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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199 is amended to show that until June 30, 1972, not to exceed 30 positions at GS–15 and below on the staff of the Cabinet Committee on Education are excepted under Schedule A. Effective on publication in the FEDERAL REGISTER, paragraph (h) is added to § 213.3199 as set out below.

§ 213.3199 Temporary boards and commissions.

* * * * *

(h) *The Cabinet Committee on Education.* (1) Until June 30, 1972, not to exceed 30 positions at GS–15 and below on the staff of the Committee.

(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. 70–9650; Filed, July 27, 1970; 8:45 a.m.]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that the position of Special Assistant to the Assistant Secretary for Economic Development is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER subparagraph (8) of paragraph (q) of § 213.3314 is revoked as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(8) [Revoked]

* * * * *

(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. 70–9651; Filed, July 27, 1970; 8:45 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

PART 855—MAINLAND CANE SUGAR AREA

Proportionate Shares for Farms: 1971 Crop

Sec.
855.67 Definitions.
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855.74 Reallotment of unused acres.
855.75 Establishment of shares for new-producer farms.
855.76 Appeals or corrections.

AUTHORITY: Secs. 855.67 to 855.76 issued pursuant to sec. 302 of the Sugar Act of 1948, as amended (secs. 301, 302, 403, 61 Stat. 929, 930 as amended; 932; 7 U.S.C. 1131, 1132, 1153).

§ 855.67 Definitions.

For the purpose of this part, the terms:

(a) "Act," "Secretary," "Deputy Administrator," "State Committee," "County Committee," "Producer," "Operator," and designation of a crop of sugarcane by year shall have the meanings set forth in § 829.1 of this chapter.

(b) "Farm" shall have the meaning set forth in Part 822 of this chapter.

(c) "Cane" means sugarcane.

(d) "Old-Producer farm" means a farm which includes land that comprised a farm or part of a farm for which a share was established for the 1970 crop pursuant to §§ 855.61, 855.62, or 855.65.

(e) "New-Producer farm" means any farm that is not an old-producer farm.

(f) "Proportionate share" or "share" means the proportionate share for a farm in terms of planted acreage as provided in sections 301 and 302 of the Act.

(g) "Accredited acreage" or "accredited acres" means the area on the farm (within the share for such farm if shares are in effect) for any crop as designated by year on which sugarcane was grown and marketed (or processed) for the extraction of sugar or liquid sugar, except for use as livestock feed or for the production of livestock feed, or which was harvested for seed or which was determined by the county committee to have been bona fide abandoned acreage to the extent of fulfilling at least the requirements for abandonment payments set forth in paragraph (c)(1) (i) and (ii) of § 845.2 of this chapter, as shown by office records of the county committee.

§ 855.68 General provisions.

Regulations pertaining to general conditional payments provisions are set forth in Part 892 of this chapter. Such regulations include provisions in regard to conditions which must be met to be eligible for payment, instructions for filing application for payment, requirements for harvesting within the farm share and for disposing of acreage in excess of the farm share. Also included are provisions covering sharecropper or share tenant protection, farm accredited acreage records, erroneous notice of the farm share or of excess acreage, acquisition of farm land by the right of eminent domain including the transfer of the share from the land so acquired to other land in the State, and provision for redetermination and review of determinations by county and State committees or the Deputy Administrator. Provisions pertaining to certification of acreage and land use in lieu of farm inspection and measurement as set forth in Part 718 of this title and in § 892.4 of this chapter. Provisions governing requests and appeals by producers for reconsideration or review of determinations by county or State committees or the Deputy Administrator are set forth in Part 780 of this title.

§ 855.69 State acreage allocations.

The acreage allocation shall be 205,988 acres for Florida and 330,061 acres for Louisiana, which includes the acreage made available under § 855.75 for new-producer farms and under § 855.76 for fulfilling appeals and correcting errors.

§ 855.70 Determination of farm bases for old-producer farms.

The county committee for the county in which the farm headquarters is located shall determine a farm base for each old-producer farm or a portion thereof for the 1971 crop of cane as follows:

(a) For each old-producer farm, as constituted for the 1970 crop at the time the 1971 crop share is established, such base shall be the 1970 crop accredited acreage record of the farm, except that if the county committee determines that the 1970 crop accredited acreage is at least 90 percent of the original 1970 crop share established pursuant to § 855.61, § 855.62, or § 855.65 for the farm or is less than 90 percent of such share because of reasons beyond the control of the operator, the farm base shall be such 1970 share. If it is known at the time farm bases are to be determined that

1971 crop acreage will not be harvested on a farm for which a base could be established, and the land was not acquired under right of eminent domain, a base will not be established.

(b) For each old-producer farm or part thereof removed from cane production by acquisition by a Federal, State, or other agency or entity entitled to exercise the right of eminent domain after the 1967 crop was harvested from such land, and the owner of such land did not have the State committee add the 1970 crop share established for such farm or part pursuant to § 855.61 or § 855.62 to the 1970 crop share established for other land owned by such owner under the provisions of § 855.61 or § 855.62, the farm base shall be the 1970 crop share so established for the farm or part removed from production.

§ 855.71 Establishment of shares for old-producer farms.

The county committee shall establish a 1971 crop share for any farm for which a base is determined pursuant to § 855.70 as follows:

(a) *Farms with bases of 4.4 acres or less.* The share for any farm in this category shall be 5 acres.

(b) *Farms with bases of 4.5 acres or more.* The share for any farm in this category shall be determined by applying to each farm base an adjustment factor computed by the State committee. The factor shall be determined by dividing the State acreage allocation in § 855.69, less the sum of the acres made available to the State in §§ 855.75 and 855.76 and the total of the shares determined in paragraph (a) of this section, by the total of the bases established for all farms with bases of 4.5 acres or more.

(c) *Farm shares covering land removed from production under right of eminent domain.* The share established pursuant to paragraph (a) or (b) of this section for any farm or part of a farm for which a base was determined pursuant to § 855.70(b) shall, as provided in § 892.18 of this chapter, be added to the 1971 crop share established for other land in the State owned by the owner of the land who lost acreage under the right of eminent domain upon application to the State committee by such owner as provided in § 892.18 of this chapter. Provision is made in § 892.18 of this chapter for holding a share or part thereof in reserve for the future use of the owner of the land lost by the right of eminent domain.

§ 855.72 Shares for reconstituted farms.

(a) *Change in farm constitutions.* If the county committee determines after a 1971 crop share is established for the farm, that the 1971 crop farm will not be comprised of the same land as that included in the 1970 crop farm used as the basis for establishing the share or will not be comprised of the same land for which the application for a new-producer share was made, or determines that the farm was not properly constituted for the 1971 crop pursuant to the definitions of a farm and an operator, the farm or farms involved shall be reconstituted in accordance with such definitions. A share shall be determined as follows for the reconstituted farm.

(b) *Old-producer farms*—(1) *Subdivision.* The share for each subdivision of a farm which is subdivided shall be the portion of the 1971 crop share established for the farm pursuant to § 855.71, including any adjustments made in such share pursuant to § 855.74 or § 855.76, determined for each subdivision in accordance with the method used for dividing the accredited acreage record of the farm set forth in § 892.9 of this chapter. However, if the share as so determined for any subdivision is greater than the acreage of cane growing on the subdivision for 1971 crop harvest, the county committee shall reduce the share for such subdivision to the acreage growing thereon, except that such reduction shall not be made if the county committee determines that acreage of cane on the subdivision was plowed down without the approval of the person acquiring the subdivision in order to obtain larger shares on the other subdivision or subdivisions. If such reduction is made, the acreage made available shall be distributed to increase the share of each of the other subdivisions of the parent farm on which the acreage growing for 1971 crop harvest exceeds the share determined for such subdivision, and such distribution of acreage by the county committee shall be prorated on the basis of the acreage growing on each subdivision.

(2) *Combinations.* The share for a reconstituted farm consisting of a combination of old-producer farms, a combination of subdivisions of such farms or combination of such farms and such subdivisions shall be the sum of the 1971 crop shares for such farms and subdivisions of such farms.

(c) *New-producer farms*—(1) *Subdivision.* The share established for a new-producer farm which is subdivided shall be prorated to the subdivisions by the percentage ratio that the acreage planted on each subdivision is to the total acreage planted on the farm. If there is no acreage of cane growing on the farm prior to subdivision, the share shall be canceled except that if the producer who requested the share retains a subdivision of the farm with sufficient cropland suitable for cane production at a level of such share, and before the share is canceled he files a written request at the county ASCS office to establish the share for his reconstituted new-producer farm, the share shall be established for such producer's reconstituted new-producer farm consistent with the requirements set forth in § 855.75 for establishment of new-producer farm shares.

(2) *Combinations*—(i) *Combined before planting.* The share for any new-producer farm or subdivision thereof which is combined with an old-producer farm or subdivision thereof prior to the planting of cane on the new-producer farm shall be canceled and the share established for the old-producer farm or subdivision thereof shall be the share for the reconstituted farm. If a new-producer farm or subdivision thereof is combined with another new-producer farm or subdivision thereof prior to the planting of cane on either of the new-producer farms or subdivisions thereof, the shares for the new-producer farms shall be canceled and a share shall be established pursuant to § 855.75 (d) for the reconstituted farm. The share established for a new-producer farm or for a subdivision thereof which is combined with land not part of a farm for which a share has been established, shall be the share for the reconstituted farm.

(ii) *Combined after planting.* If a new-producer farm or subdivision thereof is combined with another farm or subdivision thereof after cane has been planted on the new-producer farm the share established for the new-producer farm or portion of such share determined for the subdivision shall be added to the share established for the other farm or subdivision thereof. However, if the county committee determines that the operator of the new-producer farm, at the time he applied for a new-producer share, had begun negotiations or had arranged to subsequently transfer the new-producer farm to the operator of the other farm, the share established for the new-producer farm or portion of such share determined for the subdivision shall be canceled, and the share established for the other farm or subdivision thereof shall be the share for the reconstituted farm.

§ 855.73 Redetermination of bases and shares because of use of incorrect data.

Where incorrect data were used in determining a farm base or a share, such share shall be canceled and a new base shall be computed in accordance with § 855.70 using the correct data. A new share shall be established for the farm in accordance with § 855.71. Any acreage by which the incorrect share exceeds the newly established share and any acreage available under § 855.76 shall be used to increase shares for farms whose shares were established at levels lower than those to which they were entitled. Any acreage remaining shall be reallotted under § 855.74. If there is insufficient acreage to increase shares for farms whose shares were established at levels lower than those to which they were entitled, acreage becoming available under § 855.74(b) shall first be used to increase shares for such farms.

§ 855.74 Reallotment of unused acres.

(a) *Eligibility.* Any old-producer farm for which a share is established pursuant to § 855.71 is eligible for an increase in the share established for the farm as provided in this section. A request for such increase must be filed by the operator of the farm in accordance with paragraph (c) of this section.

(b) *Source of unused acreage for increasing shares.* The following is available for reallocation:

(1) Any unused acreage, not to exceed the total of the acreage of shares reduced pursuant to paragraph (h) of this section excluding any acreage reserved by the State committee pursuant to § 892.18 of this chapter.

(2) Any acreage made available pursuant to § 855.75(a) for establishing shares for new-producer farms which is not requested by qualified applicants, and acreage representing new-producer shares which are canceled pursuant to § 855.72(c) and is not used as provided therein.

(3) Any acreage made available pursuant to § 855.76 for fulfilling appeals or corrections of erroneous shares which is not used for such purpose, or under § 855.73.

(c) *Filing requests for additional acreage.* Requests shall be filed in the county ASCS office in which the farm headquarters is located. In Florida, they must be filed by June 30, 1971, and in Louisiana, not later than January 12, 1971. If a farm is located in more than one county, requests also shall be filed in the county ASCS office in which the part of the farm on which the additional acreage will be utilized is located. Late requests filed before the distribution of unused acreage may be accepted as timely filed if the county committee determines that the operators delay filing for reasons beyond their control. Other late requests may be accepted prior to harvest if there is acreage still available after filling all timely filed requests.

(d) *Priority of adjustments.* Unused acreage determined pursuant to paragraph (b) of this section shall be used first as needed to increase shares as provided in § 855.73; secondly, to adjust the shares for eligible old-producer farms. Except for the unused acreage used to increase shares pursuant to § 855.73, any adjustment in a share shall not exceed the larger of 10 acres or 20 percent of the share established pursuant to § 855.71.

(e) *Increasing shares.* Subject to the provisions of paragraph (d) of this section, acreage to be reallotted pursuant to paragraph (f) of this section shall be used to increase the shares of old-producer farms whereon additional acreage may be used and requests have been filed pursuant to paragraph (c) of this section by considering the ability of the farm operator to use additional acreage in light of (1) availability and suitability of land, (2) availability of production and marketing facilities, (3) rotation practices, (4) maintenance of a proper relationship between total cane acreage and suitable cropland, and (5) the need for minimum acreage in a mill area.

(f) *Methods for reallocating unused acreage.* Pursuant to the provisions of paragraph (e) of this section, unused acreage determined pursuant to paragraph (b) of this section, shall be used to increase shares of farms, the operators of which have filed requests which have been accepted pursuant to paragraph (c) of this section, as follows:

(1) In Florida, the State committee shall determine and inform the county committees of increases to be made in the share for each farm.

(2) In Louisiana, the county committee of each county will determine the unused proportionate share acreage on farms with headquarters in the county. The unused acreage so determined shall first be used by such committee to increase the shares for farms or parts of farms located in the county. The increase in the share for a farm with headquarters in the county may be utilized on any part of such farm. However, any increase which is granted to a part of a farm that does not include the farm headquarters must be planted on such part of the farm located in the county granting the increase. Any unused acreage remaining in any county in Louisiana after all requests have been satisfied subject to the limitations set forth in paragraph (d) of this section shall be released to the State committee. The Louisiana State Committee shall distribute such acreage to other counties in which the total of the additional acreage requested exceeds the unused acreages. Such distribution shall be made on the basis of the percentage relationship between the total of the shares established pursuant to § 855.71 for all farms in each such county and the total of the shares so established for all farms in all such counties: *Provided,* That the acreage distributed to any county shall not exceed the total acreage needed to increase shares to the extent requested for farms in such county.

(g) *Limitations.* No share shall be increased by an amount in excess of that requested or increased to cover acreage which was previously abandoned regardless of the cause of such abandonment.

(h) *Reduction in shares.* If the county committee determines for any farm that the total of the 1971 crop acreage of cane to be harvested for sugar and seed and the acreage of cane on the farm which has been abandoned to the extent of fulfilling at least the requirements set forth in paragraph (c)(1) (i) and (ii) of § 845.2 of this chapter is less than the farm's 1971 crop share, including any adjustment made pursuant to this section or § 855.76, the share shall be reduced to the level of such total 1971 crop acreage.

§ 855.75 Establishment of shares for new-producer farms.

(a) *Acreage available.* There are available 100 acres for use in Florida and 150 acres for use in Louisiana for establishing shares for new-producer farms.

(b) *Filing requests.* A person desiring a share for a new-producer farm shall file a request at the local county ASCS office. In Florida, the request must be filed not later than August 31, 1970, and in Louisiana not later than September 1, 1970. Late requests may be accepted as timely filed prior to the establishment of shares for new-producer farms if the State committee determines that the person delayed filing for reasons beyond his control. Other late requests may be accepted if there is acreage still available after filling all timely filed requests.

(c) *Rating of applicants.* Subject to review and redetermination by the State committee, the county committee shall rate the applicant as "qualified" or "not qualified" to utilize a new-producer farm share by considering (1) the availability and suitability of land, (2) availability of production and marketing facilities, and (3) whether the land on which cane will be grown is under his control through ownership or lease and such land was not included in an old-producer farm: *Provided,* That no applicant will be rated as "qualified" unless the county committee determines he will be the operator of the farm as defined in paragraph (1) of § 892.1 of this chapter.

(d) *Size of share.* Each share shall be 50 acres, or a lesser acreage if requested, or such lesser acreage as the State committee determines if either the county or State committee determines that the available cropland will not support a share in the amount requested.

(e) *Establishing shares.* The State committee shall establish a share for the new-producer farm of each "qualified" applicant if the acreage provided in paragraph (a) of this section is sufficient to establish such shares. If there is insufficient acreage, the selection of "qualified" applicants to receive shares shall be by lot. Each drawing shall be supervised by a representative of the State committee. Persons included in a drawing shall be given advance notice and an opportunity to attend. Names (or farm numbers) shall be placed in a container and shall be indistinguishable to the person making the "draws". The person in charge shall announce the method of selection before the drawing.

(f) *Use of set-aside.* All acreage available for new-producers shall be allotted to qualified applicants if there are sufficient requests for such acreage. Any acreage within that provided in paragraph (a) of this section which is not requested by qualified applicants shall be used to increase shares of old-producer farms pursuant to § 855.74, however, such acreage may not be used for this purpose before June 1, 1971.

§ 855.76 Appeals or corrections.

There are available 100 acres for use in Florida and 150 acres for use in Louisiana for fulfilling increases in shares resulting from appeals or for making corrections of erroneous shares. After the county committee has acted on its own initiative or on a request for reconsideration of the establishment of a share for an old-producer farm and has found that such share was in error because of the use of incorrect data or misapplication of these regulations, the State committee, upon its own initiative or upon application of the operator, may within the acreage made available under this section increase the share for such farm to a level so as to give effect to the use of correct data or proper application of these regulations. Any acreage within that made available which is not used for such purposes shall be used first to increase shares of old-producer farms pursuant to § 855.73 and secondly pursuant to § 855.74.

STATEMENT OF BASES AND CONSIDERATIONS

Sugar Act requirements. The provisions with respect to producer compliance with the conditions for receiving payment, the basis for such payment,

considerations required for establishing individual shares, and the protection of interests of new and small producers, tenants and sharecroppers are set forth in sections 301 and 302 of the Act (7 U.S.C. 1131, 1132).

General. The Act requires that shares be established for farms in an area for a given crop when the Secretary determines that production will be greater than the quantity needed to enable the area to meet the quota and provide a normal carryover inventory as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed.

Proportionate shares have been required in the Mainland Cane Sugar Area for the last six crops. The acreage allocated to the two States for the 1970 crop was 12 percent more than for the 1969 crop. The reduction in acreage between 1964, the last crop for which shares were not in effect, and 1969 had amounted to 28 percent.

Sugar production from the 1969 crop amounted to 1,071,000 tons which was less than the area's 1969 marketing quota. As a result, the effective inventory on January 1, 1970, of 975,000 tons was 98,000 tons less than a year earlier. The 1970 crop is growing on 466,000 acres as compared to 419,000 acres for the 1969 crop. If the average of the 1967–69 sugar yields per acre is attained, production from the 1970 crop will be about 1,225,000 tons of sugar. This year's marketing quota for the Mainland Sugarcane Area is 1,308,000 tons. The estimated effective inventory at the end of 1970 calendar year at 892,000 tons would be smaller than a year earlier and would amount to less than 70 percent of the area's marketing quota for the following year.

In the absence of controls, 1971 crop acreage would greatly exceed that for the current crop. The production of sugar from such increased acreage could considerably exceed the quantity needed to enable the area to meet its quota and provide a normal carryover inventory. Therefore, a restriction of 1971 crop acreage to the extent provided by this regulation is necessary.

Public hearing. On May 21, 1970, an informal public hearing was held in Miami Beach, Fla., to obtain the views and recommendations of interested persons on all matters relating to establishing 1971 crop shares. In the press release announcing the hearing, the Department proposed as a basis for discussion that separate State allocations be established to provide each State with its share of the acreage required to maintain sugar supplies at a level to meet quota needs and inventory requirements. Views as to what the level of 1971 crop acreage should be were requested. The Department proposed to set aside acreage within each State allocation for establishing shares for new farms (not to exceed 50 acres each) and for handling appeals. Recommendations were requested as to the level of these set-asides. It was proposed that farm bases for old-producer farms be established in the same manner as for the four prior crops. Bases would be the larger of (a) the farm's 1970 crop acreage record, or (b) the 1970 crop farm's original share if the farm operator used at least 90 percent of such share or used less than 90 percent for reasons beyond his control. The Department suggested that an appropriate adjustment factor be applied to the farm base to compute each share, except that minimum shares of 5 acres would be established for old-producer farms. Views were requested as to whether the adjustment factor should be applied to farms with bases between 5 and 50 acres. Each State would be enabled to utilize its total allocation through distribution of unused acres to other farms which could use additional acreage.

The spokesman for the American Sugar Cane League, the Louisiana Farm Bureau Federation, the Florida Sugarcane League, and the Florida Farm Bureau recommended that 1971 crop acreage be established at a level 15 percent higher than that in effect for the 1970 crop. He stated that the actual inventory of sugar in the Mainland Cane Area in the late summer and early fall each year has been negligible, and thus has been completely inadequate to provide the reservoir of readily available supplies which may be needed on short notice to help fulfill consumer needs. He emphasized that this reservoir can only be realized through the maintenance of, or even an increase in the January 1 effective inventory and an increase in actual inventory. The supply situation projected on the basis of his recommendation showed that the effective inventory of sugar on January 1, 1972, would only average about 30,000 tons in excess of those for the 2 prior years, but on the other hand, would represent a smaller relationship to marketings than for the 2 prior years. In making this recommendation, he further stated that the industry is willing to stand the consequences of the inventory that would result if the 1971 crop acreage were to be established at the level recommended. In this connection he said the processors had the ability to store inventories that could result from the additional acreage. With respect to the other items mentioned in the press release, he recommended the following: (1) Separate State allocations be continued; (2) that 100 acres in Florida and 150 acres in Louisiana be set aside for new-producer shares of a maximum of 25 acres each; (3) that acreage set aside for handling appeals should not exceed 100 acres in Florida and 150 acres in Louisiana; (4) that farm bases be established for old-producer farms as proposed by the Department with the exception that if a base is less than 5 acres, such base be increased by any amount up to 5 acres, only if the operator makes a request for such increase; (5) that the share for each farm of less than 5 acres whose base was increased by any amount up to 5 acres be at the level of such base; (6) that for farms whose 1970 accredited acreage was less than 90 percent of its 1970 original share because of reasons within the control of the operator, the share should be the farm's accredited acreage; (7) that shares for the remaining old-producer farms be established by applying an appropriate adjustment factor to all bases; (8) that the methods followed in prior crops for distributing unused acreage be continued; (9) that the provisions covering the crediting of the sugarcane acreage record of a farm which is to be divided be amended to permit the interested parties to agree upon a manner of division and (10) that no provision be made in the regulation relating to acreage for experimental use.

One additional witness representing The Young People's Sugar Association, a group of Louisiana producers, supported the statement made by the industry spokesman.

The American Sugar Cane League, the Louisiana Farm Bureau and the Florida Sugar Cane League in a brief filed by their spokesman reemphasized some of the proposals made at the hearing. They suggested that because growers are still operating under severe restrictions, new producers shares be limited to 25 acres. They also restated their desire to have farm bases established at the level of the farm's acreage record when the operator used less than 90 percent of the farm's share when the reason for underplanting was entirely within his control.

In a brief filed on behalf of the Louisiana producers only, it was proposed that no provision be included in the regulation relating to experimental acreage if such provision must be made applicable to both States. No objection was interposed for providing experimental acreage for Florida only.

One processor in Florida filed a brief requesting that experimental acreage be provided the State for testing of seedlings and preliminary selection of promising varieties. He recommended that at least 25 acres be made available for this purpose.

Determination. This determination establishes a total acreage allocation of 536,049 acres for the 1971 crop, an increase of 15 percent over the 1970 crop allocation. State allocations of 205,988 acres for Florida and 330,061 for Louisiana are established. Considering the reduction in acreage since 1964, the production of less sugar from the 1969 crop than was originally estimated, the possibility of freeze and hurricane damage which can seriously impair the accuracy of a forecast of production from both the 1970 and 1971 crops, the industry's ability and willingness to carry the possible increased inventories of sugar, and the expected below-quota production from the 1970 crop, the increase is believed fair and reasonable. The effect of this determination is to assign the 1971 crop the largest acreage since 1964. The increase is also in line with the recommendations of the mainland cane sugar industry.

Farm bases will be determined in the same manner as for the four prior crops. This method appears equitable and has wide acceptance among affected persons.

A base will be the larger of the 1970 crop accredited acreage record or the 1970 crop original share if the farm operator utilized at least 90 percent of such share or was prevented from utilizing such percentage of the share for reasons beyond his control. Thus, unless an operator elected to underplant his farm's 1970 crop share by more than 10 percent, the base for his farm will not be less than the farm's original 1970 crop share. A base will also be determined for any farm for which production was lost or reduced after 1967 crop harvest through the transfer of acreage to any agency having the right of eminent domain.

The proportionate share for any farm having a base of 4.4 acres or less will be established at 5 acres. This provision once again will afford those small farms in Louisiana the opportunity to expand their acreage to a higher operating level if they could not take advantage of the minimum 5-acre share provided in last year's regulation. The Department recognizes that for some farms the initial 5-acre share will exceed the cropland on the farm suitable for cane production. The acreage representing the difference will be treated as unused acreage and will be made available to other old-producer farms. However, based on the small number of farms having less than 5 acres of cane, it is expected that a very few unused acres will result from establishing minimum 5-acre shares. Also, the Department believes that this approach is more desirable than having operators of these small farms request an increase in their farm bases in any amount up to 5 acres, as suggested by the industry spokesman, since the period from the acceptance and processing of such requests would unduly delay the issuance of shares for the remaining 95 percent of the farms.

For all farms having a base of 4.5 acres or more, an adjustment factor will be applied to the farm bases to determine each share. This action is in accord with the industry's recommendation except for the handling of cases where the farm operator planted less than 90 percent of the prior crop's share because of a reason within his control. The recommendation was to establish the 1971 crop share at the level of the farm's 1970 crop accredited acreage. Since testimony developed at the hearing revealed that there were no known cases where an operator intentionally failed to use 90 percent of his farm's share, this recommendation has not been adopted.

Further consideration will be given to the industry's recommendation for dividing the sugarcane acreage record of a farm which is subdivided on the bases of an agreement among the parties involved.

Other provisions of this regulation, such as establishing shares for land lost because of eminent domain and the method used to reallot unused acres are similar to those which were in effect for the 1970 program. Provisions covering requirements for harvesting within the farm share, disposition of acreage in excess of the farm share, protection of sharecroppers and share tenants and acquisition of farm land by the right of eminent domain are now included in the General Conditional Payments Provisions.

The 1971 crop sugarcane acreage resulting from this regulation should provide a quantity of sugarcane which will enable the area to meet its quota under the Act and provide a normal carryover inventory.

The provisions of this regulation constitute an equitable basis for establishing shares for farms in the area for the 1971 crop of sugarcane.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of the Act.

Effective date: Date of publication.

Signed at Washington, D.C., on July 18, 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-9712; Filed, July 27, 1970; 8:50 a.m.]

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

[Lemon Reg. 436, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 910.736 (Lemon Regulation 436, 35 F.R. 11584) are hereby amended to read as follows:

§ 910.736 Lemon Regulation 436.

* * * * * *

(b) * * *

(1) * * *

(ii) District 2: 311,550 cartons.

* * * * * *

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

Dated: July 23, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-9664; Filed, July 27, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, the reference to the States of Alabama and Delaware in the introductory portion of paragraph (e); subparagraph (e)(1) relating to the State of Alabama; subparagraph (e)(4) relating to the State of Delaware are deleted; and paragraph (f) is amended by adding thereto the names of the States of Alabama and Delaware.

2. In § 76.2, in subparagraph (e)(14) relating to the State of Virginia, subdivision (ii) relating to Henrico County is deleted.

3. In § 76.2, paragraph (g) is amended by adding thereto the name of the State of South Dakota.

(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 exclude a portion of Greene County, Ala.; a portion of Kent County, Del.; and a portion of Henrico County, Va., from the areas 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 of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas.

The foregoing amendments also add the States of Alabama and Delaware to the list of hog cholera eradication States in § 76.2(f) and the State of South Dakota to the list of hog cholera free States in § 76.2(g).

The amendments relieve 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 amendments are impracticable and unnecessary, 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 22d day of July 1970.

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

[F.R. Doc. 70-9665; Filed, July 27, 1970; 8:46 a.m.]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Director of the Animal Health Division by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1969 ed.), as amended February 1, 1969 (34 F.R. 1586), June 3, 1969 (34 F.R. 8697), July 1, 1969 (34 F.R. 11081), August 1, 1969 (34 F.R. 12561), November 27, 1969 (34 F.R. 12661), April 16, 1970 (35 F.R. 6175), and May 21, 1970 (35 F.R. 7781), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

WITHIN METROPOLITAN AREA

TWO HOURS

Add: Port of Richmond, Richmond, Va.

This commuted travel time period has been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal Health Division.

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this instruction are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

(64 Stat. 591, 7 U.S.C. 2260)

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

Done at Hyattsville, Md., this 23d day of July 1970.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-9711; Filed, July 27, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-13-AD; Amdt. 39-1047]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 56TC Airplanes

There have been reports of cracked or broken Beech P/N 96-524029-1 control wheel adapters installed on Beech Model 56TC airplanes which can result in sudden and unexpected interruptions of aileron and elevator control. To correct this condition the manufacturer has issued Beechcraft Service Instructions No. 0254-156, Revision 1, which recommends instructions for testing, inspection, and/or replacement of these adapters. Since the condition described herein exists or may develop in other airplanes of the same type design, an airworthiness directive is being issued requiring within 50 hours' time in service after the effective date of this AD, that Beech Model 56TC airplane control wheel adapters be tested, inspected, and/or replaced in accordance with the aforementioned Service Instruction.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Model 56TC (Serial Numbers TG-1 through TG-83) Airplanes.

Compliance: Required as indicated, unless already accomplished:

To assure security of the control wheel adapter weld, within 50 hours' time in service after the effective date of this AD, accomplish either A or B below:

(a) Proof load test and inspect Beech P/N 96-524029-1 control wheel adapters using either dye penetrant or magnetic particle method of inspection in accordance with Beechcraft Service Instructions No. 0254-156, Revision 1, or later FAA-approved revision or by any other method approved as an equivalent by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. If a crack is found during this inspection, before further flight, perform the replacement required by paragraph B of this AD.

(b) Replace Beech P/N 96-524029-1 control wheel adapters with Beech P/N 96-524029-15 (left side) control wheel adapter or Beech P/N 96-524029-19 (right side) control wheel adapter or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective July 28, 1970.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on July 16, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-9683; Filed, July 27, 1970; 8:48 a.m.]

[Airworthiness Docket No. 70-WE-24-AD; Amdt. 39-1048]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

There have been reported fatigue failures of the wing center section front spar web at LBL 13.12 and RBL 25.08. In each case, the crack occurred along the heel of a vertical web stiffener. Investigation established that the fatigue failure was related to cabin pressurization cycles. Since this condition is likely to exist or develop in other Model 727 airplanes, an airworthiness directive is being issued to require inspection and repair to minimize the probability of future web failures. The AD provides for a threshold of 14,000 landings for initiation of a special inspection program and for necessary repairs, and provides that the modification described in an FAA-approved Boeing Service Bulletin will permit termination of special inspections.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding

the following new airworthiness directive:

BOEING. Applies to Model 727 series airplanes listed in Boeing Service Bulletin 57–107 Revision I, dated June 17, 1970, or later FAA-approved revision.

Compliance required as indicated.

To detect any cracking of the wing center section front spar web and to prevent any crack from reaching an unsafe length, accomplish the following:

A. Unless already accomplished within the last 800 landings preceding the effective date of this AD, within the next 200 landings after the effective date of this AD or prior to the accumulation of 14,200 landings, whichever occurs later, and at intervals not to exceed 1,000 landings from the last inspection, inspect the wing center section front spar web for any evidence of cracking in accordance with Boeing Service Bulletin 57–107, Revision 1, dated June 17, 1970, or later FAA-approved revision, or an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

B. Spar web cracks which are detected and which are less than 5 inches long must be repaired and/or inspected as follows, except when more than one crack is found along the same stiffener or a crack is found along each of two adjacent stiffeners:

1. A spar web with a crack less than 2 inches long may be continued in service without repair or other rework, provided (a) the length of such crack is positively determined and (b) each such crack is reinspected at intervals not to exceed 10 landings to assure compliance with the 2-inch maximum crack limitation. Any such spar web which has been continued in service must be repaired in accordance with B2 or C below, prior to further flight, whenever the length of any such crack is upon subsequent inspection found to exceed 2 inches. In this case, the spar web in the vicinity of the repair must also thereafter be inspected as prescribed in B2 or C, below, until the front spar is modified as prescribed in D, below.

2. A spar web with a crack longer than 2 inches but less than 5 inches long may be continued in service, provided (a) the length of each such crack is positively determined; (b) each such crack is repaired prior to further flight in accordance with Boeing Drawing 69–62491–2 to prevent airflow through the crack, or in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region; and (c) the spar web in the vicinity of each such repair is reinspected at intervals not to exceed 200 landings to detect any evidence of new cracks or crack growth until the crack is repaired per C, below, and the front spar is also modified per D, below. Any new cracks which are detected are subject to the provisions of paragraphs B and C of this AD, as governed by the length and location of the new cracks. Any crack which has been found to have grown after repair per this paragraph must again be repaired and thereafter inspected in accordance with C, below.

C. Spar web cracks longer than 5 inches, and web areas with more than one crack along a stiffener or a crack along any two adjacent stiffeners, must be repaired prior to further flight and thereafter inspected as follows:

1. Install a doubler or doublers, as required, in accordance with the Boeing Model 727 structural Repair Manual or an equivalent reinforcement approved by the Chief, Aircraft Engineering Division, FAA Western Region, and

2. Inspect the spar web in the vicinity of each such doubler or reinforcement thereafter at intervals not to exceed 1,000 landings for evidence of additional cracking until the front spar is also modified per D, below. If additional cracking is detected, the web must be again repaired prior to further flight, and the inspections at intervals not to exceed 1,000 landings must be continued.

D. The special inspections prescribed by A, B, and C, above, do not apply to aircraft on which the front spar has been reworked to incorporate the preventive modification described in Boeing Service Bulletin 57–107, Revision 1, dated June 17, 1970, or later FAA-approved revision, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region: *Provided*, That the spar web was inspected at the same time in accordance with A, above, and found to be uncracked, or that any crack in the web had been properly repaired in accordance with C, above.

E. For the purpose of compliance with this AD, the number of landings may be determined by dividing the total flight time on an airplane by the operator's fleet average flight time per landing for the type airplane considered.

F. Airplanes having cracked spar webs which require repair under this AD may be flown unpressurized in accordance with FAR 21.197 to a base where the repair or modification can be accomplished.

This amendment becomes effective July 28, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; Sec. 6(c), Department of Transportation Act, 499 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on July 16, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-9715; Filed, July 27, 1970; 8:51 a.m.]

[Docket No. 70-CE-14-AD; Amdt. 39-1050]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 150, 172, 177, 182, 205, 206, 207, and 210 Airplanes

There have been reports of malfunctions of the electrical flap actuators installed on Cessna Models 150, 172, 177, 182, 205, 206, 207, and 210 airplanes. These malfunctions have been identified as slippage of the flap actuator jackscrew and nut assembly which results in inadvertent flap retraction. These reports of malfunctions and subsequent flight tests performed by the FAA disclose that if inadvertent flap retraction occurs during certain flight situations it can result in an accelerated stall with resultant altitude loss. It has been determined that this condition is caused by a breakdown of lubricant resulting in a buildup of a lacquer-like coating on the jackscrew and balls. This coating reduces the friction of the jackscrew threads which then allows the flap actuator to function as a reversible mechanism, allowing the flaps to retract inadvertently. It has been further determined that this condition can be corrected by servicing as set forth in Cessna Service Letter No. SE70–16 dated June 12, 1970, and Supplement No. 1 dated July 10, 1970. In part, this service letter requires that the flap actuator be inspected at each 100-hour inspection for condition of lubricant and cleaned and relubricated at least every 12 months or more often if indicated by inspection results.

Since the conditions described herein exist or may develop in the above model airplanes which utilize this same type of actuator, an airworthiness directive is being issued requiring that within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 100 hours' time in service, on all Cessna model airplanes hereinafter listed, the electrical flap actuator must be inspected and serviced in accordance with Cessna Service Letter No. SE70–16, Supplement No. 1, dated July 10, 1970. In addition, at each annual inspection, or at least once each 12 calendar months, the flap actuator must be removed and serviced in accordance with the procedures described in Cessna Service Letter SE70–16, dated June 12, 1970.

Since immediate adoption is required in the interest of safety, compliance with the notice and public procedures provisions of the Administrative Procedure Act is not practical and good cause exists for making this rule effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviaton Regulations is amended by adding the following new AD.

CESSNA. Applies to Models 150 series commencing with 150F (Serial Nos. 15061533 and up); 172 series commencing with 172F (Serial Nos. 17251823 and up); F172 series commencing with F172F (Serial Nos. F172–0086 and up); 182 series commencing with 182E (Serial Nos. 18253599 and up); 210 series commencing with 210D (Serial Nos. 21058221 and up); T210 series commencing with T210F (Serial Nos. T210–0001 and up); and all Models F150, FR172, R172, 177, A182, 205, 206, U206, P206, TU206, TP206, and 207 airplanes.

Compliance: Required as indicated.

To prevent the possibility of inadvertent retraction of wing flaps and to insure positive operation of the electrical wing flap actuators, accomplish the following:

(a) On all aircraft with more than 100 hours' time in service within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service, visually inspect the actuator jack screw for condition of lubricant and presence of contamination and scale in accordance with the procedure described in Cessna Service Letter SE70–16, Supplement No. 1, dated July 10, 1970, or later FAA-approved revision. If any of the conditions prescribed in the inspection criteria are noted, prior to further flight, remove, clean and relubricate the actuator jack screw in accordance with Cessna Service Letter SE70–16, dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(b) On all aircraft with more than 500 hours' time in service, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, remove, clean, and relubricate the actuator jack screw in accordance with the procedure described in Cessna Service Letter SE70–16, dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(c) In addition, on all aircraft at each annual inspection, or at intervals not to exceed 12 months, whichever occurs first, remove, clean, and relubricate the actuator jack screw in accordance with the procedure described in Cessna Service Letter SE70–16, dated June 12, 1970, or later FAA-approved revision or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Replacement of the flap actuator assembly with a new unit does not relieve the owner of compliance with this AD.

This amendment becomes effective July 28, 1970.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on July 17, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70–9684; Filed, July 27, 1970; 8:48 a.m.]

[Airworthiness Docket No. 69–SW–48, Amendment 39–1046]

PART 39—AIRWORTHINESS DIRECTIVES

Mitchell Industries, Inc., Doing Business as Edo-Aire Mitchell Automatic Flight System Instruments

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring removal of the servo bridle cable clamps, Mitchell P/N 42A173 or 42A184 or Piper P/N753–981, as applicable, and replacement with servo bridle cable clamps, Mitchell P/N 42A173–1 or 42A184–1, as applicable, on Mitchell Industries, Inc. (doing business as Edo-Aire Mitchell) automatic pilot and automatic aileron stabilizer instruments, the Mitchell Century II, Century III, and Stabilizer installed on various airplanes, and on Piper Aircraft Corp. automatic pilot and automatic aileron stabilizer instruments, the Piper Auto-control III, Altimatic III, and Autoflite, installed in various Piper and possibly other airplanes, was published in the FEDERAL REGISTER, 34 F.R. 12102, on July 18, 1969.

Interested person have been afforded an opportunity to participate in the making of the amendment. Comments were received from Piper Aircraft Corp., National Business Aircraft Association, Inc., Mitchell Industries, Inc., El Monte Flight Service, Memphis Aero Corp. and interested FAA offices.

It was suggested that the airworthiness directive contain serial number applicability of the flight system instruments involved, cut-off dates, exclude Piper airplanes or accept a Piper designed alternative to the clamp replacement. Flight system instrument serial number applicability is considered appropriate and has been included in the airworthiness directive. Specific cut-off date applicability cannot be used in the AD because of the difficulty in establishing the factory shipping date for the instrument kit after it is installed in an airplane. Airplane model numbers are not specifically mentioned in the airworthiness directive but are inherently included by making the AD applicable to airplanes modified in accordance with the supplemental type certificates listed.

Objections to the proposed airworthiness directive included as reasons (1) that the present system is satisfactory if properly installed, (2) installing a new clamp provides an opportunity to do it incorrectly, (3) the servo may not disengage with the new clamp, and (4) the clutch may not slip properly. In view of service experience reports and tests, these objections cannot be considered valid.

Piper Aircraft Corp. objected to the proposed Airworthiness Directive being made applicable to the Mitchell-manufactured autopilots installed at Piper Aircraft factories. Piper states that factory installations are not necessarily the same configuration approved on the respective supplemental type certificates issued by the FAA Southwest Region. Piper designs and manufactures airplanes under the Delegation Option Authorization procedures of Part 21, Federal Aviation Regulations. Piper uses the STC approved configuration as the basic approval for the autopilot and then evaluates and approves changes to this configuration as authorized under these procedures. Piper states that because of these differences in design between the STC approved configuration and the configuration actually approved and installed at the factory, compliance with the proposed airworthiness directive regarding Piper factory installation could be hazardous. Because of this possibility, it has been decided to issue the airworthiness directive against airplanes modified in accordance with certain supplemental type certificates issued by the FAA Southwest Region to Mitchell Industries, Inc., incorporating automatic pilot and automatic aileron stabilizer instruments, which utilize the defective bridle cable clamp. It then becomes incumbent upon any user of the supplemental type certificate design to take appropriate action for compliance with the airworthiness directive.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

MITCHELL INDUSTRIES, INC., doing business as Edo-Aire Mitchell. Applies to the Mitchell Century II, Century III (Serial Nos. 624 and below) and Stabilizer, automatic pilot and automatic aileron stabilizer instruments, and to Piper Auto-Control III, Altimatic III and AutoFlite automatic pilot and automatic aileron stabilizer instruments installed in various light aircraft in accordance with the following Supplemental Type Certificates:

Aircraft Make and Supplemental Type Certificate Numbers

Aero Commander:
SA680SW
Beech:
SA617SW SA745SW SA767SW
SA638SW SA754SW SA800SW
SA651SW SA755SW SA824SW
SA742SW SA761SW SA837SW
Cessna (See also Wren):
SA603SW SA658SW SA737SW
SA606SW SA667SW SA784SW
SA607SW SA668SW SA789SW
SA621SW SA669SW SA795SW
SA624SW SA709SW SA829SW
SA637SW
deHavilland:
(See Riley 400)
Helio:
SA615SW
Maule:
SA693SW
Piper:
SA511SW SA576SW SA756SW
SA525SW SA581SW SA757SW
SA532SW SA596SW SA822SW
SA533SW SA662SW SA862SW
SA540SW SA707SW SA921SW
SA566SW
Riley 400 (deHavilland modified per STC's SA120SO, SE163SO and SA164SO):
SA676SW
Wren (Cessna modified per STC No. SA485SW):
SA791SW

Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent slippage of servo bridle cable clamps and resultant binding of the control system, accomplish the following:

Remove Servo Bridle Cable Clamps, Mitchell P/N 42A173 or 42A184, as applicable, and replace with new Servo Bridle Cable Clamps, Mitchell P/N 42A173–1 or 42A184–1, as applicable, in accordance with the installation instructions in Mitchell Industries, Inc. Service Bulletin No. MB–1 dated February 11, 1968, revised as Edo-Aire Mitchell Service Bulletin No. MB–1 dated June 1, 1970, or later FAA approved revision, or in accordance with instructions approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

The revised bulletin may be obtained from Edo-Aire Mitchell, Post Office Box 610, Mineral Wells, Tex. 76067.

This amendment becomes effective August 31, 1970.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354a, 1421, and 1423, sec. 6(c); Department of Transportation Act, 49 U.S.C. 1655(c))

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

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

[F.R. Doc. 70–9685; Filed, July 27, 1970; 8:48 a.m.]

[Docket No. 9031; Amdts. Nos. 121-64; 127-19]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

Admission of Secret Service Agents to Flight Deck

The purpose of these amendments to Parts 121 and 127 of the Federal Aviation Regulations is to authorize Secret Service Agents to be admitted to, and occupy a seat on, the flight deck of an aircraft carrying any person whose protection is a responsibility of the U.S. Secret Service under the laws of the United States.

The U.S. Secret Service is given protective responsibilities for the President of the United States, the Vice President, and other specified persons (18 U.S.C. section 3056). In addition, by a Joint Resolution of the Congress, the U.S. Secret Service has been given responsibility for furnishing protection to persons determined to be major presidential or vice presidential candidates (Public Law 90-331; 90th Cong., H.J. Res. 1292). The Joint Resolution directs Federal departments and agencies to assist the Secret Service, when requested by the Director thereof, in the performance of its protective duties under the Code and the Joint Resolution.

Current §§ 121.547 (a)(3) and (b), and 127.211 (a)(3) and (b) provide a basis for the action taken herein. Those sections state that admission to the flight deck is restricted, as relevant here, to employees of the United States who deal responsibly with matters relating to safety. Therefore, these amendments add new sections to Part 121 and Part 127 to require that admittance to the flight deck be granted Secret Service Agents upon presentation of their official credentials in the same manner in which §§ 121.548 and 127.212 require that admittance be granted to air carrier inspectors.

Inasmuch as the Secret Service has requested indefinite authorization, and the FAA is directed by the Congress to assist the Secret Service upon request and has found that no adverse effects have been indicated during the 2 years this authorization has been in force pursuant to Special Federal Aviation Regulations, and in view of the fact that the current authorization expires on July 31, 1970, I find that notice and public procedure hereon are impracticable and unnecessary, and that good cause exists for making these amendments effective in less than 30 days.

In consideration of the foregoing, Parts 121 and 127 of the Federal Aviation Regulations are amended effective July 31, 1970, as follows:

1. By adding a new section to Part 121 immediately following § 121.549, to read as follows:

§ 121.550 Secret Service Agents: admission to flight deck.

Whenever an Agent of the Secret Service who is assigned the duty of protecting a person aboard an aircraft operated by an air carrier or commercial operator considers it necessary in the performance of his duty to ride on the flight deck of the aircraft, he must, upon request and presentation of his Secret Service credentials to the pilot in command of the aircraft, be admitted to the flight deck and permitted to occupy an observer seat thereon.

2. By adding a new section to Part 127 immediately following § 127.213, to read as follows:

§ 127.214 Secret Service Agents: admission to pilot's compartment.

Whenever an Agent of the Secret Service who is assigned the duty of protecting a person aboard a helicopter operated by an air carrier considers it necessary in the performance of his duty to ride in the pilot's compartment of the helicopter, he shall upon request and presentation of his Secret Service credentials to the pilot in command of the aircraft, be admitted to the pilot's compartment.

(Secs. 313, 601, Federal Aviation Act of 1958, 49 U.S.C. 1354, 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); Public Law 90-331, 90th Cong., H.J. Res. 1292, June 6, 1968)

Issued in Washington, D.C., on July 21, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-9686; Filed, July 27, 1970; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Public Records and Confidential Information

The Commission announces the following revisions in Part 4 of Chapter I of Title 16 of the Code of Federal Regulations. These revisions shall become effective on the date of their publication in the FEDERAL REGISTER.

1. In § 4.9, paragraph (e)(2) is amended to read as follows:

§ 4.9 Public records.

* * * * *

(e) * * *

(2) A current record of the final votes of each member of the Commission upon every final action in every agency proceeding;

* * * * *

2. In § 4.10, new paragraph (a)(8) is added as follows:

§ 4.10 Confidential information.

(a) * * *

(8) Votes of members of the Commission upon issuance of complaints or in connection with the initiation of agency proceedings.

* * * * *

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

Issued: July 20, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-9714; Filed, July 27, 1970; 8:51 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-165]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Cancellation of Claims for Liquidated Damages

Section 8.59(j) provides for the cancellation under certain conditions of liquidated damages assessed for failure to file a timely entry for merchandise (other than quota merchandise) released under a special permit. Upon application of the importer, the district director is presently authorized to cancel such liquidated damages upon the payment of $25.

The sum of $25 no longer constitutes a sufficient deterrent to prevent delays in the filing of entries in many cases, and there are cases in which greater relief is warranted.

Accordingly, § 8.59(j) is amended to read as follows:

§ 8.59 Applications; entry; procedure.

* * * * *

(j) When liquidated damages have been assessed for failure to file a timely entry for merchandise not subject to a quota which has been released under a special permit and the importer files an application for relief, the district director may, if he is satisfied that the delay was not deliberate, cancel such liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed. In determining the appropriate amount the district director shall take into consideration the circumstances causing the delay, the extent of the lateness and the amount of duty involved, and the importer's past record with respect to the timeliness of filing entries. In general, the district director shall not cancel a claim for liquidated damages upon payment of an amount in the lower range of his discretion, if the entry is late by more thar. 3 working days. If collection of an amount greater than that provided by this paragraph appears warranted, the

case shall be forwarded to the Bureau for disposition. The district director may refuse the privilege of immediate delivery under paragraph (a) of this section to any person who repeatedly files entries untimely.

* * * * *

(Secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1623, 1624)

The amendment to § 8.59(j) shall be effective as to claims for liquidated damages arising 30 days after the date of publication of this decision in the FEDERAL REGISTER.

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

Approved: July 16, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-9692; Filed, July 27, 1970; 8:49 a.m.]

[T.D. 70-167]

PART 153—ANTIDUMPING

Discontinuance of Antidumping Investigations

JULY 21, 1970.

Notice is hereby given that because of the intervening redesignation of Part 53, Customs Regulations (19 CFR Part 53), as Part 153 (19 CFR Part 153) by T.D. 70-134 (35 F.R. 9251, et seq.), effective June 13, 1970, the amendment of § 53.15(b), Customs Regulations (19 CFR 53.15(b)), published as T.D. 70-127 (35 F.R. 8275) on May 27, 1970, to be effective 30 days after date of publication, is applicable to § 153.15(b), Customs Regulations (19 CFR 153.15(b)), from and after June 26, 1970.

[SEAL] ROBERT V. MCINTYRE
Acting Commissioner of Customs.

[F.R. Doc. 70-9693; Filed, July 27, 1970; 8:49 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 D—Food Additives Permitted in Food for Human Consumption

ETHYLENE OXIDE

The Commissioner of Food and Drugs, having evaluated the data submitted in food additive petition No. 9H2398 filed by Food and Drug Research Labs., Inc., Maspeth, N.Y. 11378, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of ethylene oxide as a fumigant for the control of micro-organisms and insect infestation in ground spices and other processed natural seasoning materials, except mixtures with added salt. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1232 Ethylene oxide.

Ethylene oxide may be safely used as a fumigant for the control of micro-organisms and insect infestation in ground spices and other processed natural seasoning materials, except mixtures to which salt has been added, in accordance with the following prescribed conditions:

(a) Ethylene oxide, either alone or admixed with carbon dioxide, shall be used in amounts not to exceed that required to accomplish the intended technical effects.

(b) To assure safe use of the additive, its label and labeling shall conform to that registered with the U.S. Department of Agriculture and it shall be used in accordance with such label or labeling.

(c) Residues of ethylene oxide in ground spices from both postharvest application to the raw agricultural commodity whole spices and application to the ground spices shall not exceed the established tolerance of 50 parts per million for residues in whole spices in § 120.151 of this chapter.

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

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

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

Dated: July 15, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9679; Filed, July 27, 1970; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BROMINATED VEGETABLE OIL

After removal of brominated vegetable oil from the list of substances generally recognized as safe (21 CFR 121.101(g)) by an order published in the FEDERAL REGISTER of January 27, 1970 (35 F.R. 1049), a petition (FAP 0A2532) was filed by the Flavor Extract Manufacturers' Association of the United States, 1001 Connecticut Avenue NW., Washington, D.C. 20036, proposing the issuance of a food additive regulation to provide for the safe use of brominated vegetable oil as a stabilizer in citrus and other fruit-flavored beverages for which standards of identity do not preclude such use.

The Commissioner of Food and Drugs, having evaluated the data in the petition and other relevant material, concludes that a food additive regulation should issue to provide for the interim use of brominated vegetable oil as a stabilizer in flavoring oils used in fruit-flavored beverages at a level not in excess of 15 parts per million pending the outcome of additional studies. Interim reports on the studies should be submitted at 6-month intervals and final results submitted to the Food and Drug Administration not later than December 1, 1973.

The Commissioner concludes that the tolerance established by this order will protect the public health. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1234 Brominated vegetable oil.

The food additive brominated vegetable oil may be safely used in accordance with the following prescribed conditions:

(a) The additive complies with specifications prescribed in Food Chemicals Codex, First Edition, except that free fatty acids (as oleic) shall not exceed 2.5 percent and iodine value shall not exceed 16.

(b) The additive is used on an interim basis as a stabilizer for flavoring oils used in fruit-flavored beverages, for which any applicable standards of identity do not preclude such use, in an amount not to exceed 15 parts per million in the finished beverage, pending the outcome of additional toxicological studies on which periodic reports at 6-month intervals are to be furnished and final results submitted to the Food and Drug Administration not later than December 1, 1973.

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

by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: July 20, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9678; Filed, July 27, 1970; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thiabendazole

The Commissioner of Food and Drugs has evaluated a new animal drug application (35-631V) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065, proposing the safe and effective use of thiabendazole paste for the oral treatment of baby pigs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in § 135c.7 as follows:

1. Paragraph (c) is revised and paragraph (d) is amended by designating the existing text following "(d) *Conditions of use.*" As subparagraph (1) and by adding a new subparagraph (2) to read as follows:

§ 135c.7 Thiabendazole.

* * * * *

(c) *Sponsor.* (1) Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63199, as provided in paragraph (d)(1) of this section.

(2) Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065, as provided in paragraph (d)(2) of this section.

(d) * * *

(2) It is used in baby pigs (1 to 8 weeks of age) as an oral paste administered at the rate of 200 milligrams of thiabendazole for each 5 to 7 pounds of body weight per dose. Treatment may be repeated in 5 to 7 days if necessary. It is used in the control of infections with *Strongyloides ransomi.*

NOTE: These infections are commonly found in the Southeastern United States. Before treatment, obtain an accurate diagnosis from a veterinarian or diagnostic laboratory. Do not treat within 30 days of slaughter.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

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

Dated: July 17, 1970.

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

[F.R. Doc. 70-9680; Filed, July 27, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 10]

CORPORATE DISCLOSURE REGULATIONS

No Private to Action

Notice is hereby given that the Comptroller of the Currency has under consideration a proposal to amend his corporate disclosure regulations by the deletion of § 10.2 in its entirety.

Section 10.2 now reads as follows:

§ 10.2 *No private right of action hereunder.* The enforcement of Parts 10, 11, 15, and 16 of this chapter shall be a function solely of the Office of the Comptroller of the Currency and no provision of the regulation in these parts (Parts 10, 11, 15, and 16 of this chapter) is intended to confer any private right of action on any stockholder or other person against a national bank.

Parts 10, 11, and 16 of the regulations were issued pursuant to authority vested in the Comptroller by the provisions of the Securities Acts Amendments of 1964. The 1964 Act granted the Comptroller rule-making power with respect to national banks, similar to that possessed by the Securities and Exchange Commission with respect to the enforcement of sections 12, 13, 14, and 16 of the Securities and Exchange Act of 1934 over other corporations. The Federal courts, in several cases involving the Exchange Act and SEC rules promulgated thereunder, have held that private causes of action, in some circumstances, may be created by violation of such Act and rules. In view of the substantial doubt as to the continued validity of § 10.2, created by these cases, the Comptroller deems it in the public interest, to delete the said section from his regulations.

All interested persons are invited to submit their views and comments on the above proposal in writing, to the Office of the Comptroller of the Currency, Attention: Mr. Robert Bloom, Chief Counsel, U.S. Treasury Building, Washington, D.C. 20220, on or before August 14, 1970.

Dated: July 22, 1970.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 70-9689; Filed, July 27, 1970; 8:48 a.m.]

Internal Revenue Service

[26 CFR Parts 1, 31]

EXTENSION OF WITHHOLDING TO SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, 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 Commissioner within the 30-day period. In such 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] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 501 and 6041 of the Internal Revenue Code of 1954 and the Employment Tax Regulations (26 CFR Part 31) under sections 3401 and 3402 of such Code to the portion of section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708) relating to the extension of withholding to supplemental unemployment compensation benefits, such regulations are amended as follows:

PARAGRAPH 1. Section 1.501(c)(17)-2 is amended by revising paragraph (j) thereof to read as follows:

§ 1.501(c)(17)-2 General rules.

* * * * *

(j) *Required records and returns.* Every trust described in section 501(c)(17) must maintain records indicating the amount of separation benefits and sick and accident benefits which have been provided to each employee. If a plan is financed, in whole or in part, by employee contributions to the trust, the trust must maintain records indicating the amount of each employee's total contributions allocable to separation benefits. In addition, every trust described in section 501(c)(17) which makes one or more payments totaling $600 or more in 1 year to an individual must file an annual information return in the manner described in paragraph (b)(1) of § 1.6041-2. However, if the payments from such trust are subject to income tax withholding under section 3402(o) and the regulations thereunder, the trust must file, in lieu of such annual information return, the returns of income tax withheld from wages required by section 6011 and the regulations thereunder. In such circumstances, the trust must also furnish the statements to the recipients of trust distributions required by section 6051 and the regulations thereunder.

PAR. 2. Section 1.6041-2 is amended by revising subparagraph (1) of paragraph (b) thereof to read as follows:

§ 1.6041-2 Returns of information as to payments to employees.

* * * * *

(b) *Distributions under employees' trust or under supplemental unemployment benefit trust.* (1) Amounts which are distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, shall be reported on Forms 1099 and 1096 to the extent such amounts are includible in the gross income of such beneficiary when the amounts so includible are $600 or more in any calendar year. In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling $600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the $600 minimum has been paid by the trustee. The provisions of this subparagraph shall not be applicable to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are deemed wages for purposes of section 3401(a). Such amounts are required to be reported on Form W-2. See paragraph (b)(14) of § 31.3401(a)-1 of this chapter (Employment Tax Regulations).

* * * * *

PAR. 3. Paragraph (b) of § 31.3401(a)-1 is amended by adding a new subparagraph (14) which reads as follows:

§ 31.3401(a)-1 Wages.

* * * * *

(b) *Certain specific items.* * * *

(14) *Supplemental unemployment compensation benefits.* (i) The term "wages" includes supplemental unemployment compensation benefits paid to an individual after December 31, 1970, to the extent such benefits are includible in the gross income of such individual.

(ii) For purposes of this subparagraph, the term "supplemental unemployment compensation benefits" means amounts which are paid to an employee,

pursuant to a plan to which the employer is a party, because of the employee's involuntary separation from the employment of the employer, whether or not such separation is temporary, but only when such separation is one resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions.

(iii) Whether a "separation from the employment of the employer" occurs is a question to be decided with regard to all the facts and circumstances. However, for purposes of this subparagraph, the term "separation" includes both a temporary separation and a permanent severance of the employment relationship. Thus, for example, an employee may be separated from the employment of his employer even though at the time of separation it is believed that he will be reemployed by the same employer. Whether or not an employee is "involuntarily" separated from the employment of the employer is a question of fact. However, normally, an employee will not be deemed to have separated himself voluntarily from the employment of the employer merely because his collective bargaining agreement provides for the termination of his services upon the happening of a condition subsequent and that that condition does in fact occur. For example, if the collective bargaining agreement provides that the employer may automate a given department and thereby dislocate several employees, the that condition does in fact occur. gaining agent has consented to such a condition will not render any employee's subsequent unemployment for such cause voluntary.

(iv) Involuntary separation directly resulting from "other similar conditions" includes, for example, involuntary separation from the employment of the employer resulting from cyclical, seasonal, or technological causes; but does not include separation from the employment of the employer for disciplinary reasons or for reasons of age.

(v) As used in this subparagraph, the term "employee" means an employee within the meaning of paragraph (a) of § 31.3401(c)–1, the term "employer" means an employer within the meaning of paragraph (a) of § 31.3401(d)–1, and the term "employment" means employment as defined under the usual common law rules.

(vi) References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this subparagraph.

PAR. 4. Section 31.3401(a)(12)–1 is amended by revising paragraph (a) thereof to read as follows:

§ 31.3401(a)(12)–1 Payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans.

(a) *Payments from or to certain tax-exempt trusts.* The term "wages" does not include any payment made—

(1) By an employer, on behalf of an employee or his beneficiary, into a trust, or

(2) To, or on behalf of, an employee or his beneficiary from a trust,

if at the time of such payment the trust is exempt from tax under section 501(a) as an organization described in section 401(a). A payment made to an employee of such a trust for services rendered as an employee of the trust and not as a beneficiary thereof is not within this exclusion from wages. Also, a payment of a supplemental unemployment compensation benefiit which constitutes wages under paragraph (b)(14) of § 31.3401(a)–1 is not within this exclusion from wages.

* * * * *

PAR. 5. Section 31.3401(b)–1 is amended by redesignating paragraph (c) thereof as paragraph (d) and inserting a new paragraph (c). These redesignated and inserted provisions read as follows:

§ 31.3401(b)–1 Payroll period.

* * * * *

(c) The term "payroll period" also means the period of accrual of supplemental unemployment compensation benefits for which a payment of such benefits is ordinarily made. Thus if benefits are ordinarily accrued and paid on a monthly basis, the payroll period is deemed to be monthly.

(d) The term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

PAR. 6. Section 31.3401(c)–1 is amended by redesignating paragraph (g) thereof as paragraph (h) and inserting a new paragraph (g). These redesignated and inserted provisions read as follows:

§ 31.3401(c)–1 Employee.

* * * * *

(g) The term "employee" includes every individual who receives a supplemental unemployment compensation benefit which constitutes wages under paragraph (b)(14) of § 31.3401(a)–1.

(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 3401(a).

PAR. 7. Section 31.3401(d)–1 is amended by revising paragraph (g) thereof and redesignating it as paragraph (h), and by inserting a new paragraph (g). These revised, redesignated, and inserted provisions read as follows:

§ 31.3401(d)–1 Employer.

* * * * *

(g) The term "employer" also means a person making a payment of a supplemental unemployment compensation benefit which constitutes wages under paragraph (b)(14) of § 31.3401(a)–1. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term "employer" shall mean such other person and not the person actually making the payment.

(h) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under section 6051 and § 31.6051–1. The special definitions of the term "employer" in paragraphs (e), (f), and (g) of this section are designed solely to meet special or unusual situations. They are not intended as a departure from the basic purpose.

PAR. 8. The following new sections are added immediately after § 31.3402(n)–1.

§ 31.3402(o) Statutory provisions; income tax collected at source; extension of withholding to certain payments other than wages.

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

(o) *Extension of withholding to certain payments other than wages*—(1) *General rule.* For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

(A) Any supplemental unemployment compensation benefit paid to an individual, and

(B) Any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subjected to withholding under this chapter is in effect,

shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(2) *Definitions*—(A) *Supplemental unemployment compensation benefits.* For purposes of paragraph (1), the term "supplemental unemployment compensation benefits" means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment (whether or not such separation is temporary), resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includible in the employee's gross income.

(B) *Annuity.* For purposes of this subsection, the term "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includible in the gross income of such individual.

(3) *Request for withholding.* A request that an annuity be subject to withholding under this chapter shall be made by the payee in writing to the person making the annuity payments, shall be accompanied by a withholding exemption certificate, executed in accordance with the provisions of subsection (f)(2), and shall take effect as provided in subsection (f)(3). Such a request may, notwithstanding the provisions of subsection (f)(4), be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate for purposes of subsection (f)(3)(B).

[Sec. 3402(o) as added by sec. 805(g), Tax Reform Act 1969 (83 Stat. 708)]

§ 31.3402(o)–1 Extension of withholding to certain payments other than wages.

(a) *Supplemental unemployment compensation benefits.* Withholding of income tax is required under section 3402

(o) with respect to payments of supplemental unemployment compensation benefits made after December 31, 1970, which constitute wages (as defined in paragraph (b)(14) of § 31.3401(a)–1).

(b) *Annuities.* [Reserved]

(c) *Withholding exemption certificates.* For purposes of section 3402(f)(2) and (3) and the regulations thereunder (relating to withholding exemption certificates), in the case of supplemental unemployment compensation benefits an employment relationship shall be considered to commence with either the date on which such benefits begin to accrue or January 1, 1971, whichever is later, and the withholding exemption certificate furnished the employer with respect to the commencement of employment shall be considered the first certificate furnished the employer. The withholding exemption certificate furnished by the employee to his former employer (with whom his employment has been involuntarily terminated, within the meaning of paragraph (b)(14)(ii) of § 31.3401(a)–1) may be treated as meeting the requirements of section 3402(f)(2) and the regulations thereunder if such former employer and employee so agree and such former employer furnishes such certificate to the employee's current employer, as defined in paragraph (g) of § 31.3401(d)–1. See also the definitions of payroll period in paragraph (c) of § 31.3401(b)–1 and of employee in paragraph (g) of § 31.3401(c)–1.

[F.R. Doc. 70-9704; Filed July 27, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1006, 1012, 1013]

[Dockets Nos. AO-356-A6, AO-347-A10, and AO-286-A18]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

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

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at the Holiday Inn South, 4049 South Orange Blossom Trail, Orlando, Fla., on May 7, 1970, pursuant to notice thereof which was issued on April 28, 1970 (35 F.R. 7023).

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

1. Revision of the Class II classification provisions;

2. Modification of the allocation provisions with respect to:

(a) Receipts of Class I products by pool plants from unregulated plants when:

(i) Equivalent amounts of "priced" milk have been purchased by the unregulated plant; or

(ii) Such Class I products at the unregulated plant were derived from reconstituted skim milk, or milk from producer-handlers or exempt plants.

(b) Class I products disposed of in the marketing area by a partially regulated distributing plant which contain fluid milk products received from a producer-handler or an exempt plant;

3. Location adjustments on other source milk.

4. Revision of requirements for "producer" status; and

5. Revision of the "producer-handler" definition to permit purchase of fluid milk products from pool plants.

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. *Classification of sterilized products.* All fluid milk products that are now classified as Class I milk under the three Florida orders, regardless of the form of processing or type of package, should be continued in Class I milk.

Producer proponents cited a need for clarification of the classification provisions of the three Florida orders. The specific proposal would remove from the Class II milk definition the words "and sterilized products in hermetically sealed containers."

Proponents stated that the problem which gave rise to their proposal developed from two causes. The first factor is the development of specialty concerns processing and packaging cream, half and half, chocolate drinks, and buttermilk packaged in foil-lined containers. These packaged items are claimed to be sterilized products in hermetically sealed containers.

The second factor was the amendatory action taken by the Secretary effective April 1, 1970, for each of the three Florida orders. This action changed the classification of cream, half and half, and flavored milk drinks (including chocolate drinks and buttermilk) from Class II milk to Class I milk.

Proponents contended that the intent of each of the amended orders, effective April 1, 1970, was to classify all products defined as fluid milk products as Class I milk, regardless of the form of processing (i.e., pasteurized or sterilized) or the type of package used. They further contended that whether a fluid milk product is pasteurized or sterilized, and whether it is packaged in a conventional or some other container, should not be the basis for classifying and pricing the product.

Two companies, one located in the Tampa Bay marketing area, the other in the Upper Florida marketing area distribute fluid milk products in each marketing area. These products are mainly half and half and flavored milk drinks packaged in foil-lined containers. Witnesses for each company testified that the products produced by them are sterilized and in hermetically sealed containers. Even though Health Department regulations in Florida do not require the use of Grade A dairy products in the production of sterilized items, the witnesses stated that only Grade A products are used.

Based on the Secretary's decision issued February 12, 1970 (35 F.R. 2878), effective April 1, 1970, the classification provisions have been applied correctly to classify all fluid milk products regardless of the form of processing or type of package as Class I milk. Clarification of the classification provisions of the three Florida orders as requested is appropriate, however. The removal of the phrase "and sterilized products in hermetically sealed containers" from the Class II milk definition clarifies the intent of these orders with respect to the classification of "sterilized fluid milk products."

2. *Modification of allocation provisions.* The allocation provisions of the three Florida orders should be modified as follows:

(a) There should be no pool obligation on Class I milk received at a pool plant from an unregulated supply plant when the unregulated plant has received an equivalent volume of milk priced as Class I under any order and such milk is not used as an offset on any other payment obligation pursuant to any other order;

(b) Class I products derived from reconstituted skim milk, or milk from producer-handlers or exempt plants under these or any other orders that are received at a pool plant from an unregulated supply plant should be allocated to the pool plant's utilization in the same manner as if received directly from a producer-handler or exempt plant; and

(c) Class I products containing fluid milk products received from producer-handlers or exempt plants under these

or any other orders that are disposed of in the marketing area by a partially regulated distributing plant should be allocated in the same manner as Class I products containing reconstituted skim milk that are distributed by such a plant.

Proposals to modify the allocation provisions were made by cooperative associations representing producers serving these markets.

The three orders presently provide for a pro rata allocation of certain receipts by a pool plant from an unregulated supply plant. On any of these purchases that are allocated to Class I, the pool plant operator is required to make a compensatory payment into the producer-settlement fund at the rate of the difference between the Class I and uniform prices. Proponents pointed out that under certain circumstances this provision can result in a double charge being applied to such receipts.

When bulk milk is transferred from a pool plant under a Florida or any other Fereral milk order to an unregulated plant it may be classified and priced as Class I on the basis of the allocation procedure. The unregulated plant, in turn, may transfer bulk or packaged milk to another regulated plant. The plant operator receiving such a transfer is charged a compensatory payment on that portion of such receipts allocated to Class I at his plant.

This situation does occur in these markets. To the extent that such milk, or an equivalent volume, has been priced as Class I under a Federal order, the receiving pool handler should not be assessed and additional pool obligation on such milk. On any unpriced milk received from an unregulated plant, however, Florida handlers should continue to have an obligation to the respective producer-settlement fund at the rate of the difference between the Class I and uniform price.

These same pro rata allocation provisions of the three Florida orders also presently apply to milk products derived from reconstituted skim milk, or milk from producer-handlers and exempt plants, which are received at a pool plant from an unregulated supply plant. The provisions also apply to the route disposition in the marketing area of such receipts by a partially regulated distributing plant. Any of these receipts from an unregulated plant, or the route disposition of a partially regulated plant, allocated to Class I carries a compensatory payment at the rate of the difference between the Class I and uniform prices. It should be noted that there is no compensatory payment on milk purchased by a partially regulated handler which has been priced previously as Class I under any Federal milk order.

When milk is received from producer-handlers or exempt plants directly at a pool plant without first passing through an unregulated plant, it is allocated in series beginning with the lowest priced class. On any portion of such milk allocated to Class I, the rate of the compensatory payment the pool handler is required to pay into the producer-settlement fund is the difference between the Class I and Class II prices. As the producer proponents pointed out, there are two problems. First, surplus milk of producer-handlers or exempt plants can be shipped to an unregulated plant which, in turn, can ship such milk, or its equivalent, to a pool handler. By such movements of milk the pool handler can avoid the higher rate of compensatory payment.

Secondly, a partially regulated distributing plant can distribute as Class I milk in the marketing area surplus milk of producer-handlers or exempt plants and under present terms of the orders pay the lower rate of compensatory payment which is the difference between the Class I and uniform prices. This places a fully regulated pool handler at some cost disadvantage, since this handler is required to pay a higher rate of compensatory payment into the producer-settlement fund on any such direct receipts from producer-handlers or exempt plants which are classified as Class I.

Proponents contended that comparable milk from similar sources should be allocated and valued in a similar manner. Milk receipts by a handler from an unregulated supply plant which were initially derived from milk of producer-handlers, exempt plants, or by reconstitution are, for all practical purposes, no different from that which is received directly from these sources. The act of first passing such milk through an unregulated plant, or shipping it to a partially regulated plant, does not alter its value at point of origin.

Much of the milk received at an unregulated supply plant is milk which does not have a regular fluid market outlet, or is surplus to the normal needs of the fluid market. The surplus aspect of such milk is accentuated at certain times of the year when there are characteristic seasonal increases in the production of milk without corresponding increases in the demand for milk. If it were not for the sale in the regulated fluid market, such milk would have no higher value to the plant operator than its value as surplus. In such circumstances the operator of such an unregulated plant has a great incentive to "dump" his surplus milk into the regulated market at any price higher than a surplus price and thereby obtain a competitive advantage for such milk over regulated milk.

Regulated handlers cannot convert otherwise surplus Class II milk into Class I utilization without accounting to the producer-settlement fund at the difference between the Class I and Class II prices on the volume of Class I milk involved. Therefore, on the surface it would appear that a similar rate of charge should be assessed against milk from unregulated plants which has been obtained by pool plants and used as Class I.

In light of the Supreme Court decision in the Lehigh Valley case, however, and because of the administrative difficulty in determining whether particular milk from an unregulated plant utilized as Class I in any of these markets actually had only a surplus value or cost at its source, it has been determined previously that the operator of a pool plant shall be charged a rate of compensatory payment on such receipts equal to the difference between the Class I and uniform prices.

On the other hand, certain milk by its very nature must be treated as surplus when received at pool plants regulated by a Federal milk order and, therefore, must be assigned a surplus value. One such source is milk received at a pool plant, in either bulk or packaged form, from a producer-handler or an exempt plant (under any Federal milk order). Another source is milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk.

Under the Florida orders, as under most orders, producer-handlers and exempt plants are excluded from the pooling and pricing provisions. This exemption is based on the principle that producer-handlers and exempt plants assume the burden of disposing of their milk supplies which are in excess of their Class I needs. Being exempt from these provisions of the orders makes it possible for such plant operators to retain the full return from their Class I sales of milk on routes even though such sales are in competition with regulated handlers. It has been determined, however, that producer-handlers or exempt plant operators will not have a significant advantage over regulated handlers if they assume the full burden of their own surpluses.

Producer-handlers and exempt plants are primarily engaged in Class I fluid milk operations. They do not normally maintain facilities for processing and manufacturing any milk produced in excess of their Class I needs. Because of the seasonality of milk production and demand, producer-handlers and exempt plants produce some milk in excess of their Class I needs. The best available outlets for this surplus milk usually are fully regulated plants in the market. It is often economically advantageous for these handlers to dispose of such excesses at surplus prices to regulated handlers. Such milk, therefore, is available to regulated handlers at surplus prices. Accordingly, a regulated handler is obligated to the producer-settlement fund on such milk at the difference between the Class I and Class II prices.

Other surplus disposal outlets for producer-handlers or exempt plants, however, are unregulated supply plants and partially regulated distributing plants. As the proponents pointed out, a producer-handler or exempt plant can ship surplus milk to an unregulated or partially regulated plant which, in turn, can move this milk back into the marketing area, either to a pool plant or directly on routes. When this occurs, this surplus milk should carry no higher value than the Class II price.

Therefore, when it is demonstrable that such milk, or its equivalent, is shipped to an unregulated or partially regulated

plant, and then is moved into the marketing area as Class I, the handler for such milk should be required to pay into the producer-settlement fund the difference between the Class I and Class II prices on such milk. A partially regulated handler, however, should be allowed to offset any such purchases from producer-handlers or exempt plants with sufficient purchases of milk previously priced as Class I under any Federal milk order.

The basis for a compensatory payment at the rate of the difference between Class I and Class II milk prices on reconstituted fluid milk products and on receipts at a pool plant from producer-handlers and exempt plants, allocated to Class I was established in the Assistant Secretary's decisions issued June 19, 1964 (29 F.R. 9002) for 76 orders, including the Southeastern Florida order. Official notice is taken of this decision which also was noticed in the proceedings establishing the allocation and compensatory payment provisions of the Tampa Bay and Upper Florida orders.

The present decision, while dealing with a slightly different marketing situation, does not alter the basis for the compensatory payment provisions set forth in the 1964 decisions. It is merely an extension of those provisions.

Proponents testified that at present there is only one exempt plant, as defined, operating under the Florida orders. Producer-handlers operate in all three markets. The surplus milk of these handlers is disposed of in all three of the Florida markets, either via fully regulated handlers, partially regulated handlers, or through unregulated plants. Accordingly, the modifications as discussed herein should be adopted in all three orders.

3. *Location adjustments on other source milk.* The three Florida orders should be amended so as to place a lower limit on the Class I price when computing the location adjustment for milk received from unregulated supply plants.

Producers proposed that the Class I price, when adjusted for location of a nonpool plant, be no lower than the Class II price. There was no testimony presented in opposition to the proposal.

The three orders presently provide that a plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I use. The handler's payment is determined by charging him at the Class I price for the milk involved and giving him a credit on such milk at the uniform price. Both prices are adjusted for the location of the unregulated supply plant. The adjustment of the uniform price, though, is limited to not less than the Class II price. No limitation is applied to the Class I price adjustment.

It should be provided that the location adjustment credit on Class I milk received from an unregulated supply plant will not exceed the difference between the Class I and Class II milk prices. Otherwise, the Class I price adjustment could result under certain conditions in the handler receiving a payment from the producer-settlement fund on the Class I milk obtained from the unregulated supply plant. Such payment could result when the location differential at the distant plant is greater than the difference between the Class I and Class II prices. In this circumstance, producers under the order, in effect, would be giving the handler a credit sufficient to reduce his cost for the distant milk below its value for manufacturing use at the point of purchase. The three orders should be amended so as to preclude such a situation.

4. *Producer status requirements.* The 8-day delivery rquirement should be removed from the producer definition in the Southeastern Florida order. Cooperative associations proposed the removal of this requirement. There was no testimony presented in opposition to the proposal.

The present producer definition in the Southeastern Florida order requires that at least 8 days' production of a dairy farmer be received at pool plants during the current (or preceding) month for such person to acquire producer status. Otherwise, the milk received from such dairy farmers is treated as "other source" milk. Such milk then is down-allocated, and any which is ultimately classified as Class I is subject to a compensatory payment.

Proponents contended that such a qualification requirement tends to limit the opportunity for temporary movements of milk of producers normally associated with the Upper Florida or Tampa Bay markets to meet fluid sales requirements in excess of local production in Southeastern Florida.

The 8-day delivery requirement was suspended during the months of August 1969 through February 1970. Proponents testified that during this period it was necessary to move some milk into the Southeastern Florida market from the other two Florida markets. During December 1969 and February 1970 close to a million pounds of milk were shipped from these other markets. According to the proponents' testimony, the Southeastern Florida market will require additional supplemental milk supplies in the months ahead, at least on a seasonal basis.

This delivery requirement is burdensome and uneconomic in this market. In many instances it is not practical or economical to receive as much as 8-day's production from a dairy farmer in the other two marketing areas so as to meet the producer qualification requirement in the Southeastern Florida order. If milk of dairy farmers regularly associated with the other Florida markets cannot be moved to meet shortages in the Southeastern market, extra costs are incurred for handling and transportation to obtain the necessary supplemental supplies from more distant sources. Thus, producer milk in the other two Florida markets would be channeled into Class II uses even though there is a fluid outlet in the Southeastern Florida market. This is not conducive to efficient or orderly marketing.

The 8-day delivery requirement was put in the Southeastern Florida milk order before the Tampa Bay and Upper Florida orders were adopted. This was done to protect the Southeastern Florida pool from milk that was surplus to the requirements of nonfederally regulated markets where individual-handler pooling was in effect. The other two Florida orders do not contain such a provision.

Under present conditions such protection for the Southeastern Florida market is unnecessary. In order to reflect the current marketing structure and to maintain orderly, efficient marketing conditions within the areas covered by the three Florida orders, the 8-day delivery requirement should be removed from the Southeastern Florida producer definition.

5. *Revision of the producer-handler definition.* The definition of producer-handler in each of the three Florida orders should be revised to permit producer-handlers to purchase fluid milk products other than whole milk from pool plants in an amount not in excess of the lesser of 5,000 pounds, or 5 percent of their Class I sales, during the month.

Eight producer-handlers, and two corporations formerly qualifying as producer-handlers, proposed that any producer-handler be permitted to purchase milk from pool plants in his own market in an amount not to exceed 5 percent of the producer-handler's own production. Since the inception of each of the three Florida orders, the producer-handler has not been permitted to maintain exemption from pooling if he purchased Class I products from a pool plant.

Such proponents contended that the amended orders, effective April 1, 1970, place an unnecessary hardship on them. They pointed out that before April 1 producer-handlers were permitted to purchase cream and cream mixtures (including half and half), and flavored milk drinks such as buttermilk and chocolate milk drinks from pool plants without losing such exempt status. They stated the amended orders make it extremely difficult for producer-handlers to maintain their exempt status on a continuing basis. One producer-handler indicated that half and half, cream, and flavored milk drinks represents about 10 percent of his Class I sales. Another producer-handler indicated that the purchase of fluid milk products from pool plants of up to the equivalent of 5 percent of his own production would not completely alleviate his problem. Proponents further testified that only the three Florida orders plus the Mississippi order do not provide producer-handlers the opportunity to purchase some Class I milk products from pool plants.

Producer-handlers also contended that the seasonalities of sales and production force them to "over-produce" in 8 to 10 months of the year in order to have a sufficient supply from their own production to meet their Class I sales during the other months. The producer-handlers were of the opinion that this causes

an undue hardship on them and is not conducive to orderly marketing in the three Florida milk marketing areas.

Representatives of producers and handlers opposed any relaxation of the present restrictions on producer-handlers. One proposal would fully regulate a producer-handler for a full 12-month period once he had lost his exempt status during any month. Other proposals would restrict the maximum size of producer-handlers for exemption from pricing and pooling under each of the orders. One proposal would limit producer-handlers in all three markets to a production of 30,000 pounds of milk per month. Another proposal would exclude from exemption any producer-handler who distributed Class I milk on routes in any month in excess of one percent of the total disposition of such route sales by fully regulated handlers in his market. This proposal would limit the monthly production for a producer-handler in each market as follows: Tampa Bay—240,000 pounds; Upper Florida—330,000 pounds; and Southeastern Florida — 420,000 pounds. In support of these proposals, proponents contended that exemption of producer-handlers from full regulation has the effect of lowering blend prices. The amount of milk supplied by producers, they argued, is influenced by the level of blend prices.

The average number of producer-handlers in the Upper Florida marketing area for 1969 was 10; in the Tampa Bay area, seven; and in the Southeastern Florida market, one.[1] The Southeastern Florida producer-handler is new in the market and information on the size of his operation was not available for the record.

From the data available, the approximate average monthly production of producer-handlers is calculated to be about 500,000 pounds in the Upper Florida marketing area, and about 600,000 pounds in the Tampa Bay market. The estimated range in the average monthly production by producer-handlers varies from something less than 100,000 pounds to more than 4.5 million pounds.

In the Tampa Bay marketing area, producer-handlers during the 3-year period, 1967–69, produced from a low of 49 to a high of 59 million pounds of milk per year. This production of milk by producer-handlers represented an average for the 3 years of 12.8 percent of the total milk received from producers and producer-handlers under this order. Producer-handlers in the Upper Florida order produced, for the same 3-year period, from a low of 56 to a high of nearly 65 million pounds per year. This 3-year average represented 12.1 percent of the total amount of milk received from producers and producer-handlers during this period in the Upper Florida market.

Three of the larger producer-handlers (one regulated by the Tampa Bay order and two by the Upper Florida order) testified with respect to their production. On a monthly basis, their production approximated 1.5, 1.0, and 4.5 million pounds of milk, respectively.

Exemption from the pricing and pooling provisions of the Florida orders is now afforded producer-handlers who depend entirely on their own-farm production to meet their Class I needs (except for nonfat solids used to fortify Class I products).

This exemption from the pricing and pooling provisions provided by each of the Florida orders is based on recognition that the producer-handler assumes the burden of maintaining the necessary supply of milk associated with his fluid milk operation and of disposing of any daily or seasonal surpluses he may produce. For assuming the costs and risks of production of his own milk supply and disposal of this supply, including any surplus, the producer-handler is not required to share with other producers the returns from his Class I milk sales.

Some producer-handlers have difficulty in maintaining their exempt status from month to month. For example, two producer-handlers under the Tampa Bay order were fully regulated for 4 and 6 months, respectively, during the 12-month period of April 1969 through March 1970. During the same period of time seven producer-handlers under the Upper Florida order became fully regulated for periods ranging from 1 to 5 months. The difficulty of maintaining exempt status after April 1, has increased for a producer-handler since he now must produce all his own cream and flavored milk drinks as well as his needs for whole milk.

Whole milk is the primary product of all producer-handlers. Each producer-handler should be reliant upon his own production for such needs to warrant exemption from pooling in these markets. Any purchases from pool plants should be limited to fluid milk products other than whole milk. As provided herein, an outside limit of 5,000 pounds is placed on such purchases of fluid milk products. It is possible, however, that this amount (5,000 pounds) could represent 10 percent or more of the total production of a small producer-handler. It is provided further, therefore, that the amount of such fluid milk products purchased from pool plants by a producer-handler should not exceed 5 percent of his Class I sales during the month.

This should meet the minimum emergency needs of most producer-handlers but not open the way for undue effect on returns to producers in any of the markets. Allowing producer-handlers, as provided herein, to purchase limited quantities of fluid milk products (about 160 pounds per day) should not adversely affect the competitive position of pool handlers in these Florida markets.

The proposals for further restrictions on producer-handlers are not required for orderly marketing.

No other substantive change has been made from the present definition of producer-handler in each of these orders. The definitions have been rephrased, however, to specify more clearly the dual functions of production and distribution required of producer-handlers as a basis for their exemption from pooling.

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.

Counsel for certain handlers objected to the ruling of the Presiding Officer that witnesses could not present testimony with respect to a proposed amendment relative to assessing producer-handlers a pro rata share of the cost of administering the orders. The Presiding Officer deemed this proposal to be outside the scope of the hearing notice. Counsel presented an offer of proof. This offer of proof has been reviewed and it is concluded that the Presiding Officer ruled correctly in rejecting the proffered testimony.

General Findings

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

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(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

[1] Official notice is taken of the monthly market statistics published by the market administrator for the period April 1969 through May 1970 for each of the three Florida orders.

agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENTS AND ORDER AMENDING THE ORDERS

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

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.14 is revised as follows:

§ 1006.14 Producer-handler.

"Producer-handler" means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

2. Paragraph (b)(1) of § 1006.41 is revised as follows:

§ 1006.41 Classes of utilization.

* * * * *

(b) * * *

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains six percent or more nonmilk fat (or oil);

* * * * *

3. Paragraph (b)(3) (i) and (ii) of § 1006.43 is revised as follows:

§ 1006.43 Transfers.

* * * * *

(b) * * *

(3) The skim milk and butterfat so transferred (in excess of receipts of skim milk and butterfat at the pool plant from such nonpool plant) 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 route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1006.45(a)(8) and the corresponding step of § 1006.45(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

* * * * *

4. Paragraph (a) of § 1006.45 is revised by adding a new subparagraph (2–a), and subparagraphs (3)(v), (5)(i), and (8) are revised as follows:

§ 1006.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

* * * * *

(3) * * *

(v) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph, and

* * * * *

(5) * * *

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (3)(v) of this paragraph:

* * * * *

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (3)(v), and (5)(i) of this paragraph;

* * * * *

5. Paragraphs (e) and (f) of § 1006.60 are revised as follows:

§ 1006.60 Computation of the net pool obligation of each handler.

* * * * *

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(3) and the corresponding step of § 1006.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1006.45(a)(3)(v) and (vi) and the corresponding step of § 1006.45(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(8) and the corresponding step of § 1006.45(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

6. Paragraphs (a)(1), and (b) (2), (3), and (5) of § 1006.62 are revised as follows:

§ 1006.62 Obligations of handlers operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) The obligation that would have been computed pursuant to § 1006.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1006.60(f) and any credits computed pursuant to § 1006.74(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1006.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1006.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products on routes in the marketing area;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

7. Paragraph (b) of § 1006.63 is revised as follows:

§ 1006.63 Obligation of handler operating an other order plant.

* * * * *

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

8. Paragraphs (b) and (c) of § 1006.77 are revised as follows:

§ 1006.77 Expense of administration.

* * * * *

(b) Any other source milk allocated to Class I pursuant to § 1006.45(a) (3) and (8) and the corresponding step of § 1006.45(b), except such other source milk excluded from pool obligations pursuant to § 1006.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1006.62(b)(2)(ii).

9. In § 1006.43 a new paragraph (e) is added as follows:

§ 1006.43 Transfers.

* * * * *

(e) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.14 is revised as follows:

§ 1012.14 Producer-handler.

"Producer-handler" means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Dispose of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

2. Paragraph (b)(1) of § 1012.41 is revised as follows:

§ 1012.41 Classes of utilization.

* * * * *

(b) * * *

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil).

* * * * *

3. Paragraphs (b)(3) (i) and (ii) of § 1012.43 is revised as follows:

§ 1012.43 Transfers.

* * * * *

(b) * * *

(3) The skim milk and butterfat so transferred (in excess of receipts of skim milk and butterfat at the pool plant from such nonpool plant) shall be classified on the basis of the following assignment of utilization of such nonpool plant in excess of receipts of packaged fluid

milk products from all pool plants and other order plants:

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1012.45(a)(8) and the corresponding step of § 1012.45(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines consitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

* * * * *

4. Paragraph (a) of § 1012.45 is revised by adding a new subparagraph (2–a), and subparagraphs (3)(iv), (5)(i), and (8) are revised as follows:

§ 1012.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

* * * * *

(3) * * *

(iv) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

* * * * *

(5) * * *

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (3)(iv) of this paragraph:

* * * * *

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (3)(iv), and (5)(i) of this paragraph;

* * * * *

5. Paragraphs (e) and (f) of § 1012.60 are revised as follows:

§ 1012.60 Computation of the net pool obligation of each handler.

* * * * *

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(3) and the corresponding step of § 1012.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1012.45(a)(3) (iv) and (v) and the corresponding step of § 1012.45(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(8) and the corresponding step of § 1012.45(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

6. Paragraphs (a)(1), and (b)(2), (3), and (5) of § 1012.62 are revised as follows:

§ 1012.62 Obligations of handlers operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) The obligation that would have been computed pursuant to § 1012.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1012.60(f) and any credits computed pursuant to § 1012.74(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1012.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1012.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products on routes in the marketing area;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the

value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

7. Paragraph (b) of § 1012.63 is revised as follows:

§ 1012.63 Obligation of handler operating an other order plant.

* * * * *

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

8. Paragraphs (b) and (c) of § 1012.77 are revised as follows:

§ 1012.77 Expense of administration.

* * * * *

(b) Any other source milk allocated to Class I pursuant to § 1012.45(a) (3) and (8) and the corresponding step of § 1012.45(b), except such other source milk excluded from pool obligations pursuant to § 1012.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1012.62(b)(2)(ii).

9. In § 1012.43 a new paragraph (d) is added as follows:

§ 1012.43 Transfers.

* * * * *

(d) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.14 is revised as follows:

§ 1013.14 Producer-handler.

"Producer-handler" means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

2. Section 1013.15 is revised as follows:

§ 1013.15 Producer.

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk (as described in § 1013.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the U.S. Government located in the marketing area for fluid consumption).

3. Revise paragraph (b)(1) of § 1013.41 as follows:

§ 1013.41 Classes of utilization.

* * * * *

(b) * * *

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil);

* * * * *

4. Paragraph (c)(3) (i) and (ii) of § 1013.44 is revised as follows:

§ 1013.44 Transfers.

* * * * *

(c) * * *

(3) The skim milk and butterfat so transferred (in excess of receipts of skim milk and butterfat at the pool plant from such nonpool plant) 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 route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1013.46(a)(9) and the corresponding step of § 1013.46(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

* * * * *

5. Paragraph (a) of § 1013.46 is revised by adding a new subparagraph (2–a), and subparagraphs (4)(iii), (6)(i), and (9) are revised as follows:

§ 1013.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

* * * * *

(4) * * *

(iii) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

* * * * *

(6) * * *

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (4)(iii) of this paragraph:

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (4)(iii), and (6)(i) of this paragraph;

* * * * *

6. Paragraph (d)(2) of § 1013.61 is revised as follows:

§ 1013.61 Plants where other Federal orders may apply.

* * * * *

(d) * * *

(2) Compute the value of the quantity of reconstituted skim milk assigned in subparagraph (1) of this paragraph to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

* * * * *

7. Paragraphs (a)(1), and (b) (2), (3), and (5) of § 1013.62 are revised as follows:

§ 1013.62 Obligations of handlers operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) The obligation that would have been computed pursuant to § 1013.70 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1013.70(f) and any credits computed pursuant to § 1013.82(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1013.30 and 1013.31(c) similar reports for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1013.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products on routes in the marketing area;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to the subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

8. Paragraphs (e) and (f) of § 1013.70 are revised as follows:

§ 1013.70 Computation of the net pool obligation of each handler.

* * * * *

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(3) and (4) and the corresponding step of § 1013.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1013.46(a)(4) (iii) and (iv) and the corresponding step of § 1013.46(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(9) and the corresponding step of § 1013.46(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

9. Paragraph (a) of § 1013.86 is revised as follows:

§ 1013.86 Expense of administration.

(a) 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 prescribe, with respect to:

(1) Producer milk (including such handler's own production);

(2) Any other source milk allocated to Class I pursuant to § 1013.46(a)(3), (4), and (9) and the corresponding steps of § 1013.46(b), except such other source milk excluded from pool obligations pursuant to § 1013.70(f); and

(3) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(i) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(ii) Specified in § 1013.62(b)(2)(ii).

* * * * *

10. In § 1013.44 a new paragraph (e) is added as follows:

§ 1013.44 Transfers.

* * * * *

(e) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

Signed at Washington, D.C., on July 23, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-9713; Filed, July 27, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 25, 121]

[Docket No. 10460; Notice 70-28]

PILOT COMPARTMENT SECURITY; LARGE PASSENGER CARRYING AIRPLANES

Advance Notice of Proposed Rule Making

The Federal Aviation Administration is considering rule making with respect

to Parts 25 and 121 of the Federal Aviation Regulations to provide additional security for the pilot compartment on all large passenger carrying airplanes operated under Part 121.

This advance notice of proposed rule making is being issued in accordance with the FAA's policy for the early institution of public proceedings in actions related to rule making. An "advance" notice is issued when it is found that the resources of the FAA, and reasonable inquiry outside the FAA, do not yield a sufficient basis to identify and select tentative or alternate courses of action upon which a rulemaking procedure might be undertaken, or when it would otherwise be helpful to invite early public participation in the identification and selection of a course or alternate courses of action with respect to a particular rulemaking problem. The subject matter of this advance notice has been found to involve the situation contemplated by this policy.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before Sept. 28, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. If it is determined to be in the public interest to proceed further, after consideration of the available data and comments received in response to this notice, a notice of proposed rule making will be issued.

Only 4 months after the first hijacking in May 1961, the Congress enacted a comprehensive body of laws (Public Law 87-197) applicable to criminal behavior aboard aircraft in flight in air commerce. Those laws make it a crime (1) to commit or attempt to commit aircraft piracy, (2) to interfere with a flight crewmember or flight attendant, (3) with certain exceptions, to carry weapons aboard an air carrier aircraft, (4) to commit certain other crimes aboard aircraft, and (5) to give false information about any of those crimes. The minimum penalty imposed for aircraft piracy is 20 years in prison. The maximum penalty is death. Those laws also authorize an air carrier, subject to reasonable FAA rules, to refuse to transport persons or property that it believes would endanger safety in flight. The Federal Bureau of Investigation is charged with the investigation of these crimes.

The Federal Aviation Administration has also taken certain measures to prevent the unlawful seizure of aircraft in flight. In this respect, Part 121 has been amended to prohibit the carriage of concealed or unconcealed weapons on air carrier aircraft by persons other than those specified in the regulations. A regulation was also adopted requiring the door separating the flight crew compartment from the passenger compartment be closed and locked during flight and that the door have a locking means to prevent the passengers from opening it without the pilot's permission.

In spite of concerted efforts made by the FAA and the air carriers, incidents continue to occur wherein the safety of the flight of aircraft engaged in passenger-carrying operations under Part 121 of the FARs has been jeopardized by persons intending to harm the crew or take command of the airplane. In a recent incident, two pilots comprising the full flight crew of the airplane were wounded, one fatally, by a passenger. In another recent incident the pilot in command of a scheduled passenger flight was wounded by a passenger. In view of these events, the agency recognizes that every possible step must be taken to prevent the recurrence of such incidents. Accordingly, the FAA is considering the necessity and feasibility of the following proposals:

(1) Amendments to FAR 25 to provide additional security for the flight crew compartment of passenger-carrying transport category airplanes that have a lockable door installed between the pilot compartment and the passenger compartment in compliance with § 121.-313(f), including—

(a) A means to permit the flight crewmembers to observe the adjoining passenger compartment from the flight deck;

(b) Hinges and locking means on the door between the pilot compartment and passenger compartment of sufficient security and reliability to prevent entry through the doorway by unauthorized persons; and

(c) Requiring the bulkhead, door, and viewing window to consist of material capable of withstanding any reasonable forced entry or penetration.

(2) Amendments to FAR 121 that would require each large passenger-carrying airplane operated under that part to be retrofitted as provided in paragraph (1).

Before preparing any specific rulemaking proposals to accomplish the foregoing, the FAA believes that additional information concerning the technical and logistical aspects of this matter may be available from interested members of the aviation industry. To this end, the FAA welcomes the participation of aircraft manufacturers, air carriers, Government agencies, and other interested persons and, by means of this advance notice of proposed rule making, solicits the views of all interested persons, containing supporting statements and data, where available, to justify all recommendations and conclusions. In particular, comments are requested on the following questions:

(1) What means are available to attain the objectives sought by the proposals contained herein?

(2) What design parameters must be considered in attaining those objectives?

(3) What is the earliest date by which manufacturers and air carriers will be able to engineer the design changes and accomplish the necessary modifications to the airplanes involved in this proposal?

This advance notice of proposed rule making is issued under the authority of sections 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 23, 1970.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[F.R. Doc. 70-9710; Filed, July 27, 1970; 8:50 a.m.]

[14 CFR Part 39]

[Docket No. 10456]

AIRWORTHINESS DIRECTIVES

Hawker Siddeley "Heron" Model DH.114 Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Hawker Siddeley "Heron" Model DH.114 airplanes. A study completed by Hawker Siddeley Aviation indicates that cracks are likely to occur in the fin front attachment brackets on Bulkhead 6 that could reduce the structural integrity of the fin to fuselage attachment. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed airworthiness directive would require periodic inspections of the fin fitting and replacement of fittings found to be cracked on these airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before August 27, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of

the Federal Aviation Regulations by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION. Applies to "Heron" Model DH.114 airplanes.
Compliance is required as indicated.

To prevent failure of the fin to fuselage front attachment brackets at Bulkhead 6, accomplish the following:

(a) For all airplanes, within the next 1,200 hours' time in service, from the effective date of this AD, and thereafter at intervals not to exceed 1,200 hours' time in service since the last inspection, visually inspect Bulkhead 6 for cracking or signs of distortion in accordance with Hawker Siddeley Technical News Sheet, Series: Heron (114), No. F.15, Issue 3, dated May 4, 1970, or later ARB-approved issue or an FAA-approved equivalent. If cracking or signs of distortion are found, accomplish standard repairs before further flight.

(b) For airplanes having right-hand and left-hand forward fin attachment fittings, P/Ns 14FS.1891 and 14FS.1892 (premodification No. Heron 609), or right-hand and left-hand forward fin attachment fittings, P/Ns 14FS.5007 and 14FS.5008 (postmodification Heron 609) installed on Bulkhead 6, within the next 300 hours' time in service after the effective date of this AD, unless already accomplished within the last 300 hours' time in service, and thereafter at intervals not to exceed 300 hours' time in service since the last inspection, visually inspect the forward fin attachment fittings for cracks in accordance with Hawker Siddeley Technical News Sheet, Series: Heron (114), No. F.15, Issue 3, dated May 4, 1970, or later ARB-approved issue or an FAA-approved equivalent. If there is doubt as to the results of this inspection, confirm the results of the inspection by a dye penetrant method.

(c) For airplanes having right-hand and left-hand forward fin attachment fittings, P/Ns 14Fs.4669 and 14Fs.4670 (postmodification No. Heron 869) installed on Bulkhead 6, within the next 300 hours' time in service after the effective date of this AD, unless already accomplished within the last 900 hours' time in service, and thereafter at intervals not to exceed 1,200 hours' time in service since the last inspection, visually inspect the forward fin attachment fittings for cracks in accordance with Hawker Siddeley Technical News Sheet, Series: Heron (114), No. F.15, Issue 3, dated May 4, 1970, or later ARB-approved issue or an FAA-approved equivalent. If there is doubt as to the results of this inspection, confirm the results of the inspection by a dye penetrant method.

(d) If cracks are found in a forward fin attachment fitting during the inspections required by paragraph (b) or (c), accomplish the following before further flight:

(1) Replace both the right-hand and left-hand forward attachment fittings in accordance with de Havilland Aircraft Service Modification No. Heron 869, Amendment No. 1, dated May 15, 1959, or later ARB-approved issue or an FAA-approved equivalent.

(2) Visually inspect the fin attachment fittings on Bulkhead 7 and the fin attachment fittings on the fin rear spar for cracks or any other signs of damage, and replace any fittings found to be cracked or damaged with new fittings of the same part number.

(e) For all airplanes, after accomplishing the replacements and inspections specified in paragraph (d), continue to visually inspect the forward fin attachment fittings for cracks in accordance with Hawker Siddeley Technical News Sheet, Series: Heron (114), No. F.15, Issue 3, dated May 4, 1970, or later ARB-approved issue or an FAA-approved equivalent, at intervals not to exceed 1,200 hours' time in service since the last replacements and inspections accomplished in accordance with paragraph (d).

Issued in Washington, D.C., on July 17, 1970.

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

[F.R. Doc. 70-9687; Filed, July 27, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WE-93]

ADDITIONAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate Control 1156 as that airspace extending upward from 5,000 feet MSL within 5 miles each side of the San Diego, Calif., VORTAC 262° T (247° M) radial, including the additional airspace diverging at 5° each side of the centerline at the VORTAC, extending from the VORTAC to its intersection with Control 1177.

This action would provide a more direct route within controlled airspace for transition between the international route and the mainland for air traffic operating between San Diego and Honolulu, Hawaii. To remain in their controlled airspace, such flights must operate via the Federal airways to Santa Catalina, Calif., thence via Control 1177 prior to heading on the international route. This control area would traverse Warning Area W-291. Operations along the control area would be conducted in accordance with a letter of procedure between the Federal Aviation Administration and the Department of the Navy.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510) Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 20, 1970.

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

[F.R. Doc. 70-9688; Filed, July 27, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 50, 115]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES AND PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

Reporting of Deficiencies in Design and Construction of Nuclear Power Units

The Atomic Energy Commission presently is notified of deficiencies occurring

during the design and construction of nuclear power units through its inspection staff and through reports submitted by holders of construction permits either voluntarily or as requested by the Commission on a case-by-case basis. The Commission considers it desirable to establish uniform requirements for reporting deficiencies occurring during nuclear power unit design and construction.

The Commission has published as an effective rule (35 F.R. 10498) "Quality Assurance Criteria for Nuclear Power Plants," in an Appendix B to 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which requires an applicant for or a holder of a license to construct and operate a nuclear power unit to establish a quality assurance program to assure, among other things, that all conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and reported to appropriate levels of management (section XVI). The proposed amendment to § 50.55 of 10 CFR Part 50 which follows would require the holder of a construction permit for a nuclear power unit to report to the Commission significant deficiencies normally reported to management pursuant to section XVI, "Corrective Action," of the "Quality Assurance Criteria for Nuclear Power Plants." A similar amendment to § 115.43 of 10 CFR Part 115, "Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements," is also under consideration.

The Commission would not require reporting of minor deficiencies if all of the following are met: (1) The deficiency is not indicative of a significant failure in the licensee's quality assurance program, (2) the deficiency is of a type that frequently occurs during design and construction, and (3) the deficiency will be corrected through use of established methods so that the structure, system, or component of the nuclear power unit will be capable of performing its function as described in the application.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 50 and 115 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

1. A new paragraph (e) is added to § 50.55 of 10 CFR Part 50 to read as follows:

§ 50.55 Conditions of construction permits.

Each construction permit shall be subject to the following terms and conditions:

* * * * *

(e) (1) If the permit is for construction of a nuclear power unit, the holder of the permit shall, except as provided in subparagraph (3) of this paragraph, notify the Commission of any deficiency found in design or construction, which, were it to have remained undiscovered, would adversely affect the safety-related function of a structure, system, or component of the nuclear power unit at any time throughout the expected lifetime of the unit.

(2) The holder of a construction permit shall promptly notify the appropriate Atomic Energy Commission Regional Compliance Office of each reportable deficiency. Temporary remedial action required in the interest of personnel safety or investment protection may be taken immediately. No permanent remedial action shall be taken until the Regional Compliance Office has been notified of the deficiency. In addition, when so requested by the Atomic Energy Commission Regional Compliance Office, the holder of a construction permit shall submit a written report within 30 days to the Director, Division of Compliance with a copy to the Regional Compliance Office. The report shall include a description of the deficiency, an analysis of the safety implications and the corrective action taken, and shall contain sufficient information to permit an analysis of the deficiency and of the corrective action. If sufficient information is not available for a definitive report to be submitted within 30 days, an interim report containing all available information shall be filed, together with a statement as to when a complete report will be filed.

(3) Notification is not required for a deficiency if all of the following are met:

(i) The deficiency is not indicative of a significant failure in any portion of the quality assurance program conducted in accordance with the requirements of Appendix B; and

(ii) The deficiency is of a type that frequently occurs during design and construction of nuclear power units, such as:

(*a*) Minor inclusions, cracks, undercuts, or porosities, where the magnitude or frequency of occurrence is not indicative of a significant problem in design, procedures, materials, or workmanship;

(*b*) Minor deviations from specified physical or chemical properties of materials: *Provided*, That extensive evaluation is not required to determine the adequacy of the materials;

(*c*) Minor structural deficiencies, such as low strength or porosity of concrete: *Provided*, That extensive evaluation is not required to determine the adequacy of the structure or of any necessary repairs.

(*d*) Minor deviations from performance specifications, as demonstrated by acceptance or preoperational tests, in which extensive evaluation is not required to demonstrate that the structure, system, or component, including any modifications, will perform its function and that extensive redesign is not necessary; and

(iii) The deficiency can and will be remedied through use of established methods in applicable codes or approved procedures, in such a manner that the structure, system, or component will be capable of performing its intended functions throughout the expected lifetime of the plant.

2. A new paragraph (c) is added to § 115.43 of 10 CFR Part 115 to read as follows:

§ 115.43 Conditions of construction authorizations.

Each construction authorization shall be subject to the following terms and conditions:

* * * * *

(c) (1) Except as provided in subparagraph (3) of this paragraph, the holder of the construction authorization shall notify the Commission of any deficiency found in design or construction which, were it to have remained undiscovered, would adversely affect the safety-related function of a structure, system, or component of the nuclear power unit at any time throughout the expected lifetime of the nuclear power unit.

(2) The holder of a construction authorization shall promptly notify the appropriate Atomic Energy Commission Regional Compliance of each reportable deficiency. Temporary remedial action required in the interest of personnel safety or investment protection may be taken immediately. No permanent remedial action shall be taken until the Regional Compliance Office has been notified of the deficiency. In addition, when requested by the Atomic Energy Commission Regional Compliance Office, the holder of a construction authorization shall submit a written report within 30 days to the Director, Division of Compliance, with a copy to the Regional Compliance Office. The report shall include a description of the deficiency, an analysis of the safety implications, the corrective action taken, and shall contain sufficient information to permit an analysis of the deficiency and of the

corrective action. If sufficient information is not available for a definitive report to be submitted within 30 days, an interim report containing all available information shall be filed, together with a statement as to when a complete report will be filed.

(3) Notification is not required for a deficiency if all of the following are met:

(i) The deficiency is not indicative of a significant failure in any portion of the quality assurance program conducted in accordance with the substantive requirements of Appendix B of Part 50 of this chapter; and

(ii) The deficiency is of a type that frequently occurs during the design and construction of nuclear power units such as:

(*a*) Minor inclusions, cracks, undercuts, or porosities, where the magnitude or frequency of occurrence is not indicative of a significant problem in design, procedures, materials, or workmanship;

(*b*) Minor deviation from specified physical or chemical properties of materials: *Provided,* That extensive evaluation is not required to determine the adequacy of the materials;

(*c*) Minor structural deficiencies, such as low strength or porosity of concrete: *Provided,* That extensive evaluation is not required to determine the adequacy of the structure or of any necessary repairs;

(*d*) Deviations from performance specifications, as demonstrated by acceptance or preoperational tests, in which extensive evaluation is not required to demonstrate that the structure, system, or component, including any modifications, will perform its function and that extensive redesign is not necessary; and

(iii) The deficiency can and will be remedied through use of established methods in applicable codes or approved procedures, in such a manner that the structure, system, or component will be capable of performing its intended function throughout the expected lifetime of the plant.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 9th day of April 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 70-9695; Filed, July 27, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18881 RM-1369]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS, CHARLOTTE AMALIE AND CHRISTIANSTED, V.I.

Order Extending Time for Filing Comments and Reply Comments

1. This proceeding was begun by a notice of proposed rule making (FCC 70-637) adopted June 17, 1970, released June 19, 1970, and published in the Federal Register on June 25, 1970 (35 F.R. 10376). The dates for filing comments and reply comments are presently July 27 and August 10, 1970, respectively.

2. On July 10 and July 14, 1970, separate requests for 30-day extensions of time for submitting comments were filed by the Department of Education of Puerto Rico (Department), licensee of noncommercial educational Station WIPM-TV, Channel 3, Mayaguez, P.R., and Western Broadcasting Corp. (Western), licensee of Station WOLE-TV, Aguadilla, P.R., respectively.

3. The Department states that there are many complex factors to be considered in assuring protection to WIPM-TV under the proposal and that the situation regarding protection is complicated by the imminent move of WIPR-TV, Channel 6 (which is also operated as a noncommercial educational station by the Department), which will result in duplication of service by WIPM-TV and WIPR-TV in the south coast area of Puerto Rico. It avers that more time is accordingly needed in which to prepare its comments. Western states that due to the press of other business and intervening summer vacations sufficient time will not be available to prepare meaningful comments by July 27.

4. We are of the view that the additional time requested is warranted and will serve the public interest. *Accordingly, it is ordered,* That the "Motion for Extension of Time Within Which to File Comments," filed by the Department of Education of Puerto Rico, and the "Petition for Extension of Time," filed by Western Broadcasting Corp., are granted, and that the time for filing comments and reply comments in Docket No. 18881 is extended to and including August 26, 1970, and September 9, 1970, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: July 21, 1970.

Released: July 22, 1970.

[SEAL] James O. Juntilla,
Acting Chief, Broadcast Bureau.

[F.R. Doc. 70-9701; Filed, July 27, 1970; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 18882]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS, CAMDEN AND ATLANTIC CITY, N.J., AND PHILADELPHIA, PA.

Order Extending Time for Filing Comments and Reply Comments

1. This proceeding was begun by notice of proposed rule making (FCC 70-638) adopted June 17, 1970, released June 19, 1970, and published in the Federal Register on June 25, 1970 (35 F.R. 10375). The dates for filing comments and reply comments are presently July 20, and July 30, 1970, respectively.

2. On July 17, 1970, Vue-Metrics, Inc. (Vue-Metrics) filed a request to extend the time for filing comments to August 10, 1970, and reply comments to August 20, 1970. Vue-Metrics states it has engaged a consulting engineering firm to conduct studies which might be helpful to this proceeding. It further states that these engineers now have developed an alternative plan of channel assignments which will serve the interests of all concerned; however, additional time is necessary for the preparation of this engineering.

3. We are of the view that the additional time requested is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket No. 18882 is extended to and including August 10, 1970, and August 20, 1970, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d),1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: July 21, 1970.

Released: July 22, 1970.

[SEAL] James O. Juntilla,
Acting Chief, Broadcast Bureau.

[F.R. Doc. 70-9702; Filed, July 27, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

DOOR LOCKS AND LATCHES FROM JAPAN

Antidumping Proceeding Notice

JULY 20, 1970.

On May 25, 1970, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that door locks and latches from Japan are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[F.R. Doc. 70-9691; Filed, July 27, 1970; 8:48 a.m.]

[T.D. 70-168; Customs Delegation Order No. 36]

DIRECTOR, FACILITIES MANAGEMENT DIVISION

Delegation of Authority

JULY 22, 1970.

Designation of the Director, Facilities Management Division, Office of Administration, as contracting officer to enter into certain contracts.

1. By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), and by Treasury Department Order No. 208, dated March 31, 1966 (31 F.R. 5527), I hereby designate the Director, Facilities Management Division, Office of Administration, as contracting officer with authority to enter into and administer contracts for the acquisition of land and the construction of customs border facilities provided for in section 1 of the Act of June 26, 1930, as amended (19 U.S.C. 68); the procurement of customs scales and the construction of weight houses and appurtenances; and the procurement of personal property and nonpersonal services (including construction).

2. This delegation is subject to the requirements and limitations of Treasury Department Order No. 208, and shall be exercised in accordance with the requirements and limitations of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. chapter 4) as well as the applicable Federal Procurement Regulations, 41 CFR, chapters 1 and 10.

3. Subject to the requirements and limitations of paragraph 2, the authority herein delegated may be redelegated by the Director, Facilities Management Division, Office of Administration, to other officers or employees of the Customs Service in such manner as he shall direct.

4. Any action heretofore taken by the Director, Facilities Management Division or the Assistant Director (Procurement), Facilities Management Division, Office of Administration, which involved the exercise of authority hereby granted is affirmed and ratified.

5. This order supersedes Customs Delegation Order No. 33, dated November 6, 1968 (T.D. 68-280, 33 F.R. 16529).

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[F.R. Doc. 70-9694; Filed, July 27, 1970; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-3579]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

JULY 20, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below. Publication of this notice has the effect of segregating all public lands described below from appropriation under (a) the agricultural land laws (43 U.S.C., chs. 7 and 9; and 25 U.S.C. sec. 334) and from sales under 2455 of the Revised Statutes (43 U.S.C. 1171); and (b) the land described in paragraph 3 from appropriation under the mining laws (30 U.S.C. ch. 2). The lands shall remain open to all other applicable forms of appropriations. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The public lands located within the following described areas are shown on maps designated 2412-04-01(03-20) (S-3579) on file in the Bakersfield District Office, Bureau of Land Management, Room 311, Federal Building, 800 Truxtun Avenue, Bakersfield, Calif. 93301, and Land Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, Calif. 95825.

The overall description of the area is as follows:

MOUNT DIABLO MERIDIAN

MONO COUNTY

T. 3 N., R. 25 E.,
Secs. 1 through 4, inclusive;
Secs. 9 through 15, inclusive.
T. 4 N., R. 25 E.,
Secs. 1 through 4, inclusive;
Secs. 10 through 15, inclusive;
Secs. 21 through 29, inclusive;
Secs. 32 through 35, inclusive.
T. 5 N., R. 25 E.,
Secs. 1 through 3, inclusive;
Sec. 7;
Secs. 10 through 15, inclusive;
Sec. 18;
Secs. 22 through 27, inclusive;
Secs. 33 through 35, inclusive.
T. 5 N., R. 26 E.,
Secs. 1 through 15, inclusive;
Secs. 17 through 35, inclusive.
T. 6 N., R. 26 E.,
Secs. 32 through 36, inclusive.
T. 5 N., R. 27 E.,
Secs. 4 through 10, inclusive;
Secs. 14 and 15;
Secs. 17 through 35, inclusive.
T. 5 N., R. 28 E.,
Secs. 30, 31, and 32.

The area described aggregates approximately 56,619 acres.

3. The following described lands are further segregated from appropriation under the mining laws (30 U.S.C. ch. 2), approximately 208 acres.

MOUNT DIABLO MERIDIAN

T. 4 N., R. 25 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, NW¼NW¼.
Fifty feet either side of centerline of Virginia Creek beginning in NW¼NW¼ of sec. 35, T. 4 N., R. 25 E., thence southerly through secs. 2, 11, and 14 of T. 3 N., R. 25 E., ending at the patented land in the SW¼SE¼ of sec. 14.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in

writing to the Bakersfield District Manager.

5. A public hearing on the proposed classification will be held on Thursday, August 27, 1970 at 10 a.m. in the Mono County Courthouse, Bridgeport, Calif.

Dated: July 8, 1970.

For the State Director.

ROBERT J. SPRINGER,
Bakersfield District Manager.

[F.R. Doc. 70-9705; Filed, July 27, 1970; 8:50 a.m.]

[S 3733A]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

JULY 20, 1970.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR 2410 and 2460, it is proposed to classify for multiple-use management the public lands in paragraph 3. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934 (43 Stat. 1269), as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating all the public land described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

3. The public lands involved are located within the following described areas in Napa, Solano, Yolo, Lake, and Colusa Counties, Calif. These lands have been analyzed in detail and are described in documents and on maps available for inspection at the Ukiah District Office, Bureau of Land Management, 168 Washington Avenue, Ukiah, Calif. 95482.

MOUNT DIABLO MERIDIAN

NAPA, YOLO, SOLANO, LAKE, AND COLUSA COUNTIES

T. 7 N., R. 2 W.,
Sec. 27, NW¼NW¼.
T. 8 N., R. 2 W.,
Sec. 27, SE¼SW¼.
T. 5 N., R. 3 W.,
Sec. 11, lot 1.
T. 11 N., R. 3 W.,
Sec. 30, lot 2;
Sec. 31, lot 3, lot 4, SE¼SW¼.
T. 13 N., R. 4 W.,
Sec. 4, lot 9;
Sec. 5, lot 1, lot 2, E½SE¼, SE¼SE¼;
Sec. 6, lot 1.
T. 14 N., R. 4 W.,
Sec. 5, lots 2, 3, 5, 6, 8, 9, 10, 13, and 14.
T. 14 N., R. 4 W.,
Sec. 5, lot 15;
Sec. 8, W½NE¼, lots 3 to 6, inclusive;
Sec. 17, lots 2, 3, 6, and 7, N½SW¼, W½SE¼;
Sec. 20, N½NE¼, S½NW¼, SW¼SE¼.
T. 14 N., R. 4 W.,
Sec. 21, SW¼SW¼;
Sec. 29, W½E½;
Sec. 32, W½NE¼, N½SE¼, SE¼SE¼;
Sec. 33, W½W½, E½NW¼, NE¼SW¼.
T. 13 N., R. 5 W.,
Sec. 2, lots 3 and 4, S½NW¼, E½SW¼, S½SE¼;
Sec. 3, lot 2, SW¼NE¼, NW¼SE¼, SE¼SE¼;
Sec. 11, N½NE¼;
Sec. 22, NW¼NW¼;
Sec. 23, NE¼SW¼.
T. 14 N., R. 5 W.,
Sec. 26, SW¼SE¼;
Sec. 34, SW¼SE¼;
Sec. 35, S½NE¼, SE¼NW¼, NE¼SE¼.
T. 16 N., R. 5 W.,
Sec. 20, lots 9, 11, 15, 16, and 1.
T. 7 N., R. 6 W.,
Sec. 13, NE¼SW¼, Ptn. lot 40;
Sec. 24, lots 1, 2, 5, 6, and 4, Ptn. lots 40, 39, and 41.
T. 9 N., R. 7 W.,
Sec. 24, Ptn. lots 42, 43, and 44.
T. 11 N., R. 7 W.,
Sec. 1, lots 1, 2, 3, W½SE¼.
T. 13 N., R. 8 W.,
Secs. 20 and 21, lots 37A and 38A;
Sec. 21, Ptn. lots 37B and 38B.
T. 14 N., R. 8 W.,
Sec. 26, NE¼SW¼.
T. 15 N., R. 9 W.,
Sec. 15, lots 1, 2, 3, 6, 7, 8, 11, 12, and 13.
T. 16 N., R. 9 W.,
Sec. 31, N½NE¼.
T. 15 N., R. 10 W.,
Sec. 5, W½ of lot 4, lots 7 and 8;
Sec. 6, lots 1, 2, 3, 6, 7, 8, E½ of lot 13.

The public lands proposed to be classified aggregate approximately 4,613.81 acres.

4. For the period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Ukiah District Manager, Bureau of Land Management, 168 Washington Avenue, Ukiah, Calif. 95482.

5. A hearing will be held if sufficient public interest is shown.

For the State Director.

JOHN F. LANZ,
District Manager.

[F.R. Doc. 70-9681; Filed, July 27, 1970; 8:48 a.m.]

[S 3733]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Transfer Out of Federal Ownership

JULY 20, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1412) and to the regulations in 43 CFR, Parts 2410 and 2460, it is proposed to classify the public lands described in paragraph 3 for transfer out of Federal ownership under one or more of the below stated statutes.

2. Publication of this notice has the effect of segregating the following described public lands from all forms of disposal under the public land laws, including the mining laws, except the form or forms of disposal for which it is proposed to classify the lands. However, publication does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral and vegetative resources, other than under the mining laws.

3. The below-described lands proposed to be classified for disposal are located in Napa, Yolo, Lake, Colusa, and Solano Counties. The proposal has been discussed and analyzed in detail with the counties and with other agencies, groups and individuals. Maps and other information are available for inspection in the Ukiah District Office and in the Sacramento Land Office.

GROUP I

For disposal pursuant to the public sale law section 2455 of the Revised Statutes (43 U.S.C. 1171)

MOUNT DIABLO MERIDIAN

T. 11 N., R. 2 W.,
Sec. 30, NE¼SE¼;
Sec. 31, SE¼NE¼.
T. 12 N., R. 3 W.,
Sec. 4, SW¼NE¼.
T. 13 N., R. 3 W.,
Sec. 6, lot 6, SE¼NE¼;
Sec. 20, NW¼SE¼;
Sec. 24, NW¼NW¼;
Sec. 27, NW¼NE¼.
T. 16 N., R. 4 W.,
Sec. 30, NE¼SE¼.
T. 7 N., R. 5 W.,
Sec. 18, lot 2;
Sec. 30, lot 4.
T. 10 N., R. 6 W.,
Sec. 14, NE¼SW¼, SW¼SE¼;
Sec. 2, lot 3.
T. 13 N., R. 9 W.,
Sec. 12, lot 7.
T. 15 N., R. 10 W.,
Sec. 1, lot 4, W½ of lot 5, W½ of lot 6.

The lands described above aggregate 608.99 acres and are located in Napa, Yolo, Lake, and Colusa Counties.

GROUP II

For disposal pursuant to exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g), or for sale under section 2455 of the Revised Statutes (43 U.S.C. 1171);

MOUNT DIABLO MERIDIAN

T. 11 N., R. 3 W.,
Sec. 7, SE¼SW¼;
Sec. 17, W½SW¼;
Sec. 18, SE¼NE¼, NE¼NW¼.
T. 13 N., R. 4 W.,
Sec. 15, SW¼SW¼.
T. 6 N., R. 5 W.,
Sec. 9, NW¼NE¼.
T. 12 N., R. 5 W.,
Sec. 17, E½SE¼;
Sec. 19, SW¼SE¼;
Sec. 20, SW¼NW¼;
Sec. 30, lot 3.
T. 16 N., R. 5 W.,
Sec. 19, lot 3;
Sec. 28, W½NW¼.
T. 7 N., R. 6 W.,
Sec. 13, NE¼SW¼.
T. 18 N., R. 6 W.,
Sec. 34, lot 2 and lot 7.
T. 14 N., R. 7 W.,
Sec. 20, SE¼SW¼.

T. 15 N., R. 9 W.,
Sec. 9, SW¼SW¼.

The lands described above aggregate 788.07 acres and are located in Yolo, Napa, Lake, and Colusa Counties.

GROUP III

For disposal pursuant to State Indemnity Lieu Selection (43 U.S.C. 851, 852):

MOUNT DIABLO MERIDIAN

T. 7 N., R. 4 W.,
Sec. 20, NW¼NW¼;
Sec. 21, lot 5.

The lands described above aggregate 81.77 acres and are located in Napa County.

GROUP IV

For disposal pursuant to exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g), all other forms of exchange, or for State Indemnity Lieu Selection (43 U.S.C. 851, 852):

MOUNT DIABLO MERIDIAN

T. 11 N., R. 6 W.,
Sec. 5, S½SW¼;
Sec. 6, SE¼SE¼.

The lands described above aggregate 120 acres and are located in Lake County.

GROUP V

For disposal pursuant to the Public Sale Act of September 26, 1968 (82 Stat. 870) or for sale under section 2455 of the Revised Statutes (43 U.S.C. 1171):

MOUNT DIABLO MERIDIAN

T. 8 N., R. 1 E.,
Sec. 15, fraction of SE¼.
T. 8 N., R. 2 E.,
Sec. 13, lot 7.
T. 10 N., R. 2 W.,
Sec. 10, lot 3.
T. 12 N., R. 3 W.,
Sec. 29, lots 1 and 2.

The lands described above aggregate 15.18 acres and are located in Yolo and Solano Counties.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Ukiah District Manager, Bureau of Land Management, 168 Washington Avenue, Ukiah, Calif. 95482.

5. A hearing will be held if sufficient public interest is shown.

For the State Director.

JOHN F. LANZ,
District Manager.

[F.R. Doc. 70-9682; Filed, July 27, 1970; 8:48 a.m.]

Office of the Secretary

OFFICE OF HEARINGS AND APPEALS

Delegations of Authority

This notice amends Delegations of Authority relating to Departmental hearings and appeals and supersedes the delegations published in paragraphs 210.2.2A(3) and (4)(a), 24 F.R. 1348 of February 21, 1959, and paragraph 210.5.1, 31 F.R. 5529 of April 7, 1966. Added are appeals and hearings functions relating to mine operations health and safety.

The following material is a portion of the Departmental Manual, and the numbering system is that of the Manual. Material that relates solely to internal management has not been included.

PART 211—OTHER DEPARTMENTAL OFFICES

CHAPTER 13—OFFICE OF HEARINGS AND APPEALS

211.13.1 *General authority.* The Director, Office of Hearings and Appeals, is authorized to exercise, in accordance with existing policies, regulations, and procedures of the Department, all of the supervisory authority of the Secretary over hearings and appeals on all matters within the jurisdiction of the Department.

211.13.2 *Ad Hoc Boards of Appeals.* The Director may appoint personnel within the Office of Hearings and Appeals to serve on boards to decide cases not within the jurisdiction of the established boards of appeals.

211.13.3 *Hearings Division.* Hearing examiners in the Hearings Division, other than examiners of inheritance, conduct hearings in all cases, except Indian probate cases, required by law to be conducted pursuant to 5 U.S.C. § 554 and are authorized to conduct hearings in other cases arising in the Department. Examiners of inheritance in the Hearings Division are authorized to conduct hearings in Indian probate proceedings.

211.13.4 *Board of Contract Appeals.* The Board of Contract Appeals, under the direction of a Board Chairman, is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary in deciding appeals to the head of the Department from findings of fact or decisions by contracting officers of any bureau or office of the Department, wherever situated, or any field installation thereof, and to order and conduct hearings as necessary. Decisions of the Board on such appeals shall be final for the Department.

211.13.5 *Board of Land Appeals.* The Board of Land Appeals, under the direction of a Board Chairman, is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary in deciding appeals to the head of the Department from decisions rendered by Departmental officials relating to the use and disposition of public lands and their resources and the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf. Decisions of the Board on such appeals shall be final for the Department.

211.136 *Board of Mine Operations Appeals.* The Board of Mine Operations Appeals, under the direction of a Board Chairman, is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary under the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173; 83 Stat. 742 et seq.), pertaining to (a) applications for review of (1) withdrawal orders, (2) notices fixing a time for abatement of violations of mandatory health or safety standards, and (3) discharge or acts of discrimination for invoking rights under the Act; (b) assessment of civil penalties for violation of mandatory health or safety standards or other provisions of the Act; (c) applications for temporary relief in appropriate cases; (d) petitions for modification of mandatory safety standards; (e) appeals from orders and decisions of hearing examiners; and (f) all other appeals and review procedures cognizable by the Secretary under the Act. In the exercise of the foregoing functions the Board is authorized to cause investigations to be made, order hearings, and issue orders and notices as deemed appropriate to secure the just and prompt determination of all proceedings pursuant to the Act. Decisions of the Board on all matters within its jurisdiction shall be final for the Department.

211.13.7 *Board of Indian Appeals.* The Board of Indian Appeals, under the direction of a Board Chairman, is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary in deciding appeals to the head of the Department from orders and decisions of hearing examiners in Indian probate matters. Jurisdiction of the Board includes, but is not limited to, authority of the Secretary relating to Indian probate proceedings as follows: (a) Disposition of appeals to the Secretary in proceedings for the determination of heirs or the approval of wills of deceased Indians; (b) extension of time or waiver of time limitations with respect to rehearings, reopenings, or appeals in proceedings for the determination of heirs or the approval of wills of deceased Indians; and (c) disposition of the restricted or trust estates of Indians who have died intestate and without heirs. Decisions of the Board on such appeals shall be final for the Department.

211.138. *Limitations.* A. No member of an appeals board who has taken part or had any interest, directly or indirectly, in the letting or administration of the contract in dispute, or in the investigation or prosecution of the case prior to the time when the matter came under the jurisdiction of the board, shall participate, directly or indirectly, in the decision of the board.

B. The authority conferred by other paragraphs of this chapter does not include the Secertary's special power granted by 16 U.S.C. section 832a(f) (1964) to modify, adjust, or cancel contracts, or to compromise or finally settle claims arising thereunder, upon such terms and conditions and in such manner as the Secretary (or his delegatee, the Bonneville Power Administrator) may deem necessary.

C. The authority conferred by other paragraphs of this chapter does not include authority with respect to (1) appeals pertaining to enrollment of Indians, tort or irrigation claims, or requests for records under 43 CFR 2.2, or (2) proceedings within the jurisdiction of the Oil Import Appeals Board.

This Delegation of Authority shall be effective as of July 1, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

JULY 17, 1970.

[F.R. Doc. 70-9560; Filed, July 23, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CIBA AGROCHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0992) has been filed by CIBA Agrochemical Co., Division of CIBA Corp., Post Office Box 1105, Vero Beach, Fla.

32960, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the herbicide *p*-nitrophenyl - 2 - nitro - 4 - (trifluoromethyl) phenylether and its metabolites in or on the raw agricultural commodities seed and pod vegetables at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure with an electron-capture detector.

Dated: July 17, 1970.

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

[F.R. Doc. 70-9674; Filed, July 27, 1970; 8:47 a.m.]

CHEMAGRO CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice of* the pesticide procedural regulations (21 CFR 120.8), Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, has withdrawn its petition (PP 9F0810), notice of which was published in the FEDERAL REGISTER of April 16, 1969 (34 F.R. 6546), proposing establishment of tolerances (21 CFR Part 120) for negligible residues of the insecticide *O*-ethyl *O*-2, 4, 5-trichlorophenyl ethylphosphonothioate in or on the raw agricultural commodities leafy vegetables, sugar beets, and sweetpotatoes at 0.1 part per million; and corn (grain and fodder) at 0.03 part per million.

Dated: July 15, 1970.

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

[F.R. Doc. 70-9675; Filed, July 27, 1970; 8:47 a.m.]

MINNESOTA MINING & MANUFACTURING CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2567) has been filed by Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, Minn. 55101, proposing that § 121.2524 *Polyethylene terephthalate film* (21 CFR 121.2524) be amended in paragraph (d)(4)(i) to provide for the safe use of ethylene terephthalate-isophthalate copolymers as the base sheet for food-contact film prepared by the copolymerization of dimethyl terephthalate, dimethyl isophthalate, terephthalic acid, or isophthalic acid with ethylene glycol, modified with one or more of the following: Azelaic acid, dimethyl azelate, dimethyl sebacate, and sebacic acid.

Dated: July 17, 1970.

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

[F.R. Doc. 70-9676; Filed, July 27, 1970; 8:47 a.m.]

UNION CAMP CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2485) has been filed by Union Camp Corp., Post Office Box 570, Savannah, Ga. 31402, proposing that § 121.2592 *Rosins and rosin derivatives* (21 CFR 121.2592) be amended to provide for the safe use of the following rosin esters in the manufacture of articles or components of articles intended for use in contact with food:

1. Glycerol ester of maleic anhydride-modified tall oil rosin having an acid number of 30–40, a softening point of 130° C.–135° C., a color of N or paler, and a saponification number less than 280.

2. Glycerol ester of disproportionated tall oil rosin having an acid number of 5–10, a softening point of 80° C.–85° C., and a color of WG or paler.

Dated: July 17, 1970.

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

[F.R. Doc. 70-9677; Filed, July 27, 1970; 8:47 a.m.]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 8 (Social Security Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (33 F.R. 5828 et seq., Apr. 16, 1968, as amended), is hereby amended as follows:

8–B Assistant Bureau Director, Administration, BRSI through Division of Foreign Claims, BRSI is superseded by the following:

Assistant Bureau Director, Administration, BRSI. Directs the Bureau's management programs, including: Fiscal management, organization and staffing analysis and planning, personnel management, equal employment opportunity and union-management relations, paperwork management, resources and facilities management, and employee development. Directs the Bureau's long range management planning, including: evaluation of long range systems requirements for payment center operations and management; integration of Bureau planning with SSA planning; and the Bureau's management and operations analysis activities.

Division of International Operations, BRSI. Administers the social security programs in foreign countries. Develops, adjudicates, and authorizes claims filed by persons living in foreign countries, and determines their continuing eligibility. Establishes and evaluates foreign claims program policies, procedures, and operations, recommending changes or modifications. Provides centralized translation services for SSA. Provides SSA liaison and coordination with DHEW, the Department of State, other Federal agencies, agencies of foreign governments, and private organizations.

(Sec. 6, Reorganization Plan No. 1 of 1953)

Dated: July 14, 1970.

SOL ELSON,
Acting Deputy Assistant Secretary for Administration.

[F.R. Doc. 70-9706; Filed, July 27, 1970; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Order Extending License Expiration Date

By application dated May 27, 1970, Power Reactor Development Co., requested an extension of the expiration date of Provisional Operating License No. DPR-9. Good cause having been shown for extension of said date pursuant to § 50.57(d) of 10 CFR Part 50 of the Commission's regulations, it is hereby ordered that the expiration date of Provisional Operating License No. DPR-9 is extended to January 31, 1971.

For the Atomic Energy Commission.

Date of issuance: July 16, 1970.

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

[F.R. Doc. 70-9648; Filed, July 27, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21770; Order 70-7-98]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority July 21, 1970.

By Order 70-7-9, dated July 1, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in an agreement adopted by Joint Conference 1-2 of the International Air Transport Association (IATA). The agreement relates to reduced fare travel for dependents of U.S. military personnel from points in Europe/Africa/Middle East to New York/Boston.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70–7–9 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21820 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–9696; Filed, July 27, 1970; 8:49 a.m.]

[Docket No. 20291; Order 70–7–93]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority July 20, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement encompasses a new resolution relating to the sale and validity of tickets issued in Philippine currency. In essence, this resolution would permit passengers to commence travel within 30 days from the date of ticket issue without being subject to additional payment occasioned by a change in the rates of exchange and was adopted in an effort to remain compatible with local law. Similar provisions are in effect in other countries and constitute exceptions to normal provisions, whereby the applicable fare is that which is in effect on the date when transportation commences.[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 Resolution 300(Mail 341) 049d, which is incorporated in Agreement CAB 21874, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 21874 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–9697; Filed, July 27, 1970; 8:49 a.m.]

[1] Based on the effective rate of exchange on that date unless it varies by less than 5 percent from the rate of exchange in effect on the date of sale.

[Dockets Nos. 22167, 22168; Order 70–7–104]

SOUTHERN AIRWAYS, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d of July 1970.

On May 5, 1970, Southern Airways, Inc. (Southern), filed a petition requesting the Board to issue an order to show cause why its application in Docket 22167, requesting that its certificate for Route 98 be amended to consolidate service at Jackson and Vicksburg by designating Jackson and Vicksburg as a hyphenated point to be served through the Jackson Municipal Airport, should not be granted. In the alternative, Southern's petition requests exemption authority to suspend service at Vicksburg and serve Vicksburg through the single redesignated point Jackson-Vicksburg (Docket 22168).

No answers in opposition to the application have been filed.[1]

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause proposing to amend Southern's certificate as requested. We tentatively find and conclude that the public convenience and necessity require amendment of Southern's certificate for Route 98 so as to redesignate Jackson and Vicksburg as Jackson-Vicksburg, to be served through the Jackson Municipal Airport.

In support of our ultimate finding, we tentatively find and conclude as follows: That the cities of Vicksburg and Jackson are today served by the Vicksburg Municipal and Jackson Municipal Airports, respectively; that the two cities are approximately 50 miles apart; that Jackson Municipal Airport can be reached from Vicksburg in approximately one hour via interstate and other roads; that in 1969, Southern boarded only 3.6 passengers per day at Vicksburg; that Southern's on-board load factors on flights departing Vicksburg ranged between 1.81 percent (November) and 26.40 percent (April) in 1969; that direct jet service to numerous points is provided by three airlines at Jackson; that the grant of Southern's application will result in a substantial subsidy need reduction; that hyphenation of Jackson and Vicksburg will ultimately result in more efficient and economic operation for Southern.

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Southern's certificate of public convenience and necessity for Route 98 so as to redesignate the points Vicksburg and Jackson as Jackson-Vicksburg, to be served through the Jackson Municipal Airport;

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. A copy of this order shall be served upon Southern Airways, Inc., the city of Vicksburg, the Vicksburg Chamber of Commerce, and the city of Jackson, who are hereby made parties to this proceeding; and

6. Southern Airways' alternative application for exemption filed in Docket 22168 be and it hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–9698; Filed, July 27, 1970; 8:49 a.m.]

[1] The city of Vicksburg and the Vicksburg Chamber of Commerce have voted not to file formal opposition to Southern's petition, although they hope to develop new airport facilities and to have service in the future.

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director for Government Programs, Office of Minority Business Enterprise (OMBE).

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

[F.R. Doc. 70-9654; Filed, July 27, 1970; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Chief, Government Coordination Division.

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

[F.R. Doc. 70-9659; Filed, July 27, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Title Changes in Noncareer Executive Assignment

By notice of August 18, 1969, F.R. Doc. 9768 the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment the position of Director of Juvenile Delinquency. This is notice that the title of this position is now being changed to Commissioner, Youth Development and Delinquency Prevention Administration, Office of the Administrator, Social and Rehabilitation Service.

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

[F.R. Doc. 70-9652; Filed, July 27, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant Director—Helium Activities, Bureau of Mines.

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

[F.R. Doc. 70-9661; Filed, July 27, 1970; 8:46 a.m.]

FEDERAL TRADE COMMISSION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Office of Policy Planning and Evaluation.

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

[F.R. Doc. 70-9655; Filed, July 27, 1970; 8:45 a.m.]

FEDERAL TRADE COMMISSION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Bureau of Field Operations.

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

[F.R. Doc. 70-9660; Filed, July 27, 1970; 8:46 a.m.]

OFFICE OF MANAGEMENT AND BUDGET

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Director, Office of the Director.

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

[F.R. Doc. 70-9656; Filed, July 27, 1970; 8:45 a.m.]

POST OFFICE DEPARTMENT

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Post Office Department to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Deputy Postmaster General, Office of the Deputy Postmaster General.

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

[F.R. Doc. 70-9657; Filed, July 27, 1970; 8:45 a.m.]

POST OFFICE DEPARTMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of July 11, 1970, F.R. Doc. 70-8840, the Civil Service Commission authorized the Post Office Department to fill by noncareer executive assignment the position of Director of Policy Statements and Research, Office of the Postmaster General. This is notice that the title of this position is now being changed to Deputy Executive Assistant to the Postmaster General, Office of the Postmaster General.

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

[F.R. Doc. 70-9653, Filed, July 27, 1970; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Small Business Administration to fill by noncareer executive assignment in the accepted service the position of Deputy

Associate Administrator for Development and Disaster Assistance.

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

[F.R. Doc. 70-9658; Filed, July 27, 1970; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Small Business Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Associate Administrator for Financial Assistance.

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

[F.R. Doc. 70-9662; Filed, July 27, 1970; 8:46 a.m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

GREAT WESTERN BANK & TRUST

Notice of Application for Exemption; Correction

F.R. Doc. 70-8585 appearing at page 10930 in the issue of Tuesday, July 7, 1970, should be corrected so that the sixth line giving the location of Great Western Bank & Trust should read Phoenix, Ariz.

Dated this 23rd day of July 1970.

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

[F.R. Doc. 70-9699; Filed, July 27, 1970; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE AND PRUDENTIAL-GRACE LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 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 agreement filed by:

Mr. William H. Williams, Assistant to the Vice President, American Mail Line, 1625 I Street NW., Washington, D.C. 20006.

Agreement No. 9881 is an arrangement whereby Prudential-Grace Lines would appoint American Mail Line as its General Agent in Washington and Oregon (also Montana and Idaho for passenger service purposes) for freight and passenger solicitation and booking purposes, and to perform those husbanding duties required by Prudential-Grace's vessels in its West Coast-South American services.

Dated: July 23, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-9709; Filed, July 27, 1970; 8:50 a.m.]

MOORE-McCORMACK LINES, INC., 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 agreement filed by:

M. J. Kelly, Vice President, Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.

Agreement No. 9880, between Moore-McCormack Lines, Inc., and Durban Lines (PTY) Ltd./Lenox Lines (PTY) Ltd., will establish a through billing arrangement for the movement of cargo between U.S. Atlantic Coast ports and ports in the Seychelle Islands and the Comores Islands with transshipment at a South African port in the Cape Town/Beira range, inclusive, in accordance with the terms and conditions set forth in the agreement.

Dated: July 23, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-9708; Filed, July 27, 1970; 8:50 a.m.]

TRANS-PACIFIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged,

the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement 14–30 would modify the Trans-Pacific Freight Conference's (Hong Kong) basic agreement to permit the Conference's member lines to serve the trade from Macao, Taiwan, Cambodia, and Viet Nam to U.S. Pacific Coast ports, Hawaii, and Alaska by transshipment as well as by direct call.

Dated: July 23, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–9707; Filed, July 27, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70–625 etc.]

GENERAL CRUDE OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued November 28, 1969, and published in the FEDERAL REGISTER December 5, 1969, 34 F.R. 19311, Appendix A, Docket No. RI70–636, *Coastal States Gas Producing Co.:* (Opposite Rate Schedule No. 38) Under column headed "Rate in Effect" change "16.00" to read "15.00". Under column headed "Proposed Increased Rate" change "16.0600" to read "15.05625".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–9666; Filed, July 27, 1970; 8:46 a.m.]

[Docket No. RI70–426 etc.]

HUMBLE OIL & REFINING CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued November 5, 1969 and published in the FEDERAL REGISTER November 15, 1969, 34 F.R. 18325, Appendix A, Docket No. RI70–426, *Humble Oil & Refining Co.* (Opposite Rate Schedule 257) Under column headed "Supp. No." change "18" to read "19".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–9667; Filed, July 27, 1970; 8:46 a.m.]

[Project 1971]

IDAHO POWER CO.

Notice of Extension of Time

JULY 1, 1970.

On June 22, 1970, the Baker County Court, its Park and Recreation Advisory Board, and the Baker County Chamber of Commerce, filed a request for an extension of time within which to file petitions to intervene or protests, pursuant to the notice of application for approval of Exhibit R (Recreational Use Plan) for Constructed Project, issued on May 5, 1970, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including August 14, 1970, within which any interested person may file petitions to intervene or protests in the above-designated matter.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–9672; Filed, July 27, 1970; 8:47 a.m.]

[Docket No. RP70–43]

NORTHERN NATURAL GAS CO.

Order Providing for Hearing, Rejecting Proposed Revised Tariff Sheets, and Accepting and Suspending Proposed Alternative Revised Tariff Sheets

JULY 22, 1970.

On June 26, 1970, Northern Natural Gas Co. (Northern) tendered for filing its proposed FPC Gas Tariff, Third Revised Volume No. 1, to become effective on July 27, 1970.[1] The rate changes therein proposed would increase charges for jurisdictional sales and services by $37,950,398 annually, based on sales for the 12-month period ending February 28, 1970, as adjusted. The proposed changes would increase the rates in Northern's CD, PL, WPS, R, PO, IPS, and ERS Rate Schedules.

Northern's filing consists of two alternate sets of Third Revised Volume No. 1, the first of which contains a new section to be included in the general terms and conditions of the tariff, providing for monthly billing adjustments to reflect current changes in Northern's unit cost of purchased gas and a provision for flow-through of gas supplier refunds.[2] Northern requests that, if the Commission finds that the proposed purchased gas adjustment provision is prohibited by § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act and does not waive the terms of that section for purposes of Northern's filing, the Commission accept for filing the alternative Third Revised Volume No. 1, which does not contain a purchased gas adjustment provision nor a provision for flow-through of gas supplier refunds.

The principal reasons stated by Northern for the increase in rate levels requested in its filing are: (a) Increased revenues needed to provide a return of 8.75 percent on rate base; (b) increased cost of obtaining new gas supplies and increases in prices for present gas supplies; (c) advance payments required to obtain a new gas supply in Canada and Montana; (d) return to normalization accounting for liberalized depreciation in computing Federal income tax; (e) increased income, property and payroll taxes; and (f) increased cost of construction, wages, and other expenses.

The reasonableness of including a purchased gas adjustment provision in Northern's tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before the rates and charges to Northern's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act to permit the filing of Northern's Third Revised Volume No. 1, containing a purchased gas adjustment provision. From and after the effective date of the proposed alternate Third Revised Volume No. 1, and prior to the determination of this issue, however, Northern will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas costs included by Northern in this filing.

Review of the rate filing indicates that the issues therein raised require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

At the prehearing conference hereinafter ordered, we contemplate that all parties will be fully prepared to discuss the stipulation of noncontroverted facts, the definition of issues to be tried, as well as any other substantive and procedural problems involved in this proceeding. The parties are expected to fully effectuate the intent of § 2.59 of the Commission's rules of practice and

[1] The proposed Third Revised Volume No. 1, hereinafter accepted for filing and suspended is comprised of tariff sheets designated as follows: Original Sheet Nos. 1 through 41, Original Sheet Nos. 53 through 66, Original Sheet Nos. 75 through 106.

[2] The tariff sheets setting forth Northern's proposed purchased gas adjustment provision and gas supplier refunds provision are Original Sheet Nos. 66 through 70.

procedure. In the exercise of the authority delegated to him under § 1.27 of the rules, the Presiding Examiner, in the exercise of his discretion, may determine, which issues, if any, shall be heard in an initial phase of the hearing; and set dates for service of testimony and exhibits by staff and intervenors, the rebuttal evidence of the applicant and commencement of cross-examination, which will serve to proceed with such hearing as expeditiously as feasible.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that a hearing be held concerning the lawfulness of the rates and charges contained in Northern's FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed in footnote (1) above be suspended, and the use thereof be deferred as herein provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held commencing with a prehearing conference on September 15, 1970, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Northern's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Northern's FPC Gas Tariff, Third Revised Volume No. 1, as described in footnote (1) above is hereby suspended and the use thereof is deferred until December 27, 1970, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Northern's Third Revised Volume No. 1, containing Original Sheets Nos. 66 through 70 proposing a purchased gas adjustment provision is hereby rejected for filing. These referenced Original Sheets Nos. 66 through 70 may be made a part of the record herein, to be considered, along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas adjustment provision to be included in Northern's tariff.

(D) Presiding Examiner Walter T. Southworth or any other designated by the Chief Examiner for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purpose expressed in this order.

(E) At the hearing on September 15, 1970, Northern's prepared testimony (Statement P) filed and served on July 10, 1970, together with its entire rate filing as submitted and served on June 26, 1970, be admitted to the record as Northern's complete case-in-chief as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding.

(F) Following admission of Northern's complete case-in-chief, the parties shall proceed to effectuate the intent and purpose of § 2.59 of the Commission's rules of practice and procedure and of this order as set forth above.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-9670; Filed, July 27, 1970; 8:47 a.m.]

[Docket Nos. RI70-350 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, issued October 31, 1969, and published in the FEDERAL REGISTER November 13, 1969, 34 F.R. 18181, Appendix A, Docket No. RI70-366, Placid Oil Co. (Operator) et al. Under column headed "Purchaser and Producing Area", delete footnote 48.

Appendix A, under footnotes: Delete footnote 48 in its entirety.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-9668; Filed, July 27, 1970; 8:46 a.m.]

[Docket Nos. RI70-1636 etc.]

TENNECO OIL CO., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates, Correction

JULY 16, 1970.

In the order providing for hearings on and suspension of proposed changes in rates, issued May 21, 1970, and published in the FEDERAL REGISTER June 2, 1970, 35 F.R. 8518, Appendix A, Docket No. RI70-1644, Sun Oil Co.: Under column headed "Proposed Increased Rate", change footnote 6 to read footnote 4.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-9669; Filed, July 27, 1970; 8:46 a.m.]

[Docket No. CP70-300]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

JULY 23, 1970.

Take notice that on July 20, 1970, Transcontinental Gas Pipe Line Corp. (Petitioner), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP70-300 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on July 9, 1970, to authorize an increase in the volumes of natural gas to be transported and delivered to Philadelphia Gas Works Division of the UGI Corp. (PGW) for redelivery to Philadelphia Electric Co. (PE), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the aforementioned order, inter alia, to sell and deliver to PGW up to 36,000 Mcf of natural gas per day for redelivery to PE at the Chester and Barbadoes Island delivery points before August 31, 1970. Petitioner states that since the deliveries did not commence until July 11, 1970, it has now become apparent that in order to complete the sale of the total volumes contemplated by the parties within the time limit provided, it will be necessary to exceed the present daily volume limitation, by as much as 19,000 Mcf of natural gas a day to 55,000 Mcf per day.

It appears reasonable and consistent with the public interest in this case to prescribe a shortened period for the filing of protests and petitions to intervene. Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 30, 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.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-9703; Filed, July 27, 1970; 8:50 a.m.]

[Docket No. E-7546]

WISCONSIN ELECTRIC POWER CO.

Order Suspending Tendered Rate Schedule Supplements, Instituting Investigation, and Providing for Hearing

JULY 21, 1970.

This order provides for hearing, suspends for 5 months rate schedule supplements of Wisconsin Electric Power Co. (Wisconsin), and institutes an investigation into the lawfulness of wholesale for resale rate schedules.

Wisconsin, a public utility subject to the jurisdiction of the Commission, tendered on May 19, 1970, supplements [1] to its

[1] Designated in Appendix A hereto.

jurisdictional rate schedules for service to 10 municipally owned wholesale for resale customers. The supplements would (1) change demand measurement from the average of the 4 weekly 15-minute maxima to the single 60-minute monthly maximum; (2) increase the standard for calculating power factor from 80 percent to 90 percent; (3) increase the base fuel cost in the fuel clause from 30 cents per million B.t.u. to 34 cents per million B.t.u.; (4) incorporate the existing high-voltage credit in the base rate (all customers now being served at 26,400 volts); (5) eliminate the present off-peak credit based on winter months operation, on the grounds that Wisconsin is becoming a summer-peak system; (6) eliminate the 1 percent prompt payment discount, and (7) adjust the basic demand and energy charges. The tendered filing is proposed to become effective August 1, 1970,[2] and would result in an estimated annual increased cost to customers of $312,410, which amounts to some 9.1 percent.

In support of its filing, Wisconsin states that the proposed increase is necessitated by increases in income and property taxes, wages, construction costs and interest. It alleges that its existing rates are unreasonably low, which impedes its ability to attract capital. Its supporting figures indicate that the proposed rates would result in an overall rate of return of 7.5 percent, yielding 11.1 percent on common equity.

The municipal customers have indicated their view that the entire increase is unwarranted and should be disallowed.

The Commission further finds:

(1) The supplements to Wisconsin's rate schedules, identified in Appendix A hereto, may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that an investigation be instituted regarding the lawfulness of Wisconsin's wholesale rates and charges; that a public hearing be held on the lawfulness of (a) Wisconsin's proposed supplements to its schedules (as identified in Appendix A) and (b) its jurisdictional rates and charges; and that the operation of the proposed rate schedule supplements be suspended and the use thereof deferred, all as hereinafter provided.

The Commission orders:

(A) An investigation into the lawfulness of Wisconsin's jurisdictional rates and charges is hereby instituted.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened to commence with a prehearing conference to be held on August 6, 1970, at 10 a.m., e.d.s.t., at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of Wisconsin's proposed rate schedule supplements as identified in Appendix A hereto and its jurisdictional rates and charges. Further dates for hearing and for filing of prepared testimony shall be set by the Presiding Examiner at the prehearing conference.

(C) Pending such hearing and decision thereon, Wisconsin's proposed rate schedule supplements identified in Appendix A hereto are hereby suspended and the use thereof deferred until January 1, 1971. On that date, those supplements shall take effect in the manner prescribed by the Federal Power Act, subject to further order of the Commission, in this proceeding, subject to Wisconsin's keeping an accurate account in detail of all amounts received by reason of such change in rates and charges, and subject to such refund as the Commission may order—all in accordance with section 205(c) of the Federal Power Act.

(D) Unless otherwise ordered by the Commission, Wisconsin shall not change the terms or provisions of its proposed rate schedule supplements or its present effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

(E) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before August 21, 1970, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37). Answers to those petitions may be filed on or before September 4, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

WISCONSIN ELECTRIC POWER CO.

RATE SCHEDULE DESIGNATIONS

Instrument: Revised Schedule A
Instrument Date: Undated
Filing Date: May 19, 1970

Designation	*Other party*
Supplement No. 2 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 15).	City of Cedarburg, Wis.
Supplement No. 2 to Rate Schedule FPC No. 16 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 16).	Village of Deerfield, Wis.
Supplement No. 2 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 17).	City of Elkhorn, Wis.
Supplement No. 2 to Rate Schedule FPC No. 18 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 18).	City of Hartford, Wis.
Supplement No. 2 to Rate Schedule FPC No. 19 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 19).	City of Jefferson, Wis.
Supplement No. 2 to Rate Schedule FPC No. 20 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 20).	City of Lake Mills, Wis.
Supplement No. 2 to Rate Schedule FPC No. 21 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 21).	City of Oconomowoc, Wis.
Supplement No. 2 to Rate Schedule FPC No. 22 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 22).	Village of Slinger, Wis.
Supplement No. 2 to Rate Schedule FPC No. 23 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 23).	City of Waterloo, Wis.
Supplement No. 2 to Rate Schedule FPC No. 24 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 24).	City of Kiel, Wis.

[F.R. Doc. 70-9671; Filed, July 27, 1970; 8:47 a.m.]

[2] Wisconsin had originally requested that its filing be permitted to go into effect in advance of the date otherwise required by § 35.13 of the Commission's regulations (18 CFR 35.13) but has withdrawn this request.

FEDERAL RESERVE SYSTEM

BARCLAYS BANK LTD.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Barclays Bank, Ltd., which is a bank holding company located in London, England, for prior approval by the Board of Governors of the acquisition by applicant of up to 10 percent of the voting shares of Bank of London and South America, Ltd., London, England.

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

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

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

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

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views

regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors, July 22, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9673; Filed, July 27, 1970; 8:47 a.m.]

MARSHALL & ILSLEY BANK STOCK CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Marshall & Ilsley Bank Stock Corp. of Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of The First National Bank of the City of Superior, Superior, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of the Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Marshall & Ilsley Bank Stock Corp., Milwaukee, Wis. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The First National Bank of the City of Superior, Superior, Wis. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on June 5, 1970 (35 F.R. 8771), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the third largest bank holding company and third largest banking organization in Wisconsin, has 11 subsidiary banks with aggregate deposits of $543 million, representing 6.2 percent of the total commercial bank deposits in the State. (All banking data are as of Dec. 31, 1969, adjusted to reflect bank holding company formations and acquisitions approved by the Board to date.) Upon acquisition of Bank ($15 million deposits), Applicant would become the second largest bank holding company and second largest banking organization in the State, controlling 6.4 percent of commercial bank deposits in Wisconsin.

Bank is the second largest bank in Superior; is the sixth largest of 16 banks in the Greater Superior-Duluth area, the relevant market; and holds 4.5 percent of that market's deposits. The market is dominated by two large Duluth banks, each of which controls in excess of $100 million in deposits. Applicant's closest subsidiary is located 275 miles southeast of Bank, and neither it nor any other of Applicant's present subsidiaries compete with Bank to a significant extent. Applicant's entry into the market should promote competition with the two banks that dominate the market. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of Applicant's proposal, or that there would be undue adverse effects on any bank in the area involved.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Considerations relating to financial and managerial resources and future prospects are regarded as consistent with approval of the application as they relate to Applicant and its subsidiaries, and lend some weight in favor of approval as they relate to Bank, since affiliation with Applicant will assist in fulfilling the present and future management needs of Bank. Considerations relating to the convenience and needs of the communities to be served lend additional weight in support of approval, in that Bank, drawing on Applicant's resources, would be able to provide international banking services and to expand its trust department. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] July 20, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9647; Filed, July 27, 1970; 8:45 a.m.]

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Mitchell.

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