe interval of time should be allowed to light a round and evacuate the blasting area.

It is proposed that this standard be revoked.

17. Standard 55.6-117 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 660). It is proposed that this standard be redesignated as 55.6-198 and revised to read as follows:

55.6-198 *Mandatory.* Plastic tubes shall not be used to protect pneumatically loaded blasting agent charges that include an electric detonator.

18. Standard 55.6-119 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662), as an advisory standard and reads as follows:

55.6-119 Electric detonators of different brands should not be used in the same round.

It is proposed that this standard be designated and phrased as a mandatory standard.

19. Standard 55.6-131 was promulgated in the FEDERAL REGISTER for July 31, 1969 (34 F.R. 12506), as an advisory standard and reads as follows:

55.6-131 Power sources should be suitable for the number of electrical detonators to be fired and for the type of circuits used.

It is proposed that this standard be designated and phrased as a mandatory standard.

20. Standard 55.6-161 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3662), as an advisory standard and reads as follows:

55.6-161 If explosives are suspected of burning in a hole, all persons in the endangered area should move to a safe location and no one should return to the hole until the danger has passed, but in no case within 1 hour.

It is proposed that this standard be designated and phrased as a mandatory standard.

21. Standard 55.6-170 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3663). It is proposed that this standard be revised to read as follows:

55.6-170 *Mandatory.* Where electric blasting is to be performed, electric circuits to equipment in the immediate area to be blasted shall be deenergized before explosives or detonators are brought into the area; the power shall not be turned on again until after the shots are fired.

[§ 55.7 Drilling]

Standard 55.7-4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3663). It is proposed to revise this standard to read as follows:

55.7-4 *Mandatory.* Men shall not be on the mast while the drill-bit is in operation unless they are provided with a safe platform from which to work and they are required to use safety belts to avoid falling.

[§ 55.9 Loading, hauling, dumping]

Standard 55.9-15 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3663), as an advisory standard. It is proposed that this standard be designated as a mandatory standard and revised to read as follows:

55.9-15 *Mandatory.* Unless the operator is otherwise protected, slushers shall be equipped with backlash guards, rollers, and drum covers, and anchored securely before slushing operations are started.

[§ 55.12 Electricity]

1. Standard 55.12-9 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3664), as an advisory standard. It is proposed that the standard be designated a mandatory standard and revised to read as follows:

55.12-9 *Mandatory.* Power wires and cables which present a fire hazard shall be well-installed on insulators of suitable size and capacity.

2. Standard 55.12-18 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 662). It is proposed to remember this standard 55.12-16 and revise it to read as follows:

55.12-16 *Mandatory.* Electrical equipment shall be deenergized before work is done on such equipment. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Such locks, signs, or preventative devices shall be removed only by the persons who installed them or by authorized personnel.

3. Standard 55.12-19 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 662). It is proposed to renumber this standard 55.12-16 and revise it to read as follows:

55.12-17 *Mandatory.* Power circuits shall be deenergized before work is done on such circuits unless hot-line tools are used. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the power circuits from being energized without the knowledge of the individuals working on them. Such locks, signs, or preventative devices shall be removed only by the person who installed them or by authorized personnel.

4. Standard 55.12-36 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3664). It is proposed to revise this standard to read as follows:

55.12-36 *Mandatory.* Fuses shall not be removed or replaced by hand in an energized circuit, and they shall not otherwise be removed or replaced in an energized circuit unless equipment and techniques especially designed to prevent electrical shock are provided and used for such purpose.

[§ 55.13 Compressed air and boilers]

Standard 55.13-21 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3664). It is proposed to revise this standard as follows:

55.13-21 *Mandatory.* Safety chains or suitable locking devices shall be used at connections to machines of high-pressure hose lines of ¾-inch inside diameter or larger, and between high-pressure hose lines of ¾-inch inside diameter or larger, where a connection failure would create a hazard.

[§ 55.15 Personal protection]

1. Standard 55.15-3 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 663). It is proposed to revise this standard to read as follows:

55.15-3 *Mandatory.* All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

2. Standard 55.15-4 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 663). It is proposed that this standard be revised to read as follows:

55.15-4 *Mandatory.* All persons shall wear safety glasses, goggles, or face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

[§ 55.19 Man hoisting]

1. Standard 55.19-59 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 665). It is proposed to revise this standard to read as follows:

55.19-59 *Mandatory.* Whenever men are being hoisted or lowered by a manually operated hoist that is not equipped with a suitable deadman control mechanism, a second man familiar with and qualified to stop the hoist shall be in attendance; this standard shall not apply to sinking operations, level development, or repair operations in the mine.

2. Standard 55.19-64 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3665), as an advisory standard. It is proposed that the standard be designated as a mandatory standard and revised to read as follows:

55.19-64 *Mandatory.* Cable adjustments shall not be made while persons are on cages.

3. Standard 55.19-92 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3665), as an advisory standard. It is proposed to designate the standard as a mandatory standard and revise it to read as follows:

55.19-92 *Mandatory.* A method shall be provided to signal the hoist operator from cages or other conveyances at any point in the shaft.

4. Standard 55.19-108 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3665), as an advisory standard and reads as follows:

55.19-108 When men are working in a shaft "Men Working in Shaft" signs should be posted at all hoist-signaling or other devices controling hoisting operations that may endanger such men.

It is proposed that the standard be designated and phrased as a mandatory standard.

[§ 55.24 Variances]

It is proposed to add to Part 55 a new § 55.24 reading as follows:

55.24-1 Except as provided in subsection 55.24-7, the Director, Bureau of Mines, may, in accordance with the provisions of this § 55.24, permit a variance from a mandatory

standard in this part. The Director may permit such a variance only by means of a written decision specifically describing the variance permitted and the restrictions and conditions to be observed and finding that, in the circumstances, the health and safety of all persons which the mandatory standard is designed to protect will be no less assured under the variance permitted. The Director may, in writing, delegate the authority conferred by this § 55.24 to the Deputy Director—Health and Safety, the Assistant Director, Metal and Nonmetal Mine Health and Safety, and the Metal and Nonmetal Mine Health and Safety District Managers.

55.24–2 An application for a variance must be in writing and filed with the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240. A copy of the application must be mailed or otherwise delivered to the District Manager of the Metal and Nonmetal Mine Health and Safety District of the Bureau of Mines in which the mine is located and a copy must be mailed or otherwise delivered to the State agency responsible for health and safety in the mine.

55.24–3 Before an application for a variance is filed, the person making such application shall give notice of the contents of the application to all persons employed in the area of the mine that would be affected by the variance if granted. Such notice may be given by the delivery of a copy to each such employee individually; or by the delivery of a copy of theapplication to an organization, agency, or individual authorized by the employees to represent them; or by posting a copy on a bulletin board at the mine office or in some other appropriate place at the mine adequate to give notice to the employees. An application will be rejected if it does not show that the notice required by this subsection has been given.

55.24–4 An application for a variance must:

(a) Specify the mandatory standard or standards from which the variance is requested;

(b) Describe the variance requested;

(c) Identify the areas of the mine that would be affected by the variance;

(d) Give the reasons why the standard or standards cannot or should not be strictly complied with;

(e) Specify the time period for which the variance is requested;

(f) Describe the work assignments of persons employed in affected areas of the mine, specifying the number of persons having each work assignment;

(g) Explain how the health and safety of persons employed in the affected areas of the mine will be no less assured if the requested variance is granted than through strict compliance with the standard or standards;

(h) Indicate the authority of the person signing the application;

(i) Include a statement describing how, and on what dates, the notice required in subsection 55.24–3 was given.

55.24–5 For a period of 15 days following the date on which an application for a variance is filed, any interested person may submit to the Director, Bureau of Mines, written data, views or arguments, respecting the application. Copies of such comments shall be mailed or otherwise delivered to the District Manager of the Health and Safety District of the Bureau of Mines in which the mine is located and to the State agency responsible for health and safety in the mine. The Director may hold a public hearing if he determines that such a hearing would contribute to his consideration of the application. The Director shall issue a decision on an application promptly following the expiration of the period of 15 days and the conclusion of a hearing, if any.

55.24–6 Notwithstanding the provisions of subsection 55.24–5, a temporary variance from a mandatory standard may be approved before the expiration of the 15-day period for a specified time not to exceed 45 calendar days after receipt of the application, if the application is for a variance that would, in the judgment of the Director, clearly provide a level of health and safety to the persons employed in the areas of the mine that would be affected thereby no less than would be provided by compliance with a particular mandatory standard.

55.24–7 This § 55.24 does not authorize the Director to permit a variance from any mandatory standard relating to exposure to concentrations of airborne contaminants or from any mandatory standard relating to exposure to concentrations of radon daughters.

[F.R. Doc. 70–7932; Filed, June 23, 1970; 8:45 a.m.]

[30 CFR Part 56]

SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

Health and Safety Standards

This notice sets forth proposals to amend, revise, or redesignate health and safety standards which either have been proposed or have been promulgated for sand, gravel, and crushed stone operations under the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740). A procedure for variance also is proposed. Interested persons may, within a period of 45 days following publication of this notice in the FEDERAL REGISTER, submit written data, views, or arguments with respect to the proposals. Any person who is adversely affected by a proposal to amend or revise a standard designated as mandatory or by a proposal to designate a standard as mandatory may, within the period of 45 days, file written objections thereto stating the grounds for such objection and requesting a hearing. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

WALTER J. HICKEL,
Secretary of the Interior.

JUNE 10, 1970.

[§ 56.3 Ground control]

Standard 56.3–4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3666), as an advisory standard and reads as follows:

56.3–4 Safe means for scaling pit-banks should be provided. Exposed banks should be scaled before any other work is performed in the exposed bank area.

It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 56.4 Fire prevention and control]

1. Standard 56.4–23 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 669). It is proposed to revise this standard to read as follows:

56.4–23 *Mandatory.* Firefighting equipment provided on the mine property shall be strategically located, readily accessible, plainly marked, properly maintained, and inspected periodically. Records shall be kept of such inspections.

2. Standard 56.4–28 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3666), as an advisory standard and reads as follows:

56.4–28 Portable cutting and welding equipment should be equipped with suitable fire extinguishers.

It is proposed that this standard be designated and phrased as a mandatory standard.

3. Standard 56.4–40 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3666), as an advisory standard and reads as follows:

56.4–40 Fire-alarm systems should be provided and maintained in operating condition to warn employees endangered by a fire.

It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 56.5 Air quality]

Standards 56.5–1, 56.5–3, and 56.5–6 were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 669). In lieu of these standards it is proposed to promulgate the following standards:

56.5–1 *Mandatory.* Except as permitted by standard 56.5–5: (a) The exposure of airborne contaminants of a person working in a mine shall not exceed, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the most recent edition of the Conference's publication entitled "Threshold Limit Values of Airborne Contaminants." Excursions above the listed threshold limit values shall not be of a greater magnitude than is characterized as permissible by the Conference. This paragraph (a) does not apply to airborne contaminants given a "C" designation by the Conference—for example, nitrogen dioxide.

(b) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant given a "C" designation by the Conference which exceeds the threshold limit value (ceiling "C" limit) listed for that contaminant.

* * * * *

56.5–5 *Mandatory.* Respirators shall not be substituted for environmental control measures. However, where environmental controls have not been developed or when necessary by nature of the work involved (for example, welding, sand blasting, leading burning), a person may work for short periods of time in concentrations of airborne contaminants which exceed ceiling "C" limits or the limit of permissible excursions referred to in standard 56.5–1, if such person wears a respiratory protective device approved by the Bureau of Mines as protection against the particular hazards involved.

[§ 56.6 Explosives]

1. Standard 56.6–5 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667), as an advisory standard. It is proposed that this standard be designated a mandatory standard and revised to read as follows:

56.6–5 *Mandatory.* Areas surrounding magazines or facilities for the storage of blasting agents shall be kept clear of all trash and other combustible materials for a distance not less than 25 feet in all directions.

2. Standard 56.6–6 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–6 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any magazine or other place where explosives and detonators are stored, handled, or placed, or are being used in a mine.

3. Standard 56.6–8 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–8 *Mandatory.* Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

4. Standards 56.6–6 and 56.6–7, relating to electrical fixtures in magazines, were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 669). It is proposed that these standards be eliminated and a new standard substituted in lieu thereof to read as follows:

56.6–11 *Mandatory.* Neither permanently installed nor temporary electrical circuits shall be permitted in a magazine. If artificial lighting is needed within a magazine, it shall be supplied only by permissible cap lamps, flashlights, or lanterns; or by safety flashlights or lanterns.

5. Standard 56.6–25 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 669). It is proposed to renumber the standard 56.6–65 and to revise it to read as follows:

56.6–65 *Mandatory.* Vehicles containing explosives, other than blasting agents, or detonators shall not be left unattended except in blasting areas where loading or charging is in progress.

6. Standard 56.6–38 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 669). It is proposed to renumber this standard 56.6–56 and to revise it to read as follows:

56.6–56 *Mandatory.* Substantial nonconductive closed containers shall be used to carry explosives, other than blasting agents, to blasting sites.

7. Standard 56.6–45 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667), and reads as follows:

56.6–45 Vehicles containing explosives or detonators should not be taken to a repair garage or shop for any purpose.

It is proposed that this standard be designated and phrased as a mandatory standard.

8. Standard 56.6–50 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–50 *Mandatory.* Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured non-sparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

9. Standard 56.6–52 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–52 *Mandatory.* No person shall smoke, carry matches or any other flame-producing device, firearms, or loaded cartridges while he is carrying or transporting explosives or detonators.

10. Standard 56.6–90 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–90 *Mandatory.* Persons who use or handle explosives or detonators shall be experienced men who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced men.

11. Standard 56.6–91 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667), as an advisory standard and reads as follows:

56.6–91 Blasting operation should be under the direct control of authorized persons.

It is proposed that this standard be designated and phrased as a mandatory standard.

12. Standard 56.6–95 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–95 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any place where explosives or detonators are stored, handled or placed, or are being used in a mine.

13. Standard 56.6–101 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667), as an advisory standard and reads as follows:

56.6–101 No tamping should be done directly on a capped primer.

It is proposed that this standard be designated and phrased as a mandatory standard.

14. Standard 56.6–112 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–112 *Mandatory.* The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all men concerned with blasting.

15. Standard 56.6–113 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667). It is proposed to revise this standard to read as follows:

56.6–113 *Mandatory.* When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the following table for a particular size round.

Number of holes in a round	*Minimum burning time, minutes*
1	2
2–5	2½
6–10	3½
11–15	5

In no case shall any 40-second-per-foot safety fuse less than 36 inches long or any 30-second-per-foot safety fuse less than 48 inches long be used.

16. Standard 56.6–115 was promulgated in the FEDERAL REGISTER for August 9, 1969 (34 F.R. 12947), and reads as follows:

56.6–115 A safe interval of time should be allowed to light a round and evacuate the blasting area.

It is proposed that this standard be revoked.

17. Standard 56.6–117 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 671). It is proposed that this standard be redesignated as 56.6–198 and revised to read as follows:

56.6–198 *Mandatory.* Plastic tubes shall not be used to protect pneumatically loaded blasting agent charges that include an electric detonator.

18. Standard 56.6–119 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3667), as an advisory standard and reads as follows:

56.6–119 Electric detonators of different brands should not be used in the same round.

It is proposed that this standard be designated and phrased as a mandatory standard.

19. Standard 56.6–131 was promulgated in the FEDERAL REGISTER for July 31, 1969 (34 F.R. 12512), as an advisory standard and reads as follows:

56.6–131 Power sources should be suitable for the number of electrical detonators to be fired and for the type of circuits used.

It is proposed that this standard be designated and phrased as a mandatory standard.

20. Standard 56.6–161 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3668), as an advisory standard and reads as follows:

56.6–161 If explosives are suspected of burning in a hole, all persons in the endangered area should move to a safe location and no one should return to the hole until the danger has passed, but in no case within 1 hour.

It is proposed that this standard be designated and phrased as a mandatory standard.

21. Standard 56.6–170 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3668). It is proposed that this standard be revised to read as follows:

56.6–170 *Mandatory.* Where electric blasting is to be performed, electric circuits to equipment in the immediate area to be blasted shall be deenergized before explosives or detonators are brought into the area; the power shall not be turned on again until after the shots are fired.

[§ 56.7 Drilling]

Standard 56.7–4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3668). It is proposed to revise this standard to read as follows:

56.7–4 *Mandatory.* Men shall not be on a mast while the drill-bit is in operation unless they are provided with a safe platform from which to work and they are required to use safety belts to avoid falling.

[§ 56.9 Loading, hauling, dumping]

Standard 56.9–15 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3668), as an advisory standard. It is proposed that this standard be designated as a mandatory standard and revised to read as follows:

56.9–15 *Mandatory.* Unless the operator is otherwise protected, slushers shall be equipped with backlash guards, rollers, and drum covers, and anchored securely before slushing operations are started.

[§ 56.12 Electricity]

1. Standard 56.12–9 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3669), as an advisory standard. It is proposed that the standard be designated a mandatory standard and revised to read as follows:

56.12–9 *Mandatory.* Power wires and cables which present a fire hazard shall be well installed on insulators of suitable size and capacity.

2. Standard 56.12–18 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 673). It is proposed to renumber this standard 56.12–16 and revise it to read as follows:

56.12–16 *Mandatory.* Electrical equipment shall be deenergized before work is done on such equipment. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Such locks, signs, or preventative devices shall be removed only by the persons who installed them or by authorized personnel.

3. Standard 56.12–19 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 673). It is proposed to renumber this standard 56.12–17 and revise it to read as follows:

56.12–17 *Mandatory.* Power circuits shall be deenergized before work is done on such circuits unless hot-line tools are used. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the power circuits from being energized without the knowledge of the individuals working on them. Such locks, signs, or preventative devices shall be removed only by the person who installed them or by authorized personnel.

4. Standard 56.12–36 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3669). It is proposed to revise this standard to read as follows:

56.12–36 *Mandatory.* Fuses shall not be removed or replaced by hand in an energized circuit, and they shall not otherwise be removed or replaced in an energized circuit unless equipment and techniques especially designed to prevent electrical shock are provided and used for such purpose.

[§ 56.13 Compressed air and boilers]

Standard 56.13–21 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3669). It is proposed to revise this standard as follows:

56.13–21 *Mandatory.* Safety chains or suitable locking devices shall be used at connections to machines of high-pressure hose lines of ¾-inch inside diameter or larger, and between high-pressure hose lines of ¾-inch inside diameter or larger, where a connection failure would create a hazard.

[§ 56.15 Personal protection]

1. Standard 56.15–3 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 674). It is proposed to revise this standard to read as follows:

56.15–3 *Mandatory.* All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

2. Standard 56.15–4 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 674). It is proposed that this standard be revised to read as follows:

56.15–4 *Mandatory.* All persons shall wear safety glasses, goggles, or face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

[§ 56.19 Man hoisting]

1. Standard 56.19–59 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 667). It is proposed to revise this standard to read as follows:

56.19–59 *Mandatory.* Whenever men are being hoisted or lowered by a manually operated hoist that is not equipped with a suitable deadman control mechanism, a second man familiar with and qualified to stop the hoist shall be in attendance; this standard shall not apply to sinking operations, level development, or repair operations in the mine.

2. Standard 56.19–64 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3670), as an advisory standard. It is proposed that the standard be designated as a mandatory standard and revised to read as follows:

56.19–64 *Mandatory.* Cable adjustments shall not be made while persons are on cages.

3. Standard 56.19–92 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3670), as an advisory standard. It is proposed to designate the standard as a mandatory ard and revise it to read as follows:

56.19–92 *Mandatory.* A method shall be provided to signal the hoist operator from cages or other conveyances at any point in the shaft.

4. Standard 56.19–108 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3670), as an advisory standard and reads as follows:

56.19–108 When men are working in a shaft "Men Working in Shaft" signs should be posted at all hoist-signalling or other devices controlling hoisting operations that may endanger such men.

It is proposed that the standard be designated and phrased as a mandatory standard.

[§ 56.24 Variances]

It is proposed to add to Part 56 a new § 56.24 reading as follows:

56.24–1 Except as provided in subsection 56.24–7, the Director, Bureau of Mines, may, in accordance with the provisions of this § 56.24, permit a variance from a mandatory standard in this part. The Director may permit such a variance only by means of a written decision specifically describing the variance permitted and the restrictions and conditions to be observed and finding that, in the circumstances, the health and safety of all persons which the mandatory standard is designed to protect will be no less assured under the variance permitted. The Director may, in writing, delegate the authority conferred by this § 56.24 to the Deputy Director—Health and Safety, the Assistant Director, Metal and Nonmetal Mine Health and Safety, and the Metal and Nonmetal Mine Health and Safety District Managers.

56.24–2 An application for a variance must be in writing and filed with the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240. A copy of the application must be mailed or otherwise delivered to the District Manager of the Metal and Nonmetal Mine Health and Safety District of the Bureau of Mines in which the mine is located and a copy must be mailed or otherwise delivered to the State agency responsible for health and safety in the mine.

56.24–3 Before an application for a variance is filed, the person making such application shall give notice of the contents of the application to all persons employed in the area of the mine that would be affected by the variance if granted. Such notice may be given by the delivery of a copy to each such employee individually; or by the delivery of a copy of the application to an organization, agency, or individual authorized by the employees to represent them; or by posting a copy on a bulletin board at the mine office or in some other appropriate place at the mine adequate to give notice to the employees. An application will be rejected if it does not show that the notice required by this subsection has been given.

56.24–4 An application for a variance must:

(a) Specify the mandatory standard or standards from which the variance is requested;

(b) Describe the variance requested;

(c) Identify the areas of the mine that would be affected by the variance;

(d) Give the reasons why the standard or standards cannot or should not be strictly complied with;

(e) Specify the time period for which the variance is requested;

(f) Describe the work assignments of persons employed in affected areas of the mine, specifying the number of persons having each work assignment;

(g) Explain how the health and safety of persons employed in the affected areas of the mine will be no less assured if the requested variance is granted than through strict compliance with the standard or standards;

(h) Indicate the authority of the person signing the application;

(i) Include a statement describing how, and on what dates, the notice required in subsection 56.24–3 was given.

56.24–5 For a period of 15 days following the date on which an application for a variance is filed, any interested person may submit to the Director, Bureau of Mines, written data, views, or arguments, respecting the application. Copies of such comments shall be mailed or otherwise delivered to the District Manager of the Health and Safety District of the Bureau of Mines in which the mine is located and to the State agency responsible for health and safety in the mine. The Director may hold a public hearing if he determines that such a hearing would contribute to his consideration of the application. The Director shall issue a decision on an application promptly following the expiration of the period of 15 days and the conclusion of a hearing, if any.

56.24-6 Notwithstanding the provisions of subsection 56.24-5, a temporary variance from a mandatory standard may be approved before the expiration of the 15-day period for a specified time not to exceed 45 calendar days after receipt of the application, if the application is for a variance that would, in the judgment of the Director, clearly provide a level of health and safety to the persons employed in the areas of the mine that would be affected thereby no less than would be provided by compliance with a particular mandatory standard.

56.24-7 This § 56.24 does not authorize the Director to permit a variance from any mandatory standard relating to exposure to concentrations of airborne contaminants or from any mandatory standard relating to exposure to concentrations of radon daughters.

[F.R. Doc. 70-7933; Filed, June 23, 1970; 8:45 a.m.]

[30 CFR Part 57]

METAL AND NONMETALLIC UNDERGROUND MINES

Health and Safety Standards

This notice sets forth proposals to amend, revise, or redesignate health and safety standards which either have been proposed or have been promulgated for underground mines under the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721-740). A procedure for variance also is proposed. Interested persons may, within a period of 45 days following publication of this notice in the FEDERAL REGISTER, submit written data, views, or arguments with respect to the proposals. Any person who is adversely affected by a proposal to amend or revise a standard designated as mandatory or by a proposal to designate a standard as mandatory may, within the period of 45 days, file written objections thereto stating the grounds for such objection and requesting a hearing. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

WALTER J. HICKEL,
Secretary of the Interior.

JUNE 10, 1970.

[§ 57.3 Ground control]

Standard 57.3-4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3671), as an advisory standard and reads as follows:

57.3-4 Safe means for scaling pit-banks should be provided. Exposed banks should be scaled before any other work is performed in the exposed bank area.

This standard applies to surface only. It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 57.4 Fire prevention and control]

1. Standard 57.4-23 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 680). The standard would apply both to surface and underground. It is proposed to revise this standard to read as follows:

57.4-23 *Mandatory.* Firefighting equipment provided on the mine property shall be strategically located, readily accessible, plainly marked, properly maintained, and inspected periodically. Records shall be kept of such inspections.

2. Standard 57.4-28 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672), as an advisory standard and reads as follows:

57.4-28 Portable cutting and welding equipment should be equipped with suitable fire extinguishers.

The standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a madatory standard.

3. Standard 57.4-40 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672), as an advisory standard and reads as follows:

57.4-40 Fire-alarm systems should be provided and maintained in operating condition to warn employees endangered by a fire.

This standard applies to surface only. It is proposed that this standard be designated and phrased as a mandatory standard.

4. Standard 57.4-67 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672), as an advisory standard and reads as follows:

57.4-67 A mine rescue station equipped with at least 10 sets of approved and properly maintained 2-hour self-contained breathing apparatus, adequate supplies, and spare parts should be maintained at mines employing 75 or more men underground or, in lieu thereof, the mine should be affiliated with a central mine rescue station.

This standard applies to underground only. It is proposed that this standard be designated and phrased as a mandatory standard.

5. Standard 57.4-70 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672), as an advisory standard and reads as follows:

57.4-70 At mines employing 75 or more men underground, at least two rescue crews (10 men) should be trained at least annually in the use, care, and limitations of self-contained breathing and firefighting apparatus and in mine-rescue procedures. Smaller mines should have at least one man so trained for each 10 men employed underground.

This standard applies to underground only. It is proposed that this standard be designated and phrased as a mandatory standard.

[§ 57.5 Air quality, ventilation, and radiation]

1. Standards 57.5-1, 57.5-5, 57.5-10, and 57.5-16 were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 681). In lieu of these standards it is proposed to promulgate the following standards:

57.5-1 *Mandatory.* Except as permitted by standard 57.5-5:

(a) The exposure to airborne contaminants of a person working in a mine shall not exceed, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the most recent edition of the Conference's publication entitled "Threshold Limit Values of Airborne Contaminants." Excursions above the listed threshold limit values shall not be of a greater magnitude than is characterized as permissible by the Conference. This paragraph (a) does not apply to airborne contaminants given a "C" designation by the Conference—for example, nitrogen dioxide.

(b) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant given a "C" designation by the Conference which exceeds the threshold limit value (ceiling "C" limit) listed for that contaminant.

* * * * *

57.5-5 *Mandatory.* Respirators shall not be substituted for environmental control measures. However, where environmental controls have not been developed or when necessary by nature of the work involved (for example, welding, sand blasting, lead burning), a person may work for short periods of time in concentrations of airborne contaminants which exceed ceiling "C" limits or the limit of permissible excursions referred to in standard 57.5-1, if such person wears a respiratory protective device approved by the Bureau of Mines as protection against the particular hazards involved.

This standard would apply both to surface and underground.

2. Standard 57.5-37 and paragraph (a) of standard 57.5-40 were promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672). It is proposed to revoke standard 57.5-40 and to revise standard 57.5-37 to read as follows:

57.5-37 *Mandatory.* (a) Where uranium ore is mined, samples to determine the concentrations of radon daughters present shall be taken in all active travelways and working places at least once each calendar week when uranium ore is being mined. The samples shall be taken during the various operations in the mining cycle and be as representative of the mine workers' actual exposure as possible. Time-occupancy data shall be recorded for each worker. Cumulative radon-daughter exposure records based on such samples shall be maintained for all underground workers. Individual cumulative exposure records shall be calculated by time-weighting applicable exposure levels determined by sampling.

(b) In a mine in which uranium is not mined, to determine whether concentrations of radon daughters are present, at least every 6 months two consecutive samples shall be taken (with an interval of at least 8 hours but not more than 24 hours between samples) in all active travelways and working places. The samples shall be as representative of the actual exposure of the mine workers as possible. If either sample exceeds 0.3 WL, a cumulative exposure record shall be kept for each employee entering the area sampled. Time-occupancy data shall be recorded for each such employee and shall be used in time-weighting the applicable exposure levels. If the cumulative exposure records of 3 consecutive months show cumulative exposures of less than 0.9 WL, the keeping of records may be discontinued.

This standard applies to underground only.

3. Standard 57.6-23 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 681). In lieu of proposed standard 57.6-23 it is proposed to add the following standard to Part 57:

57.5-42 *Mandatory.* If levels of permissible exposures to concentrations of radon daughters different from those prescribed in 57.5-38 are recommended by the Federal Radiation

Council and approved by the President, no employee shall be permitted to receive exposures in excess of those levels after the effective dates established by the Council.

This standard would apply to underground only.

[§ 57.6 Explosives]

1. Standard 57.6–5 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672), as an advisory standard. It is proposed that this standard be designated a mandatory standard and revised to read as follows:

57.6–5 *Mandatory.* Areas surrounding magazines or facilities for the storage of blasting agents shall be kept clear of all trash and other combustible materials for a distance not less than 25 feet in all directions.

This standard would apply both to surface and underground.

2. Standard 57.6–6 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3672). It is proposed to revise this standard to read as follows:

57.6–6 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any magazine or other place where explosives and detonators are stored, handled, or placed, or are being used in a mine.

This standard would apply both to surface and underground.

3. Standard 57.6–8 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–8 *Mandatory.* Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

This standard would apply both to surface and underground.

4. Standards 57.7–5 and 57.7–6, relating to electrical fixtures in magazines, were proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 682). It is proposed that these standards be eliminated and a new standard substituted in lieu thereof to read as follows:

57.6–11 *Mandatory.* Neither permanently installed nor temporary electrical circuits shall be permitted in a magazine. If artificial lighting is needed within a magazine, it shall be supplied only by permissible cap lamps, flashlights, or lanterns; or by safety flashlights or lanterns.

This standard would apply both to surface and underground.

5. Standard 57.6–45 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673), and reads as follows:

57.6–45 Vehicles containing explosives or detonators should not be taken to a repair garage or shop for any purpose.

This standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a mandatory standard.

6. Standard 57.6–50 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–50 *Mandatory.* Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured nonsparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

This standard would apply both to surface and underground.

7. Standard 57.6–52 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–52 *Mandatory.* No person shall smoke, carry matches or any other flame-producing device, firearms, or loaded cartridges while he is carrying or transporting explosives or detonators.

This standard would apply both to surface and underground.

8. Standard 57.7–58 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 682). It is proposed to renumber this standard 57.6–56 and to revise it to read as follows:

57.6–56 *Mandatory.* Substantial nonconductive closed containers shall be used to carry explosives, other than blasting agents, to blasting sites.

This standard would apply both to surface and underground.

9. Standard 57.7–65 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 682). It is proposed to renumber the standard 57.6–65 and to revise it to read as follows:

57.6–65 *Mandatory.* Vehicles containing explosives, other than blasting agents, or detonators shall not be left unattended except in blasting areas where loading or charging is in progress.

This standard would apply to surface only.

10. Standard 57.6–75 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673), as an advisory standard and reads as follows:

57.6–75 Men assigned to and responsible for hoisting should be notified whenever explosives or detonators are being transported in a shaft conveyance.

This standard applies to underground only. It is proposed that this standard be designated and phrased as a mandatory standard.

11. Standard 57.6–76 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–76 *Mandatory.* Hoisting in adjacent shaft compartments shall be stopped when explosives or detonators are being handled.

This standard would apply to underground only.

12. Standard 57.6–90 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–90 *Mandatory.* Persons who use or handle explosives or detonators shall be experienced men who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced men.

This standard would apply both to surface and underground.

13. Standard 57.6–91 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673), as an advisory standard and reads as follows:

57.6–91 Blasting operations should be under the direct control of authorized persons.

This standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a mandatory standard.

14. Standard 57.6–95 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–95 *Mandatory.* Smoking or open flame, the carrying of matches or any other flame-producing device, firearms, or loaded cartridges shall not be permitted within 50 feet of any place where explosives or detonators are stored, handled or placed, or are being used in a mine.

This standard would apply both to surface and underground.

15. Standard 57.6–101 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673), as an advisory standard and reads as follows:

57.6–101 No tamping should be done directly on a capped primer.

This standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a mandatory standard.

16. Standard 57.6–112 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–112 *Mandatory.* The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all men concerned with blasting.

This standard would apply both to surface and underground.

17. Standard 57.6–113 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673). It is proposed to revise this standard to read as follows:

57.6–113 *Mandatory.* When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the following table for a particular size round:

Number of holes in a round	*Minimum burning time, minutes*
1	2
2–5	2½
6–10	3½
11–15	5

In no case shall any 40-second-per-foot safety fuse less than 36 inches long or any 30-second-per-foot safety fuse less than 48 inches long be used.

This standard would apply both to surface and underground.

18. Standard 57.6–115 was promulgated in the FEDERAL REGISTER for July 31,

1969 (34 F.R. 12520), and reads as follows:

57.6–115 A safe interval of time should be allowed to light a round and evacuate the blasting area.

This standard applies both to surface and underground. It is proposed that this standard be revoked.

19. Standard 57.6–119 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3673), as an advisory standard and reads as follows:

57.6–119 Electric detonators of different brands should not be used in the same round.

This standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a mandatory standard.

20. Standard 57.6–131 was promulgated in the FEDERAL REGISTER for July 31, 1969 (34 F.R. 12520), as an advisory standard and reads as follows:

57.6–131 Power sources should be suitable for the number of electrical detonators to be fired and for the type of circuits used.

This standard applies both to surface and underground. It is proposed that this standard be designated and phrased as a mandatory standard.

21. Standard 57.6–161 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3674), as an advisory standard and reads as follows:

57.6–161 If explosives are suspected of burning in a hole, all persons in the endangered area should move to a safe location and no one should return to the hole until the danger has passed, but in no case within 1 hour.

This standard applies to surface only. It is propostd that this standard be designated and phrased as a mandatory standard.

22. Standard 57.6–170 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3674). It is proposed that this standard be revised to read as follows:

57.6–170 *Mandatory.* Where electric blasting is to be performed, electric circuits to equipment in the immediate area to be blasted shall be deenergized before explosives or detonators are brought into the area; the power shall not be turned on again until after the shots are fired.

This standard would apply to surface only.

23. Standard 57.6–177 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3674). It is proposed that this standard be revised to read as follows:

57.6–177 *Mandatory.* Misfires shall be reported to the proper supervisor and the blast area dangered-off until misfired holes are disposed of. Misfired holes shall be disposed of as soon as possible by one of the following methods:

(a) Reattempting to fire the holes if leg wires are exposed;

(b) Inserting another capped primer after the stemming has been removed;

(c) Washing the entire charge from the blasthole with water.

This standard would apply to underground only.

24. Standard 57.7–197 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 683). It is proposed that this standard as proposed be eliminated and a standard be substituted in lieu thereof to read as follows:

57.6–198 *Mandatory.* Plastic tubes shall not be used to protect pneumatically loaded blasting agent charges that include an electric detonator.

This standard would apply both to surface and underground.

[§ 57.7 Drilling]

Standard 57.7–4 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3674). It is proposed to revise this standard to read as follows:

57.7–4 *Mandatory.* Men shall not be on a mast while the drill-bit is in operation unless they are provided with a safe platform from which to work and they are required to use safety belts to avoid falling.

The standard would apply to surface only.

[§ 57.9 Loading, hauling, dumping]

Standard 57.9–15 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3674), as an advisory standard. This standard applies both to surface and underground. It is proposed that this standard be designated as a mandatory standard and revised to read as follows:

57.9–15 *Mandatory.* Unless the operator is otherwise protected, slushers shall be equipped with backlash guards, rollers, and drum covers, and anchored securely before slushing operations are started.

[§ 57.11 Travelways and escapeways]

Standard 57.11–50 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3675). It is proposed that this standard be revised to read as follows:

57.11–50 *Mandatory.* Every mine shall have two separate properly maintained escapeways to the surface which are so positioned that damage to one shall not lessen the effectiveness of the other.

This standard would apply to underground only.

[§ 57.12 Electricity]

1. Standard 57.12–9 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3675), as an advisory standard. This standard applies both to surface and underground. It is proposed that the standard be designated a mandatory standard and revised to read as follows:

57.12–9 *Mandatory.* Power wires and cables which present a fire hazard shall be well-installed on insulators of suitable size and capacity.

2. Standard 57.14–16 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 686). It is proposed to renumber this standard 57.12–16 and revise it to read as follows:

57.12–16 *Mandatory.* Electrical equipment shall be deenergized before work is done on such equipment. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Such locks, signs, or preventative devices shall be removed only by the persons who installed them or by authorized personnel.

This standard applies both to surface and underground.

3. Standard 57.14–17 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 686). It is proposed to renumber this standard 57.12–17 and revise it to read as follows:

57.12–17 *Mandatory.* Power circuits shall be deenergized before work is done on such circuits unless hot-line tools are used. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the power circuits from being energized without the knowledge of the individuals working on them. Such locks, signs, or preventative devices shall be removed only by the person who installed them or by authorized personnel.

This standard applies both to surface and underground.

4. Standard 57.12–36 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3675). It is proposed to revise this standard to read as follows:

57.12–36 *Mandatory.* Fuses shall not be removed or replaced by hand in an energized circuit, and they shall not otherwise be removed or replaced in an energized circuit unless equipment and techniques especially designed to prevent electrical shock are provided and used for such purpose.

This standard applies both to surface and underground.

5. Standard 57.14–80 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 687). It is proposed to renumber this standard 57.12–80 and revise it to read as follows:

57.12–80 *Mandatory.* Trolley wires and bare power conductors shall be guarded at man-trip loading and unloading points, and at shaft stations. Where such trolley wires and bare power conductors are less than 7 feet above the rail they shall be guarded at all points where men work or pass regularly beneath.

This standard applies to underground only.

6. Standard 57.12–89 was promulgated in the FEDERAL REGISTER for July 31, 1969 (34 F.R. 12523), and reads as follows:

57.12–89 *Mandatory.* The potential on trolley wires and bare feeder wires shall not exceed 650 volts.

This standard applies to underground only. It is proposed that this standard be revoked.

[§ 57.13 Compressed air and boilers]

Standard 57.13–21 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3676). It is proposed to revise this standard as follows:

57.13–21 *Mandatory.* Safety chains or suitable locking devices shall be used at

connections to machines of high-pressure hose lines of ¾-inch inside diameter or larger, and between high-pressure hose lines of ¾-inch inside diameter or larger, where a connection failure would create a hazard.

This standard applies both to surface and underground.

[§ 57.15 Personal protection]

1. Standard 57.17-3 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 688). It is proposed to renumber this standard 57.15-3 and revise it to read as follows:

57.15-3 *Mandatory.* All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

This standard applies applies both to surface and underground.

2. Standard 57.17-4 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 688). It is proposed that the standard be renumbered 57.15-4 and revised to read as follows:

57.15-4 *Mandatory.* All persons shall wear safety glasses, goggles, or face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

This standard applies both to surface and underground.

[§ 57.19 Man hoisting]

1. Standard 57.21-59 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 690). It is proposed to renumber this standard 57.19-59 and revised it to read as follows:

57.19-59 *Mandatory.* Whenever men are being hoisted or lowered by a manually operated hoist that is not equipped with a suitable deadman control mechanism, a second man familiar with and qualified to stop the hoist shall be in attendance; this standard shall not apply to sinking operations, level development, or repair operations in the mine.

2. Standard 57.19-64 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3677), as an advisory standard. It is proposed that the standard be designated as a mandatory standard and revised to read as follows:

57.19-64 *Mandatory.* Cable adjustments shall not be made while persons are on cages.

3. Standard 57.19-92 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3677), as an advisory standard. It is proposed to designate the standard as a mandatory standard and revise it to read as follows:

57.19-92 *Mandatory.* A method shall be provided to signal the hoist operator from cages or other conveyances at any point in the shaft.

4. Standard 57.19-108 was promulgated in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3677), as an advisory standard and reads as follows:

57.19-108. When men are working in a shaft "Men Working in Shaft" signs should be posted at all hoist-signalling or other devices controlling hoisting operations that may endanger such men.

It is proposed that the standard be designated and phrased as a mandatory standard.

[§ 57.21 Gassy mines]

1. Standard 57.21-99 was promulgated as an advisory standard in the FEDERAL REGISTER for February 25, 1970 (35 F.R. 3677). This standard applies only to underground operations in gassy mines. It is proposed that this standard be designated as a mandatory standard and revised to read as follows:

57.21-29 *Mandatory.* A booster fan shall be:

(a) Equipped with an automatic device to give alarm when the fan slows or stops, or equipped with a device that automatically cuts off the power in the area affected if the fan slows or stops.

(b) Provided with air locks, the doors of which open automatically if the fan stops.

2. Standard 57.22-42 was proposed in the FEDERAL REGISTER for January 16, 1969 (34 F.R. 692). It is proposed to renumber this standard 57.21-42 and revise it to read as follows:

57.21-42 *Mandatory.* Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in such mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

This standard applies to gassy mines only.

[§ 57.24 Variances]

It is proposed to add to Part 57 a new § 57.24 reading as follows:

57.24-1 Except as provided in subsection 57.24-7, the Director, Bureau of Mines, may, in accordance with the provisions of this § 57.24, permit a variance from a mandatory standard in this part. The Director may permit such a variance only by means of a written decision specifically describing the variance permitted and the restrictions and conditions to be observed and finding that, in the circumstances, the health and safety of all persons which the mandatory standard is designed to protect will be no less assured under the variance permitted. The Director may, in writing, delegate the authority conferred by this § 57.24 to the Deputy Director—Health and Safety, the Assistant Director, Metal and Nonmetal Mine Health and Safety, and the Metal and Nonmetal Mine Health and Safety District Managers.

57.24-2 An application for a variance must be in writing and filed with the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240. A copy of the application must be mailed or otherwise delivered to the District Manager of the Metal and Nonmetal Mine Health and Safety District of the Bureau of Mines in which the mine is located and a copy must be mailed or otherwise delivered to the State agency responsible for health and safety in the mine.

57.24-3 Before an application for a variance is filed, the person making such application shall give notice of the contents of the application to all persons employed in the area of the mine that would be affected by the variance if granted. Such notice may be given by the delivery of a copy to each such employee individually; or by the delivery of a copy of the application to an organization, agency, or individual authorized by the employees to represent them; or by posting a copy on a bulletin board at the mine office or in some other appropriate place at the mine adequate to give notice to the employees. An application will be rejected if it does not show that the notice required by this subsection has been given.

57.24-4 An application for a variance must:

(a) Specify the mandatory standard or standards from which the variance is requested;

(b) Describe the variance requested;

(c) Identify the areas of the mine that would be affected by the variance;

(d) Give the reasons why the standard or standards cannot or should not be strictly complied with;

(e) Specify the time period for which the variance is requested;

(f) Describe the work assignments of persons employed in affected areas of the mine, specifying the number of persons having each work assignment;

(g) Explain how the health and safety of persons employed in the affected areas of the mine will be no less assured if the requested variance is granted than through strict compliance with the standard or standards;

(h) Indicate the authority of the person signing the application;

(i) Include a statement describing how, and on what dates, the notice required in subsection 57.24-3 was given.

57.24-5 For a period of 15 days following the date on which an application for a variance is filed, any interested person may submit to the Director, Bureau of Mines, written data, views, or arguments, respecting the application. Copies of such comments shall be mailed or otherwise delivered to the District Manager of the Health and Safety District of the Bureau of Mines in which the mine is located and to the State agency responsible for health and safety in the mine. The Director may hold a public hearing if he determines that such a hearing would contribute to his consideration of the application. The Director shall issue a decision on an application promptly following the expiration of the period of 15 days and the conclusion of a hearing, if any.

57.24-6 Notwithstanding the provisions of subsection 57.24-5, a temporary variance from a mandatory standard may be approved before the expiration of the 15-day period for a specified time not to exceed 45 calendar days after receipt of the application, if the application is for a variance that would, in the judgment of the Director, clearly provide a level of health and safety to the persons employed in the areas of the mine that would be affected thereby no less than would be provided by compliance with a particular mandatory standard.

57.24-7 This § 57.24 does not authorize the Director to permit a variance from any mandatory standard relating to exposure to concentrations of airborne contaminants or from any mandatory standard relating to exposure to concentrations of radon daughters.

[F.R. Doc. 70-7934; Filed, June 23, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1003, 1004, 1016]

[Docket No. AO 160–A40, etc.]

MILK IN WASHINGTON, D.C., DELAWARE VALLEY, AND UPPER CHESAPEAKE BAY MARKETING AREAS

Termination of Proceedings on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Market	Docket No.
1004	Delaware Valley	AO 160–A40.
	and	
1003	Washington, D.C.	AO 293–A21.
1004	Delaware Valley	AO 160–A41.
1016	Upper Chesapeake Bay	AO 312–A18.

A public hearing was held at Philadelphia, on November 7–9, 1968, pursuant to notice thereof issued on October 28, 1968 (33 F.R. 16004) (Docket No. AO 160–A40).

The hearing was called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on April 18, 1969 (34 F.R. 6788, F.R. Doc. 69–4856), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision.

The material issues on the record of the hearing related to the modification of pooling standards for distributing and supply plants, substitution of a "Louisville Plan" in lieu of the existing base plan, reclassification of cream for fluid uses, and modification of provisions relating to the "dairy farmer for other markets," "producer," and "producer-handler" definitions.

In another proceeding a notice of hearing to consider a proposal to provide cooperative payment provisions in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay orders was issued April 25, 1969 (34 F.R. 7171) (Dockets Nos. AO 293–A21; AO 160–A41; AO312–A18). Pursuant to notice issued May 12, 1969 (34 F.R. 7705) this hearing was postponed indefinitely.

Subsequent to the actions in the above proceedings a hearing was held August 5–22, 1969, pursuant to notice issued July 3, 1969 (34 F.R. 11364), to consider the merger of the three orders. This notice and the hearing encompassed the issues involved in the prior proceedings, i.e., Dockets Nos. AO 160–A40; AO 293–A21; AO 160–A41; and AO 312–A18.

On the basis of the evidence introduced at the hearing held August 5–22, 1969, and the record thereof, the Deputy Administrator, Regulatory Programs, on March 16, 1970 (35 F.R. 4902), filed with the Hearing Clerk, U.S. Department of Agriculture his recommended decision recommending a single proposed tentative marketing agreement and order for the present three marketing orders. A final decision was issued May 18, 1970, and an order amending the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay orders into a single order, was issued in June 1970 to be effective August 1, 1970.

It is hereby found and determined that in view of the aforesaid action merging the three orders (Nos. 3, 4, and 16) into a single Order No. 4 for the Middle Atlantic marketing area, the prior proceedings relating to the individual orders, Dockets Nos. AO 160–A40; AO 293–A21; AO 160–A41, and AO 312–A18, have been rendered moot and therefore are hereby terminated.

Signed at Washington, D.C., on June 19, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70–7987; Filed, June 23, 1970; 8:48 a.m.]

[7 CFR Part 1007]

[Docket No. AO 366–A4]

MILK IN GEORGIA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Georgia marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Atlanta, Ga., on March 11, 1970, pursuant to notice thereof issued on February 28, 1970 (35 F.R. 3915).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on May 12, 1970 (35 F.R. 7566), 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.

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

1. Extending the present Class I price beyond the termination date of March 31, 1970, provided in the present order; and

2. Dividing the Southern Zone of the marketing area into two new zones to be designated the "Central Zone" and the "Southern Zone," and providing a location differential of plus 15 cents to be applicable to both the Class I and uniform prices at plants in the newly designated Southern Zone.

FINDINGS AND CONCLUSIONS

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

1. The Class I price level should be extended indefinitely with the same zone differentials over the basic formula price as exist in the present order.

When the order was promulgated, the Class I price was made effective for only 12 months. This was done to insure a review of the price level after the first year's operation of the order to determine whether such price properly reflected existing marketing conditions. To provide for continued operation of the order pending the review of the record evidence and the issuance of a decision thereof, the Assistant Secretary, on March 26, 1970, suspended the March 31, 1970, termination date.

Proponent cooperatives requested that the Class I price in the Northern Zone be maintained at its present level. Currently, the Class I price in the Northern Zone is the same as the Class I price level in the Chattanooga market.

The cooperatives further proposed dividing the present Southern Zone into two parts, a Central Zone and a Southern Zone. The Central Zone would be the area with the major population centers of the State. The proposed Class I price would be maintained at the level of the present Southern Zone which is 15 cents higher than the Northern Zone Class I price. A Class I price, 15 cents higher than the Central Zone price, was proposed by the cooperatives for the new Southern Zone.

The reasons given for these price levels by the proponents were: Proper alignment with the Chattanooga and Upper Florida markets; the cost of alternative supplies from the Chicago, Ill., area; and their contention present price levels in the order are not inducing an adequate supply of milk for the market.

The largest proprietary handlers operating three pool plants in the marketing area testified that no change should be made in the present Class I price level. This handler stated, on the basis of historical pricing in the State, that only one level of Class I prices is needed statewide. In his judgment, a statewide price at the present Southern Zone price would, on the basis of the past 12 months' production and sales figures, produce an adequate supply of milk for the market.

Although it is still necessary to import some milk from outside markets to supply the needs of handlers at certain times during the year, the overall supply pattern in Georgia is much improved over previous years.

Total milk production in the State of Georgia for the year 1969 was 5 percent greater than in 1968. In each month of 1969 production exceeded that of the corresponding month of 1968. In January 1970, production was 9 percent greater than in January 1969, and in February was 7 percent greater than in February 1969. These figures are taken

from the January and February 1970 issues of "Milk Production", a publication of the U.S. Department of Agriculture, Statistical Research Service, of which official notice was taken at the hearing.

Since the order has been in effect only since April 1, 1969, there are no figures available to make a month-to-month comparison of producer receipts by regulated handlers. Because most milk produced in Georgia is producer milk, subject to regulation under the order, total Georgia production is a reasonable index of the production pattern of Georgia producers whose milk is regulated by the order.

Since the order became effective, there has been a substantial increase in the number of producers supplying the market. In April 1969, there were 1,348 producers whose milk was pooled under the order. In January 1970, there were 1,532 producers. This is in sharp contrast to the situation in most other markets which have experienced a decline in producer numbers during the same period.

In September 1969, Class I sales by pool handlers exceeded receipts from producers by approximately 1.5 million pounds. Some other source milk has been allocated to Class I use in each month since the order became effective. The amounts so allocated ranged from a low of 1.94 million pounds in April 1969 to a high of 7.26 million pounds in September 1969. The latter figure equals 6.3 percent of the total milk handled during the month. Producer milk supplies are not quite sufficient yet to meet the complete requirements of the market, but in view of the substantial increases both in the volume of milk and in the number of producers that have occurred since the order became effective, it is reasonable to expect that continuation of this trend will bring supplies into full balance with demand at the present price level.

Hence, the present Class I differential of $2.10 plus an additional 20 cents per hundredweight should be incorporated in the order on a permanent basis.

The proviso which prevented the Class I price from being less than the Chattanooga price plus 15 cents is no longer applicable and should be deleted. When the order was promulgated, the Chattanooga order contained a supply-demand adjustor which caused the Class I price to fluctuate as supply varied in relation to demand. It was feared that should the difference in the Class I prices in the two markets be less than 15 cents, there could be an uneconomical shifting of producers from the Georgia market. An amendment to the Chattanooga order, effective December 1, 1969, eliminated the supply-demand adjustor and fixed the Class I differential at a level 15 cents below the Class I differential in the Georgia order.

2. A new pricing zone should not be established in southern Georgia.

Producers proposed to divide the current Southern Zone into two zones, to be designated the "Central Zone" and "Southern Zone" respectively. The new Southern Zone would include all the territory in Georgia south of the northern boundaries of the following counties: Stewart, Webster, Sumter, Dooly, Pulaski, Bleckley, Laurens, Johnson, Emanuel, Jenkins, and Screven. The remainder of the marketing area not in either the new Southern Zone or the Northern Zone would comprise the Central Zone.

A similar proposal was considered at the original promulgation hearing. On the basis of the hearing record, the Assistant Secretary concluded that there was no need for a higher minimum price level in southern Georgia to insure an adequate supply. It was pointed out then that southern Georgia is predominately rural and that most of the State's population resides in the central portion of the State. It was concluded that the same Class I price should apply at all plants in the area covered by the proposed Central and Southern zones, instead of providing a higher level of prices in the most southern portion of Georgia.

Proponents of the proposal to establish a new Southern Zone with a Class I price level 15 cents higher than that currently required of handlers so located stated that the higher prices are necessary for the following reasons.

(a) Production costs in this zone are higher than in the remainder of the State because the farms there are generally larger and require more hired labor; the land is better suited to a diversified agriculture than in the rest of the State; hence, dairymen there are in a position to shift from dairying to alternative farm enterprises;

(b) This zone is a deficit production area and, being farther from the sources of alternative supplies, it costs more to move supplemental milk to handlers in this zone; and

(c) A higher price is necessary to provide better price alignment with the Upper Florida market.

Proprietary handlers testified, on the other hand, that the productivity of farms in this zone is generally greater than in other parts of the State and that there has been no substantial shift from dairying to other farm enterprises. One handler witness stated that in Jenkins and Screven Counties, both in the Southern Zone, the trend is in the opposite direction; that farmers are shifting to dairying from other types of agriculture. Both counties are among the largest milk producing counties in the State at the present time. The proprietary handlers testified further that there is no need for a higher price in the southern part of the State to induce necessary supplies.

Cost factors in the Southern Zone are generally similar to those incurred throughout the State. There is no difference in the average cost of farm to plant hauling. No evidence was presented to show that the costs of replacement cows or of purchased grains and dairy feeds are any higher there than elsewhere in the State. While it was stated that more hired labor is employed on farms in this zone, it was not shown that the wages paid such labor are higher than in other parts of the State. It is noteworthy also that it is the practice of cooperatives to pay blend prices to their producers rather uniformly throughout the State rather than by zones.

From the foregoing, there is inadequate basis for distinguishing the proposed Southern Zone on the grounds of differences in major factors of production. Actually, during the past year the rate of the increase in milk production in this zone has been at least as great as in the remainder of the State. There has been no decline in the number of producers whose farms are located there since the order became effective.

Also, the supply areas of plants in the two zones overlap to a great degree. Several plants in the proposed Central Zone receive milk from producers whose farms are in the Southern Zone. One handler operating sizeable plants in Macon and Augusta (both in the Central Zone) receives approximately 40 percent of the producer milk at each plant from farms located in the Southern Zone. Other plants in the Central Zone receive varying percentages of their milk from farms in the Southern Zone.

A handler operating a plant at Savannah in the Southern Zone receives 80 percent of his producer milk at this plant from farms in the Central Zone. Other plants in the Southern Zone also receive some milk from producers in the Central Zone. Substantial quantities of milk move out of the Jenkins-Screven County area (both in the Southern Zone) to plants at Washington, Macon, and Augusta, all in the proposed Central Zone.

As to the indicated deficit of supply in the Southern Zone, supplies locally available within the zone are more nearly in line with the requirements of plants located there than is the case in the rest of the State. As noted above, the volume of milk moving from farms in this zone to plants in the Central Zone is substantially greater than that moving to Southern Zone plants from farms located outside the zone. In December 1969, the number of producers whose milk was received at plants in the Southern Zone was less than the total number of producers with farms in this zone. If all the milk produced in the proposed Southern Zone were delivered to handlers in this zone, the demands of handlers so located would be fully covered. In view of the close interrelationships in distribution and supplies between the two zones, the distinction cannot be made that one is deficit and the other not.

Some milk bottled in the Southern Zone is regularly distributed in the Central Zone. Substantial quantities of packaged milk regularly move from the Central Zone to the Southern Zone. At least seven of the larger plants in the Central Zone have regular route disposition in the Southern Zone. The operator of one of these, a plant at Macon, sells 20 to 25 percent of the plant's Class I distribution in the Southern Zone. Another plant at Columbus, in the Central Zone, has route distribution in the Southern Zone equal to

17.3 percent of its total Class I disposition and to 20 percent of its Class I distribution within the State of Georgia.

From the above, it is concluded also that there is no clear line of demarcation between the proposed Central and Southern zones with respect to distribution of the plants in the respective zones.

Supplemental supplies brought in from outside the State are delivered primarily to pool plants located in the proposed Central Zone. The importation of supplemental milk supplies, in any case, represents only a small percentage of the total milk utilized in the marketing area. The differences in hauling cost on such supplemental supplies from a major producing area such as the Chicago milkshed would not be of such significance on delivery to a Southern Zone plant as compared with a Central Zone plant as to warrant a 15-cent higher price in the Southern Zone.

There is no indicated marketing problem arising from the present price alignment between the Georgia and Upper Florida markets. Prior to April 1, 1970, the Class I price in Upper Florida was 50 cents higher than the Georgia Class I price. Effective April 1, this difference was reduced to 35 cents.

Even with the former difference in Class I prices, the resulting blend prices did not cause producers to shift from the Georgia market to the Upper Florida market. A few producers normally associated with the Upper Florida market transferred, however, to the Georgia market in the fall of 1969. At that time a Georgia plant began bottling milk for a handler based in Jacksonville, Fla. The milk supplies from these producers represented approximately the volume of packaged milk which was moved back to the Upper Florida regulated handler. This temporary arrangement ended in December 1969 and the producers involved then returned to the Upper Florida market.

Route disposition to retail and wholesale outlets in Upper Florida by Georgia handlers is minimal. Two handlers regulated by the Upper Florida order have small route disposition in the Georgia marketing area. It must be concluded that the minor interchange of route disposition and supplies of milk from producers between the two markets has not seriously affected the competitive position of regulated handlers in either market.

On the basis of the evidence contained in this record, there should be no change in the Class I price level in the area now described in the order as the Southern Zone.

Counsel for certain handlers objected to the ruling of the Presiding Officer that witnesses could not present testimony with respect to proposed amendments which the Deputy Administrator had refused to include in the notice of hearing because they would not tend to effectuate the declared policy of the Act, or to other matters which the Presiding Officer deemed to be irrelevant and outside the scope of the hearing. Counsel presented an offer of proof which accompanied the hearing record.

This offer of proof has been reviewed and it is concluded that the Presiding Officer ruled correctly in rejecting the proffered testimony.

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

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

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

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

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 and Agreement Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Georgia marketing area 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.

Determination of Producer Approval and Representative Period

March 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on June 19, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Georgia Marketing Area

Findings and Determinations

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Georgia marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

[1] 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 said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on May 12, 1970, and published in the FEDERAL REGISTER on May 15, 1970 (35 F.R. 7566; F.R. Doc. 70-6004), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

Revise § 1007.51(a) to read as follows:

§ 1007.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.10 and plus 20 cents.

* * * * *

[F.R. Doc. 70-7989; Filed, June 23, 1970; 8:49 a.m.]

[7 CFR Part 1063]

MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Quad Cities-Dubuque marketing area is being considered for the months of July and August 1970.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1063.14 the proviso which reads "*Provided*, That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that the milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler."

The proposed suspension would permit unlimited diversion of producer milk during the months of July and August.

The suspension action is requested by Mississippi Valley Milk Producers Association, Inc., to accommodate the handling of reserve milk of the market. The association claims that unless the suspension action is taken much of the reserve milk supply will be moved from farms to pool plants and then reshipped to manufacturing plants rather than being moved directly from farms to manufacturing plants.

Signed at Washington, D.C., on June 19, 1970.

G. R. GRANGE,
Acting Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-7986; Filed, June 23, 1970; 8:48 a.m.]

[7 CFR Parts 1094, 1103]

[Dockets Nos. AO-103-A30, AO-346-A12]

MILK IN NEW ORLEANS, LA., AND MISSISSIPPI MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the New Orleans, La., and Mississippi 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 New Orleans, La., on April 9, 1970, and Jackson, Miss., on April 10, 1970, pursuant to notice thereof issued on March 31, 1970 (35 F.R. 5555).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on May 20, 1970 (35 F.R. 8235), 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 modification:

Under the subheading "1. Class II price.", the 21st paragraph is revised and a new paragraph is added immediately preceding subheading "2. Location differential on Class II milk."

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

1. Class II price.
2. Location differential on Class II milk (Part 1094).
3. Classification of milk transferred or diverted to nonpool plants.
4. Mileage on transfers and diversions to nonpool plants.
5. Whether emergency action is necessary with respect to issues No. 1 and 2.

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. *Class II price.* The Class II price in the New Orleans and Mississippi Federal milk orders during the months of September through January should be the basic formula price, which is the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported monthly by the U.S. Department of Agriculture, adjusted to a 3.5 percent butterfat test. During all other months the Class II price should be the basic formula price minus 10 cents, but such price should not be less than a butter-nonfat dry milk formula price. Should the butter-nonfat dry milk formula for the month exceed the basic formula price, the basic formula should be the Class II price.

The major cooperative association supplying both markets proposed the basic formula price (the Minnesota-Wisconsin price series) as the Class II price in each order. In its brief following the hearing, the cooperative suggested that the hearing record evidence indicated that the Class II price should be 10 cents less than the basic formula in the months February through August. Proponent also requested removal of location differentials on Class II and "excess" milk under the New Orleans milk order.

Currently the Class II price in the New Orleans order is the average "basic" price reported by four local manufacturing plants, plus 28.5 cents during February through August. During the remainder of the year 38.5 cents is added to the local plant average to derive the Class II price. The order provides also that the maximum Class II price at any time is the Minnesota-Wisconsin price plus 13.5 cents.

The Class II price in Mississippi is the lesser of the New Orleans Class II price or the basic formula price (in March through September the basic formula less 10 cents). In recent years the effective price has been the New Orleans price in all months.

The monthly average prices reported by the four local manufacturing plants have been continually lower than the Minnesota-Wisconsin price series and only the local plant average price has

been utilized in determining Class II prices in both markets.

In the New Orleans market the proponent cooperative supplies approximately 80 percent of the total milk delivered to handlers fully regulated by the order. In Mississippi, such cooperative supplies about 84 percent of the total milk delivered to regulated handlers. In each marketing area the cooperative assumes the major responsibility for handling reserve milk not needed at pool plants for Class I sales.

Proponent based its case on the existence of higher Class II prices in adjacent Federal order markets and the prices it receives for milk delivered to nonpool manufacturing plants which equal or exceed the Minnesota-Wisconsin price series. Additionally, proponent stated that the return for milk used for manufacturing in its own plants at least equals the value of manufacturing milk as established by the Minnesota-Wisconsin price series.

During 1969 the Gulf division of the proponent cooperative supplying the New Orleans market shipped approximately 9 million pounds of Class II milk to several nonpool manufacturing plants in Mississippi. Additionally, substantial quantities were received at the cooperative's Franklinton facility and then transferred to a neighboring manufacturing plant.

The division of proponent cooperative supplying the Mississippi market shipped about 31 million pounds of Class II milk to nonpool manufacturing plants during 1969. This represents about one-third of the total milk transferred or diverted to nonpool manufacturing plants from handlers regulated under the Mississippi order.

During the same period, approximately 29 million pounds of Class II milk were processed in the cooperative's own manufacturing plants regulated under the Mississippi order. This represents about 15 percent of the total Class II milk in the pool during 1969.

Prices received in 1970 by the proponent cooperative for all sales from its Mississippi and Gulf (New Orleans) divisions to nonpool manufacturing plants were equal to or higher than the Minnesota-Wisconsin price. During March 1970, the most recent month for which such information was available at the hearing, the Minnesota-Wisconsin price was $4.58 per hundredweight. Proponent testified that four nonpool manufacturing plants which received milk from it during March 1970 paid prices of $4.63, $4.58, $4.88, and $4.78 per hundredweight.

The Mississippi division of proponent cooperative regularly ships to four nonpool manufacturing plants. The average pay price of these plants to the Mississippi division of proponent cooperative for the 12-month period ending March 1970 was $4.62 per hundredweight. The Minnesota-Wisconsin price averaged $4.51 per hundredweight for the same 12-month period.

All prices received by the Gulf Division of proponent cooperative from nonpool manufacturing plants have exceeded the Minnesota-Wisconsin price throughout the 12-month period ending March 1970.

Proponent pointed out that the Class II price in the New Orleans and Mississippi Federal order markets is abnormally low when compared with Class II prices of surrounding Federal orders. During 1968 the New Orleans and Mississippi Federal order Class II price averaged $3.79 per hundredweight. During the same period nearby Federal orders averaged the following Class II prices: Northern Louisiana, $4.12; Memphis, $4.17; Nashville, $4.17; Chattanooga, $4.17; and South Texas (October–December only), $4.23.

During 1969 the difference between the Class II price of the New Orleans and Mississippi markets and those of the previously cited nearby Federal order markets increased. The average Class II price for New Orleans and Mississippi was $3.87 per hundredweight. Nearby Federal orders during the same period averaged the following Class II prices: Northern Louisiana, $4.25; Memphis, $4.42; Nashville, $4.42; Chattanooga, $4.42; and South Texas, $4.25.

The average price for all milk sold for manufacturing in the United States has exceeded the Class II price in the New Orleans and Mississippi Federal order markets every month since July 1966. This price, adjusted to a 3.5 percent butterfat test by using a butterfat differential of 8 cents for each one-tenth of 1 percent, exceeded the Class II price in the New Orleans and Mississippi orders in 1968 by approximately 26 cents per hundredweight, and in 1969 by about 25 cents per hundredweight.

In addition to the comparatively low Class II price yielded by the pricing formula used in these markets, the formula is inadequate because prices reported are not actual prices paid and reported prices represent so few plants. The prices reported by the nonpool plants which are used to establish the Class II prices under these orders are basic prices. Opponents, as well as proponents, recognized that the prices paid by the nonpool plants include additions for various attributes of the milk received by the nonpool plants. For example, a differential is added to the basic price when the milk is brought to the plant in a bulk tank truck; another for cooling; and still another for volume.

Further, the order provides that the Class II price be based on the average prices reported by four local manufacturing plants. Currently only two of the four plants are operating. Moreover, during part of February 1970 only one of these plants was in operation.

The Minnesota-Wisconsin price, on the other hand, represents actual prices paid farmers for manufacturing milk, including all such premiums. It is announced monthly by the U.S. Department of Agriculture and is based on a large sampling of plants in Minnesota and Wisconsin. Approximately one-half of the manufacturing grade milk sold in the United States is produced in these two States. The most competitive situation existing for manufacturing grade milk in the United States is in Minnesota and Wisconsin and because the series reflects supply and demand under highly competitive conditions, it thus represents the best measure of the average value of such milk.

Proponent cooperative stated the seasonal pattern of pricing Class II milk should be retained due to the volume of surplus milk produced during February through August and the lower prices of manufactured products during these months. Although there is some seasonal variation in the Minnesota-Wisconsin price, the variation in the Class II prices in these markets has been greater. The proponent cooperative proposed that the Class II price for the months February through August be the basic formula less 10 cents per hundredweight.

Adjustment of the price should be provided in the specified months but only if product prices drop seasonally more than the basic formula. If the basic formula price drops as much as product prices, any further reduction in the Class II price would not be required. To accomplish this the 10-cent reduction should be effective only to the extent that the price does not fall below a formula price based on wholesale prices of butter and nonfat dry milk.

Some nearby Federal order markets employ a butter-nonfat dry milk formula computed by multiplying the Chicago butter price by 4.2 and adding to that result the amount computed by multiplying the weighted average of carlot prices per pound of nonfat dry milk, f.o.b. manufacturing plants in the Chicago area, by 8.2. From the sum obtained, 48 cents is subtracted to yield the price per hundredweight. A similar alternate formula would be appropriate here. Therefore, during February through August the Class II price should be such butter-nonfat dry milk formula price but not lower than the Minnesota-Wisconsin price less 10 cents per hundredweight.

There was no opposition to some increase in the Class II price, but some handlers supported alternative formulas for deriving the Class II price which they believed might yield a lower price than the Minnesota-Wisconsin price series.

One handler proposed that milk used in certain manufactured products be priced lower than for other products. The lower price proposed for milk used in these products would be the average of prices paid at five nonpool manufacturing plants located in Mississippi and Alabama plus 66.5 cents per hundredweight during the months of February through August, and 76.5 cents per hundredweight during all other months. To determine the proposed differentials, the handler subtracted the average basic price from the price he received for milk delivered to these five nonpool manufacturing plants.

Even with the additions of 66.5 and 76.5 cents per hundredweight the proposed prices are not representative due to higher prices being paid on a large

portion of milk delivered to these nonpool plants. The proponent cooperative, which delivers more milk to these nonpool plants than this handler, receives substantially higher prices for milk sold to nonpool plants, in some cases from the same plant.

One Mississippi handler proposed that the Class II price be derived by a butter-nonfat dry milk formula.

A witness for the cooperative which proposed the Minnesota-Wisconsin price series for the Class II price testified that, in view of the cheese price dropping slightly in recent months and the increase in the support price of nonfat dry milk, it is possible that the two methods of deriving a Class II price will yield about the same prices. Over longer periods of time, prices computed by either method should tend to approximate each other.

Official notice is taken of the announcement of the April 1970 Class II price of Federal order No. 1096, which regulates the handling of milk in the Northern Louisiana marketing area. The Class II price in that order is the lower of the Minnesota-Wisconsin price or the butter-nonfat dry milk formula price. For April the butter-nonfat dry milk formula yielded a price of $4.58 per hundredweight; the Minnesota-Wisconsin price was $4.60 per hundredweight. This represents a substantial narrowing of past differences between such prices. In March 1970 the butter-nonfat dry milk formula was $4.27 and the Minnesota-Wisconsin price was $4.58.

These alternate pricing methods may yield prices even closer in May. Since the nonfat dry milk prices used in deriving the Class II price by the butter-nonfat dry milk formula are those taken from the 26th of one month to the 25th of the next month, the Class II price for April includes 1 week of lower prices prior to the increase in support prices on April 1.

Finally, one additional Mississippi handler, testifying in opposition to adoption of the Minnesota-Wisconsin price series in the orders, stated he felt nonpool plants would not accept his surplus milk at prices determined by the Minnesota-Wisconsin price series. The handler stated he does not receive prices as high as those received by the cooperative for milk delivered to the same plant. However, the handler did not know the exact prices he received, only that he received 10 cents per hundredweight over the Class II price established by the State order. This handler stated his approximate price for March 1970 was $4.34 per hundredweight. The evidence indicates that this handler should be able to obtain from nonpool plants prices which are in line with current values of manufacturing milk.

Exceptions were filed to the failure to establish a Class II price level for the months February through August 10 cents lower than the Minnesota-Wisconsin price. A review of the evidence provide no basis for establishing a lower price during such months. Prices received for excess milk moved to nonpool plants during these months were as high, or higher, compared to the Minnesota-Wisconsin price as in other months. Hence, any reduction in the price applicable during these months should apply only if wholesale prices of butter and nonfat dry milk are abnormally low relative to the Minnesota-Wisconsin price.

2. *Location differential on Class II milk.* The 13.5-cent differential, currently applicable to certain Class II milk in the New Orleans Federal milk order, should be removed so that one Class II price will apply uniformly throughout the marketing area.

At the present time all Class II milk received from producers at pool plants beyond 50 miles from the city hall in New Orleans or from the Terrebonne Parish Courthouse in Houma, La., is reduced by 13.5 cents per hundredweight. The 13.5-cent reduction also applies to the skim portion of Class II milk received at pool plants from producers inside the 50-mile zones which is dumped, used in animal feed, or accounted for as plant shrinkage.

In supporting testimony, the proponent cooperative stated that a uniform Class II price would be economically beneficial to the market. It would accomplish the same basic price for everyone thus making it advantageous to locate manufacturing plants near the source of supply.

As shown in the findings with respect to the Class II prices, market outlets are available at the full Class II price as herein provided. Hence, such Class II price should not be reduced at any location.

One handler opposed removal of the Class II location differential. This handler stated that if the Class II location differentials were removed, the Class I location differentials should be suspended. Class I location differentials were not a matter under consideration at this hearing. In any case, the economic considerations which must be taken into account when establishing Class I differentials are different from those with respect to Class II location differentials.

Removal of the Class II location differential is necessary to reflect the uniform value of Class II milk received at all locations for these two markets.

3. *Classification of milk transferred or diverted to nonpool plants.* The method of classifying milk transferred or diverted to nonpool plants (except producer-handlers and other Federal order plants) should be revised in both orders.

Proponent cooperative testified that the current transfer provisions in both orders are lengthy and can be shortened and improved with an alternate method of accounting for and classifying transfers or diversions from pool plants to nonpool plants. The proposed transfer provision will accommodate the pricing of such milk by assigning it to actual use at the nonpool plants.

The volume of milk being shipped to nonpool plants from both markets accentuates the need for improvement in these provisions. During January 1969 approximately 7 million pounds, or 60 percent, of the Class II milk in the Mississippi market (11.8 million pounds) were transferred to nonpool plants. During January 1970 about 8.3 million pounds, or 64 percent, of the total Class II in the Mississippi market (12.9 million pounds) were transferred to nonpool plants.

In the New Orleans market during 1968, approximately 47 percent of the total Class II was transferred to nonpool plants (94.9 million pounds of a total of 200.8 million pooled in Class II). During 1969 the percentage of Class II milk transferred to nonpool plants rose to 60 percent of total Class II milk pooled (126.5 million of 236.3 million pooled).

The initial step of assignment procedures applicable to transfers or diversions from Federal order pool plants is the same under both the current and proposed provisions. Any Class I route dispositions from the nonpool plant in Federal order marketing areas are assigned first to receipts from pool plants regulated under the respective orders. Any additional route sales in Federal order marketing areas are then assigned pro rata to remaining receipts from federally regulated plants. Beyond this point the proposed accounting and classification procedure differs from that currently employed in these orders.

Remaining Class I utilization at the nonpool plant should then be determined and assigned first to Grade A producers of the nonpool plant who the market administrator determines constitute the regular source of supply for the nonpool plant. Any remaining Class I should then be assigned pro rata to milk transferred or diverted from pool plants regulated by Federal orders.

The Class I disposition to be so assigned includes transfers of fluid milk products from the first nonpool plant to a second nonpool plant which are assigned to Class I. This occurs where the second nonpool plant has disposition of Class I fluid milk products in excess of receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such second nonpool plant.

The current provision in the orders makes transfers to second and succeeding nonpool plants Class I at the initial nonpool plant. Pool producers' milk is assigned first to this Class I disposition. The proposed provision will allow a classification based on actual use at the plant where the milk is ultimately used. This provision will classify the transfer to a second nonpool plant according to the same rules applied to transfers to the first nonpool plant.

Proponent also testified that a charge based on the difference between the Class I price and the uniform price should not be applied to transferred milk which had been priced previously as Class I. Such a charge could occur now when a nonpool plant has receipts from Federal order pool plants which are priced as Class I. The additional charge could occur if the nonpool plant transfers milk to another nonpool plant which

has Class I disposition entering a defined marketing area of a Federal order. Proponent stated that no such double payment should exist.

To the extent that a specific volume of milk is identified as having been priced as Class I, no additional charge should be applied to the same volume.

4. *Mileage on transfers and diversions to nonpool plants.* The mileage basis for classifying transfers and diversions of bulk milk to nonpool plants as Class I should be removed. Currently, the orders provide for Class I classification on bulk milk transferred or diverted to nonpool plants in excess of 350 miles from designated base points under the New Orleans order; and in excess of 200 miles from base points under the Mississippi order.

The proponent cooperative testified that such Class I classification is unnecessary and inappropriate under today's conditions. The number of nonpool manufacturing plants available for Class II disposition from New Orleans and Mississippi pool plants has been reduced to approximately half the number available 12 years ago. Where formerly there were 15 nearby nonpool manufacturing plants available for Class II disposition from pool plants, today there are only eight.

Originally, it was assumed that it was economically feasible to move milk beyond such distances only if it were for Class I use. Because milk for Class II use generally brings about the same price at all locations, it is uneconomical to transport it long distances.

Also, limiting such transfers or diversions to Class I saved some administrative costs. The cost involved in checking utilization at distant plants is less today because the Federal order system is so extensive. The 68 Federal milk orders are located throughout the continental United States, with exception of a few States, and arrangement for checking utilization at distant nonpool plants is feasible through the facilities of neighboring market administrators' offices.

There are instances now when the best outlet for surplus milk may be located outside the area within which milk may be moved and classified as Class II under the present provisions. The situation prompting proponent to request removal of the automatic Class I classification on long-distance transfers is the lack of adequate facilities at its Franklinton, La., plant.

The Franklinton plant processes a large volume of the Class II milk associated with the New Orleans market. However, in anticipation of expanding its facilities at Franklinton, proponent cooperative closed its plant at Brookhaven, Miss. The expansion at the Franklinton plant is not complete and the proponent cooperative has found it necessary to ship milk to its Lewisburg, Tenn., nonpool manufacturing plant. The Lewisburg operation has only Class II utilization, but under the present New Orleans order, bulk milk transferred or diverted to the Lewisburg operation is classified as Class I because the plant is more than 350 miles from the New Orleans city courthouse.

Removal of the automatic Class I classification will result in handlers accounting to the producer-settlement fund on the basis of its use at the plant to which the milk is so transferred or diverted. To obtain Class II classification handlers must claim Class II utilization in their monthly reports of receipts and utilization and records at the plant to which milk is transferred or diverted must be made available to the market adminstrator upon request.

5. *Whether emergency action is necessary with respect to issues No. 1 and 2.* Consideration was given to the need for emergency action with respect to issues 1 and 2 as herein discussed. The witness for the proponent cooperative which originally requested emergency action stated the cooperative was not seeking omission of the recommended decision, but was asking that prompt action be taken on the necessary amendments. Since these issues are important and complex, the recommended decision with respect to these matters should not be omitted.

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

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

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

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, 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, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the aforesaid specified 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.

Determination of Producer Approval and Representative Period

January 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the New Orleans, La., and Mississippi marketing areas, is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the respective marketing areas.

Signed at Washington, D.C., on June 19, 1970.

Richard E. Lyng,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in Certain Specified 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

[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.

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

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the order regulating the handling of milk in the aforesaid specified marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the specified orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on May 20, 1970, and published in the FEDERAL REGISTER on May 26, 1970 (35 F.R. 8235), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein, subject to the revisions of §§ 1094.44, 1094.46, 1094.62, 1094.86, 1103.44, 1103.46, 1103.62, and 1103.95.

PART 1094—MILK IN THE NEW ORLEANS, LA., MARKETING AREA

1. Section 1094.44(c) is revised as follows:

§ 1094.44 Transfers.

* * * * *

(c) As Class I milk, if transferred in bulk as milk, filled milk, skim milk or cream, or diverted, 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 assignments set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1094.30 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 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 Class I utilization disposed of on routes 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 receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to 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 the regular source of supply of Grade A milk for such nonpool plant;

(iii) Remaining Class I utilization (exclusive of transfers to Federal order plants) shall be assigned first to the receipts from dairy farmers who the market administrator determine constitute the regular source of supply of Grade A milk for such nonpool plant, and all remaining Class I utilization shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool 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 shall be classified as Class II milk;

* * * * *

§ 1094.44 [Amended]

2. In § 1094.44, paragraph (e) is revoked in its entirety.

§ 1094.46 [Amended]

3. Section 1094.46 *Allocation of skim milk and butterfat classified,* is amended as follows:

a. Paragraph (a)(1) is revised as follows:

(1) Subtract from the total pounds of skim milk classified:

(i) From Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under 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;

(ii) From Class II the pounds of skim milk classified as Class II pursuant to § 1094.41(b)(6);

b. Paragraph (a)(3)(iv) is revised as follows:

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

c. The introductory text of subdivision (i) in paragraph (a)(4) is revised as follows:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (1)(i) and (3)(iv) of this paragraph:

d. Paragraph (a)(6) is revised as follows:

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

e. Paragraph (a)(7) is revised as follows:

(7) 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 (1)(i), (3)(iv), or (4)(i) of this paragraph;

f. Paragraph (a)(10) is revised as follows:

(10) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1094.44(e); and

4. Section 1094.62(b)(2) is revised as follows:

§ 1094.62 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing 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) Received from a nonpool plant which is not an other order plant to the

extent that an equivalent amount disposed of to such plant by handlers fully regulated 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;

* * * * *

5. Section 1094.51(b) is revised as follows:

§ 1094.51 Class prices.

* * * * *

(b) *Class II milk prices.* The Class II milk price during the months of September through January shall be the basic formula price for the month computed pursuant to § 1094.50 and during all other months shall be the basic formula price minus 10 cents but not less than a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price for the month;

(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 by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; 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. The result shall be the Class II price except as provided in subparagraph (4) of this paragraph.

(4) If the price computed pursuant to subparagraphs (1), (2), and (3) of this paragraph exceeds the basic formula price, the basic formula price shall be the Class II price.

§ 1094.53 [Amended]

6. Section 1094.53(c) is revoked in its entirety.

7. In § 1094.70, paragraph (e) is revised as follows:

§ 1094.70 Computation of the net pool obligation of each pool handler.

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1094.46(a)(7) and the corresponding step of § 1094.46(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), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

§ 1094.76 [Amended]

8. Section 1094.76(b) is revoked in its entirety.

9. Section 1094.86 is revised as follows:

§ 1094.86 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 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may, from time to time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1094.46(a) (3) and (7) and the corresponding steps of § 1094.46(b), except such other source milk on which no handler obligation applies pursuant to § 1094.70(e); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1094.62 (b)(2).

PART 1103—MILK IN THE MISSISSIPPI MARKETING AREA

1. Section 1103.44(b) is revised as follows:

§ 1103.44 Transfers.

* * * * *

(b) As Class I milk, if transferred in bulk as milk, filled milk, skim milk or cream or diverted 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 assignments set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1103.30 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 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 Class I utilization disposed of on routes 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 receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to 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 the regular source of supply of Grade A milk for such nonpool plant;

(iii) Remaining Class I utilization (exclusive of transfers to Federal order plants) shall be assigned first to the receipts from dairy farmers who the market administrator determine constitute the regular source of supply of Grade A milk for such nonpool plant, and all remaining Class I utilization shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool 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 shall be classified as Class II milk;

* * * * *

§ 1103.44 [Amended]

2. In § 1103.44, paragraph (c) is revoked in its entirety.

§ 1103.46 [Amended]

3. Section 1103.46, *Allocation of skim milk and butterfat classified*, is amended as follows:

a. Paragraph (a)(1) is revised as follows:

(1) Subtract from the total pounds of skim milk classified:

(i) From Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under 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;

(ii) From Class II the pounds of skim milk classified as Class II pursuant to § 1103.41(b)(5) (i) through (vi);

b. Paragraph (a)(3)(iv) is revised as follows:

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

c. In paragraph (a)(4) subdivision (i) and the introductory text of subdivision (ii) are revised as follows:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraphs (1)(i) and (3)(iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products

from unregulated supply plants, that were not subtracted pursuant to subparagraphs (1)(i) and (3)(iv) of this paragraph and subdivision (i) of this subparagraph, which are in excess of the pounds of skim milk determined as follows:

d. Paragraph (a)(6) is revised as follows:

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

e. Paragraph (a)(7)(i) is revised as follows:

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (1)(i), (3)(iv), and (4) (i) or (ii) of this paragraph;

4. Section 1103.51(b) is revised as follows:

§ 1103.51 Class prices.

* * * * *

(b) *Class II milk prices.* The Class II milk price during the months of September through January shall be the basic formula price for the month computed pursuant to § 1103.50 and during all other months shall be the basic formula price minus 10 cents but not less than a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price for the month;

(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 by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; 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. The result shall be the Class II price except as provided in subparagraph (4) of this parargaph.

(4) If the price computed pursuant to subparagraphs (1), (2), and (3) of this paragraph exceeds the basic formula price, the basic formula price shall be the Class II price.

5. In § 1103.70, paragraph (e) is revised as follows:

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

* * * * *

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

6. Section 1103.62(b)(2) is revised as follows:

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

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing 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) Received from a nonpool plant which is not an other order plant to the extent that an equivalent amount disposed of to such plant by handlers fully regulated 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;

* * * * *

7. Section 1103.95 is revised as follows:

§ 1103.95 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1103.13(d), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1103.46(a)(3) and (7) and the corresponding steps of § 1103.46(b), except such other source milk on which no handler obligation applies pursuant to § 1103.70(e);

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1103.62(b)(2); and

(d) Milk received from a cooperative association in its capacity as a handler pursuant to § 1103.13(d).

[F.R. Doc. 70-7988; Filed, June 23, 1970; 8:49 a.m.]

[7 CFR Part 1136]

MILK IN GREAT BASIN MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Great Basin marketing area is being considered for the month of June 1970.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1136.11(a) the provisions in the first sentence which read "there is disposed of on routes fluid milk products, except filled milk, equal to not less than 50 percent of the receipts during the month at such plant of producer milk, producer milk diverted therefrom by the plant operator and receipts at the plant of fluid milk products, except filled milk, from plants described pursuant to paragraph (b) of this section, and".

These provisions pertain to the qualification of a distributing plant as a pool plant.

This suspension action is requested by Federated Dairy Farms, a cooperative, whose member producers supply a majority of the milk in the marketing area. The cooperative also operates pool plants regulated under the order. It states that its distributing plants may not be able to meet the above qualification provisions during June 1970 because it expects the receipts of milk at such plants will increase to the point where less than 50 percent of such receipts is disposed of on routes.

Signed at Washington, D.C., on June 19, 1970.

G. R. GRANGE,
Acting Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-7985; Filed, June 23, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-EA-39]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Millinocket, Maine, control zone (35 F.R. 2100) and transition area (35 F.R. 2223).

The U.S. Standard for Terminal Instrument Approach Procedures requires the alteration of the control zone and 700-foot transition area to provide airspace protection for aircraft executing the instrument approach procedures for Millinocket Municipal Airport, Millinocket, Maine.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Millinocket, Maine, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Millinocket, Maine, control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 45°38'50" N., 68°41'10" W. of Millinocket Municipal Airport, Millinocket, Maine; within 3.5 miles each side of a 094° bearing from the Millinocket RBN extending from the 5-mile radius zone to 10.5 miles east of the RBN and within 1.5 miles each side of the Millinocket VORTAC 298° radial extending from the 5-mile radius zone to the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Millinocket, Maine, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 45°38'50" N., 68°41'10" W. of Millinocket Municipal Airport, Millinocket, Maine, and within 3.5 miles each side of a 094° bearing from the Millinocket RBN extending from the 7-mile radius area to 11.5 miles east of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 8, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7947; Filed, June 23, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-EA-40]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Schenectady, N.Y., control zone (35 F.R. 2122) and Albany, N.Y., control zone (35 F.R. 2055) and transition area (35 F.R. 2136).

The U.S. Standard for Terminal Instrument Approach Procedures requires the alteration of the control zones and 700-foot transition area to provide airspace protection for aircraft executing the instrument approach procedures for Schenectady County Airport, Schenectady, N.Y., and Albany County Airport, Albany, N.Y.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Schenectady, N.Y., and Albany, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Schenectady, N.Y., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 42°51'15" N., 73°55'55" W. of Schenectady County Airport, Schenectady, N.Y.; within 2.5 miles each side of a 037° bearing from the Schenectady RBN (42°51'15" N., 73°55'45" W.) extending from the 5-mile radius zone to 8.5 miles northeast of the RBN; within 2.5 miles each side of the Schenectady VOR (42°51'05" N., 73°56'05" W.) 030° radial extending from the 5-mile radius zone to 8.5 miles northeast of the VOR; within 2 miles each side of the extended centerline of Runway 28, extending from the 5-mile radius zone to 9 miles west of the end of the runway and within 2 miles each side of the extended centerline of Runway 33, extending from the 5-mile radius zone to 5 miles northwest of the end of the runway, excluding the portion that coincides with the Albany, N.Y., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

(b) Delete the description of the Albany, N.Y., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 42°-44'40" N., 73°48'15" W. of Albany County Airport, Albany, N.Y.; within 3.5 miles each side of the Albany VORTAC 354° radial extending from the 5-mile radius zone to 11.5 miles north of the VORTAC and within 3 miles each side of the Albany VORTAC 182° radial extending from the 5-mile radius zone to 11.5 miles south of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Albany, N.Y., 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within the area bounded by a point on the Albany VORTAC 007° radial 23 miles north of the VORTAC, thence clockwise along the arc of a 23-mile radius circle centered on the Albany VORTAC to its point of intersection with the Albany VORTAC 037° radial, thence southwest along the Albany VORTAC 037° radial to a point 12 miles northeast of the VORTAC, thence clockwise along the arc of a 12-mile radius circle centered on the Albany VORTAC to its point of intersection with the arc of a 9-mile radius circle centered on the Schenectady VOR (42°51'05" N., 73°56'05" W.), thence clockwise along the arc of the 9-mile radius circle centered on the Schenectady VOR to its point of intersection with a line 2 miles south and parallel to the extended centerline of the Schenectady County Airport Runway 28, thence west along this parallel line to its point of intersection with the arc of a 13-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of this 13-mile radius circle to its point of intersection with the Schenectady VOR 342° radial, thence north along a line bearing 356° from this point to the point of intersection of this line and the arc of a 19-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of the 19-mile radius circle centered on the Schenectady VOR to its point of intersection with the arc of a 23-mile radius circle centered on the Albany VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 8, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7948; Filed, June 23, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18883; FCC 70-639]

FM BROADCAST STATIONS

Table of Assignments; Whaleyville, Va., etc.

In the matter of amendment of § 73.202 *Table of Assignments*, FM broadcast stations (Whaleyville, Va.; Americus, Ga.; Oakdale, Calif.; Goldsboro, and Roanoke Rapids, N.C.; Albany, Ga.; Lowell, Ind.; Hattiesburg, Miss.; Exeter, N.H.; South Lake Tahoe, Calif., and Fairmont, N.C.); Dockets Nos. 1883, RM-1481, RM-1484, RM-1490, RM-1492, RM-1500, RM-1503, RM-1519, RM-1529, RM-1531.

1. Notice is hereby given of proposed rule making in the above-entitled matter, concerning amendments of the FM Table of Assignments contained in §73.202 of the Commission's rules. All proposed assignments are alleged and appear to meet the spacing requirements of the rules. Any proposed assignments within 250 miles of the United States-Canadian border are subject to coordination with the Canadian Government under the terms of the Canadian-United States Agreement of 1947 and the Working Arrangement of 1963. All population figures are from the 1960 U.S. Census, except as otherwise indicated.

2. *RM-1481, Whaleyville, Va.* On July 15, 1969, a joint petition was filed by Lloyd A. Gatling and James F. Hope, Jr., Suffolk, Va., requesting assignment of Channel 221A to the town of Whaleyville, Va., as that community's first FM assignment. Whaleyville has a population of 402 persons and is located about 12 miles southeast of Suffolk, both of which are located in Nansemond County, population 31,366.[1] The only broadcast outlets presently operating from the county boundaries are Stations WLPM (AM), class IV, and WFOG (FM), class C, both operated by a common licensee at Suffolk.

3. Petitioners urge that the requested assignment to Whaleyville would make a first (local) broadcast service available to the "principal community of Holland town (338), Whaleyville town (564),[2] and the surrounding rural area (15,933)[3] in Cypress, Holy Neck, and Whaleyville Magisterial Districts of Nansemond County, a combined population of 16,673 persons." It is contended that Whaleyville and Holland and their surrounding rural areas, which petitioners are primarily interested in serving, do not receive programing pertaining to local news or to matters of local agriculture and rural interest from the Suffolk FM operation. Petitioners note that although Nansemond County is near two large metropolitan areas (Newport News—Hampton and Norfolk—Portsmouth), it is not a part of either of their urbanized areas and is geographically isolated from them by the James River or the Dismal Swamp.

4. The petitioners state that Channel 221A is the only channel assignable to Nansemond County consistent with the spacing requirements with other pertinent channels. A study provided of the impact resulting from assignment of Channel 221A on the potential assignment of educational Channels 218, 219, and 220 indicates that it would be minimal and would involve only potential class A and C stations on Channel 220. It is claimed that the preclusion area for Channel 220C does not include any place of more than 600 persons or major educational institution, and that the area involving Channel 220A is not one where the availability of class A channels is critical and, therefore, no institution would be deprived of a possible educational assignment. As for preclusion impact on commercial Channels 221A, 222, 223, and 224A, petitioners submit that Channels 222B, 223B-C, and 224A would not be involved and that any community affected on the remaining channels (221A and 222C) without an existing assignment and warranting consideration has other channels available.

5. We are ordinarily reluctant to make channel assignments to very small communities the size of Whaleyville. We are not persuaded that petitioners' "principal community area" concept, which reflects a relatively large "community" population to offset Whaleyville's small size, is appropriately applied in this case. However, according to petitioners' technical data, it appears that the requested assignment might be made without a significant impact on the availability of assignments for the potential needs of other communities. We are therefore including the proposal in the instant Notice in order that all interested parties may have an opportunity to submit comments and pertinent data on the proposed assignment to Whaleyville. We also solicit counter-proposals to assign the same or technically related channel to any other community if it can be shown to result in a more equitable and efficient assignment plan.

6. *RM-1484, Americus, Ga.* By a petition WISK(AM), daytime only, Ameri-Broadcasting Co., Inc., licensee of Station WISK(AM), daytime only, Americus, Ga., requests assignment of channel 249A to the same community. Americus, located about 33 miles north of Albany with a population of 13,472 persons, is the largest city and county seat of Sumter County, population 24,652.[4] In addition to the daytime AM station operated by petitioner, Americus has one other daytime AM station and one class A FM station, the latter two being operated by a common licensee.

7. In support of its request, petitioner submits that Americus is the principal community of its county and the key governmental center for an extensive area; that it is well situated to serve as the economic center for its area of Georgia; and that it is the home of two higher educational institutions with a combined enrollment of 2,739. Various statistics are provided on the financial, industrial and agricultural activities, for which it is claimed Americus serves as the center in the area.

8. By a supporting engineering statement it is represented that only Channel 249A itself would be preempted in a limited area from possible assignment to other communities if the proposed assignment were adopted. Three communities of greater than 2,000 population are involved, as follows: Ashburn (3,291), Montezuma (3,744), and Tifton (9,903). Petitioner notes that Ashburn and Montezuma each have a daytime AM station and that Tifton has two full-time AM stations as well as an unoccupied class C FM assignment.

9. We are of the opinion that sufficient showing has been made to warrant institution of rule making looking toward assignment of a second class A channel to Americus and we are therefore inviting comments on the petitioner's proposal to assign Channel 249A there.

10. *RM-1490, Oakdale, Calif.* Don Pedro Broadcasting Co., a potential FM applicant, filed a petition on July 30, 1969, supplementing it on October 1, 1969, requesting assignment of class B Channel 236 to Oakdale, Calif., without requiring any other changes in the table. Oakdale, located about 12 miles northeast of Modesto, has a population of 4,980 persons and is the third largest city in Stanislaus County, population 157,294. Oakdale has no FM or AM stations. There are three class B stations operating in the county, two being at Modesto (36,585) about 12 miles from Oakdale and the third at Patterson (2,246), about 33 miles distant. The Patterson station occupies the only channel listed in the table for Turlock (9,116), the second largest city in Stanislaus County.

11. Petitioner's engineering statement indicates that all minimum mileage requirements will be satisfied for the proposed channel, providing a site is selected some 23 miles east of Oakdale in the foothill area of the Sierra Nevada Range. Based on an assumed site providing an elevation of about 1,250 feet AMSL, it appears that the minimum required

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[1] The county population cited does not include that of Suffolk (12,609), an independent city located within the County.

[2] According to petitioners, a population survey conducted in 1968 by the Whaleyville Town Council resulted in a count of 564 persons.

[3] Petitioners state that the population of 15,933 includes that of Cypress, Holy Neck, and Whaleyville Magisterial Districts of Nansemond County, excluding the unincorporated places surrounding Suffolk.

[4] Petitioner states that the Georgia Department of Public Health estimated the Americus 1967 population at 15,100 and that the Americus Chamber of Commerce estimates the present population as being 17,000 to 18,000.

signal strength could be provided over Oakdale with class B facilities. Petitioner urges that no radio facility is presently provided to the eastern portion of Stanislaus County and that the proposed assignment would make available a first and only local station for the tri-city communities of Oakdale, Waterford (1,780), and LaGrange.[4]

12. Preclusion studies provided by the petitioner indicate that assignment of Channel 226 as proposed would develop fairly substantial preclusion areas where Channels 235, 236, 237A, and 238 could not be assigned. However, it is stated that the areas are generally east and north of the assumed site, which, for the most part, places them in the sparsely-populated higher elevations of the Sierra Nevada Range. Further studies are furnished for the purpose of showing the gains of service that would be provided on the assumption of a maximum class B facility for the proposed assignment. However, the conclusions drawn from the study are not based on the interpretations the Commission usually applies to gains in service, nor does the study include an assumed contour for Channel 284 assigned to Mariposa. Although it does appear that some first and second FM service may be provided by the proposal, they would not be to the extent represented. We are therefore unable to properly weigh this important consideration when based on the data provided. The data does indicate, however, that a maximum class A facility at Oakdale, while it would not provide a first or second service to any area, could provide service of local origin to Oakdale and Waterford and their surrounding areas. As a matter of fact, it appears that perhaps as much as 80 percent of the eastern-half of Stanislaus County (with a proportionate amount of population) might be served by a class A station situated in the vicinity of Oakdale.

13. Under the Commission's general FM assignment policies, Oakdale would qualify for a first FM channel. However, as we have previously stated in numerous cases, consideration of a first FM assignment to a community the size of Oakdale is usually limited to a class A channel. Exceptions have been made on occasions where it can be clearly demonstrated that, in comparison with a class A assignment, gains of first and second FM service would be provided to significant areas and populations by a class B or C channel. We are not convinced by the data before us in the instant case that sufficient gains would occur from a class B channel to warrant departure from our usual practice. We note that petitioner suggests that Channel 237A would work satisfactorily at Oakdale.

14. In view of the above, we are inviting comments from interested parties with relevant supporting data on the proposal to assign either Channel 236 or 237A to Oakdale. Parties supporting the assignment of Channel 236 should include a showing of any areas that would be provided with a first or second service when based on criteria previously accepted for such purposes.[5] Our ultimate decision as to whether Channel 236 or 237A should be assigned will include careful evaluation of any showings of first and second FM service gains to the area.

15. *RM–1492, Goldshare and Roanoke Rapids, N.C.* Southern Radio & TV Corp. (WFMC), licensee of Station WFMC, daytime AM, Goldsboro, N.C., seeks assignment of a second FM channel to Goldsboro, as follows:

City	Channel No.	
	Present	Proposed
Goldsboro, N.C.	245	245, 272A
Roanoke Rapids, N.C.	273	272A

16. The principal objective of petitioner is to restore the previous assignment of Class A Channel 272A to Goldsboro, which was deleted from there in 1967 so as to permit assignment of Class C Channel 273 to Roanoke Rapids.[7] That proceeding was instituted in response to a petition (RM–1934) filed by Halifax Broadcasting Co., Inc., then licensee of WCBT, Class IV AM, Roanoke Rapids. The proposed deletion of Channel 272A from Goldsboro was strongly opposed by each of the respective licensees of the two daytime-only AM stations at Goldsboro (WFMC and WGLO), both of whom expressed an interest in applying for the Goldsboro channel. The Commission's decision to delete Channel 272A from Goldsboro was based primarily on the showings of a first FM service that would be provided by Class C Channel 273 at Roanoke Rapids. Since the assignment was primarily made on the basis of the area that would obtain a first FM service, its assignment was made contingent on the use of at least 100 kw ERP and 500 feet antenna height above average terrain.[8] In the order deleting the Goldsboro channel and changing the assignments at Roanoke Rapids, we stated that in the event the Class C channel at Roanoke Rapids was not applied for within a reasonable period, either WFMC (petitioner herein) or any other interested party could file a petition to restore the previous assignments and that consideration would be given to the situation at that time.

17. In support of its request, WFMC states that no applicant ever applied for either the former Class A channel or the present Class C channel at Roanoke Rapids. It is submitted that under the present proposal, Roanoke Rapids will still have a Class A channel, urging that this should be ample for a city of less than 15,000 and its surrounding rural area. It is pointed out that the needs of the larger city of Goldsboro (23,507) and Wayne County (82,059) with three AM stations (one fulltime) and one FM station were set forth in pleadings filed in the earlier proceeding (Docket No. 17095). WCBT Radio, Inc., new licensee of WCBT (AM), Roanoke Rapids, submitted a letter stating that it will file comments supporting petitioner's proposal in the event a notice for it is issued.

18. It is shown by WFMC in an associated engineering statement that deletion of Channel 273 from Roanoke Rapids will eliminate existing preclusion for Channel 272A in a large area of eastern North Carolina and for Channel 274 in Buckingham County, Va.

19. In view of the apparent lack of interest by anyone in activating the Roanoke Rapids Class C channel since its assignment there in 1967, we believe that the petitioner's proposal looking toward restoring the assignment of Channel 272A to each of Roanoke Rapids and Goldsboro should be considered in light of existing circumstances. Accordingly, we are including petitioner's proposal in the instant Notice so that all interested parties may file pertinent comments.

20. *RM–1500, Albany, Ga.* On August 25, 1969, Lynne-Yvette Broadcasting Co., Inc., licensee of Station WLYB, daytime AM, Albany, Ga., filed a petition requesting amendment of the FM Table of Assignments so as to provide a third channel, 269A, for Albany, as follows:

City	Channel No.	
	Present	Proposed
Albany, Ga.	242, 253	242, 269A, 253

Albany is a city of 55,890 persons and the seat of Dougherty County, population 75,680. Albany presently has four AM stations, two fulltime and two daytime-only, and two Class C FM stations. The FM stations are respectively operated by licensees of two of the AM stations, one a Class IV, the other a daytime-only.

21. The petitioner states that an additional Class C channel is not available to Albany without disrupting existing assignments and that the proposed Class A assignment conforms with all the technical requirements of the rules. An engineering study included with the petition shows that no potential assignments would be precluded on any of the six pertinent adjacent channels, if the proposal were to be adopted. A small preclusion area would result involving the requested channel, 269A, which includes no community of more than 1,232 people without an FM assignment. This analysis is based on the unoccupied Channel 266 at Valdosta, Ga., for which two competing applications are pending, one specifying Valdosta, the other Lake Park, Fla.[9]

[4] LaGrange is unincorporated and is not listed separately in the 1960 U.S. Census. According to Rand McNally & Co. (1969), the LaGrange population is 80.

[5] See Further Notice of Proposed Rule Making, RM–1034, Docket 17095, June 9, 1967, FCC 67–665, for criteria considered acceptable for service area showings.

[7] FM Assignments, Roanoke Rapids, N.C., Docket No. 17095, 9 FCC 2d 672 (1967).

[8] This condition of minimum facilities is contained in a footnote to the listing of Channel 273 for Roanoke Rapids in the FM Table of Assignments.

[9] Petitioner notes that in case a grant of the Lake Park application is made, the preclusion area for Channel 269A would be enlarged and include the additional communities of Sylvester (3,610) and Fitzgerald (8,781), each having an AM (daytime) station but no FM assignment.

22. The petition includes data showing that Albany's population increased nearly 80 percent between 1950–60. The 1970 population is estimated by petitioner at 72,000 for Albany, 115,000 for Dougherty County. Additional statistics are included on the social, educational, industrial and financial facilities and activities of Albany to support the claimed importance of Albany to its surrounding area. It is noted that Albany is the largest population center within a 75-mile radius.

23. Considering the size of Albany and the rate of its past and anticipated growth, we are of the opinion that institution of rule making looking toward the possible assignment of a third FM channel there is warranted. We are therefore inviting interested parties to file comments on the proposal described above.

24. *RM–1503, Lowell, Ind.* A petition was received on July 22, 1969 (supplemented on Aug. 28, 1969), from Mr. William J. Dunn, a potential FM applicant, requesting the assignment of Channel 296A to Lowell, Ind., as the community's first FM channel. Lowell, population 2,270, is situated about 20 miles south of Gary, Ind., and is included within the Gary-Hammond-East Chicago Standard Metropolitan Statistical Area (SMSA) (Lake and Porter Counties, population 573,548). Lowell is not included in any urbanized area (1960 U.S. Census). To date only two FM channels have been provided for the SMSA, a Class B at Hammond (111,698) and a Class A at Valparaiso (15,227). It is noted, however, that the SMSA is adjacent to the Chicago SMSA where a plethora of FM facilities exist, a number of which it must be presumed provide service to Lowell and parts of its associated SMSA.

25. The separation between the standard reference points of Lowell and Plano, Ill. (where Channel 269A is assigned), is such that a future site for Channel 269A at Lowell may need to be located about 1 mile east thereof, in order to satisfy the minimum spacing requirements of the rules. A study by petitioner showing the effects of the proposed assignment, if adopted, reveals an area where future assignments of Channel 296A would be precluded, which extends as a narrow corridor from the proposed community of Lowell to Lafayette. West Lafayette (12,680) is the only community contained within the preclusion area larger than Lowell without one or more FM assignments. However, we note that West Lafayette is immediately adjacent to Lafayette (42,330) where three FM stations have been authorized.

26. In view of the apparent favorable preclusion aspects presented by petitioner's proposal, we are inviting comments on the possible assignment of Channel 296A to Lowell, Ind.

27. *RM–1519, Hattiesburg, Miss.* Deep South Radio, Inc., a potential FM applicant and the licensee of Station WBKH (AM daytime), Hattiesburg, Miss., filed a petition on October 10, 1969, requesting the assignment of a third FM channel to Hattiesburg, as follows:

City	Channel No.	
	Present	Proposed
Hattiesburg, Miss.	279, 283	269A, 279, 283

Hattiesburg is a city of 34,989 persons and the seat of Forrest County, population 52,722. Seven aural outlets presently operate in Hattiesburg, two Class IV and three daytime-only AM stations and two Class C FM stations.

28. It is shown by petitioner that the channel can be assigned to Hattiesburg in conformity with the minimum mileage requirements. A relatively small area would develop by the proposed assignment so that certain communities would be precluded from use of the channel. Included in the area are Prentiss (1,321) and Collins (1,537). Prentiss and Collins are seats of their respective counties; Prentiss has an FM assignment, Collins does not. Also included within the area is Petal (4,007), but it could apply for the assignment if made to Hattiesburg under the "10-mile rule" (Sec 73.203(b)).

29. Petitioner urges that, although two Class C FM stations operate in Hattiesburg, they are operated in conjunction with fulltime AM stations and therefore its proposal would permit program diversification and competition. It is claimed that Hattiesburg is experiencing growth in population,[10] industry and importance as a center of governmental activity in the southern part of the State.

30. Hattiesburg presently has seven aural outlets, including four fulltime operations. Under the population criterion used in the design of the original table of assignments, cities of less than 50,000 population were limited to two FM channels, as was done in the case of Hattiesburg.[11] We are therefore not persuaded that Hattiesburg may not already have its fair share of FM assignments. The adoption of the proposal would also mean the mixture of a Class A channel with two Class C channels in the same community, a result we have attempted to avoid, whenever possible. Finally, we are reluctant to adopt the third assignment for Hattiesburg if it would result in precluding the last available assignment to Collins (1,537), the seat of Covington County (13,637). Neither Collins nor its county has a local outlet.

31. In view of the above, we are inviting comments with supporting data from interested parties on whether Channel 269A should be assigned to Hattiesburg, or, in the alternative, to Collins. We particularly invite comments in this connection from officials of Collins and Covington County.

32. *RM–1529, Exeter, N.H.* On November 6, 1969, a petition was received from Coastal Broadcasting Co., Inc., licensee of Station WKXR, daytime-only AM, Exeter, N.H., requesting that Channel 296A be moved from Portsmouth, where it is unoccupied, to Exeter, as follows:

City	Channel No.	
	Present	Proposed
Exeter, N.H.		296A
Portsmouth, N.H.	262, 296A	262

Exeter, population 5,896, and Portsmouth, population 25,833, are located about 11 miles apart in Rockinham County, population 99,029. Exeter is the second largest city of the county and serves as its county seat. The proposed community has one daytime AM station, licensed to petitioner. Portsmouth has two AM stations, one daytime-only and the other unlimited-time. Of the two Portsmouth FM channels, the Class B channel (262) is operated by the licensee of the daytime AM station there; the Class A channel (296A) is vacant and unapplied for.

33. The petitioner claims that Rockingham County is the fastest growing county in the State and that Exeter and its area are only served by one local daytime outlet (WKXR), which it states is limited, for example, to the hours of 7:15 a.m. to 4:15 and 4:30 p.m. during December and January. It is urged that the proposed FM assignment would permit a first local full-time outlet to the area, including the summer resort area at nearby Hampton Beach, which, it is alleged, attracts thousands of visiting tourists annually.

34. We concur with petitioners showing that the proposed assignment would conform with the technical requirements of the rules and we are of the opinion that the proposed change in assignments described above warrants institution of a rule making proceeding. Accordingly, we are inviting comments on the proposal to shift Channel 296A from Portsmouth to Exeter, N.H.

35. *RM–1531, South Lake Tahoe, Calif.* On November 21, 1969, Mr. Philip D. Doersam filed a petition requesting assignment of Channel 261A to South Lake Tahoe, Calif. The community, incorporated in 1965, is located near the California-Nevada line about 40 miles south of Reno, Nev. South Lake Tahoe was not listed separately by the 1960 U.S. Census, but according to information supplied by petitioner, the city's permanent population increased from 13,500 in 1960 to 31,427 persons in 1968, with the population swelling to over 100,000 during the summer months. Petitioner describes the area as primarily recreational in nature, but with a large stable business population and an increasing number of permanent residents. South Lake Tahoe presently has two AM stations (one daytime and one Class IV) and one Class A FM station.

36. The proposed assignment would appear to satisfy all technical requirements at South Lake Tahoe. Although large preclusion areas would develop on related channels, this is not considered significant in this case because of the

[10] Petitioner cites the Hattiesburg Chamber of Commerce claim of 41,200 population.

[11] Further notice of proposed rule making, Docket No. 14185 (FCC 62–867), Aug. 1, 1962.

general availability of other possible assignments in the areas so affected.

37. In view of the size and rapid growth rate of South Lake Tahoe and its immediate area, we are of the opinion that institution of rule making looking toward the requested assignment is warranted. We are therefore inviting comments on the proposal to assign Channel 261A.

38. *Fairmont, N.C.* It has been determined that the assignment of Channel 292A to Fairmont, N.C., and Channel 239 to Lumberton, N.C. (original table of assignments, 1963), are incompatible with the subsequently adopted rule (§ 73.207) regarding required mileage separations for channels spaced 53 or 54 channels apart (IF taboo). Channel 292A is unoccupied at Fairmont; the Lumberton assignment, Channel 239, is occupied by an operating station.

39. In order to resolve the above inconsistency, we propose on our own motion the following changes in the table of assignments, none of which will involve authorized stations or pending petitions:

City	Channel No.	
	Present	Proposed
Fairmont, N.C.	292A	265A
Mullins, S.C.	265A	296A

40. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

41. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before July 27, 1970, and reply comments on or before August 6, 1970. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

42. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: June 17, 1970.

Released: June 19, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-7971; Filed, June 23, 1970; 8:47 a.m.]

[12] Commissioner Cox absent; Commissioner Johnson concurring in the result.

Notices

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

DELEGATION OF AUTHORITY RELATING TO CLAIMS BY OR AGAINST COMMODITY CREDIT CORPORATION

Pursuant to the authority vested in me by the Board of Directors of the Commodity Credit Corporation, I hereby delegate to the Deputy Vice President, Commodity Credit Corporation, who is Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, the following responsibilities with respect to claims by or against Commodity Credit Corporation, subject to and in accordance with applicable rules and regulations promulgated by the Commodity Credit Corporation:

The overall coordination and supervision of claims activities and operations in the Agricultural Stabilization and Conservation Service State and county offices, and in divisions of the Agricultural Stabilization and Conservation Service in Washington that report to the Deputy Administrator, State and County Operations. All matters involving the interpretation of claims policies affecting programs and functions of Commodity Credit Corporation shall require the concurrence of the Deputy Vice President, Commodity Credit Corporation, who is Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, before being put into effect.

The authority delegated herein may not be redelegated.

Terminated: Ca-246 (33 F.R. 18058), published December 4, 1968.

Effective date. This delegation of authority shall be effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 17, 1970.

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

[F.R. Doc. 70-7984; Filed, June 23, 1970; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1969 Rev., Supp. No. 23]

FEDERATED MUTUAL INSURANCE COMPANY

Change of Name

Federated Mutual Implement and Hardware Insurance Co., Owatonna, Minn., a Minnesota corporation, has formally changed its name to Federated Mutual Insurance Co., effective April 22, 1970. Documents evidencing the change of name are on file in the Treasury.

A new certificate of authority as an acceptable surety on Federal bonds, dated April 22, 1970, has been issued by the Secretary of the Treasury to the Federated Mutual Insurance Co., Owatonna, Minn., under sections 6 to 13 of Title 6 of the United States Code, to replace the certificate issued July 1, 1969 to the company under its former name, Federated Mutual Implement and Hardware Insurance Co.

The change in name of Federated Mutual Implement and Hardware Insurance Co. does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the certificate of authority issued by the Secretary of the Treasury.

Certificates of authority expire on June 30 each year, unless sooner revoked and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwritng limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: June 17, 1970.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 70-7938; Filed, June 23, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ALBUQUERQUE AREA DIRECTOR ET AL.

Delegation of Authority Regarding Forestry

JUNE 17, 1970.

Section 3.3 of Part 10 of the Bureau of Indian Affairs Manual, published at 34 F.R. 637 (F.R. Doc. 69-537), as amended, is further amended by revision of subsection (3) of Part D. This revision will increase the level of approval authority for timber sale contracts of the Albuquerque, Billings, Minneapolis, and Sacramento Area Directors from an estimated stumpage volume of 15 million feet, board measure, to 30 million feet, board measure. As so amended, the part will read as follows:

3.3 *Exceptions.* The authorities redelegated in 3.1 above do not include the following:

* * * * *

D. *Forestry.* * * *

(3) Issue advertisements and approve timber sale contracts on approved forms, involving an estimated stumpage volume in excess of 15 million feet, board measure, except in the Portland area where the stumpage volume limit is set at 50 million feet, board measure, and in the Phoenix, Albuquerque, Billings, Minneapolis, and Sacramento areas, where the stumpage volume limit is set at 30 million feet, board measure, pursuant to 25 CFR 141.8, 141.9 and 141.13.

LOUIS R. BRUCE,
Commissioner.

[F.R. Doc. 70-7997; Filed, June 23, 1970; 8:49 a.m.]

MOAPA RIVER INDIAN RESERVATION, NEV.

Ordinance Legalizing Introduction, Sale, or Possession of Intoxicants

JUNE 9, 1970.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the act of August 15, 1953, Public Law 277, 83d Cong., first sess. (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Moapa River Indian Reservation, Nev., was adopted on April 22, 1970, by the Business Council of the Moapa Band of Paiute Indians, which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Whereas, several problems have arisen on the Moapa River Indian Reservation which can be attributed to the over-consumption of intoxicating beverages, particularly by persons under the age of twenty-one (21) years; and

Whereas, in the best interests of the members of the Moapa River Reservation we, the Business Council of the Moapa Band of Paiute Indians, wish to regulate the introduction, sale and possession of intoxicating beverages on and within the exterior boundaries of the Moapa River Reservation.

Now therefore, be it enacted, by the Business Council of the Moapa Band of Paiute Indians, that the introduction and possession of intoxicating beverages shall be lawful within the exterior boundaries of the Moapa River Indian Reservation: *Provided*, that such introduction and possession is in conformity with the laws of the State of Nevada, and in accordance with the following:

SECTION 1. It shall be unlawful for any person to sell any malt, spiritous or vinous liquors, including beer, ale, wine or any other ardent or intoxicating liquor of any kind whatsoever.

SEC. 2. No person shall sell, deliver, give away or otherwise furnish intoxicating beverages to any person who is actually or apparently under the influence of intoxicating beverages.

SEC. 3. No person shall sell, give away or otherwise furnish intoxicating beverages to any person under the age of twenty-one (21) years, or leave or deposit any such intoxicating beverages in any place with the intent that same shall be procured by any person under the age of twenty-one (21) years.

SEC. 4. Intoxicating beverages will not be consumed by any person in any public building, grounds or roads within the exterior boundaries of the Moapa River Indian Reservation.

Penalty. Any Indian who violates any of the provisions of this ordnance shall be deemed guilty of an offense, and upon conviction thereof shall be punished by a fine of not less than $25 nor more than $100, or by sentence to imprisonment for not less than ten (10) days nor more than fifty (50) days, or both such fine and imprisonment. When any provision of this ordinance is violated by a non-Indian, he or she shall be referred to the State and/or Federal authorities for prosecution under applicable laws.

GEORGE D. SCOTT,
Acting Associate Commissioner of Indian Affairs.

[F.R. Doc. 70-7996; Filed, June 23, 1970; 8:49 a.m.]

Bureau of Land Management

[OR 4732]

OREGON

Notice of Proposed Classification for Multiple-Use Management; Correction

JUNE 16, 1970.

In F.R. Doc. 70-4517; appearing on pages 6082, 6083, and 6084 of the issue for Tuesday, April 14, 1970, the following changes should be made in the land descriptions:

WILLAMETTE MERIDIAN

T. 23 S., R. 9 E.,
Sec. 33, delete SW¼NW¼, add NE¼NW¼.
T. 23 S., R. 10 E.,
Sec. 33, delete SW¼NW¼, add SE¼NW¼.
T. 24 S., R. 10 E.,
Sec. 4, delete S½SE¼SE¼SE¼NW¼.
T. 37 S., R. 10 E.,
Sec. 4, delete NE¼SW¼, add SE¼NW¼;
Sec. 5, change portion of lot 4, add lot 5.
T. 37 S., R. 11 E.,
Sec. 33, delete SE¼SW¼, add SE¼NW¼.
T. 37 S., R. 11½ E.,
Sec. 11, delete S½SE¼, add N½SE¼;
Sec. 29, delete SE¼NW¼, add SE¼NE¼.
T. 38 S., R. 10 E.,
Sec. 31, delete lot 4.
T. 38 S., R. 11 E.,
Sec. 12, delete SE¼NE¼, add SW¼NE¼.
T. 38 S., R. 11½ E.,
Sec. 9, delete W½SW¼, add E½SW¼.
T. 39 S., R. 11½ E.,
Sec. 8, delete N½SE¼, add N½SW¼;
Sec. 30, delete S½NE¼, add S½SE¼;
Sec. 30, delete NE¼SE¼, add NE¼SW¼.
T. 40 S., R. 9 E.,
Sec. 26, delete W½NW¼, add E½NW¼.
T. 40 S., R. 15 E.,
Sec. 6, delete NW¼NE¼;
Sec. 6, delete SW¼NW¼, add SE¼NW¼;
Sec. 29, delete N½NW¼, add S½NW¼.
T. 41 S., R. 14 E.,
Sec. 18, delete SE¼NE¼.
T. 41 S., R. 15 E.,
Sec. 4, delete SE¼SW¼, add SE¼NW¼.

ARTHUR W. ZIMMERMAN,
Assistant State Director.

[F.R. Doc. 70-7929; Filed, June 23, 1970; 8:45 a.m.]

[OR 6400 (Wash)]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Land

JUNE 16, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6400 (Wash), for the withdrawal of public land described below. Said land is to be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, nor the disposal of materials under the act of July 31, 1947, and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the act of October 13, 1964.

This proposal for the Toats Coulee Road No. 390 will provide a means by which the Secretary of Agriculture can grant easements for road rights-of-way to private parties.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 NE. Oregon Street (Post Office Box 2965), Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

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

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

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

The land involved in the application is:

WILLAMETTE MERIDIAN

TOATS COULEE ROAD NO. 390

T. 39 N., R. 25 E.,
Sec. 28, SW¼SW¼;
Sec. 29, S½SE¼;
Sec. 33, NE¼NW¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of the Toats Coulee Road No. 390 as shown on the plats at the Land Office, Bureau of Land Management, 729 NE. Oregon Street (Post Office Box 2965), Portland, Oreg. 97208.

The area described contains about 1.39 acres.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-7928; Filed, June 23, 1970; 8:45 a.m.]

Fish and Wildlife Service

[Docket No. S-508]

NORMAN A. MOE

Notice of Loan Application

JUNE 17, 1970.

Norman A. Moe, Post Office Box 739, South Bend, Wash. 98586, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 44.5-foot registered length wood vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

D. L. BISBEE,
Acting Chief, Division of Financial Assistance.

[F.R. Doc. 70-7959; Filed, June 23, 1970; 8:46 a.m.]

[Docket No. G-469]

SCRAP FISH CO., INC.

Notice of Loan Application

JUNE 17, 1970.

Scrap Fish Co., Inc., Route 1, Box 217, Cameron, La. 70631, has applied for a loan from the Fisheries Loan Fund to aid

in financing the construction of a new 60-foot length overall steel vessel to engage in the fishery for shrimp, croaker, spot, menhaden, anchovies, cutlassfish, blue crab, and fish for industrial use.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

D. L. BISBEE,
Acting Chief,
Division of Financial Assistance.

[F.R. Doc. 70-7958; Filed, June 23, 1970; 8:46 a.m.]

National Park Service

[Order No. 55]

PROJECT COORDINATOR, SOUTH FLORIDA ENVIRONMENTAL PROJECT

Delegation of Authority

SECTION 1. *Delegation.* The Project Coordinator, South Florida Environmental Project, may execute, approve and administer contracts and issue purchase orders under $2,000 for supplies, equipment or services, in conformity with applicable regulations and statutory authority and subject to the availability of appropriations.

SEC. 2. *Redelegation.* The Project Coordinator may redelegate, in writing, the authority delegated in this order to any officer or employee and may authorize further redelegation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

(205 DM 11.1, 26 F.R. 11748; 245 DM .1, 27 F.R. 6395, as amended; 5 U.S.C. 22; sec. 2 of Reorganization Plan No. 3 of 1950)

Dated: June 11, 1970.

HARTHON L. BILL,
Acting Director, National Park Service.

[F.R. Doc. 70-7931; Filed, June 23, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 6483]

BACITRACIN STERILE POWDER

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following bacitracin drugs for injectable or topical use:

1. Bacitracin sterile powder; 10,000 or 50,000 units per vial, marketed by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 6-483).

2. Bacitracin sterile powder; 50,000 units per vial, marketed by Chas. Pfizer and Co., Inc., 235 42d Street, New York, N.Y. 10017 (NDA 60-282).

3. Bacitracin sterile powder; 50,000 units per vial, marketed by Philadelphia Laboratories, Inc., 9815 Roosevelt Boulevard, Philadelphia, Pa. 19114 (NDA 60-350).

Preparations containing bacitracin sterile powder are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Requests for certification of the drugs in the dosage forms described above should provide for labeling information in accord with labeling guidelines developed on the basis of this reevaluation of the drug and published in this announcement.

The Food and Drug Administration concludes that for the following indications bacitracin sterile powder is probably effective: Intramuscularly for the treatment of infants with pneumonia and empyema caused by staphylococci shown to be sensitive to the drug; and topically (in solution form) for treatment of superficial infections caused by micro-organisms shown by sensitivity studies to be susceptible. These indications are included in the labeling guidelines in this announcement. Batches of the drug which bear labeling with these indications and are otherwise in accord with the conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 12 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in these conditions for which it has been evaluated as probably effective.

Those parts of the labeling indicated below should be substantially as follows (optional additional information applicable to the drug may be proposed under other appropriate paragraph headings and should follow the information given below):

WARNING

Nephrotoxicity: Bacitracin in parenteral (intramuscular) therapy may cause renal failure due to tubular and glomerular necrosis. Its use should be restricted to infants with staphylococcal pneumonia and empyema when due to organisms shown to be susceptible to bacitracin. It should be used only where adequate laboratory facilities are available and when constant supervision of the patient is possible.

Renal function should be carefully determined prior to and daily during therapy. The recommended daily dose should not be exceeded and fluid intake and urinary output maintained at proper levels to avoid kidney toxicity. If renal toxicity occurs the drug should be discontinued. The concurrent use of other nephrotoxic drugs, particularly streptomycin, kanamycin, polymyxin B, polymyxin E (colistin), neomycin, and viomycin, should be avoided.

DESCRIPTION

(Descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS AND PHARMACOLOGY

Bacitracin, an antibiotic substance derived from cultures of *Bacillus subtilis* (Tracey), exerts pronounced antibacterial action in vitro against a variety of gram-positive and a few gram-negative organisms. However, among systemic diseases, only staphylococcal infections qualify for consideration of bacitracin therapy. Bacitracin is assayed against a standard and its activity is expressed in units, 1 mg. having a potency of not less than 50 units.

Sensitivity plate testing: If the Kirby-Bauer method of disc sensitivity is used, a 10-unit bacitracin disc should give a zone of over 13 mm. when tested against a bacitracin-sensitive strain of *Staphylococcus aureus*. Absorption of bacitracin following intramuscular injection is rapid and complete. A dose of 200 or 300 mg./kg. every 6 hours gives serum levels of 0.2 to 2 mcg./ml. in individuals with normal renal function. The drug is excreted slowly by glomerular filtration. It is widely distributed in all body organs and is demonstrable in ascitic and pleural fluids after intramuscular injection. Bacitracin used topically is not absorbed.

INDICATIONS

Parenteral use. In accord with the statements in the "Warning Box," the use of intramuscular bacitracin is limited to the treatment of infants with pneumonia and empyema caused by staphylococci shown to be sensitive to the drug.

Topical use. Bacitracin may be indicated for topical application in solution form in the treatment of superficial infections caused

by microorganisms shown by sensitivity studies to be susceptible to it.

CONTRAINDICATIONS

This drug is contraindicated in those individuals with a history of previous hypersensitivity or toxic reaction to it.

PRECAUTIONS

See "Warning Box" for precautions in regard to kidney toxicity associated with intramuscular use of bacitracin.

Adequate fluid intake should be maintained orally, or if necessary, by parenteral method.

When bacitracin is to be used topically in large amounts or over large skin areas for extended periods of time, renal function studies should be performed prior to and frequently during therapy. If significant adverse changes occur in renal function, therapy with bacitracin should be discontinued.

As with other antibiotics, use of this drug may result in overgrowth of nonsusceptible organisms, including fungi. If superinfection occurs, appropriate therapy should be instituted.

ADVERSE REACTIONS

Nephrotoxic reactions. Albuminuria. Cylinduria. Azotemia. Rising blood levels without any increase in dosage.

Other reactions. Nausea and vomiting. Pain at site of injection. Skin rashes. Irritation at site of topical administration.

DOSAGE AND ADMINISTRATION

Intramuscular use. Infant dose: For infants under 2500 Gm.—900 units/kg./24 hrs. in 2–3 divided doses. For infants over 2500 Gm.—1,000 units/kg./24 hours, in 2–3 divided doses.

Topical use. Solutions containing 500–1,000 units/ml. to be used for wet dressings.

Preparation of solutions. (To be supplied by manufacturer or distributor.)

Storage conditions. (To be supplied by manufacturer or distributor.)

The Food and Drug Administration concludes that for the following indications bacitracin sterile powder is possibly effective: In conjunction with intramuscular administration, by intrathecal, intraventricular, intracisternal, or intracerebral injection in the treatment of susceptible nonsurgical or neurosurgical infections, including osteomyelitis of the skull, septic cocceal meningitis, brain abscess, and postoperative infections; surgical infections of tissue and bones; topically in the treatment of susceptible infections of the skin, the eye, and the nose and throat; and in the form of compresses or instillations, may be used in secondarily infected wounds, ulcers, and pyodermas. Batches of the drug which bear labeling with these indications and are otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in these conditions for which it has been evaluated as possibly effective.

The Food and Drug Administration regards bacitracin sterile powder as lacking substantial evidence of effectiveness for its claimed indications for use by instillation in the nasal cavities and administration by inhalation as an aerosol in the treatment of bacitracin-susceptible infections of the upper and lower respiratory tract; by local injection into localized areas of infections such as furuncles, carbuncles, or abscess; and prophylactically in burns. Preparations containing the drug with labeling bearing these indications will no longer be acceptable for certification or release after the publication date of this announcement.

Any person who would be adversely affected by deletion of the indications for which the drug lacks substantial evidence of effectiveness, as described in this announcement, may within 30 days following the publication date of this announcement submit comments or pertinent data bearing on the effectiveness of the drug for such use. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence.

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth in this announcement. Requests for such meetings should be made to the Division of Antiinfective Drugs (BD–140), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6483 and be directed to the attention of the following appropriate office and addressed, unless otherwise specified, to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendments (identify with NDA number, if known): Division of Antiinfective Drugs (BD–140), Office of New Drugs, Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 9, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–7925; Filed, June 23, 1970; 8:45 a.m.]

[DESI 7630]

CERTAIN ANABOLIC STEROIDS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anabolic steroid drugs:

1. Nandrolone phenproprionate in sesame oil; marketed as Durabolin Injection 25 or 50 mg./ml.; by Organon, Inc., 375 Mount Pleasant Avenue, West Orange, N.J. 07052 (NDA 11–891).

2. Nandrolone decanoate in sesame oil; marketed as Deca-Durabolin Injection 50 mg./ml.; by Organon, Inc. (NDA 13–132).

3. Stanozolol; marketed as Winstrol 2-mg. tablet; by Winthrop Laboratories, Division of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 12–885).

4. Stanozolol; marketed as Winsteroid 2 mg. tablet; Winthrop Laboratories (NDA 13–268).

5. Methandrostenolone; marketed as Dianabol 2.5 or 5 mg. tablet; by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 12–226).

6. Oxymetholone; marketed as Adroyd 2.5, 5, or 10 mg. tablet; by Parke, Davis and Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 11–761).

7. Oxymetholone; marketed as Anadrol 2.5 mg. tablet; by Syntex Laboratories, Inc., 3401 Hillview Avenue, Stanford Industrial Park, Palo Alto, Calif. 94304 (NDA 12–733).

8a. Norethandrolone in sesame oil; marketed as Nilevar Injection 25 mg./ml.; by G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60080 (NDA 11–019).

b. Norethandrolone; marketed as Nilevar 10 mg. tablet; by G. D. Searle and Co. (NDA 10–400).

c. Norethandrolone; marketed as Nilevar Drops 8.3 mg./ml.; by G. D. Searle and Co. (NDA 11-683).

9. Methandriol; marketed as Stenediol Injection 25 or 50 mg./ml.; by Organon, Inc. (NDA 7-630).

10. Methandriol; marketed as Methylandrostenediol Aqueous Suspension 25 or 50 mg./ml.; by Maurry Biological Co., Inc., 6109 South Western Avenue, Los Angeles, Calif. 90047 (NDA 8-736).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. Nandrolone phenproprionate, nandrolone decanoate, stanozolol, methandrostenolone, oxymetholone, norethandrolone, and methandriol are probably effective as adjunctive therapy in the treatment of senile and postmenopausal osteoporosis, and in pituitary dwarfism (until growth hormone is more available).

2. These drugs lack substantial evidence of effectiveness for such ill-defined, vague, and general indications as: An adjunct to promote body tissue-building processes and to reverse tissue-depleting processes in such conditions as malignant diseases and chronic nonmalignant diseases; debility in elderly patients, and other emaciating diseases; gastrointestinal disorders resulting in alterations of normal metabolism; use during preoperative and postoperative periods in undernourished patients and poor-risk surgical cases due to traumatism; use in infants, children, and adolescents who do not reach an adequate weight; supportive treatment to help restore or maintain a favorable metabolic balance, as in postsurgical, postinfectious, and convalescent patients; of value in preoperative patients who have lost tissue from a disease process or who have associated symptoms, such as anorexia; retention and utilization of calcium; surgical aplications; gastrointestinal disease, malnourished adults, and chronic illness; pediatric nutritional problems; prostatic carcinoma; and edocrine deficiencies.

3. These drugs are possibly effective for their labeled claims not described in subparagraph 1 or 2 above.

B. *Indications permitted during extended period for obtaining substantial evidence.* 1. Those indications for which these drugs are described in paragraph A above as probably effective may continue to be used for 12 months and the indications evaluated as possibly effective may continue to be used for 6 months, following the date of this publication, to allow additional time within which holders of previously approved applications and persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

2. At the end of the 6-month and 12-month periods, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drugs for such uses. The conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

3. Within 60 days from publication hereof in the FEDERAL REGISTER the holders of approved new-drug applications for such drugs are requested to submit supplements to the applications to provide for revised labeling as needed which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug, deletes those indications for which substantial evidence of effectiveness is lacking, is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommends use of the drug for probably effective indications as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

As adjunctive therapy in senile and postmenopausal osteoporosis. Anabolic steroids are without value as primary therapy but may be of value in adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy and good general health-promoting measures.

In pituitary dwarfism anabolic agents may be used with care until growth hormone is more available.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 7630 and be directed to the attention of the following appropriate office and, unless otherwise specified, addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.

Original new-drug application: Office of New Drugs (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-201), Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Staff (CE-200), 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 28, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-7926; Filed, June 23, 1970; 8:45 a.m.]

OXYTETRACYCLINE HYDROCHLORIDE-POLYMYXIN B SULFATE OPHTHALMIC OINTMENT

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Terramycin Ophthalmic Ointment with Polymyxin B Sulfate; contains per gram 5 milligrams of oxytetracycline as the hydrochloride and 10,000 units of polymyxin B sulfate (equivalent to 1 milligram of polymyxin B standard); marketed by Pfizer Laboratories Div., Chas. Pfizer & Co., Inc., New York, N.Y. 09042.

The Academy concludes that this drug is effective against the ocular infections which are susceptible to these antibiotics. The Food and Drug Administration concurs with this evaluation.

Supplemental new-drug applications are invited to revise the labeling provided in new-drug applications for this drug to limit the claims and present the conditions of use substantially as follows:

INDICATIONS

For the prophylaxis and local treatment of superficial ocular infections due to oxytetracycline and polymyxin-sensitive organisms, including infections due to streptococci, rickettsiae, *E. coli*, and *A. aerogenes*, such as:

1. Conjunctivitis, keratitis, pink eye, corneal ulcer, and blepharitis in large and small animals.

2. Ocular infections due to secondary bacterial complications of distemper in dogs.

3. Bacterial ophthalmic inflammatory conditions which may occur secondary to other infectious diseases in both large and small animals.

ADMINISTRATION

Administered topically to the eye 2 to 4 times daily.

PRECAUTIONS

Allergic reactions may occassionally occur. Treatment should be discontinued if reactions are severe.

NOTE: The use of oxytetracycline and other antibiotics may result in an overgrowth of resistant organisms such as Monilia, staphylococci, and other species of bacteria. If new infections due to nonsensitive bacteria or fungi appear during therapy, appropriate measures should be taken.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new-drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications which have inadequate labeling in that it differs from the labeling presented above are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit revised labeling or adequate documentation in support of the labeling used.

Written comments regarding this announcement, including a request for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS–NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to that drug or any other interested person may obtain a copy of the report by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 12, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-7924; Filed, June 23, 1970; 8:45 a.m.]

SYNTEX LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additive Chlormadinone Acetate

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Syntex Laboratories, Inc., Stanford Industrial Park, Palo Alto, Calif. 94304, has withdrawn its petition (37–264V), notice of which was published in the FEDERAL REGISTER of June 11, 1969 (34 F.R. 9228), proposing that § 121.238 *Chlormadinone acetate* (21 CFR 121.238) be amended to provide for the safe use of chlormadinone acetate in the feed of chickens to delay the onset of egg production.

Dated: June 16, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-7923; Filed, June 23, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Office of Pipeline Safety

NORTHERN NATURAL GAS CO.

Grant of Waiver

By letter dated April 24, 1970, the Northern Natural Gas Company of Omaha, Nebr., requested permission to operate a 276-mile segment of its 24 inch B pipeline extending from Mullinville, Kans., to Palmyra, Nebr., at an increased maximum operating pressure of 800 p.s.i. for 1 year. The established operating pressure is now 700 p.s.i.

Petitioner states that the line, which has been in operation for approximately 20 years, was safely operated at 800 p.s.i. until the end of 1969 when the operating pressure was reduced to 700 p.s.i. The economic justification for the requested waiver, as stated by petitioner, was fully set forth in a notice of hearing published in the FEDERAL REGISTER on May 26, 1970 (35 F.R. 8247).

As announced in the referenced notice, a public hearing on petitioner's request was held at the Office of Pipeline Safety on June 12, 1970. The only appearance at the hearing was by petitioner's Counsel who stated that petitioner would rely on the justification set forth in its letter of April 24, 1970.

Based on information furnished by petitioner, it appears that—

(1) The original maximum operating pressure of 800 p.s.i. which petitioner used for over 20 years was based on the actual yield strength of the pipe as verified by mill test records which was an accepted practice under the recommended codes applicable at the time the pipeline was installed;

(2) If the maximum operating pressure is increased to 800 p.s.i., under proposed normal operations, considering pressure gradient, approximately 40 percent of the pipe would be subjected to pressures in excess of 700 p.s.i.

(3) In the 276 miles of pipeline affected, there are only 19 homes within 300 feet of the pipeline;

(4) From mid-1960 to the present, there have been no ruptures and only one leak (which was in a valve gasket) on the 276 miles of pipeline in question;

(5) The entire 276 miles of pipeline in question were tested in September 1966 to a minimum pressure of at least 10 percent over the then established maximum operating pressure;

(6) The pipeline in question is entirely welded, is externally coated, and has been under cathodic protection since it was constructed;

(7) There are seven compressor stations in the 276 mile segment of pipeline in question, each of which is manned 24 hours a day;

(8) A 72 percent stress level, based on the known minimum actual yield strength of the pipe in question, would permit a maximum authorized operating pressure of 797 p.s.i.; and

(9) Finally, the capability of the pipeline segment in question to operate above 700 p.s.i. has been demonstrated since, as noted above, this pipeline segment was operated at 800 p.s.i., until late in 1969.

For the foregoing reasons, I find that the requested waiver is not inconsistent with gas pipeline safety. Since this grant of waiver relieves a restriction, it may be made effective in less than 30 days.

In consideration thereof, effective June 19, 1970, Northern Natural Gas Co. is hereby authorized to operate its 276-mile segment of 24 inch pipeline from Mullinville, Kans., to Palmyra, Nebr., at a maximum operating pressure of not to exceed 797 p.s.i.

This waiver is granted under the authority of section 3(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672(e)), and the delegation of authority to the Acting Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Unless sooner suspended, amended, or revoked, this waiver expires July 1, 1971.

Issued in Washington, D.C., on June 18, 1970.

JOSEPH C. CALDWELL,
Acting Director, Office of Pipeline Safety.

[F.R. Doc. 70-7949; Filed, June 23, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21813; Order 70-6-109]

AIR CARRIER DISCUSSIONS

Order Concerning Commodity Description and Numbering System

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of June 1970.

By petition filed May 11, 1970, Emery Air Freight Corp (Emery), asks that the commodity code discussion authority[1] granted the direct air carriers by Order 70-2-32, dated February 9, 1970, in Docket No. 21813 be expanded to include Emery. In support of its request, Emery states that, as only a shipper participant in the airline discussions for which the Board order provides, they are not likely to be able to contribute directly to the full process of formation of the carriers' detailed positions; that their interest is very much broader than that of ordinary shippers; that they have as great a stake in the outcome of the discussions as the direct carriers; and that their position as an indirect air carrier would not be fully or adequately protected unless they participate in the airline discussions as a full party.

No person has supported, opposed, or otherwise filed comments with the Board concerning Emery's petition.[2]

[1] The discussion authority expires with Aug. 8, 1970.

[2] Emery served copies of their petition on Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

Upon consideration of the petition and other relevant matters, the Board will approve the request. The product, if any, of the airline discussions would be a multilateral agreement to implement a standard commodity code in their domestic freight tariffs, and/or to establish a procedure for the collection and dissemination of industry traffic data by means of such code. An indirect air carrier would probably find it necessary to adjust its tariff to reflect a new commodity description, following such action by a direct air carrier. Forwarder participation in the discussions should contribute to an improved and more comprehensive record, and possibly to increased standardization of tariffs among the two classes of carriers.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof:

It is ordered, That:

1. The petition of Emery Air Freight Corp. filed May 11, 1970, in Docket No. 21813 is approved;

2. Ordering paragraph 2 of Order 70-2-32 dated February 9, 1970, is hereby amended to read as follows:

2. Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., United Air Lines, Inc., Emery Air Freight Corporation, and other interested scheduled United States route air carriers and domestic indirect air carriers are authorized to engage in discussions of commodity description and numbering systems for interstate and overseas application through August 8, 1970;

3. This order will be served upon Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Emery Air Freight Corp.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-7992; Filed, June 23, 1970; 8:49 a.m.]

[Docket No. 22288; Order 70-6-108]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of June 1970.

By tariff filing[1] marked to become effective June 20, 1970, Eastern Air Lines, Inc. (Eastern), proposes to provide that not more than five unaccompanied children, ages 5 through 11, will be carried on a single flight between New York and San Juan. Eastern alleges that large numbers of children in this age bracket traveling on one flight require substantial attention and increased responsibility, which is amplified in the case of a flight diversion or an inflight emergency. The carrier states that it has experienced as many as 25 such children on a single flight in this market, despite the fact that full fares apply for this type of traffic. The demands on its inflight personnel thus created are also proving to be detrimental to the comfort and safety of other passengers.

The Commonwealth of Puerto Rico (the Commonwealth) has filed a complaint requesting that the Board suspend and investigate the proposal. The Commonwealth alleges that the proposed rule unjustly discriminates against a class of traffic; that as a common carrier Eastern must carry all who request its services; that the proposal constitutes an undue prejudice against Puerto Rico; and that the movement of unaccompanied children is important to both New York and Puerto Rico, and should not be subject to unjust or unreasonable restraints.

The Commonwealth also alleges that all service in the San Juan-New York/Newark market is nonstop, and that the problem of protecting unaccompanied children at intermediate stops does not therefore exist; that Eastern fails to substantiate the allegation that unaccompanied children present an impediment in an emergency; and that in case of an emergency, adults on board would instinctively assist these children. Finally, the Commonwealth states that the Board should not permit the rule to become effective absent an affirmative showing that Eastern will not cause any unaccompanied children to be stranded at the gate.

In answer to the complaint[2] Eastern alleges that safety is the prime motivation for its proposal; that stewardesses, already charged with the service and care of numerous adult passengers, cannot be expected to assume, in a fully attentive and competent manner, the guardianship of more than five unaccompanied children; and that a common carrier is not required to accept all persons without regard to the effect on the safe and convenient conduct of its business.

In addition, Eastern contends that, while the limitation was initially to be applicable only in the New York-San Juan market because this is the only market where a problem exists on a regular basis, it intends to make the rule applicable on its entire system so as avoid any appearance of preference and prejudice. The carrier also alleges that the rule will be simple to administer as it will be incorporated into its reservations system, which controls reservations for all points on its system at one reservations center.

Upon consideration of the tariff proposal, the complaint and answer thereto and other relevant matters, the Board finds that Eastern's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Eastern has supplied no factual data in support of the contention that it carries substantial numbers of unaccompanied children in the New York-San Juan market. Moreover, the Board is not persuaded that the proposed restriction is necessary in the interest of safety, as alleged. We note that although the carriers have been operating for years in this market without a restriction of the type proposed, no showing or allegation has been made of specific instances in which the presence of unaccompanied children has imperiled the safety of those children or other passengers on the aircraft. Finally, the proposal raises a serious question of discrimination against this segment of the traveling public which we do not believe should be permitted prior to investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions in Rule 8(C)(1)(d) on 9th revised page 14-B of Eastern Air Lines, Inc.'s, C.A.B. No. 58, and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule 8(C)(1)(d) on 9th revised page 14-B of Eastern Air Lines, Inc.'s, C.A.B. No. 58 is suspended and its use deferred to and including September 17, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaint of the Commonwealth of Puerto Rico in Docket No. 22247 is hereby dismissed; and

4. A copy of this order be filed with the aforesaid tariffs and be served on Eastern Air Lines, Inc., and the Commonwealth of Puerto Rico, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-7993; Filed, June 23, 1970; 8:49 a.m.]

[Docket No. 20993; Order 70-6-72]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority June 11, 1970.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act)

[1] Revisions to Eastern Air Lines, Inc.'s, Tariff C.A.B. No. 58.

[2] The Commonwealth filed a telegraphic motion requesting permission to file a reply to Eastern's answer. No good cause is shown for granting the otherwise unauthorized document and accordingly it is not being considered herein.

and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which relates to specific commodity rates applicable within the Western Hemisphere, was adopted by the 26th meeting of the Traffic Conference 1 Specific Commodity Rates Board held May 5–6, 1970, in Miami and has been assigned the above-designated CAB agreement number.

In general terms as it applies in air transportation, the agreement extends for a further period of effectiveness certain specific commodity rates, under current descriptions, adopted since the last meeting of the Rates Board held in New York on October 7, 1969. In addition to the cancellation of several rates, the agreement also proposes, inter alia, to name many rates to added points under existing commodity descriptions and to establish reduced rates under new commodity descriptions as set forth in the attachment hereto.[1]

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 21806 be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

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. 70–7991; Filed, June 23, 1970; 8:49 a.m.]

[Docket No. 22262; Order 70–6–104]

MISSISSIPPI VALLEY AIRWAYS, INC.

Order To Show Cause

Issued under delegated authority June 17, 1970.

The Postmaster General filed expedited notice of intent 70–8 on June 9, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, the domestic multielement rates[1] for the transportation of mail by aircraft between Janesville, Wis. and Chicago, Ill.

The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. North Central Airlines, Inc., the only interested certificated carrier, assures that no objection will be made to the notice of intent.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after June 14, 1970, to Mississippi Valley Airways, Inc., pursuant to section 406 of the Act, for the transportation of priority mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Janesville, Wis. and Chicago, Ill., shall be the rate established by the Board in Order E–25610, August 28, 1967.

2. The fair and reasonable final service mail rate to be paid on and after June 14, 1970, to Mississippi Valley Airways, Inc., pursuant to section 406 of the Act for the transportation of nonpriority mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Janesville, Wis. and Chicago, Ill., shall be the rates established by the Board in Order 70–4–9, April 2, 1970.

3. The service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302 and 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. All interested persons and particularly Mississippi Valley Airways, Inc., the Postmaster General, and North Central Airlines, Inc. are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the rates specified above, as the fair and reasonable rates of compensation to be paid to Mississippi Valley Airways, Inc., for the transportation of priority and nonpriority mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

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 Mississippi Valley Airlines, Inc., the Postmaster General, and North Central Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

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. 70–7994; Filed, June 23, 1970; 8:49 a.m.]

[1] Filed as part of the original document.

[1] The present rates per Order 70–6–38, June 5, 1970, are as follows:

Priority Mail by Air: 24 cents per ton-mile plus 9.36 cents per pound at Janesville, Wis., and 2.34 cents per pound at Chicago, Ill.

Nonpriority Mail by Air: 11.33 cents per ton-mile plus 9.36 cents per pound at Janesville, Wis., and 2.34 cents per pound at Chicago, Ill.

[2] 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 for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 631]

AIR-SEA FORWARDING SERVICE, INC.

Order of Revocation

By letter dated June 8, 1970, Air-Sea Forwarding Service, Inc., 720 Northwest, 27th Avenue, Miami, Fla. 33125, advised that it had ceased operations as an independent ocean freight forwarded under its License No. 631, and voluntarily returned said license for cancellation.

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

It is ordered, That the Independent Ocean Freight Forwarder License No. 631 of Air-Sea Forwarding Service, Inc., be and is hereby revoked effective June 8, 1970, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Air-Sea Forwarding Service, Inc.

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

[F.R. Doc. 70-7973; Filed, June 23, 1970; 8:47 a.m.]

PORT OF SEATTLE AND JAPAN LINE, LTD., ET AL.

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 10 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 agreements filed for approval by:

Mr. Richard D. Ford, Legal Officer, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreements Nos. T-2430 through T-2435, inclusive, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Nippon Yusen Kaisha, Yamashita-Shinnihon Steamship Co., Ltd., Showa Shipping Co., Ltd., and Mitsui-OSK Lines, Ltd., respectively (the Lines), are identical individual Container Stevedore Service Contracts. Under the terms of the agreements, the Port will provide comprehensive container services to the Lines at the Lines' container yard and berth at Terminal 18. Included in section 3 of the agreement are the following services to be performed by Port:

1. Receiving and delivering loaded and empty containers and loading and unloading of containers by yard equipment to or from chassis or railway cars or to or from on-dock CFS, including:

(a) Loading and discharging of containers on railway cars and ordinary securing by locking devices,

(b) Loading, discharging and supervising the securing of containers on compatible chassis.

2. A single sequence of sorting and stacking empty and loaded containers as may be specified by the Line: *Provided*, Additional sequence of moves at Contractor's direction will not be charged to Line.

3. Visual inspection of empty and loaded containers and reporting promptly by appropriate documents to Line as to any visual damage or defect. Roadability inspection of chassis and container will be provided upon request at an extra charge as provided in Item 13, Schedule of Rates.

4. Planning layout of containers and chassis in terminal yard.

5. Plugging, unplugging and precooling reefer containers at the terminal yard and periodic temperature readings.

6. Providing printed inventory of containers and chassis in yard, receipt, delivery and balance-on-hand of empty or loaded containers and chassis by equipment fleet number at extra charge as provided in Item 6, Schedule of Rates.

7. Providing guards and protective security.

8. Coordination with Line to expedite and trace containers and chassis located at terminal yard and/or Contractor-operated freight station.

9. Liaison with U.S. Customs, other officials, employees, agents, representatives, and Customs' broker for the Line to obtain all required permits for receipt, delivery, storage and movement of containers.

10. Weighing containers as may be required on scales to be provided by Contractor and promptly supplying Line with a record of such weights.

11. Ordering railway cars and liaison with railroad and trucking companies.

12. All necessary maintenance, sanitary, janitorial, and cleanup services on the wharf and at the Container Yard. Removal of ice and snow from wharf, roadways, and paved areas. Maintenance of the facility in a safe and sanitary condition.

13. Berthing and spotting of vessels (no lines handling or pilotage).

14. Ordinary terminal documentation which shall include the following documents using Line's form:

(a) Equipment Interchange Receipt,

(b) Daily report of CY damage to containers and damaged containers received.

The Commission requests comments from interested parties on (1) whether the agreements are subject to section 15; and (2) if so, whether the agreements should be approved, disapproved, or modified pursuant to section 15.

Dated: June 19, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-7972; Filed, June 23, 1970; 8:47 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

SECRETARY OF LABOR

Delegation of Authority

1. Pursuant to section 602(d) of the Economic Opportunity Act of 1964, as amended, the powers of the Director under Title I, Part E (Special Work and Career Development Programs) of the Economic Opportunity Act are hereby delegated to the Secretary of Labor except for reservations specified in this delegation. The powers of the Director under sections 602, 603, 604, and 611 are also delegated to the Secretary of Labor to the extent he deems necessary or appropriate for carrying out his functions and exercising his powers under Title I, Part E. All powers hereby delegated shall be exercised in accordance with the following paragraphs.

2. The Director will retain and exercise the following authority under Title I-E:

(a) Sole authority to establish, in consultation with the Commissioner of Social Security, the criteria for low income under section 165 of the Economic Opportunity Act; and

(b) Such other authority as is needed to carry out his responsibilities under the Economic Opportunity Act, including authority to conduct overall planning, programing and budgeting operations and controls and to evaluate overall program effectiveness and to assess program impact and to perform program monitoring functions as needed.

3. The delegated powers shall be administered by a single staff within the Department of Labor. They may be redelegated by the Secretary with or without authority for further redelegation.

4. The delegated powers shall be exercised pursuant to the terms of the memorandum of agreement which has been agreed to between the Office of Economic Opportunity and the Department of Labor pertaining to programs authorized under Title I-B of the Act or pursuant to such agreements as may subsequently be concluded between such agencies. Such agreements shall define the nature and objectives of the programs, criteria for program evaluation, and other policy matters of fundamental importance. Where OEO reserves powers of concurrence in the development of more detailed policies or in the application of policies in specific cases under existing or future agreements, arrangements will be made for promptly resolving any questions that may arise before any final action is taken by the Secretary.

5. All operating information, evaluation reports, and other data concerning

the programs administered under the delegated powers shall be freely exchanged between the Director and the Secretary pursuant to section 602(d) of the Act.

Dated: May 25, 1970.

DONALD RUMSFELD,
Director,
Office of Economic Opportunity.

Approved June 12, 1970.

RICHARD NIXON,
President of the United States.

[F.R. Doc. 70-7995; Filed, June 23, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-8248 etc.]

SUMMIT GAS & DEVELOPMENT CO., INC., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 15, 1970.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 10, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. All certificates of public convenience and necessity granting applications for sales from the Permian Basin area will be issued at rates not exceeding the applicable area ceiling rates established in Opinions Nos. 468 and 468-A, 34 FPC 159 and 1068, or the contractually authorized rates, whichever are less, unless at the time of filing of such certificate applications or within the time fixed for filing protests and petitions to intervene Applicants indicate in writing that they are unwilling to accept such certificates.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-8248 ..... E 5-28-70	Summit Gas & Development Co., Inc. (successor to Easter Gas Co.), 2725 Main St., Hurricane, W. Va. 25526.	Pennzoil United, Inc., Curry District, Putnam County, W. Va.	12.0	15.325
G-8250 ..... E 5-28-70	Summit Gas & Development Co., Inc. (successor to Winn Gas Co.).	....do....	12.0	15.325
G-18441 ..... (G-18084) C 5-18-70 [2]	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	El Paso Natural Gas Co., Jalmat Field, Lea County, N. Mex.	16.0	14.65
CI60-645 ..... E 5-18-70	Terra Resources, Inc. (successor to CRA, Inc.), 1410 Fourth National Bank Bldg., Tulsa, Okla. 74119.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Grosse Isle Field, Vermilion Parish, La.	20.0	15.025
CI61-1659 ..... E 6-3-70	....do....	Michigan Wisconsin Pipe Line Co., Northeast Gatelake Field, Beaver County, Okla.	20.540	14.65
CI63-403 E 6-1-70	Terra Resources, Inc. (Operator) et al. (successor to CRA, Inc. (Operator) et al.).	El Paso Natural Gas Co., Bar X Field, Grand County, Utah; and Mesa County, Colo.	[3] 14.0	15.025
CI63-642 ..... E 6-3-70	....do....	....do....	[3] 14.0	15.025
CI64-824 ..... C 5-25-70	Texaco, Inc. (Operator) et al., Post Office Box 52332, Houston, Tex. 77052.	Southern Union Gathering Co., Basin Dakota Field, San Juan County, N. Mex.	15.0	15.025
CI65-240 ..... E 6-3-70 [2]	Terra Resources, Inc. (successor to CRA, Inc.).	Michigan Wisconsin Pipe Line Co., Oakdale Field, Woods County, Okla.	[4] 15.0	14.65
CI65-551 ..... E 6-3-70	....do....	Arkansas Louisiana Gas Co., North Cooper Field, Blaine County, Okla.	[4] 17.8	14.65
CI66-1077 ..... C 5-12-70	John C. Oxley et al., Enterprise Bldg., Tulsa, Okla. 74103.	Arkansas Louisiana Gas Co., acreage in Haskell County, Okla.	[4] 15.0	14.65
CI67-463 ..... E 5-7-70	Lawrence T. McCullough et al. (successor to Phillip H. Jones et al., d.b.a. Porter Oil & Gas Co.), c/o John A. Smith, agent, Box 105, Bens Run, W. Va. 26135.	Consolidated Gas Supply Corp., Lafayette District, Pleasants County, W. Va.	20.0	15.325
CI67-907 [7] ..... E 2-27-70	David A. Wilson (successor to H. J. Bissell et al., d.b.a. Key Production Co.), Post Office Box 1415, Longview, Tex. 75601.	Lone Star Gas Co., Willow Springs Field, Gregg County, Tex.	[4] 16.56	14.65
CI68-1258 ..... B 5-12-70 [2]	Texas City Refining, Inc. (Operator) et al., Post Office Box 1271, Texas City, Tex. 77590.	United Gas Pipe Line Co., Bayou Jean LaCroix Field, Terrebonne Parish, La.	Depleted	
CI69-306 ..... E 5-11-70	Southern Gulf Production Co. (Operator) et al., a California corporation (successor to Southern Gulf Production Co. (Operator) et al., a Texas corporation), 840 Houston Natural Gas Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Washburn Ranch, West (5450') Field, La Salle County, Tex.	[10] 15.5	14.65
CI69-833 ..... C 5-27-70	Phillips Petroleum Co., Bartlesville, Okla. 74004.	United Gas Pipe Line Co., West Bryceland Field, Bienville Parish, La.	18.5	15.025
CI69-974 ..... C 6-1-70	Roy Proffitt (Operator) et al., Racine, Ohio 43771.	The Ohio Fuel Gas Co., Lebanon Township, Meigs County, Ohio.	27.0	15.025
CI69-1197 ..... C 5-18-70	Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202.	Arkansas Louisiana Gas Co., South Quinten Pool, Latimer County, Okla.	16.0	14.65
CI70-48 ..... (G-12273) C 6-3-70 [10a]	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	13.2486	14.65
CI70-366 ..... C6-1-70	Galaxy Oil Co., 918 Lamar St., Wichita Falls, Tex. 76301.	Arkansas Louisiana Gas Co., acreage in Le Flore and Latimer Counties, Okla.	16.015	14.65
CI70-367 ..... D 4-27-70	James F. Scott, agent for Hershberger Explorations, Inc., et al., Post Office Drawer 112, Salem, W. Va. 26426 (partial abandonment).	Consolidated Gas Supply Corp., Union District, Barbour County, W. Va.	Depleted	
CI70-403 ..... C 5-25-70	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Texas Eastern Transmission Corp., Whelan Field, Harrison County, Tex.	15.0	14.65
CI70-551 ..... (G-20465) F 4-3-70 [11]	Kenneth P. Milliken et al. (successor to Mountain States Natural Gas Corp.), c/o Edward S. Martin, attorney, 27 South College St., Washington, Pa. 15301.	El Paso Natural Gas Co., acreage in Rio Arriba and San Juan Counties, N. Mex.	12.0	15.025
CI70-1031 ..... A 5-21-70	Richard Wynn, Post Office Box 2751, Corpus Christi, Tex. 78403.	United Gas Pipe Line Co., West Rosalia Area, Duval County, Tex.	[12] 16.0	14.65
CI70-1032 ..... A 5-21-70	Westrans Petroleum, Inc., 250 Park Ave., New York, N.Y. 10017.	Carnegie Natural Gas Co., Union and Clay Districts, Ritchie County, W. Va.	27.0	15.325

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI70-1033..... B 5-22-70	Mallard Petroleum, Inc. (Operator) et al., 201 Wall Towers, East, Midland, Tex. 79701.	Phillips Petroleum Co., Azalea Field, Midland County, Tex.	Depleted	.....
CI70-1034..... B 5-22-70	John F. Younger et al	do	Depleted	.....
CI70-1035..... A 5-22-70	Hays & Co., agent for Paul K. Weekley, Box 500, Spencer, W. Va. 25276.	United Fuel Gas Co., Walton District, Roane County, W. Va.	16.0	15.325
CI70-1036..... A 5-22-70	Natol Petroleum Corp., 1500 Liberty National Bank Bldg., Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	[2] 20.0	15.65
CI70-1037..... A 5-25-70	Franks Petroleum, Inc., Post Office Box 7665, Shreveport, La. 71107.	Transcontinental Gas Pipe Line Corp., Crowley Field, Acadia Parish, La.	21.25	15.025
CI70-1038..... B 5-25-70	Shell Oil Co.	Cities Service Gas Co., Northeast Waynoka Field, Woods County, Okla.	[16]	.....
CI70-1039..... A 5-25-70	Cleary Petroleum Corp. et al., c/o G. D. Ashabranner, attorney, Lawyers Bldg., 219 Couch Dr., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., East May Field, Ellis and Harper Counties, Okla.	[2] 20.0	14.65
CI70-1040..... B 5-11-70 as supplement 5-25-70	Cameron Oil & Gas Co., Post Office Box 1462, Charleston, W. Va. 25325.	Transcoastal Industries Corp., [3] Acreage in Upshur County, W. Va.	[17]	.....
CI70-1041..... (G-20465) F 5-22-70	Joseph B. Gould (successor to Mountain States Natural Gas Corp.), c/o Ernest S. Baker, attorney, 735 Petroleum Club Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	12.0	15.025
CI70-1042..... A 5-28-70	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102.	Consolidated Gas Supply Corp., Sandy River District, McDowell County, W. Va.	28.0	15.325
CI70-1043..... B 5-28-70	Pan American Petroleum Corp.	El Paso Natural Gas Co., Basin Dakota and Blanco Mesa Verde Fields, Archuleta County, Colo.	Assigned	.....
CI70-1044..... (CI68-1246) F 5-25-70	The Petroleum Corp. (Operator) et al. (Successor to C. J. Pitzner (Operator) et al.), 3303 Lee Parkway, Dallas, Tex. 75219.	Arkansas Louisiana Gas Co., Gilmer Field, Upshur County, Tex.	12.1232	14.65
CI70-1045..... A 5-27-70	Redfern Development Corp. (Operator) et al., Post Office Box 1747, Midland, Tex. 79701.	Southern Union Gathering Co., Pictured Cliffs Formation, San Juan County, N. Mex.	13.0	15.025
CI70-1046..... (CI69-900) F 5-27-70	Marion Corp. et al. (successor to Phillips Petroleum Co.), Post Office Box 3329, Tulsa, Okla. 74101.	Natural Gas Pipeline Co. of America, Washita Creek Field, Hemphill County, Tex.	[17] 20.3342	14.65
CI70-1047..... B 6-1-70	S. P. Borden	United Gas Pipe Line Co., Maxie-Pistol Ridge Field, Pearl River County, Miss.	Depleted	.....
CI70-1048..... A 6-1-70	Harold D. Coursolle, Post Office Box 809, Perryton, Tex. 79070.	Transwestern Pipeline Co., Parnell Field, Ochiltree County, Tex.	[2] 17.0	14.65
CI70-1049..... A 6-1-70	Andarko Production Co.,[18] Post Office Box 9317, Fort Worth, Tex. 76107.	Michigan Wisconsin Pipe Line Co., acreage in Woodward County, Okla.	[2] 17.0	14.65
CI70-1050..... A 6-1-70	W. C. Stalnaker, Post Office Box 1388, Charleston, W. Va. 25325.	Consolidated Gas Supply Corp., Ravenswood District, Jackson County, W. Va.	28.0	15.325
CI70-1051..... A 5-27-70	Joseph B. Gould	El Paso Natural Gas Co., Pictured Cliffs Ballard Field, Rio Arriba County, N. Mex.	13.0	15.025
CI70-1052..... A 6-2-70	Syndex, Inc., and Joe Miller, c/o John S. Holy, attorney, Post Office Box 643, Weston, W. Va. 26452.	Equitable Gas Co., Troy District, Gilmer County, W. Va.	27.0	15.325
CI70-1053..... B 6-3-70	K & E Drilling, Inc.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Hugoton Field, Haskell County, Kans.	[20]	.....
CI70-1054..... A 6-3-70	Clinton Oil Co., 217 North Water St., Wichita, Kans. 67202.	Northern Natural Gas Co., Boles Field, Seward County, Kans.	[2] 19.0	14.65
CI70-1055..... A 6-4-70	Joseph F. Fritz (Operator) et al., Post Office Box 206, Clinton, Miss. 39056.	Southern Natural Gas Co., Kokomo Field, Walthall County, Miss.	20.6	15.025
CI70-1056..... A 6-4-70	J. A. LaFortune, 2104 Philtower, Tulsa, Okla. 74103.	Arkansas Louisiana Gas Co., Klata Field, Pittsburg County, Okla.	[21] 15.0	14.65
CI70-1057..... A 6-4-70	Sanford E. McCormick et al., 1204 Tenneco Bldg., Houston, Tex. 77002.	Texas Gas Transmission Corp., Bayou Boeuf Field, Lafourche Parish, La.	21.25	15.025
CI70-1058..... (CI68-1137) F 5-28-70	Joseph B. Gould (successor to W. M. Gallaway).	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	13.0	15.025

See footnotes at end of table.

[1] Adds acreage acquired from Caroline Hunt Sands et al., in Docket No. G-18084.
[2] Rate in effect subject to refund in Docket No. RI68-702.
[3] No permanent certificate issued; temporary authorization only granted.
[4] Subject to upward B.t.u. adjustment.
[5] Rate in effect subject to refund in Docket No. RI67-175.
[6] Applicant states its willingness to accept certificate at a rate of 15 cents per Mcf @ 14.65 p.s.i.a.
[7] Pending certificate application.
[8] Includes 0.56 cents per Mcf tax reimbursement.
[9] Original application in Docket No. CI68-1258 sought certificate of public convenience and necessity. Applicant now proposes to abandon subject service previously commenced pursuant to temporary authorization.
[10] Rate in effect subject to refund in Docket No. RI69-131.
[10a] Adds acreage acquired from Pan American Petroleum Corp., Docket No. G-12273.
[11] Application was previously noticed May 15, 1970 in Docket Nos. G-4616, et al., at a total initial rate of 11 cents per Mcf. By letter filed May 1, 1970, applicant amended its application to reflect a total initial rate of 12 cents per Mcf in lieu of the original proposed rate of 11 cents.
[12] Contract provides for rate of 17.5 cents per Mcf; however, applicant states its willingness to accept certificate at 16 cents.
[13] Subject to upward and downward B.t.u. adjustment.
[14] All leases dedicated to subject contract were either assigned or canceled.
[15] Formerly Hydrocarbon Chemicals, Inc.
[16] Failure and refusal by Purchaser to pay for gas.
[17] Rate suspended in Docket No. RI70-1139.
[18] Subject to B.t.u. adjustment.
[19] Contract provides for rate of 20 cents per Mcf; however, applicant states its willingness to accept certificate at 17 cents.
[20] Well sold to landowner.
[21] Contract provides for rate of 16 cents per Mcf; however, applicant states its willingness to accept certificate at 15 cents.

[F.R. Doc. 70-7851; Filed, June 23, 1970; 8:45 a.m.]

[Docket No. CP70-302]

SOUTHERN NATURAL GAS CO.

Notice of Application

JUNE 16, 1970.

Take notice that on June 11, 1970, Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-302 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas by Applicant to United Gas Pipe Line Co. (United) from the Driscoll Field, Bienville Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver to United all gas produced from the interests covered in its gas-purchase contract with United from acreage in the Driscoll Field at 18.50 cents per Mcf at 15.025 p.s.i.a. Such gas will be delivered at several points to United's main transmission lines located in the Driscoll Field by means of presently existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 10, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party

in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7953; Filed, June 23, 1970; 8:46 a.m.]

[Docket No. CP70-303]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JUNE 16, 1970.

Take notice that on June 11, 1970, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP70-303 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon approximately 3,391 feet of 3-inch pipeline and the appurtenant meter and regulator station known as the Dickinson 1-A purchase facilities in McMullen County, Tex.; and a field booster compression station, approximately 1,198 feet of 4-inch transmission pipeline and related meter and regulator station, and approximately 497 feet of 4-inch transmission pipeline and related meter and regulator station, all comprising part of the Luby Field facilities in Nueces County, Tex. Applicant states that deliveries at neither location are currently continuing due to depletion of reserves and that it proposes to salvage the metering and regulating station facilities and abandon the pipelines in place.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 10, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7954; Filed, June 23, 1970; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2659]

BARNETT BANKS OF FLORIDA, INC.

Notice of Filing of Application for Exemption

JUNE 18, 1970.

Notice is hereby given that Barnett Banks of Florida, Inc. ("Barnett"), 100 Laura Street, Jacksonville, Fla. 32202, an affiliate of Consolidated Financial Corp. ("Consolidated"), a closed-end, nondiversified investment company registered with the Commission under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the issuance and sale by Barnett of shares of common stock of Barnett in exchange for shares of the common stock of Tropical Bank and Trust Co. ("Tropical Bank") owned by Consolidated Financial Corp., as described below. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Barnett, a Florida corporation and a registered bank holding company, has outstanding 3,369,368 shares of common stock. Consolidated owns 442,550 shares (13.1 percent) of the outstanding common stock of Barnett and 18,924 shares (68 percent) of the outstanding common stock of Tropical Bank, a State chartered commercial bank in Sebring, Fla. The officers and directors of Consolidated, as a group, own 5,010 shares of Barnett's common stock. Baker, Fentress & Co., which controls Consolidated, owns 15,670 shares of Barnett's common stock.

Barnett's offer to exchange its shares for shares of Tropical Bank held by Consolidated is part of a general offer made by Barnett to all shareholders of Tropical Bank. This offer, together with a number of similar exchange offers made by Barnett to the shareholders of certain other banks, is the subject of a registration statement filed with this Commission under the Securities Act of 1933 (File No. 2-35370). The prospectus filed as a part of that registration statement contains, among other things, pertinent data with respect to both Barnett and Tropical Bank. A copy of the prospectus may be obtained by any security holder of Consolidated, or by any other interested person who requests it, from Barnett at the address stated above or from Consolidated at the following address: U.S. Highway 27A South, Sebring, Fla. 33870.

In the proposed transaction which is the subject of the application herein, Barnett proposes to issue and sell to Consolidated 2,566,790 shares of Barnett common stock for 442,550 shares of the common stock of Tropical Bank owned by Consolidated, pursuant to an agreement entered into on June 20, 1969 by Barnett with Consolidated and the directors of Tropical Bank to make an offer to exchange 5.8 shares of Barnett common stock for each outstanding share of Tropical Bank's common stock. The obligations in the agreement are conditioned on Barnett's receipt of all necessary governmental approval for the offer and the exchange.

The application states that Barnett entered into the June 20, 1969 agreement referred to above pursuant to its policy of acquiring subsidiary banks in the various market areas of Florida, that the exchange ratio was arrived at in negotiations between Barnett, Consolidated and the directors of Tropical Bank, that such ratio was based principally on comparative per share earnings over the most recent 5-year period, and that it is and has been Barnett's practice, in acquiring a bank, to compare its own 5-year per share earnings and current book value to the 5-year per share earnings and current book value of a bank proposed to be acquired.

The table below shows the earnings per share of the common stock of Tropical Bank and of Barnett for the years 1965-69, the book value of each of such shares at December 31, 1969 and the corresponding ratios of such earnings and book values.

NET INCOME PER SHARE

	Tropical bank	Barnett	Ratio
1965	$5.60	$0.80	6.29
1966	5.99	.79	7.58
1967	7.35	.97	7.58
1968	6.60	1.09	6.14
1969	4.94	1.44	3.43
Average	6.11	1.04	5.88

BOOK VALUE PER SHARE AT DECEMBER 31, 1969
(Capital, Surplus, Undivided Profits)

	65.21	12.27	5.31

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received are reasonable and fair and do not involve over-reaching. Under section 2(a)(3) of the Act, Barnett is an affiliated person of Consolidated since, as indicated above, Consolidated owns 13.1 percent of the outstanding common stock of Barnett.

Notice is further given that any interested person may, no later than June 30, 1970 at 1 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement of 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 orders 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 Barnett at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. On such date, after the time specified above, an order disposing of the application herein may be issued by the Commission, upon the basis of the information stated in said application as provided by Rule 0-5 of the rules and regulations adopted by the Commission under the Act, 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 hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-7960; Filed, June 23, 1970; 8:47 a.m.]

[70-4891]

CENTRAL AND SOUTH WEST CORP. ET AL.

Notice of Proposed Issue and Sale of Common Stock to Holding Company and Charter Amendments

JUNE 18, 1970.

Notice is hereby given that Central and South West Corp. ("Central"), a registered holding company, 800 Delaware Avenue, Wilmington, Del. 19899, and its subsidiary companies, Central Power and Light Co. ("Power and Light"), Public Service Company of Oklahoma ("Public Service"), Southwestern Electric Power Co. ("Southwestern"), and CSR Services, Inc. ("CSR"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10, and 12(f) of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Power and Light, Public Service, and Southwestern propose to issue and sell to Central on or about July 15, 1970, and Central proposes to acquire, for cash at the par value thereof, additional shares of the common stock of said companies as follows:

	Number of shares	Par value per share	Consideration
Power and light	588,235	$17	$9,999,995
Public service	1,250,000	12	15,000,000
Southwestern	714,285	14	9,999,990
Total			34,999,985

In connection with the proposed issue and sale of common stock, Power and Light proposes to amend its Articles of Incorporation to increase its authorized common stock from 4,500,000 to 6 million shares, Public Service proposes to increase its authorized common stock from 8 million to 10 million shares, and Southwestern proposes to amend its certificate of incorporation to increase its authorized common stock from 5,500,000 shares to 6,400,000 shares.

The application-declaration states that the proposed transactions will provide the subsidiary companies with additional funds to finance a portion of the cost of their construction programs and to pay all or part of short-term loans made by the subsidiary companies for that purpose. The construction expenditures of the subsidiary companies for the last three quarters of 1970 are estimated as follows: Power and Light, $34 million, Public Service, $16 million, and Southwestern, $18 million.

CSR, Central's subsidiary service company which was organized in 1969, also proposes to issue and sell to Central, and Central proposes to acquire, for cash at the par value thereof, an additional 5,000 shares of CSR's authorized but unissued common stock, par value $10 per share. The filing states that the proposed issue and sale of common stock is necessary because of projected growth in the services performed by CSR for system companies, which services result in reduced costs for such companies.

The fees and expenses in connection with the proposed transactions are estimated at $200 each for Central and CSR, $600 for Public Service, $500 for Power and Light, and $1,600 (including a franchise tax of $1,125) for Southwestern. In addition, counsel for the companies estimate that $3,000 of their annual retainer is allocable to the proposed transactions. It is stated that the Corporation Commission of the State of Oklahoma has jurisdiction over the issue and sale of common stock by Public Service and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 6, 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 application-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 applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and 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 in order 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. 70-7998; Filed, June 23, 1970; 8:49 a.m.]

[70-4892]

MISSISSIPPI POWER & LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

JUNE 18, 1970.

Notice is hereby given that Mississippi Power & Light Co. (Mississippi), Post Office Box 1640, Jackson, Miss. 39205,

an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $17,500,000 principal amount of First Mortgage Bonds, ____ percent Series due 2000. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest to be paid to Mississippi (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by competitive bidding. The bonds will be issued under Mississippi's Mortgage and Deed of Trust dated as of September 1, 1944, to Irving Trust Co. and Frederick G. Herbst (E. J. McCabe, successor), as trustee, as heretofore supplemented by various indentures and as to be further supplemented by an 11th supplemental indenture to be dated August 1, 1970, and which includes a prohibition until August 1, 1975, against refunding the issue with the proceeds of funds borrowed at a lower annual cost of money.

Mississippi also proposes to issue and sell 75,000 shares of a new series of cumulative preferred stock, $100 par value, subject to the competitive bidding requirements of Rule 50 under the Act. The dividend rate of the preferred stock (which will be a multiple of one twenty-fifth of 1 percent) and the price to be paid to Mississippi (which will be not less than $100 nor more than $102.75 per share) will be determined by competitive bidding.

Mississippi will apply the net proceeds derived from the issue and sale of the bonds and preferred stock to the payment of short-term bank loans made for the purpose of temporarily financing its 1970 construction program and estimated to be in the amount of $12 million outstanding at the time of the issue and sale of the bonds and preferred stock. The balance of the proceeds will be applied to its 1970 construction program, estimated to be $49,871,000, and for other corporate purposes.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred by Mississippi in connection with the bonds are estimated at $65,000, including legal fees of $16,500 and auditor's fees of $3,150. The fees and expenses in connection with the preferred stock are estimated at $30,000, including legal fees of $12,000 and auditor's fees of $1,350. The fees of counsel for the underwriters, to be paid by the successful bidders, are estimated at $7,000 in connection with the bonds and at $5,000 in connection with the preferred stock.

Notice is further given that any interested person may, not later than July 16, 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. 70-7999; Filed, June 23, 1970; 8:49 a.m.]

[812-2745]

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORP.

Notice of Filing of Application for Exemption

JUNE 15, 1970.

Notice is hereby given that National Rural Utilities Cooperative Finance Corp. (Applicant), 2006 Florida Avenue NW., Washington, D.C. 20009, a District of Columbia corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the material representations made therein, and which are summarized below.

Applicant was incorporated on April 10, 1969, as a nonprofit cooperative association under the District of Columbia Cooperative Association Act. Membership in the applicant is limited to nonprofit corporations and public bodies which have received or are eligible to receive loans from the Rural Electrification Administration (REA). Applicant proposes to raise capital from its members and to sell debt securities to the public. With the funds so obtained, applicant intends to make mortgage loans to its members to finance their rural electric service and facilities, thus supplementing the Federal loan program of the REA.

Applicant states that the capital for its loan program will be raised as follows: Approximately $1 million will be raised from membership fees by the sale of noninterest paying, nondividend bearing, nontransferable membership certificates. Each member will pay $1,000 for its initial certificate except for certain statewide or regional associations which will be charged $200. Secondly, approximately $100 million will be raised during the initial 3 years of applicant's operations by the sale of capital term certificates ("CTC") to members. Subsequently, for a period of 12 years, members will purchase additional CTC's in amounts equal to 5 percent of their loans from applicant. CTC's which will be transferable only to persons eligible for membership in applicant, will bear interest at 3 percent per year, will mature 50 years after issuance (subject to redemption at the option of applicant) and will be subordinated to any public debt financing of applicant.

Applicant further states that it expects to sell its debentures in private placements with financial institutions and in underwritten public offerings from time to time as funds are required for loans to members. Prior to any public sale of its debentures, however, applicant will be primarily engaged in the business of acquiring mortgage liens on real estate. Such debentures will bear interest and carry terms prevailing in the capital markets at the time of issuance. Applicant states it has received a ruling declaring it tax-exempt for purposes of Federal income tax.

Loans by applicant to its members will bear such interest rates, maturities, and other terms as applicant from time to time may determine. Applicant expects that the interest rates charged on loans will reflect applicant's cost of raising funds in the public market. All loans by applicant will be secured by a first mortgage lien on substantially all the properties of the borrower. To the extent that a borrower has loans outstanding from the REA, such mortgage lien will secure applicant and REA loans jointly. Applicant anticipates that the large majority of loans made by Applicant will be made jointly with the REA.

Applicant states that prior to the full implementation of its loan program, after which it will be primarily engaged in acquiring mortgage liens on real estate, applicant will make short-term interim investments in fixed income and other securities with the funds raised for mortgage loan purposes, but which have not yet been authorized for disbursement.

Applicant asserts that once it becomes primarily engaged in acquiring mortgage liens on real estate, it will be excluded from the definition of investment company by section 3(c)(6)(C) of the Act. Applicant submits that it would not be

appropriate or feasible to place precise limits on the length of the interim period which will exist until it completes its initial lending program and reaches the point where it is primarily engaged in purchasing or acquiring mortgages or other liens on or interests in real estate. Nor, applicant submits, would it be appropriate or feasible to place an inflexible percentage limitation on the amount of investments to be made otherwise than in mortgage loans during this initial stage. This is due applicant states, to the fact that it will have to borrow in advance of its needs in accordance with the varying conditions of the financial market and because the timing of the disbursement of funds for mortgage loans can not be foreseen with precision. The uncertainties involved in such a forecast are increased by the nature of the joint role to be played in the lending program by the REA. Applicant anticipates that all but a very small percentage of its loans will be made jointly with the REA. It is contemplated that the REA will make the feasibility study relating to any joint loan and will determine the amount. The net effect of these arrangements is that the REA and not applicant will control the timing of the bulk of the lending program. Even once applicant and REA have decided to make a loan commitment, further delay may occur prior to the actual disbursement of the REA portion of a loan. For example, under the form of takedown schedule being considered by REA and applicant, the initial borrowing would be entirely from the REA portion of the loan. This would be followed at a later date by a takedown of applicant's portion of the loan with subsequent takedowns being made from the balance of the REA commitment. Applicant asserts that changing conditions in the financial market and the form of joint financing involved make any precise, projection of timing and percentage breakdowns of applicant's investments impracticable. Applicant states that the essential factor to be considered is that its purpose is to engage in the making of mortgage loans and that temporary delays in the full deployment of its funds for mortgage loans are inevitable steps in effectively attaining the ends of its loan program.

Applicant has agreed that any exemption issued pursuant to its application will expire after 3 years and if at that time or anytime thereafter applicant is not primarily engaged in the business of acquiring mortgage liens on real estate, applicant will reapply to the Commission for the necessary exemption.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 6, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service by affidavit (or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At anytime 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 advise as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

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

[F.R. Doc. 70-7937; Filed, June 23, 1970; 8:46 a.m.]

[812-2746]

STANDARD RESOURCES CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 17, 1970.

Notice is hereby given that an application pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") has been filed by Standard Resources Corp. ("Standard"), 545 Fifth Avenue, New York, N.Y., a Delaware corporation formerly Micro Semiconductor Corp. ("Micro"), on behalf of Standard Resources Corp. ("Standard of New York"), a New York corporation and a management, closed end, nondiversified investment company registered under the Act, for an order declaring that Standard of New York has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

On October 30, 1969, the holders of a majority of the outstanding shares of the common stock of Standard of New York voted to change its investment policies and the nature of its business so as to cease to be an investment company. At the same time the holders of two-thirds of Standard of New York's outstanding common stock voted to approve a plan and agreement of merger between Standard of New York and Micro, which plan and agreement of merger had been approved by the Board of Directors of Standard of New York on September 17, 1969, and by the Directors of Micro on September 18, 1969. The shareholders of Micro also approved the plan and agreement of merger on November 13, 1969.

On November 28, 1969, the merger between Standard of New York and Micro was completed. Pursuant to the terms of the plan and agreement of merger, each outstanding share of common stock of Micro and of Standard of New York was forthwith converted into shares of the surviving corporation, Standard, and the latter corporation succeeded to the assets and business and assumed the liabilities of Standard of New York. As of March 20, 1970, 140 former stockholders of Standard of New York, who had approved the merger, had not exchanged their certificates, previously representing 58,310 shares of common stock of Standard of New York. The transfer agent is continuing its efforts to effect the surrender of these shares.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than July 8, 1970 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. 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 matter herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said proposal shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-7936; Filed, June 23, 1970; 8:46 a.m.]

[File No. 24NY-6617]

TRAINING WITH THE PROS, INC.

Order Temporarily Suspending Exemption Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 17, 1970.

I. On October 25, 1968, Training With the Pros, Inc. ("TWTP"), 41 West 86th Street, New York, N.Y., filed a notification in the New York Regional Office pursuant to Regulation A in connection with the proposed offering of 42,000 shares of its $0.01 par value common stock at $7 per share. The offering was to be made by the officers and directors of the company without an underwriter. The notification became effective on February 4, 1969, and the offering was completed on February 21, 1969.

Training With the Pros, Inc., is located at 41 West 86th Street, New York, N.Y., and was incorporated in the State of New York on May 17, 1965, under the name M-H Studios, Inc. On October 17, 1968, the company changed its name from M-H Studios, Inc., to Training With the Pros, Inc. The final offering circular dated February 4, 1969, states that the company "is engaged in the business of creating and selling vocational training programs consisting of written materials used in conjunction with visual and mechanical aids" and that it proposes to "operate its own training schools."

II. The Commission, on the basis of information provided by the staff, has reasonable cause to believe that:

A. The offering circular, the financial statements contained therein, and Form 2A submitted pursuant to Rule 260 of Regulation A contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading as follows:

1. The offering circular on page 10 "Certain Transactions," fails to disclose the existence of a $30,000 loan made to the issuer on or about October 30, 1968, by R. Scott Barter, a principal shareholder of the issuer.

2. The section of the offering circular captioned "Application of Proceeds" fails to disclose that $30,000 out of the proceeds of the offering would be utilized to repay the loan to R. Scott Barter.

3. The financial statements, fail to disclose the existence of a liability of $30,000 in the form of a loan to the issuer by R. Scott Barter.

4. Item 7 of Form 2A does not disclose the repayment of said $30,000 loan to R. Scott Barter out of the proceeds of the offering notwithstanding testimony given to the staff by the president of the issuer that such repayment had been made with the proceeds of the offering.

5. The offering circular fails to disclose the fact that one Ramon D'Onofrio an individual not mentioned in the notification or offering circular, exercised control over the financial affairs of the issuer and may in fact have been a control person and undisclosed principal of the issuer.

B. The terms and conditions of Regulation A have not been complied with in that:

1. The issuer, and certain of its officers, directors, and principal security holders have failed to cooperate and have obstructed and refused to permit the making of an investigation by the Commission's staff.

C. The use of the offering circular by the issuer operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933 as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in the order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission, a written request for hearing within 30th day after its entry and shall that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requsted and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

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

[F.R. Doc. 70-7935; Filed, June 23, 1970; 8:46 a.m.]

TARIFF COMMISSION

WILTON AND VELVET CARPETS AND RUGS

Report to the President

JUNE 19, 1970.

The U.S. Tariff Commission reported to the President today that conditions in the U.S. market with respect to competition between imported and domestic Wilton and velvet carpets and rugs have not changed in any significant degree since the President modified the escape-clause rate on those articles at the beginning of 1970. Currently the escape-clause rate involved (40 percent ad valorem) applies to Wilton and velvet carpets and rugs other than imitation oriental types; the imitation oriental floor coverings, which had been subject to that rate, became dutiable at the trade-agreement rate of 21 percent ad valorem at the beginning of 1970.

The Commission's report was made in Investigation No. TEA-I-A-9 under section 351(d)(2) of the Trade Expansion Act of 1962.

Copies of the report are available upon request so long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436.

By direction of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-7974; Filed, June 23, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Nos. MC-C-6867, MC-127748 (Sub-No. 1)]

FOURMEN DELIVERY SERVICE, INC.

Notice of Filing of Petition for Declaratory Order

JUNE 19, 1970.

Petitioner: Fourmen Delivery Service, Inc., 153-58 Rockaway Boulevard, Jamaica, N.Y. Petitioner's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. By petition filed June 3, 1970, petitioner states that it holds certificate No. MC-127748 (Sub-No. 1), authorizing the transportation of luggage and such personal property usually carried by airline passengers, between La Guardia Airport and John F. Kennedy International Airport, at New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, points in New York, Connecticut, Massachusetts, New Jersey, Pennsylvania, Maryland, and the District of Columbia. Petitioner states that the transportation of misplaced, delayed, and misrouted luggage from the New York City airports to points in New York constitutes a major part of its revenues. Petitioner states that it has been informed that the New York Public Service Commission entered a decision on April 7, 1970, in Tan Line, Inc., No. MT-8767, which characterizes all movements of luggage that is misplaced, delayed, or misrouted, from the New York City airports to points in New York State, as being intrastate in nature and as being beyond the scope of the Interstate Commerce Commission's regulatory authority. Petitioner states that the above-cited State decision questions petitioner's right to operate in the above-described manner under its certificate. Petitioner prays that the Interstate Commerce Commission issue an order declaring that the transportation described

above, of misplaced, delayed, and misrouted luggage originating at New York City airports and destined to points in New York State, is in interstate commerce, and is being lawfully performed by petitioner under the certificate of public convenience and necessity issued to it by the Interstate Commerce Commission. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

By the Commission.

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

[F.R. Doc. 70-7979; Filed, June 23, 1970; 8:48 a.m.]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 19, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2401 (Deviation No. 30), MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute, Ind. 47802, filed June 11, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Evansville, Ind., over U.S. Highway 460 to junction Illinois Highway 37 (at or near Mount Vernon, Ill.), thence over Illinois Highway 37 to Salem, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over Illinois Highway 49 to Kansas, Ill., thence over Illinois Highway 16 to Paris, Ill., thence over Illinois Highway 1 to Marshall, Ill., thence over U.S. Highway 40 to Terre Haute, Ind. (also from Paris over U.S. Highway 150 to Terre Haute), thence over U.S. Highway 41 to Evansville, Ind., and (2) from Vincennes, Ind., over U.S. Highway 50 to St. Louis, Mo., and return over the same routes.

No. MC 2401 (Deviation No. 31), MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute, Ind. 47802, filed June 11, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over U.S. Highway 36 to junction Interstate Highway 29 (near St. Joseph, Mo.), thence over Interstate Highway 29 to Council Bluffs, Iowa (including the use of such additional access highways as are necessary in traveling over the shortest practicable distance between adjacent highways and the said super highway, including any direct existing highway located immediately adjacent to any unfinished portion of said super highway), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Indianapolis, Ind., over U.S. Highway 52 to Montmorenci, Ind., thence over U.S. Highway 231 to junction Indiana Highway 53, thence over Indiana Highway 53 to junction U.S. Highway 30, thence over U.S. Highway 30 to Chicago Heights, Ill., thence north over unnumbered highway to junction U.S. Highway 54, thence over U.S. Highway 54 to Chicago, Ill., thence over Alternate U.S. Highway 30 to junction unnumbered highway at a point approximately two and one-half miles southeast of Emerson, Ill., thence over unnumbered highway via Emerson to junction U.S. Highway 30 at a point approximately 3 miles southeast of Emerson, Ill., thence over U.S. Highway 30 to junction Iowa Highway 212, thence over Iowa Highway 212 to junction U.S. Highway 30, thence over U.S. Highway 30 to Missouri Valley, Iowa, thence over Alternate U.S. Highway 30 to Council Bluffs, Iowa, and return over the same route.

No. MC 28008 (Deviation No. 2), MIDWEST FREIGHT FORWARDING COMPANY, INC., Post Office Box 547, St. Joseph, Mo. 64502, filed May 25, 1970, amended June 8, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviations routes as follows: (1) From Chicago, Ill., over Alternate U.S. Highway 30 to junction Chicago Skyway (Interstate Highway 90), thence over Chicago Skyway (Interstate Highway 90) to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Indiana Highway 53, thence over Indiana Highway 53 to junction U.S. Highway 6, (2) from junction U.S. Highway 224 and Interstate Highway 80S (near Akron, Ohio) over Interstate Highway 80S to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 310, thence over Pennsylvania Highway 310 to junction Pennsylvania Highway 322, thence over Pennsylvania Highway 322 to junction Pennsylvania Highway 879, thence over Pennsylvania Highway 879 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 144, thence over Pennsylvania Highway 144 to junction Pennsylvania Highway 45, thence over Pennsylvania Highway 45 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Highway 46, thence over U.S. Highway 46 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction U.S. Highway 1, thence over U.S. Highway 1 to New York, N.Y.; (3) From Chicago, Ill., over Alternate U.S. Highway 30 to junction Chicago Skyway (Interstate Highway 90), thence over the Chicago Skyway (Interstate Highway 90) to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Indiana Highway 912, thence over Indiana Highway 912 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Indiana Highway 55, thence over Indiana Highway 55 to junction Interstate Highway 90 (called Indiana Toll Road, also Indiana Turnpike), thence over Interstate Highway 90 (called the Ohio Turnpike at the Indiana-Ohio State line) to junction Ohio Turnpike, thence over the Ohio Turnpike to junction Ohio Highway 82, thence over Ohio Highway 82 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 518 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 310, thence over the route described in (2) above to New York, N.Y., and (4) from Chicago, Ill., over Alternate U.S. Highway 30 to junction Chicago Skyway (Interstate Highway 90), thence over Chicago Skyway (Interstate Highway 90) to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Alternate U.S. Highway 20, near Montpelier, Ohio, thence over Alternate U.S. Highway 20 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Ohio Highway 303, thence over Ohio Highway 303 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 58, thence over Pennsylvania Highway 58 to junction Pennsylvania Highway 208, thence over Pennsylvania Highway 208 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction Pennsylvania Highway 410, thence over Pennsylvania Highway 410 to junction Pennsylvania Highway 153, thence over Pennsylvania Highway 153 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction Pennsylvania Highway 45, thence over Pennsylvania Highway 45 to junction Pennsylvania Highway 147, thence over Pennsylvania Highway 147 to junction Pennsylvania Highway 141, thence over Pennsylvania Highway 141 to junction Pennsylvania Highway 61, thence over Pennsylvania Highway 61 to

junction Pennsylvania Highway 487, thence over Pennsylvania Highway 487 to junction Pennsylvania Highway 54, thence over Pennsylvania Highway 54 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Pennsylvania Highway 248, thence over Pennsylvania Highway 248 to junction Interstate Highway 78, thence over Interstate Highway 78 to junction U.S. Highway 22 (near Lebanon, N.J.), thence over U.S. Highway 22 to New York, N.Y. (also from junction U.S. Highway 22 and Interstate Highway 78, near Lebanon, N.J., over Interstate Highway 78 (when completed) to New York, N.Y.), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows:

(1) From Chicago, Ill., over U.S. Highway 20 to the Ohio Turnpike, thence over the Ohio Turnpike to the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to Philadelphia, Pa. exit, thence over U.S. Highway 1 to New York, N.Y., and (2) from Chicago, Ill., over the Calumet Tri-States Expressway to junction Indiana Highway 152, thence over Indiana Highway 152 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Ohio Highway 7, thence over Ohio Highway 7 to junction Ohio Turnpike, thence over the route described in (1) above to New York, N.Y., and return over the same routes.

No. MC-65580 (Deviation No. 7), MUSHROOM TRANSPORTATION COMPANY, INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124, filed June 8, 1970. Carrier's representative: Dennis J. Taylor, Suite 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Baltimore, Md., over Interstate Highway 70-N to Frederick, Md., thence over Interstate Highway 70 to Breezewood, Pa., thence over Interstate Highway 76 to Pittsburgh, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Baltimore, Md., over U.S. Highway 111 to Harrisburg, Pa., thence over U.S. Highway 11 to Northumberland, Pa., thence over U.S. Highway 15 to Erwins, N.Y., (2) from Erwins, N.Y., over New York Highway 17 to Kennedy, N.Y., thence over U.S. Highway 62 to Frewsburg, N.Y., (3) from Dunkirk, N.Y., over New York Highway 60 to Frewsburg, N.Y., thence over U.S. Highway 62 to Warren, Pa., (4) from Pittsburgh, Pa., over Pennsylvania Highway 8 via Stone House, Pa., to junction Pennsylvania Highway 173 (formerly unnumbered highway), thence over Pennsylvania Highway 173 to Slippery Rock, Pa., thence over Pennsylvania Highway 108 to junction Pennsylvania Highway 8, thence over Pennsylvania Highway 8 via Harrisville, Franklin, and Oil City, Pa., to Titusville, Pa., thence over Pennsylvania Highway 27 via Pleasantville, Pa., to Pittsfield, Pa., thence over U.S. Highway 6 via Youngsville, Pa., to Warren, Pa., and return over the same routes.

No. MC 65580 (Deviation No. 8), MUSHROOM TRANSPORTATION COMPANY, INC., 845 E. Hunting Park Avenue, Philadelphia, Pa. 19124, filed June 8, 1970. Carrier's representative: Dennis J. Taylor, Suite 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Harrisburg, Pa., and Pittsburgh, Pa., over Interstate Highway 76, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Baltimore, Md., over U.S. Highway 111 to Harrisburg, Pa., thence over U.S. Highway 11 to Northumberland, Pa., thence over U.S. Highway 15 to Erwins, N.Y., (2) from Erwins, N.Y., over New York Highway 17 to Kennedy, N.Y., thence over U.S. Highway 62 to Frewsburg, N.Y., (3) from Dunkirk, N.Y., over New York Highway 60 to Frewsburg, N.Y., thence over U.S. Highway 62 to Warren, Pa., (4) from Pittsburgh, Pa., over Pennsylvania Highway 8 via Stone House, Pa., to junction Pennsylvania Highway 173 (formerly unnumbered highway), thence over Pennsylvania Highway 173 to Slippery Rock, Pa., thence over Pennsylvania Highway 108 to junction Pennsylvania Highway 8, thence over Pennsylvania Highway 8 via Harrisville, Franklin and Oil City, Pa., to Titusville, Pa., thence over Pennsylvania Highway 27 via Pleasantville, Pa., to Pittsfield, Pa., thence over U.S. Highway 6 via Youngsville, Pa., to Warren, Pa., and return over the same routes.

No. MC-65580 (Deviation No. 9), MUSHROOM TRANSPORTATION COMPANY, INC., 845 E. Hunting Park Avenue, Philadelphia, Pa. 19124, filed June 8, 1970. Carrier's representative: Dennis J. Taylor, Suite 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Pennsylvania Highway 309 and Interstate Highway 80, west over Interstate Highway 80 to junction U.S. Highway 322 between Day and Brookeville, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Lancaster, Pa., over U.S. Highway 230 to Harrisburg, Pa., thence over U.S. Highway 11 to Northumberland, Pa., thence over U.S. Highway 15 to Erwins, N.Y., (2) from Erwins, N.Y., over New York Highway 17 to Kennedy, N.Y., thence over U.S. Highway 62 to Frewsburg, N.Y., (3) from Dunkirk, N.Y., over New York Highway 60 to Frewsburg, N.Y., thence over U.S. Highway 62 to Warren, Pa., (4) from Oil City, Pa., over Pennsylvania Highway 8 to Titusville, Pa., thence over Pennsylvania Highway 27 via Pleasantville, Pa., to Pittsfield, Pa., thence over U.S. Highway 6 via Youngsville, Pa., to Warren Pa., (4) from Cleveland, Ohio, over U.S. Highway 422 to Parkman, Ohio, thence over Ohio Highway 88 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 358 to Greenville, Pa., thence over Alternate U.S. Highway 322 (formerly portion Pennsylvania Highway 358) to Sandy Lake, Pa., thence over U.S. Highway 62 to Oil City, Pa., (5) from Oil City, Pa., over Pennsylvania Highway 257 to Cranberry, Pa., thence over U.S. Highway 322 to Philipsburg, Pa., and (6) from Baltimore, Md., over U.S. Highway 1 to Philadelphia, Pa., thence over Pennsylvania Highway 309 (formerly U.S. Highway 309) to Wilkes-Barre, Pa., and return over the same routes.

No. MC-65580 (Deviation No. 10), MUSHROOM TRANSPORTATION COMPANY, INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124, filed June 8, 1970. Carrier's representative: Dennis J. Taylor, Suite 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Erie, Pa., and Cleveland, Ohio, over Interstate Highway 90, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Buffalo, N.Y., over U.S. Highway 62 to junction U.S. Highway 20, thence over U.S. Highway 20 to Erie, Pa., (2) from Buffalo, N.Y., over New York Highway 5 to the New York-Pennsylvania State line, thence over Pennsylvania Highway 5 to Erie, Pa., (3) from Pittsburgh, Pa., over U.S. Highway 19 to Erie, Pa., (4) from Mercer, Pa., over Pennsylvania Highway 58 to Greenville, Pa., thence over Pennsylvania Highway 18 to Hartstown, Pa., thence over U.S. Highway 322 to junction Pennsylvania Highway 18, east of Conneaut Lake, Pa. thence over Pennsylvania Highway 18 to Albion, Pa., thence over U.S. Highway 6-N to Lundys Lane, Pa., thence over Pennsylvania Highway 18 to junction U.S. Highway 20 near Girard, Pa., thence over U.S. Highway 20, to Erie, Pa., and (5) from Cleveland, Ohio, over U.S. Highway 422 to Warren, Ohio, thence over Ohio Highway 82 to the Ohio-Pennsylvania State line, thence over U.S. Highway 62 to Mercer, Pa., and return over the same routes.

By the Commission.

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

[F.R. Doc. 70-7976; Filed, June 23, 1970; 8:48 a.m.]

[Notice 56]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 19, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, 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.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 114334 (Sub-No. 20), filed May 20, 1970, published in the FEDERAL REGISTER of June 11, 1970, and republished to reflect the hearing information. Applicant: BUILDERS TRANSPORTATION CO., 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.

HEARING: July 8, 1970 in Room 5404, Federal Office Building, 700 West Capitol Street, Little Rock, Ark., before Examiner Leonard J. Kassel.

No. MC 105940 (Sub-No. 6) (Republication), filed November 12, 1969, published in the FEDERAL REGISTER issue of December 24, 1969, and republished this issue. Applicant: SAFEWAY TRUCKING CORPORATION, Building 221, Elizabeth Port Authority Marine Terminal, McLester Street. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated May 28, 1970, and served June 11, 1970, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of foodstuffs (except in bulk), (1) between the site of East Coast Warehouse and Distribution Corp., at Elizabeth, N.J., on the one hand, and, on the other, points in Suffolk, Orange, and Rockland Counties, N.Y., and points in Fairfield, Hartford and New Haven Counties, Conn.; and (2) between the site of East Coast Warehouse and Distribution Corp., at Elizabeth, N.J., on the one hand, and, on the other, piers in Bayonne, Hoboken, Edgewater, Jersey City and Newark, N.J., and New York, N.Y. That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder and that an appropriate certificate should be issued, subject to the following conditions: (1) That because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings; a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced; and (2) the coincidental cancellation, at applicant's written request, of its Permit No. MC 127865.

No. MC 126045 (Sub-No. 18) (Republication), filed June 26, 1969, published in the FEDERAL REGISTER issue of September 11, 1969, and republished this issue. Applicant: ALTER TRUCKING & TERMINAL CORPORATION, Post Office Box 3122, Davenport, Iowa 52808. Applicant's representative: Lord, Bissell & Brook, 135 South La Salle Street, Chicago, Ill. 60603. A recommended report and order of the Hearing Examiner served May 8, 1970, and which became effective June 8, 1970, and served June 15, 1970, finds: that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate and foreign commerce, of dry superphosphate and dry potash, in bulk, over irregular routes, from the warehouse site of Texas Gulf Sulphur Co. at Des Moines, Iowa, to points in Missouri (except those in the commercial zone of St. Louis), Kansas, Nebraska, South Dakota, Minnesota, Wisconsin, and Illinois (except those in the commercial zone of Chicago), restricted to traffic originating at said site and destined to points in the described destination States. Because it is possible that other parties, who have relied upon the notice of the application as previously published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128273 (Sub-No. 50) (Republication), filed July 23, 1969, published in the FEDERAL REGISTER issue of August 28, 1969, and republished this issue. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Wagner Building, Washington, D.C. 20004. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated May 28, 1970, and served June 12, 1970, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as *common carrier* by motor vehicle, over irregular routes, of cellulose materials and products, paper and paper products, and materials, equipment, and supplies used in the production and distribution of the above-described commodities (except in each instance, commodities in bulk), between the plantsite of Charmin Paper Products Co., near Neely's Landing, Mo., on the one hand, and, on the other, points in Tennessee (except Memphis, Tenn., and points in its commercial zone), Alabama, Mississippi, Arkansas (except Blytheville, Armorel, Huffman, and Barfield, and points in their commercial zones, and points in Arkansas within the Memphis, Tenn., commercial zone), Louisiana, Texas, Oklahoma, Kansas, Nebraska, Colorado, New Mexico, Arizona, Utah, Nevada, and California; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133035 (Sub-No. 10) (Republication), filed May 14, 1969, published in FEDERAL REGISTER issue of June 5, 1969, and republished this issue. Applicant: DILTS TRUCKING, INC., Route 1, Crescent, Iowa 51526. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. A recommended report and order of the Hearing Examiner served May 8, 1970, was made effective June 8, 1970, and served June 15, 1970, finds that the present and future public convenience and necessity require operation by applicant in interstate and foreign commerce, as a common carrier by motor vehicle of

dry superphosphate and dry potash over irregular routes, from the warehouse site of Texas Gulf Sulphur Co. at or near Des Moines, Iowa, to points in Missouri (except St. Louis and its commercial zone), Kansas, Nebraska, South Dakota, Minnesota, Wisconsin, and Illinois (except Chicago and its commercial zone), restricted to traffic originating at said site and destined to points in the described destination States. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in, and would be prejudiced by the lack of proper notice of the authority described in the findings in this report, a notice of the authority actually granted herein will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133779 (Sub-No. 1) (Republication), filed October 27, 1969, published in the FEDERAL REGISTER issue of November 20, 1969, and December 4, 1969, and republished, this issue. Applicant: FUNDIS COMPANY, a corporation, Broadway at Cornell, Lovelock, Nev. 89419. Applicant's representative: Pete Fundis (same address as above). The modified procedure has been followed in this proceeding and order of the Commission, Operating Rights Board, dated May 25, 1970, and served June 11, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (1) diatomaceous earth (diatomite), (2) mixtures of diatomaceous earth and alkyl naphthalene and sodium sulfonate, and (3) wood pulp, from Colado Junction and Clark, Nev., to points in Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Diego, San Bernardino, San Luis Obispo, Santa Barbara, Tulare, and Ventura Counties, Calif.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder: Because it is possible that other parties, who relied upon the notice of the application as published, may have an interest in the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which any proper party in interest may file petition to reopen for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134107 (Republication), filed January 26, 1970, published FEDERAL REGISTER, issues of March 19, 1970, and March 26, 1970, and republished this issue. Applicant: EDWIN BARTOK, doing business as DARTOK BUS SERVICE, Route No. 1, Eldorado, Ill. 62930. Applicant's representative: Joseph R. Hale, Lincoln Boulevard East, Shawneetown, Ill. 62984. The modified procedure has been followed in this proceeding and although applicant had initially sought motor contract authority, an order of the Commission, Operating Rights Review Board, dated May 25, 1970, and served June 17, 1970, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, of passengers (1) between Harrisburg, Ill., and Mount Vernon, Ind., from Harrisburg over U.S. Highway 45 to Norris City, Ill., thence over Illinois Highway 1 to Omaha, Ill., thence over Illinois Highway 141 to the Illinois-Indiana State line, thence over Indiana Highway 62 to Mount Vernon, and return over the same route, serving all intermediate points; and (2) between McLeansboro, Ill., and the junction of Illinois Highway 141 with the unnumbered highway specified below: From McLeansboro over U.S. Highway 460 to its junction with U.S. Highway 45, thence over U.S. Highway 45 to Enfield, Ill., thence over U.S. Highway 45 to junction of U.S. Highways 45 and 460, thence over U.S. Highway 460 to Carmi, Ill., thence over unnumbered highway to junction with Illinois Highway 141, and return over the same route, serving all intermediate points; subject to the condition, in each instance, that service over the above routes shall be restricted to the transportation of passengers who are picked up or discharged at the plantsite of the Babcock and Wilcox Co. at Mount Vernon, Ind. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a *certificate* in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 OF THE ACT

No. MC 14314 (Sub-No. 17) (Correction), filed May 6, 1970, published in the FEDERAL REGISTER issue of May 27, 1970, and republished in part, as corrected, this issue. Applicant: DUFF TRUCK LINE, INC., Broadway and Vine Street, Lima, Ohio 45802. Applicant's representatives: David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603, and James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. NOTE: The purpose of this partial republication is to redescribe the routes shown in (12), (19), and (23) in the previous publication, as follows: "(12) Between Columbus, Ohio, and West Unity, Ohio: from Columbus, Ohio over U.S. Highway 33 * * * (19) between Cleveland, Ohio, and Youngstown, Ohio; from Cleveland, Ohio, over U.S. Highway 21 (and/or old U.S. Highway 21 (Cleveland-Massillon Road)) and Interstate Highway 77 to junction U.S. Highway 21 (near Montrose, Ohio), thence over U.S. Highway 21 (and/or old U.S. Highway 21 (Cleveland-Massillon Road)) to Massillon, Ohio * * * (23) between Dayton, Ohio, and Upper Sandusky, Ohio: * * * thence over Ohio Highway 274 to junction U.S. Highway 127, thence over U.S. Highway 127 to junction Ohio Highway 219 * * *" The rest of the application remains as previous published.

No. MC 112713 (Sub-No. 122), filed May 7, 1970. Applicant: YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114. Applicant's representatives: Richard K. Andrews, 1500 Commerce Trust Building, Kansas City, Mo. 64106, and David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except livestock, motor vehicles, household goods as defined by the Commission, commodities in bulk, and those requiring use of vehicles equipped with mechanical refrigeration), (1) Between Los Angeles, San Bernardino, Redlands, Colton, Highland, Rialto, and Fontana, Calif., on the one hand, and, on the other, Victorville, George Air Force Base, Apple Valley, Lucerne Valley, Adelanto, Hesperia, Barstow, Camp Irwin, Daggett, Yermo, and Hinkley, Calif., (2) between points in the following bounded territory: Beginning at the intersection of the Ventura-Los Angeles County boundary line and the Pacific Ocean, thence northeast along the said county line to its intersection with California Highway 118, thence east along California Highway 118 to Sepulveda Boulevard, thence north along Sepulveda Boulevard to Chatsworth Drive, thence northeast along Chatsworth Drive to the San Fernando City limit, thence west, north, and east along the said city line to McClay Avenue, thence northeast along McClay Avenue and its prolongation to the Angeles National Forest boundary, thence southeast and east along the southern boundaries of the Angeles and San Bernardino National Forests to Mill Creek Road (near Redlands), thence southwest on Mill Creek Road to the intersection of a county road 3.8 (three and eight-tenths) miles north of Yucaipa, thence south along said county road (in part known as Bryant Street) to Yucaipa, serving all points in Yucaipa.

Thence west along Yucaipa-Redlands Boulevard to U.S. Highway 70, thence west along U.S. Highway 70 to the Redlands City line, thence around the south side of Redlands to Brookside Avenue, thence west along Brookside Avenue to Barton Road (Barton Avenue), thence

west along Barton Road and its prolongation to Palm Avenue, thence west along Palm Avenue to La Cadena Drive, thence south along La Cadena Drive to Iowa Avenue, thence south along Iowa Avenue to U.S. Highway 60, thence southwest along U.S. Highways 60 and 395 to Nuevo Road, thence east along Nuevo Road to Nuevo, thence northeast along Lakeview Avenue to Lakeview, thence east along Pico and Mead Roads and Central Avenue to the San Jacinto City limits, thence east, south and west along the said city limits to San Jacinto Avenue, thence south along San Jacinto Avenue to California Highway 74, thence west along California Highway 74 to the city limits of Hemit, thence south, west and north along the said city limits to the railroad right-of-way of the Atchison, Topeka & Santa Fe Railway Co., thence southwest along the railroad right-of-way to Winchester Road, thence south along Winchester Road to Washington Street and south along Washington Street to Benton Road, thence west along Benton Road to the county road which extends from such intersection southwest to U.S. Highway 395 at a point 2.1 (two and one tenth) miles north of Temecula, thence south along the said county road to U.S. Highway 395, thence southeast along U.S. Highway 395 to the San Diego County boundary line, thence west along the said county line to the Pacific Ocean, and thence along the Pacific Coast to the point of beginning. NOTE: Applicant states that tacking with its existing authority would take place at Los Angeles, Calif., to provide through service with the authority sought herein. Tacking could also take place at various other points in its certificates 112713 Sub 107. The instant application is a matter directly related to MC-F 10830, published in the FEDERAL REGISTER issue of May 20, 1970. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10860. Authority sought for control and merger by RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, Ind. 46206, of the operating rights and property of SKAGGS TRANSFER, INC., Russellville Road, Post Office Box 102, Bowling Green, Ky. 42101, and for acquisition by L. B. RENNER, also of Indianapolis, Ind. 46206, of control of such rights and property through the transaction. Applicants' attorneys: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 46204, and Rudy Yessin, 6th Floor, McClure Building, Frankfort, Ky. 40601. Operating rights sought to be controlled and merged: *General commodities*, except household goods as defined by the Commission, articles of unusual value, commodities in bulk, commodities injurious or contaminating to other lading, and commodities which require special equipment, as a *common carrier* over regular routes, between Louisville, Ky., and Hopkinsville, Ky., serving all intermediate points except those between Louisville and Buffalo, Ky., between Glasgow, Ky., and Scottsville, Ky., between Glasgow, Ky., and the Adair-Metcalfe County line, between Bowling Green, Ky., and Scottsville, Ky., between Russellville, Ky., and Allensville, Ky., between Elkton, Ky., and junction U.S. Highway 79 and Kentucky Highway 102, between Bowling Green, Ky., and Franklin, Ky., between Scottsville, Ky., and Russellville, Ky., between junction U.S. Highway 68 and Kentucky Highway 73 and Franklin, Ky., between Halfway, Ky., and junction Kentucky Highways 100 and 1332, serving all intermediate points, between Scottsville, Ky., and Nashville, Tenn., serving intermediate points between Scottsville and the Kentucky-Tennessee State line only with restriction; between Munfordville, Ky., and Hardyville, Ky., serving all intermediate points, restricted against service between Munfordville and Louisville, Ky., between Munfordville, Ky., and Bowling Green, Ky., between Horse Cave, Ky., and junction U.S. Highway 31E and Kentucky Highway 218, between the plantsite of the Weatherall Manufacturing Co., at or near Brownsville, Ky., and Edmonton, Ky., between Glasgow, Ky., and junction Kentucky Highway 90 and U.S. Highway 31W, between Park City, Ky., and Bonayr, Ky.

Between Hays, Ky., and the plantsite of the Weatherall Manufacturing Co., at or near Brownsville, Ky., between Scottsville, Ky., and Rhoda, Ky., between Auburn, Ky., and Middleton, Ky., serving all intermediate points, with restrictions; between Elkton, Ky., and junction U.S. Highway 41 and Kentucky Highway 181, serving no intermediate points and serving junction U.S. Highway 41 and Kentucky Highway 181 for purpose of joinder only, with restriction; over three alternate routes for operating convenience only; *general commodities*, except household goods as defined by the Commission, articles of unusual value, commodities in bulk, commodities requiring special equipment, and classes A and B explosives, between Evansville, Ind., and Hopkinsville, Ky., serving the intermediate point of Madisonville, Ky., and serving junction U.S. Highway 41 and the Western Kentucky Turnpike for purpose of joinder only, between Princeton, Ky., and junction U.S. Highways 62 and 41, serving the intermediate point of Dawson Springs, Ky., and serving junction U.S. Highways 41 and 62 for purposes of joinder only, with restriction; between Hopkinsville, Ky., and Cadiz, Ky., between the plantsite of the Princeton Co., at or near Princeton, Ky., and Cadiz, between Princeton, Ky., and junction Kentucky Highways 139 and 93, between the plantsite of the Princeton Co., at or near Princeton, Ky., and junction Kentucky Highways 126 and 139, serving all intermediate points.

General commodities, excepting among others classes A and B explosives, household goods and commodities in bulk, between Bowling Green, Ky., and Evansville, Ind., serving all intermediate points in Warren County, Ky., on U.S. Highway 231, with restriction; between Evansville, Ind., and Hopkinsville, Ky., serving the intermediate point of Madisonville, Ky., and serving junction U.S. Highway 41 and Western Kentucky Turnpike for purpose of joinder only, between Princeton, Ky., and junction U.S. Highways 62 and 41, serving the intermediate point of Dawson Springs, Ky., and serving junction U.S. Highways 41 and 62 for purposes of joinder only, between Bowling Green, Ky., and Evansville, Ind., serving all intermediate points in Warren County, Ky., on U.S. Highway 231, with restriction; *general commodities*, excepting among others, household goods and commodities in bulk but not excepting classes A and B explosives, between the plantsite of the Princeton Co., located at Princeton, Ky., and Nashville, Tenn., serving no intermediate points, between the plantsite of the Princeton Co., located at or near Princeton, Ky., and Elizabethtown, Ky., serving no intermediate points and serving Elizabethtown for joinder only, with restriction; and *bedding and bedding products*, from Munfordville, Ky., to Elizabethtown, Ky., serving no intermediate points, and serving Elizabethtown for purposes of joinder only, with restriction. RENNER'S EXPRESS, INC., is authorized to operate as a *common carrier* in Indiana, Michigan, Kentucky, West Virginia, Ohio, and Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10861. Authority sought for purchase by RAYMOND MOTOR TRANSPORTATION, INC., 1912 Broadway NE., Minneapolis, Minn. 55413, of the operating rights and certain property of DEX MOTOR SERVICE, INC., 411-425 Factory Street, Addison, Ill. 60101, and for acquisition by G. F. RAYMOND, also of Minneapolis, Minn., of control of such rights and property through the purchase. Applicants' attorneys: Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99399 Sub-1, covering the transportation of property as a common carrier, in interstate commerce within the State of Illinois. Vendee is authorized to operate as a *common carrier* in North Dakota, Minnesota, Illinois, and Wisconsin. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC-66788 Sub-22 is a matter directly related.

No. MC-F-10862. Authority sought for control by RICHARD R. INFINGER, 2811 Carner Avenue, Charleston Heights, S.C. 29405, of BLACK'S MOTOR EXPRESS, INC., 1902 South Front Street (Carolina Beach Road), Wilmington, N.C. 28401. Applicant's attorney: Ralph McDonald, Post Office Box 2246, Raleigh,

N.C. 27602. Operating rights sought to be controlled: (This authority was granted pursuant to MC–FC 71801 by order of Motor Carrier Board dated January 8, 1970, and consummated February 9, 1970, and certificate not yet issued). *General commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Wilmington, N.C., and Richmond, Va., serving the intermediate point of Petersburg, Va., between Wilmington, N.C., and Warsaw, N.C., serving certain intermediate and off-route points. RICHARD R. INFINGER is authorized to operate as a *common carrier* in South Carolina, Georgia, North Carolina, Alabama, Florida, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10866. Authority sought for purchase by CROUSE CARTAGE COMPANY, Post Office Box 151, Carroll, Iowa 51401, of a portion of the operating rights of BRUCE MOTOR FREIGHT, INC., Post Office Box 623, Des Moines, Iowa 50303, and for acquisition by PAUL CROUSE, also of Carroll, Iowa, of control of such rights through the purchase. Applicants' attorney: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Des Moines, Iowa and Perry, Iowa, serving the intermediate points of Polk City, Zook Spur, High Bridge, Woodward, Madrid, and Adel, Iowa. Vendee is authorized to operate as a *common carrier* in Iowa, Nebraska, Kansas, New Jersey, New York, Connecticut, Pennsylvania, Delaware, Maryland, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. F–10867. Authority sought for control by DENVER-BOULDER BUS COMPANY, 1755 Glenarm Place, Denver, Colo. 80202, of COLORADO MOTORWAY, INC., 1755 Glenarm Place, Denver, Colo. 80202, and for acquisition by DONALD B. JAMES, 245 Brook Place, Boulder, Colo., of control of COLORADO MOTORWAY, INC., through the acquisition by DENVER-BOULDER BUS COMPANY. Applicant's attorney: David Butler, 500 Equitable Building, Denver, Colo. 80202. Operating rights sought to be controlled: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, as a *common carrier* over regular routes, between Denver, Colo., and Fort Collins, Colo., between Fort Collins, Colo., and Laramie, Wyo., serving all intermediate points. DENVER-BOULDER BUS CO. is authorized to operate as a *common carrier* in Colorado; and as a *broker* beginning and ending at Denver, Colo., and extending to points in the United States, including Alaska and Hawaii. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70–7977; Filed, June 23, 1970; 8:48 a.m.]

[Notice 551]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 19, 1970.

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

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

No. MC–FC–72193. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Schuylkill Valley Lines, a corporation, Norristown, Pa., of Certificate No. MC–113838 (Sub-No. 1), issued to William J. Butler, doing business as Butler's Chartered Bus Serivce, Philadelphia, Pa., authorizing the transportation of: Passengers and their baggage, in round-trip charter operations, beginning and ending at Philadelphia, Pa., and extending to points in New Jersey, New York, Delaware, Maryland, and the District of Columbia. Frank S. Dreeben, 1542 Western Savings Fund Building, Philadelphia, Pa. 19107, attorney. Rose Mattingly, 6219 Baltimore Avenue, Riverdale, Md. 20840, attorney. W. Albert Sanders, 226 South 16th Street, Philadelphia, Pa. 19102, attorney.

No. MC–FC–72206. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Rowland Construction Co., Inc., 810 West Main Street, Wilburton, Okla., of that portion of the operating rights in certificate No. MC–88380, issued January 7, 1965, to O. L. Harvey Truck Service, Inc., Seminole, Okla., authorizing the transportation of machinery, materials, supplies, and equipment, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Arkansas; and between points in Arkansas, on the one hand, and, on the other, points in Oklahoma.

No. MC–FC–72210. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Philpot Moving & Storage, Inc., Atlanta, Ga., of certificate No. MC–50350 issued to Homer Jones Moving & Storage, Inc., Columbus, Ga., authorizing the transportation of: Household goods, office furniture, tombstones, and monuments, between points in Alabama and Georgia, within 50 miles of Columbus, Ga. Virgil H. Smith, attorney, 431 Title Building, Atlanta, Ga. 30303.

No. MC–FC–72211. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Robert N. Miley, Lancaster, Pa., of the operating rights in Permit No. MC–127906, issued August 2, 1968, to Ivan L. High, Ephrata, Pa., authorizing the transportation of construction materials and electrical and gas appliances, equipment and parts from points in Ephrata Township, Lancaster County, Pa., to points in Delaware, Maryland, and New Jersey. John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108, attorney for applicants.

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

[F.R. Doc. 70–7978; Filed, June 23, 1970; 8:48 a.m.]

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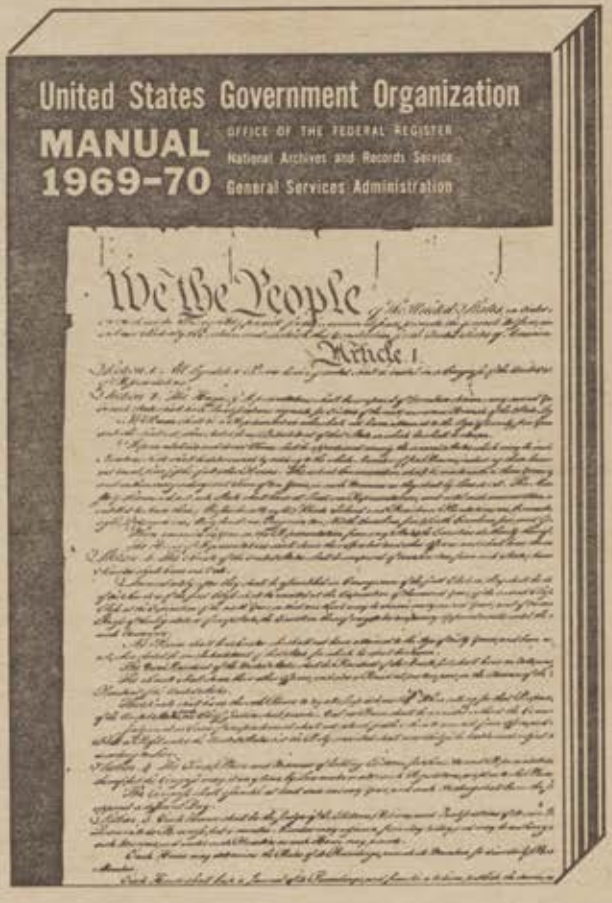

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