FEDERAL REGISTER

VOLUME 35 • NUMBER 192

Friday, October 2, 1970 • Washington, D.C.

Pages 15351–15430

Agencies in this issue—

Detailed list of Contents appears inside.

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

(Continued on next page)

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.

5 CFR

213 (2 documents) 15370

7 CFR

711 15355
892 15361
1062 15362
1134 15363
1136 15365

PROPOSED RULES:

1001 15396
1002 15396
1004 15396
1006 15396
1007 15396
1011 15396
1012 15396
1013 15396
1015 15396
1030 15396
1032 15396
1033 15396
1036 15396
1040 15396
1043 15396
1044 15396
1046 15396
1049 15396
1050 15396
1060 15396
1061 15396
1062 15396
1063 15396
1064 15396
1065 15396
1068 15396
1069 15396
1070 15396
1071 15396
1073 15396
1075 15396
1076 15396
1078 15396
1079 15396
1090 15396
1094 15396
1096 15396
1097 15396
1098 15396
1099 15396
1101 15396
1102 15396
1103 15396
1104 15396
1106 15396
1108 15396
1120 15396
1121 15396
1124 15396
1125 15396
1126 15396
1127 15396
1128 15396
1129 15396
1130 15396
1131 15396
1132 15396
1133 15396
1134 15396
1136 15396
1137 15396
1138 15396

9 CFR

76 15370

14 CFR

71 (2 documents) 15371

PROPOSED RULES:

71 (2 documents) 15404, 15405
73 15405

18 CFR

PROPOSED RULES:

2 15406

21 CFR

121 15372
135g 15372

PROPOSED RULES:

3 15402
30 15403

32 CFR

884 15382

36 CFR

50 15393

47 CFR

0 15386
1 15387
74 15388

49 CFR

1033 (2 documents) 15394, 15395

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 711—MARKETING QUOTA REVIEW REGULATIONS

On pages 12404 through 12411 of the FEDERAL REGISTER of August 4, 1970 (35 F.R. 12404) was published a notice of proposed rule making to issue marketing quota review regulations. Interested persons were given 30 days after publication of such notice in which to submit written data, views, or recommendations with respect to the proposed regulations.

After consideration of the submissions received pursuant to the notice, the proposed regulations are adopted as published in the notice, except that a clarification of the term notice of quota in § 711.14(a) is added to make clear that denial of a requested reconstitution of a farm may also be reviewed and the listings of the counties in the areas of venue for Missouri, Ohio, and Texas, as shown in § 711.29 of the notice, are changed to reflect those published in the FEDERAL REGISTER of January 3, 1970 (35 F.R. 114), which are currently in effect.

Since it is desired to make these regulations effective for purposes of appeals of 1971 acreage allotments and marketing quotas which are issued after October 15, 1970, it is necessary that these regulations be made effective as set forth in § 711.1 thereof. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and these regulations (§§ 711.1 to 711.29) shall be effective as provided in § 711.1 thereof.

Signed at Washington, D.C., on September 25, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

GENERAL

AUTHORITY: The provisions of this Part 711 issued under secs. 301, 363–368, 375, 52 Stat. 38 as amended, 63, 64, as amended, 66, as amended; 7 U.S.C. 1301, 1363–1368, 1375.

GENERAL

§ 711.1 Effective date.

The Marketing Quota Review Regulations (26 F.R. 10204, 27 F.R. 4831, 6539, 28 F.R. 3913, 31 F.R. 4271, 5663, 32 F.R. 15704) shall remain in effect and shall apply to all actions and proceedings taken prior to October 15, 1970, and such regulations are superseded as of midnight, October 14, 1970. The provisions of §§ 711.1 to 711.50 are effective October 15, 1970.

§ 711.2 Expiration of time limitations.

The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this part.

§ 711.3 Definitions.

(a) *General terms.* In determining the meaning of the provisions of this part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The definitions in Part 719 of this chapter shall apply to this part.

(b) *Act.* Act means the Agricultural Adjustment Act of 1938, and any amendments or supplements thereto.

(c) *Applicant.* Applicant means the farmer who filed an application for review of a farm marketing quota and if a hearing involves the quota of a farm resulting from the reconstitution by division of a parent farm, the farm operator of each farm resulting from such reconstitution shall be considered an applicant for purposes of this part.

(d) *Clerk.* Clerk means the county executive director for the county in which the application for review is filed unless another employee of the county or State office is designated by the State executive director to serve as clerk to the review committee.

(e) *Review committee.* Review committee means three farmers designated to review a quota by the State executive director from the panel of farmers appointed by the Secretary under section 363 of the act.

(f) *Quota.* Quota means a farm marketing quota established under the act for a year for which quotas are approved in the national referendum for a commodity (upland cotton, extra long staple cotton, peanuts, rice and tobacco) including any of the following factors which enter into the establishment of such quota:

(1) Farm acreage allotment (amount of rice producer allotment prior to allocation to a farm not subject to review by review committee but may be reviewed in accordance with Part 780 of this chapter);

(2) Tobacco acreage-poundage;

(3) Farm normal yield or projected farm yield when used to calculate a farm marketing excess (review of such yields in connection with price support determinations permitted in accordance with Part 780 of this chapter);

(4) Actual production for the farm;

(5) Farm marketing excess;

(6) Excess acreage (peanuts and tobacco);

(7) Acreage of the commodity on the farm; and

(8) Determination of the land constituting the farm.

§ 711.4 Forms.

The following general forms, as revised from time to time, are prescribed for use in connection with review proceedings;

(a) MQ–53 Application for Review of Farm Marketing Quota.

(b) MQ–54 Notice of Untimely Filing of Review Application.

(c) MQ–56 Notice of Hearing of Review Application.

(d) MQ–58 Determination of Review Committee Farm Marketing Quota.

(e) MQ–59 Oath of Review Committeeman.

§ 711.5 Public information.

The clerk shall maintain a record of applications and review committee proceedings which shall be available at the office of the clerk for public inspection and copying in accordance with Part 798 of this chapter.

REVIEW COMMITTEE

§ 711.6 Eligibility as member of a panel.

Any farmer who meets the eligibility requirements for county committeeman prescribed in the regulations in Part 7 of Subtitle A of this title, as amended, in a county within the area of venue for which he is to be appointed shall be eligible for appointment as a member of a review committee panel for such area of venue. If the area of venue consists of only one county or a part of a county, these eligibility requirements must be met in such county or in a nearby county. No farmer whose legal residence is in one State shall be eligible for appointment as a member of a review committee panel for an area of venue in another State.

§ 711.7 Appointment of members of a panel.

The Secretary shall appoint six or more eligible farmers to serve as members of a review committee panel in each area of venue. Notice of appointment shall be sent to the State committee, which shall notify the farmers so appointed. Appointments may be made before, during, or after the period in which applications for review of quotas are required to be filed. Notwithstanding the foregoing, the Secretary shall have the continuing power to revoke or suspend any appointment made pursuant to the regulations in this part, and subject to the provisions of the act, to make such other appointment deemed proper.

§ 711.8 Oath of office.

Each farmer appointed to serve as a member of a review committee panel shall, as soon as possible after appointment, execute an oath of office on such form as may be prescribed by the Deputy Administrator, duly subscribed and sworn to or affirmed before a notary public. No farmer shall serve on a review committee unless such oath of office has been duly executed and filed with the State executive director or the clerk. A farmer appointed for consecutive terms to serve as a member of a review committee panel shall not be required to file a new oath of office after the original filing. If the form of oath of office is materially changed, a new oath of office shall be executed if required by the Deputy Administrator.

§ 711.9 Composition of review committee.

(a) *Three designated members from the panel constitute a review committee.* Three members from the panel shall act as a review committee to hear applications for review for the prescribed area of venue. The State executive director shall designate from the panel of members for the prescribed area of venue three members who shall act as a review committee to hear specific applications and shall designate one of these three members as chairman of the review committee and another member as vice-chairman. Where the number of applications pending require two or more review committees for prompt disposition of such applications, the State executive director shall designate the members of each review committee, the chairman and vice chairman thereof, and the specific application to be heard by each review committee. Two or more review committees may hear applications concurrently in an area of venue. In the absence of the chairman, the vice chairman shall perform the duties and exercise the powers of the chairman. The State executive director shall notify members of each review committee of the schedule of hearings. No member shall serve in any case in which a quota will be reviewed for a farm in which such member, any of his relatives or business associates, is interested, nor shall any member serve where he had acted as State, county, or community committee member on a quota to be reviewed by the review committee.

(b) *Only two members present to commence hearing.* Where only two members of a review committee are present to commence a hearing, although three members were scheduled to hear the application, at the request of or with the consent of the applicant in writing, a hearing conducted by two members of the review committee shall be deemed to be a regular hearing of the review committee as to such application. The determination made by such members shall constitute the determination of the review committee. In the event such members cannot agree upon a determination, such fact shall be set forth in writing and a new hearing scheduled by the State executive director. If the applicant does not consent in writing to a hearing conducted by two members of the review committee, the hearing shall be rescheduled.

(c) *Only two members remain to complete a hearing.* Where only two members of a review committee remain to complete a hearing commenced with three members, due to serious illness, death, or other cause which prevents one of the members from completing the hearing within a reasonable time, at the request or with the consent of the applicant in writing, the remaining two members of the review committee shall henceforth constitute an entire review committee for the purpose of such hearing. In the event such members cannot agree upon a determination, such fact shall be set forth in writing and a new hearing scheduled by the State executive director. If the applicant does not consent in writing to completion of the hearing by two members of the review committee, the hearing shall be rescheduled.

(d) *Reopened or remanded hearings.* In the case of a reopened or remanded hearing, if any member of the review committee is no longer in office because of death, resignation, or ineligibility, the State executive director shall designate another member of the review committee panel to serve on the review committee. If a hearing held pursuant to paragraph (b) or (c) of this section is reopened or remanded and only one review committee member is available to hear such reopened or remanded hearing, the State executive director shall designate two additional members from the review committee panel to serve on the review committee.

§ 711.10 Term of office.

Appointment as a member of a review committee panel shall be for a term of 1 calendar year. A member may be reappointed for succeeding terms. Notwithstanding the foregoing, a review committee shall continue in office to conclude hearings before it which are begun during such year and make final determinations thereof, or to hold a reopened hearing, or to conclude a hearing remanded to it by a court.

§ 711.11 Compensation.

The members designated as review committeemen shall receive compensation when serving at the same rate as that received by the members of the county committee which established the quotas sought to be reviewed. No member of a review committee shall be entitled to receive compensation for services as such member for more than 30 days in any one year. Payment of compensation, reimbursement for travel expenses and rates therefor, shall be made under such conditions as may be prescribed by the Deputy Administrator.

§ 711.12 Effect of change in composition of review committee.

Nothing contained in §§ 711.6 to 711.11 relating to any vacancy or revocation or suspension of appointment and nothing done pursuant thereto shall be construed as affecting the validity of any prior hearing conducted or determination made in accordance with the regulations in this part, in which the member of the review committee whose office has become vacant participated, or as affecting in any way court proceeding which may be instituted to review such determination.

JURISDICTION

§ 711.13 Areas of venue and jurisdiction.

(a) *Areas of venue.* The State committee shall establish one or more areas of venue in the State. An area of venue may consist of all or part of a county, or more than one county within a State. In establishing areas of venue, the State committee shall take into consideration the requirements of section 363 of the act as to eligibility of review committee members, the prompt handling of applications for review, transportation problems and the limit of 30-day service by review committeemen in any one year.

(b) *Jurisdiction.* A review committee shall have jurisdiction within the area of venue for which it is established to hear applications respecting quotas established or denied by written notice issued by the county committee or other authorized official for farms within its area of venue, in accordance with this part.

APPLICATION FOR REVIEW OF QUOTA

§ 711.14 Application for review.

(a) *Manner and time of filing.* Any farmer who is dissatisfied with his quota may, within 15 days after the date of

mailing to him of notice of such quota, file a written application for review thereof by the review committee. Such 15-day period is prescribed in accordance with section 363 of the act. Unless application for review is timely filed, as determined under this section, the quota established by the notice shall not be subject to review by the review committee. Notice of quota subject to review under this part includes an official written notice as to the land constituting the farm. For example, a notice denying a request for farm reconstitution would be such a reviewable notice of quota. An application shall be in writing and addressed to, and filed with, the county executive director for the county from which the notice of quota was received. Any application (Form MQ–53 available on request) whether made on Form MQ–53 or not, shall contain the following:

(1) Date of application and commodity (including type where applicable, e.g. Upland cotton, Flue-cured tobacco).

(2) Correct full name and address of applicant.

(3) Brief statement of each ground upon which the application is based.

(4) A statement of the amount of quota which it is claimed should have been established.

(5) Signature of applicant.

In any case where an application is timely filed for review of a quota on a farm which was reconstituted by division of a parent farm into two or more farms, such application shall be considered an application for review of the reconstitution of the parent farm. In any such case the farm operator of each farm resulting from such reconstitution shall be considered an applicant for purposes of this part with all the rights and privileges provided in this part. If an action may be taken by an applicant which affects the rights of any other applicant in the case, the other applicants shall be given the opportunity to concur in such action or to oppose such action.

(b) *Procedure where application is not timely filed.* The county committee shall examine each application for review. If the application is not filed within the prescribed 15-day period, the county executive director shall send a notice of untimely filing on Form MQ–54 by certified mail to the applicant at the address shown on the application. The applicant may file a request in writing with the county executive director within 15 days after the date of mailing such notice to him requesting a review committee hearing on the sole issue of whether the application was filed within the prescribed 15-day period. In the absence of timely request in writing for such review committee hearing, the application shall be deemed withdrawn by the applicant. If timely request in writing for such review committee hearing is filed, a copy of the application and request shall be forwarded by the county executive director to the State executive director with a request that a hearing on the sole issue of timely filing be scheduled before the review committee. In cases involving the sole issue of timely filing of an application, the review committee shall determine whether the date the application was filed, or the postmark date in case of mailing by the applicant, was within the 15-day period. If the review committee determines that the application was timely filed, a hearing on the merits of the application shall be held. In addition, a hearing on the merits shall be conducted and the application treated as timely filed in any case where the review committee determines that the applicant in good faith requested review of his quota by the county or State committee under the regulations in Part 780 of this chapter in reliance upon action or advice of any authorized representative of a county or State committee and subsequently filed application for review under this part within a reasonable time after he learns that the quota is subject to review committee jurisdiction.

(c) *Withdrawal of application.* An application may be withdrawn upon the written request of the applicant. Any application so withdrawn or deemed withdrawn under paragraph (b) of this section shall be endorsed by the clerk "Dismissed by the applicant".

(d) *Procedure where application is timely filed.* The county committee shall examine each application for review and where an application is found to be timely filed, the county executive director shall forward a copy of the application to the State executive director with a request that a hearing on the merits be scheduled before the review committee.

§ 711.15 Matters subject to review.

In all cases, the review committee shall consider only such matters as, under applicable provisions of law and regulations, are required or permitted to be considered by the county committee in the establishment of the quota being reviewed. The establishment of national marketing quotas and apportionment of national acreage allotments among States and counties and the establishment of reserve acreages at the national and State level and apportionment of such reserves among States and counties are not subject to review by a review committee. Review of a quota may include any of the factors which enter into the establishment of such quota for the farm and crop year as set forth in § 711.3(f): *Provided, however,* That any factor of such quota considered by a review committee in a prior determination for the farm and crop year shall not be considered in a subsequent review proceeding. For example, a determination of the farm acreage allotment by the review committee would not be reconsidered upon any application for review of the farm marketing excess for the same farm and crop year.

§ 711.16 County committee answer.

The county committee shall prepare a written answer to each application scheduled for hearing setting forth the pertinent facts, the applicable regulations, the data used in establishing the quota and any other matters deemed pertinent: *Provided,* That the answer may be limited to the issue of timely filing where the hearing is limited to that issue. If the county committee determines that the increase, adjustment or other determination requested in the application is proper in whole or in part, the written answer shall set forth the proposed determination and in such cases, the applicant shall be notified by the county committee of such proposed determination prior to the scheduled review hearing if practicable to do so. In the event the applicant is satisfied with the proposed determination, upon withdrawal of his application, the county committee shall take the necessary action to revise the quota within the limits of the act and applicable commodity regulations if acreage is available in the county in the amount required. The State executive director may perform the functions of the county committee under this section and the functions of the county committee and county executive director under § 711.14 (b) and (d) in any case where the application for review involves a notice of farm marketing quota issued by officials other than the county committee.

§ 711.17 Amendments.

Upon due request, and within the discretion of the review committee, the right to amend the application and all procedural documents in connection with any hearing, shall be granted upon such reasonable terms as the review committee may deem right and proper.

Hearing and Determination

§ 711.18 Place and schedule of hearing.

The place of hearing shall be in the office of the county committee through which the quota sought to be reviewed was established, or such other appropriate place in the county as may be designated by the State executive director or by the review committee in cases arising under § 711.21: *Provided, however,* That the place of hearing may be in some other county if agreed to in writing by the applicant. The State executive director shall schedule applications for hearings and forward such schedule to the clerk.

§ 711.19 Notice of hearing.

The clerk shall give written notice on Form MQ–56 to the applicant by depositing such notice in the U.S. mail, certified and addressed to the last known address of the applicant at least 10 days prior to the time appointed for the hearing and copies of such notice shall also be sent to the county committee and the State office. If the applicant requests waiver of such 10-day period, the hearing may be scheduled earlier upon consent of the other interested parties. The notice of the hearing shall specify the time and place of the hearing, contain a statement of the statutory authority for the hearing, state that the application will be heard by the review committee duly appointed for the area of venue in which the applicant's farm is located, and that a verbatim transcript may be obtained by the applicant if he makes arrangement therefor

before the hearing and pays the expense thereof.

§ 711.20 Continuances.

Hearings shall be held at the time and place set forth in the notice of hearing or in any subsequent notice amending or superseding the prior notice, but may without notice other than an announcement at the hearing by the chairman of the review committee, be continued from day to day or adjourned to a different place in the county or to a later date or to a date and place to be fixed in a subsequent notice to be issued pursuant to § 711.19. In the event a full committee of three is not present, those members present, or in the absence of the entire committee, the clerk, shall postpone the hearing unless the hearing is held pursuant to § 711.9 (b) or (c). There shall not be a continuance for lack of a full committee in the case of a reopened or remanded hearing where the hearing was initially held pursuant to § 711.9 (b) or (c) and the two review committeemen who previously held the hearing are present and eligible to serve.

§ 711.21 Conduct of hearing.

(a) *Open to public.* Except as otherwise provided in §§ 711.1 to 711.50, each hearing shall take place before the entire review committee and shall be presided over by the chairman of such committee. The hearing shall be open to the public and shall be conducted in a fair and impartial manner and in such a way as to afford the applicant, members of the appropriate county and community committees, and appropriate officers and agents of the Department of Agriculture, and all persons appearing on behalf of such parties, reasonable opportunity to give and produce evidence relevant to the quota being reviewed.

(b) *Consolidation of hearings.* Wherever practicable, two or more applications relating to the same commodity and the same farm shall be consolidated by the review committee on its own motion or at the request of the State executive director and heard at the same time on the same record. In any case involving two or more farms resulting from reconstitution by division of a parent farm, the hearing shall be consolidated.

(c) *Representation.* The applicant and the Secretary may be represented at the hearing. The county committee shall be present or represented at the hearing.

(d) *Order of procedure.* At the commencement of the hearing, the chairman of the review committee shall read or cause to be read the pertinent portions of the application for review. The written answer of the county committee shall be submitted and shall be made a part of the record of the hearing. If the applicant asserts and shows to the satisfaction of the review committee that he has not been informed of the county committee's position in time to afford him adequate opportunity to prepare and present his case, the review committee shall continue the hearing, without notice other than announcement thereof at the hearing, for such period of time as will afford the applicant reasonable opportunity to meet the issues of fact and law involved. After answer by the county committee and following such continuance, if any, as may be granted by the review committee, evidence shall be received with respect to the matters relevant to the quota under review in such order as the chairman of the review committee shall prescribe. The review committee may take official notice of relevant publications of the Department of Agriculture and regulations of the Secretary.

(e) *Submission of evidence.* The burden of proof shall be upon the applicant as to all issues of fact raised by him. Each witness shall testify under oath or affirmation administered by the member of the review committee who is presiding at the hearing. The review committee shall confine the evidence to pertinent matters and shall exclude irrelevant, immaterial, or unduly repetitious evidence. Interested persons shall be permitted to present oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The hearing shall be concluded within such reasonable time as may be determined by the review committee.

(f) *Transcript of testimony.* The review committee shall provide for the taking of such notes including but not limited to stenographic reports or recordings at the hearing as will enable it to make a summary of the proceedings and the testimony received at the hearing. The testimony received at the hearing shall be reported verbatim and a transcript thereof made if (1) the applicant requests such transcript prior to the time the hearing begins and provides for its preparation and for the payment of the expense thereof, or (2) the State committee representative requests that such transcript be made and provides therefor. Immediately upon the completion of any such verbatim transcript, three legible copies thereof shall be furnished to the review committee and one copy shall be furnished to the State office without charge. The clerk shall certify that the summary of the testimony or the verbatim transcript is accurate to the best of his knowledge and belief.

(g) *Written arguments and proposed findings.* The review committee shall permit the applicant, the members of the appropriate county and community committees, and appropriate officers and agents of the Department of Agriculture to file written arguments and proposed findings of fact and conclusions, based on the evidence adduced at the hearing, for the consideration of the review committee within such reasonable time after the conclusion of the hearing as may be prescribed by the review committee. Such written arguments and proposed findings shall be filed in triplicate with the clerk and an additional copy thereof shall be provided to the other party.

§ 711.22 Nonappearance of applicant.

(a) *Original hearing.* If, at the time of the hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of the absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant and no continuance has been requested by the applicant, the review committee shall threupon close the hearing, as to such applicant, and, without further proceedings in the case, make a determination dismissing the application.

(b) *Reopened or remanded hearing.* If, at a hearing which is reopened pursuant to § 711.25 or remanded by a court, the applicant is absent and no appearance is made on his behalf, the review committee shall continue the hearing for a reasonable period of time and if the applicant does not appear at such continued hearing, the review committee shall make a determination.

§ 711.23 Determination by review committee.

As soon as practicable after hearing on an application, including a hearing on the sole issue of timely filing, the review committee shall make a determination upon the application. If it is determined by the review committee that the application should be dismissed for untimely filing or denied, the review committee shall so indicate. If it is determined that the application should be granted in whole or in part, the review committee shall establish the quota which it finds to be proper. Each determination made by the review committee shall be in writing, shall contain specific findings of fact and conclusions together with the reasons or basis therefor, and shall be based upon and made in accordance with reliable, probative, and substantial evidence adduced at the hearing. The concurrence of two members of the review committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the review committee as will indicate his concurrence therein or his dissent therefrom. In case of an increase in the quota, the review committee shall specifically state in the determination in what respect, if any, the county committee has failed properly to apply the act and regulations thereunder. If such increase is based upon evidence not available to the county committee, the findings of the review committee shall so indicate. The appropriate county executive director shall make available to the review committee such clerical and stenographic assistance as may be required.

§ 711.24 Service of determination.

A copy of the determination, certified by the clerk as a true and correct copy of the signed original, shall be served upon the applicant by sending the same by certified mail addressed to the applicant at his last known address. The copy of the determination shall contain at the top thereof substantially the following statement: "To all persons who, as operator, landlord, tenant, or sharecropper,

are or will be interested in the above-named commodity on the farm identified below in the year for which the marketing quota being reviewed is established" and such statement shall constitute notice to all such persons. The clerk shall make a notation on the original determination of the date and place of such mailing. The clerk forthwith shall forward two copies of such determination to the State office, and one copy to the county committee. The determination of the review committee does not become final until the period for reopening of hearing under § 711.25 has expired without any reopening; or if reopened thereunder, such determination becomes final upon issuance of a new determination pursuant to the reopened hearing, subject to further appeal to a court by the applicant.

§ 711.25 Reopening of hearing.

(a) *Upon motion of review committee.* Upon its own motion within 15 days from the date of mailing to the applicant of a copy of the determination of the review committee, the review committee may reopen a hearing for the purpose of taking additional evidence or of adding any relevant matter or document.

(b) *Upon written request based on new evidence.* Upon written request by the applicant, the county committee, the State executive director, or other interested parties, to the review committee within 15 days from the date of mailing to the applicant of a copy of the determination of the review committee, the review committee shall reopen the hearing for the purpose of taking additional evidence or of adding any relevant matter or document if the review committee finds that such evidence or documents constitute new evidence not available to the parties at the time of the hearing.

(c) *Upon written notice by the Secretary.* Upon written notice by the Secretary or on his behalf by the Deputy Administrator to the review committee within 45 days from the date of mailing to the applicant of a copy of the determination of the review committee on Form MQ-58, the hearing shall be deemed reopened and the State executive director shall schedule the reopened hearing.

(d) *Schedule of reopened hearing.* Schedule of and notice of any reopened hearing shall follow the requirements of §§ 711.18 and 711.19 insofar as practicable. Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section, no hearing shall be reopened after an appeal to a court pursuant to section 365 of the act has been timely filed by the applicant. No special hearing to contest a reopening of a hearing shall be scheduled; however, the applicant may present evidence and arguments to contest the reopening when the reopened hearing is held.

§ 711.26 Record of hearing.

The record of the proceedings shall be prepared by the clerk and shall consist of the following:

(a) All procedural documents in the case under review, including the application and written notices of quota and hearing and any other written notice in connection with the application.

(b) Copies of regulations presented at the hearing.

(c) The answer of the county committee or the State executive director.

(d) The summary of the proceedings and the testimony prepared by the review committee if a verbatim transcript is not made, or a transcript of the testimony where a verbatim transcript is made, in accordance with § 711.21(f), to which shall be annexed any documentary evidence received at the hearing.

(e) Any written arguments or proposed findings of fact and conclusions filed in connection with the hearing.

(f) The written determination of the review committee.

(g) A list of all papers included in the record and a certificate by the clerk stating that such record is true, correct and complete.

COURT PROCEEDINGS

§ 711.27 Procedure in the case of court proceedings.

Upon the institution of any suit against the review committee for the purpose of reviewing its determination upon any application for review, the review committee is required by section 365 of the act to certify and file in court a transcript of the record upon which the determination was made, together with the findings of fact made by the review committee. Any suit for review is required to be instituted by the applicant within 15 days after a notice of the review committee's determination is mailed to him. Such suit may be instituted in the U.S. District Court or in any court of record of the State having general jurisdiction, sitting in the county of the district in which the applicant's farm is located. The bill of complaint in such proceeding may be served by delivering a copy thereof to any member of the review committee. Any member of the review committee served with papers in such suit shall immediately forward such papers to the clerk. No member of the review committee shall appear or permit any appearance in his behalf or in behalf of the review committee, or take any action in respect to the defense of such suit, except in accordance with the instructions from the Deputy Administrator.

PUERTO RICO

§ 711.28 Special provisions applicable to Puerto Rico.

Notwithstanding the provisions of §§ 711.1 to 711.50, the Caribbean Area Agricultural Stabilization and Conservation Committee (hereinafter referred to as the "ASC Committee") shall perform, insofar as applicable, the duties and assume such responsibilities and be subject to the limitations as are otherwise required of State and county committees except as provided herein. The Director, Caribbean Area ASCS office, shall recommend members of the review committee panel, the areas of venue, and perform the functions of the State executive director. Any farmer who is eligible to vote in a referendum for which a quota has been proclaimed shall be eligible for appointment as a member of a review committee panel. The clerk shall be the ASC district supervisor of the district in which the review committee will hold its hearings. Where it is impractical or impossible to use the United States mail to serve the applicant with notice of hearing or determination, use shall be made of such other method of service as is available. However, when such other method is used, the ASC Committee shall make provision for keeping an accurate record of the date and method of delivery to the applicant.

AREAS OF VENUE

§ 711.29 Establishment of areas of venue.

ALABAMA

Counties of:

Area I—Colbert, Franklin, Lauderdale, Lawrence.
Area II—Jackson, Limestone, Madison, Morgan.
Area III—Blount, Cherokee, Cullman, De Kalb, Etowah, Marshall.
Area IV—Fayette, Lamar, Jefferson, Marion, Walker, Winston.
Area V—Calhoun, Chambers, Clay, Cleburne, Randolph, St. Clair, Talladega, Tallapoosa.
Area VI—Greene, Hale, Marengo, Pickens, Sumter, Tuscaloosa.
Area VII—Autauga, Bibb, Chilton, Dallas, Perry, Shelby.
Area VIII—Bullock, Elmore, Lee, Lowndes, Macon, Montgomery, Russell, Coosa.
Area IX—Butler, Coffee, Covington, Crenshaw, Pike.
Area X—Barbour, Dale, Geneva, Henry, Houston.
Area XI—Baldwin, Choctaw, Clarke, Mobile, Washington.
Area XII—Conecuh, Escambia, Monroe, Wilcox.

ARIZONA

Area—Entire State.

ARKANSAS

Counties of:

Area I—Clay, Conway, Craighead, Faulkner, Greene, Independence, Jackson, Lawrence, Mississippi, Poinsett, Randolph, White.
Area II—Arkansas, Crittenden, Cross, Lee, Lonoke, Monroe, Phillips, Prairie, Pulaski, St. Francis, Woodruff.
Area III—Ashley, Bradley, Calhoun, Chicot, Cleveland, Dallas, Desha, Drew, Grant, Jefferson, Lincoln, Union.
Area IV—Clark, Columbia, Garland, Hempstead, Hot Spring, Howard, Logan, Miller, Montgomery, Nevada, Ouachita, Perry, Pike, Polk, Saline, Scott, Sevier, Yell, Lafayette, Little River.
Area V—Baxter, Benton, Boone, Carroll, Cleburne, Crawford, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy Sebastian, Sharp, Stone, Van Buren, Washington.

CALIFORNIA

Counties of:

Area I—Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity.
Area II—Contra Costa, Mendocino, Sonoma, Napa, Solano, Lake, Marin.
Area III—Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Inyo, Mono, Nevada, Placer, Sacramento, Sutter, Yolo, Yuba.
Area IV—Calaveras, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne.
Area V—Alameda, Monterey, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz.

Area VI—Fresno, Kern, Kings, Tulare.
Area VII—Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura.

CONNECTICUT

Counties of:
Area I—Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, Windham.

FLORIDA

Counties of:
Area I—Alachua, Baker, Clay, Columbia, Duval, Gilchrist, Hendry, Hillsborough, Lake, Lee, Levy, Marion, Nassau, Orange, Palm Beach, Polk, Putnam, Seminole, St. Johns, Sumter, Union, Volusia.
Area II—Bradford, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor.
Area III—Calhoun, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, Wakulla.
Area IV—Bay Escambia, Holmes, Okaloosa, Santa Rosa, Walton, Washington.

GEORGIA

Counties of:
Area I—Bartow, Carroll, Catossa, Chattooga, Cherokee, Clayton, Cobb, Coweta, Dade, Dawson, De Kalb, Douglas, Fannin, Fayette, Floyd, Forsyth, Gilmer, Gordon, Gwinnett, Haralson, Heard, Henry, Lumpkin, Murray, Newton, Paulding, Pickens, Polk, Rockdale, Spalding, Union, Walker, Whitfield.
Area II—Banks, Barrow, Burke, Clarke, Columbia, Elbert, Franklin, Glascock, Greene, Habersham, Hall, Hancock, Hart, Jackson, Jefferson, Jenkins, Lincoln, McDuffie, Madison, Morgan, Oconee, Oglethorpe, Putnam, Rabun, Richmond, Screven, Stephens, Taliaferro, Towns, Walton, Warren, White Wilkes.
Area III—Baldwin, Bibb, Bleckley, Butts, Chattahoochee, Crawford, Crisp, Dodge, Dooly, Harris, Houston, Jasper, Jones, Lamar, Laurens, Macon, Marion, Meriwether, Monroe, Muscogee, Peach, Pike, Pulaski, Schley, Sumter, Talbot, Taylor, Troup, Twiggs, Upson, Washington, Wilcox, Wilkinson.
Area IV—Baker, Ben Hill, Berrien, Brooks, Calhoun, Clay, Colquitt, Cook, Decatur, Dougherty, Early, Grady, Irwin, Lee, Lowndes, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Telfair, Terrell, Thomas, Tift, Turner, Webster, Worth.
Area V—Appling, Atkinson, Bacon, Brantley, Bryan, Bulloch, Camden, Candler, Charlton, Chatham, Clinch, Coffee, Echols, Effingham, Emanuel, Evans, Glynn, Jeff Davis, Johnson, Lanier, Liberty, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Troutlen, Ware, Wayne, Wheller.

ILLINOIS

Counties of:
Area I—Boone.
Area II—Adams.
Area III—Alexander, Hamilton, Massac, Pulaski, Union.

INDIANA

Counties of:
Area I—Carroll, Cass, Elkhart, Fulton, Howard, Kosciusko, Marshall, Miami, St. Joseph, Wabash.
Area II—Clay, Daviess, Green, Knox, Lawrence, Martin, Monroe, Morgan, Owen, Sullivan, Vigo.
Area III—Benton, Jasper, Lake, La Porte, Newton, Porter, Pulaski, Starke, Tippecanoe, White.
Area IV—Boone, Clinton, Fountain, Hendricks, Marion, Montgomery, Parke, Putnam, Vermillion, Warren.
Area V—Clark, Dearborn, Floyd, Harrison, Jefferson, Jennings, Ohio, Ripley, Scott, Switzerland, Washington.
Area VI—Crawford, Dubois, Gibson, Orange, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick.
Area VII—Blackford, Delaware, Hamilton, Hancock, Henry, Jay, Madison, Randolph, Tipton, Wayne.
Area VIII—Barthlomew, Brown, Decatur, Fayette, Franklin, Jackson, Johnson, Rush, Shelby, Union.
Area IX—Adams, Allen, De Kalb, Grant, Huntington, Lagrange, Noble, Steuben, Wells, Whitley.

KANSAS

Counties of:
Area I—Atchison, Brown, Doniphan, Jackson, Jefferson, Leavenworth.
Area II—Allen, Anderson, Bourbon, Coffey, Linn, Miami.
Area III—Cherokee, Crawford, Labette, Montgomery, Neosho.

KENTUCKY

Counties of:
Area I—Ballard, Caldwell, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, McCracken, Marshall, Trigg.
Area II—Butler, Christian, Crittenden, Daviess, Henderson, Hopkins, Logan, McLean, Muhlenberg, Todd, Union, Webster.
Area III—Adair, Allen, Barren, Casey, Cumberland, Green, Hart, Metcalfe, Monroe, Simpson, Taylor, Warren.
Area IV—Breckinridge, Bullitt, Edmonson, Grayson, Hancock, Hardin, Larue, Marion, Meade, Nelson, Ohio, Washington.
Area V—Bell, Clay, Clinton, Harlan, Knox, Laurel, Leslie, McCreary, Pulaski, Russell, Wayne, Whitley.
Area VI—Anderson, Boyle, Clark, Estill, Garrard, Jackson, Lincoln, Madison, Mercer, Montgomery, Powell, Rockcastle.
Area VII—Bourbon, Fayette, Franklin, Harrison, Henry, Jessamine, Nicholas, Robertson, Scott, Shelby, Spencer, Woodford.
Area VIII—Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Jefferson, Kenton, Oldham, Owen, Pendleton, Trimble.
Area IX—Bath, Boyd, Carter, Elliott, Fleming, Greenup, Johnson, Lawrence, Lewis, Mason, Menifee, Rowan.
Area X—Breathitt, Floyd, Knott, Lee, Letcher, Magoffin, Martin, Morgan, Owsley, Perry, Pike, Wolfe.

LOUISIANA

Parishes of:
Area I—Bienville, Bossier, Caddo, Claiborne, De Soto, Jackson, Lincoln, Red River, Union, Webster.
Area II—Caldwell, Concordia, East Carroll, Franklin, Madison, Morehouse, Richland, Tensas, West Carroll, Ouachita.
Area III—Avoyelles, Beauregard, Catahoula, Grant, La Salle, Natchitoches, Rapides, Sabine, Vernon, Winn.
Area IV—Acadis, Allen, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, St. Landry, St. Martin, Vermilion.
Area V—East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Tammany, Tangipahoa, Washington, West Baton Rouge, West Feliciana.
Area VI—Ascension, Assumption, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John, St. Mary, Terrebonne, St. James.

MARYLAND

Counties of:
Area I—Calvert, Charles, St. Marys.
Area II—Anne Arundel, Frederick, Montgomery, Prince Georges.

MASSACHUSETTS

Area—Entire State.

MINNESOTA

Counties of:
Area I—Fillmore, Freeborn, Houston.
Area II—Meeker, Stearns.

MISSISSIPPI

Counties of:
Area I—Alcorn, Benton, Itawamba, Lafayette, Lee, Marshall, Pontotoc, Prentiss, Tippah, Tishomingo, Union.
Area II—Calhoun, Carroll, Chickasaw, Choctaw, Clay, Grenada, Lowndes, Monroe, Montgomery, Oktibbeha, Webster, Yalobusha.
Area III—Attala, Kemper, Leake, Neshoba, Noxubee, Winston.
Area IV—Clarke, Jasper, Lauderdale, Newton, Scott, Smith.
Area V—Forrest, George, Greene, Harrison, Hancock, Jackson, Jones, Perry, Stone, Wayne.
Area VI—Covington, Jefferson Davis, Lamar, Lawrence, Marion, Pearl River, Simpson, Walthall.
Area VII—Adams, Amite, Franklin, Lincoln, Wilkinson, Pike.
Area VIII—Claiborne, Copiah, Hinds, Jefferson, Madison, Rankin, Warren.
Area IX—Holmes, Humphreys, Issaquena, Leflore, Sharkey, Sunflower, Washington, Yazoo.
Area X—Bolivar, Coahoma, De Sota, Panola, Quitman, Tallahatchie, Tate, Tunica.

MISSOURI

Counties of:
Area I—Andrew, Atchison, Buchanan, Clay, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, Worth.
Area II—Caldwell, Carroll, Chariton, Grundy, Jackson, Lafayette, Linn, Livingston, Mercer, Putnam, Ray, Saline, Sullivan.
Area III—Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Randolph, Schuyler, Scotland, Shelby.
Area IV—Audrain, Boone, Callaway, Howard, Lincoln, Montgomery, Pike, St. Charles, St. Louis, Warren.
Area V—Bates, Benton, Cass, Cole, Cooper, Henry, Johnson, Miller, Moniteau, Morgan, Pettis.
Area VI—Barton, Camden, Cedar, Dade, Dallas, Hickory, Laclede, Polk, Pulaski, St. Clair, Vernon, Webster, Wright.
Area VII—Crawford, Dent, Franklin, Gasconade, Jefferson, Maries, Osage, Phelps, St. Francois, Texas, Washington.
Area VIII—Bollinger, Cape Girardeau, Madison, Mississippi, New Madrid, Perry, Ste. Genevieve, Scott, Stoddard.
Area IX—Butler, Carter, Dunklin, Howell, Iron, Oregon, Pemiscot, Reynolds, Ripley, Shannon, Wayne.
Area X—Barry, Christian, Douglas, Greene, Jasper, Lawrence, McDonald, Newton, Ozark, Stone, Taney.

NEVADA

Counties of:
Area I—Clark, Lincoln, Nye.

NEW MEXICO

Counties of:
Area I—Chaves, Curry, De Baca, Eddy, Lea, Quay, Roosevelt.
Area II—Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Valencia.

NORTH CAROLINA

Counties of:
Area I—Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Yancey.
Area II—Alexander, Anson, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Polk, Rutherford, Stanley, Union.
Area III—Davidson, Davie, Forsyth, Guilford, Montgomery, Randolph, Rockingham, Rowan, Stokes, Surry, Wilkes, Yadkin.
Area IV—Alamance, Caswell, Chatham, Durham, Franklin, Granville, Harnett, Lee, Orange, Person, Vance, Wake, Warren.

Area V—Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson.
Area VI—Carteret, Craven, Duplin, Greene, Johnston, Jones, Lenoir, Onslow, Pamlico, Sampson, Wayne.
Area VII—Blanden, Brunswick, Columbus, Cumberland, Hoke, Moore, New Hanover, Pender, Richmond, Robeson, Scotland.

OHIO

Counties of:
Area I—Crawford, Delaware, Fayette, Franklin, Licking, Madison, Marion, Morrow, Pickaway, Union, Wyandot.
Area II—Allen, Auglaize, Defiance, Hancock, Hardin, Logan, Mercer, Paulding, Putnam, Shelby, Van Wert.
Area III—Butler, Champaign, Clark, Clinton, Darke, Greene, Hamilton, Miami, Montgomery, Preble, Warren.
Area IV—Adams, Brown, Clermont, Gallia, Highland, Jackson, Lawrence, Pike, Ross, Scioto.
Area V—Athens, Fairfield, Guernsey, Hocking, Meigs, Monroe, Morgan, Muskingum, Nobel, Perry, Vinton, Washington.

OKLAHOMA

Counties of:
Area I—Beaver, Cimarron, Custer, Dewey, Ellis, Harper, Roger Mills, Texas, Woods, Woodward.
Area II—Alfalfa, Garfield, Grant, Kay, Major, Noble, Osage.
Area III—Adair, Cherokee, Craig, Delaware, Mayes, Muskogee, Nowata, Okmulgee, Ottawa, Rogers, Tulsa, Wagoner, Washington.
Area IV—Blaine, Canadian, Creek, Hughes, Kingfisher, Lincoln, Logan, Okfuskee, Oklahoma, Pawnee, Payne, Pottawatomie, Seminole.
Area V—Beckham, Greer, Harmon, Jackson, Kiowa, Tillman, Washita.
Area VI—Caddo, Carter, Cleveland, Coal, Comanche, Cotton, Garvin, Grady, Jefferson, Johnston, Love, McClain, Marshall, Murray, Pontotoc, Stephens.
Area VII—Atoka, Bryan, Choctaw, Haskell, Latimer, Le Flore, McCurtain, McIntosh, Pittsburg, Pushmataha, Sequoyah.

PUERTO RICO

Counties of:
Area I—North Area.

SOUTH CAROLINA

Counties of:
Area I—Abbeville, Anderson, Greenville, Greenwood, Laurens, Oconee, Pickens, Spartanburg.
Area II—Aiken, Edgefield, Fairfield, Lexington, McCormick, Newberry, Saluda.
Area III—Bamberg, Barnwell, Calhoun, Clarendon, Orangeburg, Richland, Sumter.
Area IV—Allendale, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper.
Area V—Darlington, Dillon, Florence, Georgetown, Horry, Marion, Marlboro, Williamsburg.
Area VI—Cherokee, Chester, Chesterfield, Kershaw, Lancaster, Lee, Union, York.

TENNESSEE

Counties of:
Area I—Carter, Cocke, Greene, Hamblen, Hawkins, Jefferson, Johnson, Sullivan, Unicoi, Washington.
Area II—Anderson, Campbell, Claiborne, Hancock, Grainger, Knox, Scott, Sevier, Union.
Area III—Blount, Bradley, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane.
Area IV—Bledsoe, Clay, Cumberland, Fentress, Jackson, Overton, Pickett, Putnam, Van Buren, Warren, White.
Area V—Cannon, Coffee, De Kalb, Franklin, Grundy, Hamilton, Marion, Rutherford, Sequatchie.
Area VI—Cheatham, Davidson, Macon, Robertson, Smith, Sumner, Trousdale, Williamson, Wilson.
Area VII—Bedford, Giles, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Wayne.
Area VIII—Benton, Decatur, Dickson, Hickman, Houston, Humphreys, Montgomery, Perry, Stewart.
Area IX—Chester, Crockett, Fayette, Hardeman, Hardin, Haywood, McNairy, Madison, Shelby, Tipton.
Area X—Carroll, Dyer, Gibson, Henderson, Henry, Lake, Lauderdale, Obion, Weakley.

TEXAS

Counties of:
Area I—Archer, Armstrong, Baylor, Callahan, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Deaf Smith, Dickens, Donley, Eastland, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hood, Hutchinson, Jack, Kent, King, Knox, Lipscomb, Montague, Moore, Motley, Ochiltree, Oldham, Palo Pinto, Parker, Potter, Randall, Roberts, Shackelford, Sherman, Somervell, Stephens, Stonewall, Throckmorton, Wheeler, Whichita, Wilbarger, Wise, Young.
Area II—Andrews, Bailey, Borden, Brewster, Briscoe, Castro, Cochran, Coke, Crane, Crosby, Culberson, Dawson, Ector, El Paso, Fisher, Floyd, Gaines, Garza, Glasscock, Hale, Hockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Lamb, Loving, Lubbock, Lynn, Martin, Midland, Mitchell, Nolan, Parmer, Pecos, Presidio, Reagan, Reeves, Runnels, Scurry, Sterling, Swisher, Taylor, Terrell, Terry, Upton, Ward, Winkler, Yoakum.
Area III—Anderson, Angelina, Bell, Bosque, Bowie, Camp, Cass, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Falls, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hill, Hopkins, Houston, Hunt, Johnson, Kaufman, Lamar, Limestone, McLennan, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Upshur, Van Zandt, Williamson, Wood.
Area IV—Austin, Bastrop, Bee, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Jackson, Jasper, Jefferson, Karnes, Lavaca, Lee, Leon, Liberty, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Refugio, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Wilson.
Area V—Aransas, Atascosa, Bandera, Bexar, Blanco, Brooks, Brown, Burnet, Cameron, Coleman, Comanche, Concho, Coryell, Crockett, Dimmit, Duval, Edwards, Erath, Frio, Gillespie, Hamilton, Hidalgo, Jim Hogg, Jim Wells, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, Lampasas, La Salle, Live Oak, Llano, McCulloch, McMullen, Mason, Maverick, Medina, Menard, Mills, Nueces, Real, San Patricio, San Saba, Schleicher, Starr, Sutton, Tom Green, Uvalde, Val Verde, Webb, Willacy, Zapata, Zavala.

VIRGINIA

Counties of:
Area I—Accomack, Amelia, Brunswick, Chesapeake, Chesterfield, Dinwiddie, Greensville, Isle of Wight, Nansemond, Northampton, Nottoway, Powhatan, Prince George, Southampton, Surry, Sussex, Virginia Beach.
Area II—Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Craig, Cumberland, Franklin, Halifax, Henry, Lunenburg, Mechlenburg, Nelson, Patrick, Pittsylvania, Prince Edward, Roanoke.
Area III—Bland, Buchanan Carroll, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe.
Area IV—Caroline, Charles City, Essex, Fluvanna, Gloucester, Hanover, Henrico, James City, King and Queen, King George, King William, Lancaster, Louisa, Mathews, Middlesex, New Kent, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, York.
Area V—Albemarle, Alleghany, Augusta, Bath, Clarke, Culpepper, Fairfax, Fauquier, Frederick, Greene, Highland, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockbridge, Rockingham, Shenandoah, Warren.

WEST VIRGINIA

Counties of:
Area I—Barbour, Berkeley, Braxton, Brooke, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Lewis, Marion, Marshall, Mineral, Monogalia, Morgan, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel.
Area II—Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Putnam, Raleigh, Roane, Summers, Wayne, Wirt, Wood, Wyoming.

WISCONSIN

Counties of:
Area I—Columbia, Dane, Dodge, Green, Iowa, Jefferson, Kenosha, Lafayette, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha.
Area II—Barron, Buffalo, Chippewa, Crawford, Dunn, Eau Claire, Grant, Jackson, Juneau, La Crosse, Monroe, Pepin, Pierce, Polk, Richland, St. Croix, Sauk, Trempealeau, Vernon.

§§ 711.30–711.50 [Reserved]

[F.R. Doc. 70-13183; Filed, Oct. 1, 1970; 8:46 a.m.]

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

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[Amdt. 3]

PART 892—MAINLAND CANE SUGAR AREA

Credit for Accredited Sugarcane Acreage Record

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 892 is amended by revising § 892.9 (32 F.R. 8413) to read as follows:

§ 892.9 Credit for accredited sugarcane acreage record.

For the purpose of compiling sugarcane production records for use in establishing shares, the subdivisions of any farm which is subdivided shall be credited with the accredited sugarcane acreage record of such farm for the three crops immediately preceding the crop year when such farm is subdivided as

provided in paragraphs (a) and (b) of this section.

(a) The county committee shall apportion such record among the subdivisions on the basis of the cropland suitable for the production of sugarcane in such subdivisions. However, if the county committee determines that the use of the cropland relationship is materially inconsistent with the accredited acreage of sugarcane of such three crops grown on any subdivision, or is not representative of the sugarcane acreage of the crop growing or grown on any subdivision in the year designating such crop when such farm is subdivided, such subdivisions shall be credited with a pro rata share of the accredited acreage record of the farm for such three crops, determined either on the basis of the total accredited acreage of sugarcane of such three crops on each subdivision, or on the basis of the acreage of sugarcane of the crop growing or grown and harvested on each subdivision in the year designating such crop when such farm is subdivided.

(b) If all persons concerned as owners or farm operators in the subdivision sign and file a written request with the county committee to credit each subdivision with all, a portion or none of the accredited sugarcane acreage record of the farm being subdivided as agreed to therein, each subdivision shall be credited with the accredited acreage record of the farm for such three crops as set forth in the written request, except that the portion of the accredited acreage record credited to any subdivision by the county committee on the basis of a written agreement between the interested persons shall not exceed the cropland suitable for the production of cane on such subdivision. However, if the land comprising a subdivision to which accredited sugarcane acreage record has been credited on the basis of a written agreement of all concerned persons should, within 3 years from the date of such agreement, be transferred in whole or in part from the farm in which it is included, the accredited acreage record credited to such land may not credited on the basis of a written agreement of the persons concerned in such transfer but shall be credited on the basis of cropland suitable for production as provided in paragraph (a) of this section and if applicable as provided in paragraph (c) of this section.

(c) A reconstituted farm consisting of any combination of farms, combination of subdivisions of farms, or combination of farms and subdivision of farms shall be credited with the total of the accredited acreage records determined for the constituent parts of the farm for the three crops immediately preceding the crop year when such combination occurs.

STATEMENT OF BASES AND CONSIDERATIONS

Previous to this amendment of the regulation, when a sugarcane farm was subdivided the farm's accredited acreage for the three years preceding the division was credited to each of its subdivisions on the basis of (1) the relationship of the cropland suitable for cane production in each subdivision to the cropland in the farm being subdivided, (2) the 3-year accredited acreage record on each subdivision, or (3) the acreage of cane growing on each subdivision in the year the farm is subdivided.

The latter two methods could be approved by the county committee if it determined that the use of the cropland method was materially inconsistent with the 3-year accredited acreage on any subdivision or was not representative of the acreage of cane growing on any subdivision in the year the farm is divided. The methods also could be approved by the county committee when the interested persons to the division preferred one of the two methods rather than the use of the cropland relationship.

Sugarcane growers organizations have informed the Department that the original regulation was not flexible enough to permit desired and necessary shifts in ownership or leasing arrangements of sugarcane lands. Several of the cases reported involve lands no longer in production. Under the regulation such land would retain history when transferred. Since the transferror would need the history to preclude a reduction in his farm's proportionate share, he was forced to retain control of the idle land. This was required even when the transferee was willing to acquire the land without obtaining its history. In other cases, an operator who wished to reduce or divide his land holdings has encountered difficulty in doing so because under the regulations the transferred land would not be credited with sufficient history to provide for its economic use by the transferee who otherwise would not be interested in acquiring the land.

The Department recognizes that retaining land, particularly that which is no longer in production, merely to use its acreage history to establish a proportionate share or delaying acquisition of such land needed by an operator for more efficient operations is costly and in several cases has created unnecessary economic hardships.

To prevent any improper handling or sale of acreage records and proportionate shares, provision is made that if any land initially transferred by agreement is subsequently transferred from the farm in which it is included within 3 years, the land will be credited with an acreage record determined on the basis of cropland relationship.

This amendment retains the three methods for crediting an accredited acreage record when a farm is subdivided as heretofore provided. Further, it provides an additional method for dividing a farm's acreage record and gives farm operators and landowners more latitude in arranging lands for the most efficient operations. This amendment will permit farm operators and owners of the land involved to submit a written request to the county committee setting forth their agreement as to the method they desire the farm's accredited acreage record to be divided among its subdivisions at the time the farm is divided. However, when such method is approved, the acreage record credited to a subdivision may not exceed the cropland suitable for the production of sugarcane on such subdivision.

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

(Secs. 301, 304, 306, 403, 61 Stat. 929 as amended, 931, 932; 7 U.S.C. 1131, 1134, 1136, 1153)

Effective date: Date of publication.

Signed at Washington, D.C., on September 25, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-13184; Filed, Oct. 1, 1970; 8:46 a.m.]

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

[Milk Order 62]

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Order Suspending Certain Provision

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

It is hereby found and determined that for the months of October through December 1970 the following provision of the order no longer tends to effectuate the declared policy of the Act: In § 1062.53(d), the words "less 27 cents".

STATEMENT OF CONSIDERATION

This suspension removes, for October through December 1970, the 27-cent location credit under the St. Louis-Ozarks order on Class I milk at supply plants located in the Missouri counties of Barry, Christian, Douglas, Greene, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright and Texas.

Mid-America Dairymen, Inc., requested suspension of the provision and suggested a hearing be held in the near future to consider appropriate order amendments to reflect marketing conditions. No one opposed the suspension.

Suspension of the provision will result in application of the same Class I price at supply plants and distributing plants located in the specified counties. This will eliminate the incentive for distributing plant operators in such counties to obtain supply plant milk at a reduced price as compared to that received directly from producers' farms.

Suspension of the provision for September 1970, as requested, is not required. Therefore, suspension of this particular provision should be effective during October through December 1970. In this interim period, a public hearing is contemplated to consider a longer-range solution to the problem.

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

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that immediate change of the order terms is required to alleviate a problem of price disparity.

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

(c) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (35 F.R. 14406). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective October through December 1970.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of October through December 1970.

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

Effective date: October 1, 1970.

Signed at Washington, D.C., on September 29, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-13211; Filed, Oct. 1, 1970; 8:48 a.m.]

[Milk Order 134; Docket No. AO-301-A10]

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Order Amending Order

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

(a) *Findings upon the basis of the hearing record.* 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 agreemets and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Western Colorado marketing area.

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

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

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

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

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Western Colorado marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1134.11 is revised as follows:

§ 1134.11 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member-producers which is delivered from the farm to the pool plant of another handler in a truck owned and operated by the association or by a hauler under contract to the association;

(e) A producer-handler or any person who operates an other order plant described in § 1134.61; or

(f) A vendor (any person who does not operate a plant described in paragraph (a), (b), or (e) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

2. Section 1134.13 is revised as follows:

§ 1134.13 Producer-handler.

"Producer-handler" means any person who is an individual partnership or corporation and 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 conditions 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 his sole risk and under his complete and exclusive management and control;

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

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(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: *Provided*, That:

(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) From pool plants or other order 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

(3) For the purpose of this section, all fluid milk products disposed of on routes or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; 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.

3. Section 1134.16 is revised as follows:

§ 1134.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk,

flavored milk drinks, filled milk, reconstituted milk or skim milk, fortified milk or skim milk (including "diet" foods), cream (sweet or sour), half and half, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen dessert mixes, frozen cream, a product which contains 6 percent or more nonmilk fat or oil, aerated cream, eggnog, yogurt, cultured sour mixtures to which cheese or any food substance other than a milk product has been added in an amount not less than 3 percent by weight of the finished product), which are neither sterilized nor in hermetically sealed containers.

4. Section 1134.32 is revised as follows:

§ 1134.32 Other reports.

Each producer-handler, each handler pursuant to § 1134.11(f), each handler required to report under § 1134.61, and each handler making payments under § 1134.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

5. Section 1134.44 is revised as follows:

§ 1134.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product (or a Class I product moved between pool plants) shall be classified:

(a) At the utilization indicated in writing to the market administrator by the operators of both plants, on or before the seventh day after the end of the month within which such transfer occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1134.46 (a)(9) and the corresponding step of § 1134.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1134.46(a)(4) and the corresponding step of § 1134.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1134.46(a) (8) and (9) and the corresponding steps of § 1134.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of other source milk received at the transferee plant;

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

(c) As Class I milk, if transferred in consumer packages to a nonpool plant that is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant or a producer-handler, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1134.30 for the month within which such transaction occurred;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any such Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(ii) Any such Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

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

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent of such uses at the plant and then as Class III milk; and

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1134.41.

6. Section 1134.51(a) is revised as follows:

§ 1134.51 Class prices.

(a) *Class I milk.* The Class I milk price shall be the basic formula price for the preceding month plus $1.80 and plus 20 cents;

* * * * *

7. Section 1134.53(a) is revised as follows:

§ 1134.53 Butterfat differentials to handlers.

(a) *Class I milk.* Multiply the Chicago butter price for the preceding month by 0.120.

* * * * *

8. A new § 1134.63 is added as follows:

§ 1134.63 Obligation of a vendor on receipts from a producer-handler.

Each vendor shall pay the market administrator for the producer-settlement fund on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(a) The quantities of skim and butterfat in fluid milk products on which payments shall be made pursuant to this section shall not exceed the vendor's

Class I disposition in the marketing area during the month; and

(b) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.13(b)(3).

9. Section 1134.70(c) is revised as follows:

§ 1134.70 Computation of net pool obligation of each pool handler.

* * * * *

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

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I under § 1134.46(a)(6) and the corresponding step of § 1134.46(b), for the current month; and

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk under § 1134.46(a)(6) and the corresponding step of § 1134.46(b);

* * * * *

10. Section 1134.71(a) is revised as follows:

§ 1134.71 Computation of uniform price.

* * * * *

(a) Combine into one total the values computed under § 1134.70 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments under § 1134.84 for the preceding month;

* * * * *

11. Section 1134.83 is revised as follows:

§ 1134.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers under §§ 1134.61, 1134.62, 1134.63, 1134.84, and 1134.86 and out of which he shall make all payments under §§ 1134.85 and 1134.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

12. Section 1134.88 is revised as follows:

§ 1134.88 Expense of administration.

As his pro rate share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that classified under § 1134.43(b), but excluding, in the case of a cooperative association which is a handler under § 1134.11(d), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I under § 1134.46(a)(4) and (8) and the corresponding steps of § 1134.46(b);

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area which exceeds Class I milk received during the month at such plant from pool plants and other order plants; and

(d) Class I milk disposed of by a vendor in the marketing area on which a payment to the producer-settlement fund is due pursuant to § 1134.63.

13. A new § 1134.88a is added as follows:

§ 1134.88a Interest payments.

The unpaid obligation of a handler pursuant to §§ 1134.62, 1134.63, 1134.84, 1134.86, 1134.87, and 1134.88 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

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

Effective date: November 1, 1970.

Signed at Washington, D.C., on September 29, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-13196; Filed, Oct. 1, 1970; 8:47 a.m.]

[Milk Order 136; Docket No. AO-309-A15]

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Order Amending Order

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

(a) *Findings upon the basis of the hearing record.* 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), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area.

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

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

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

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

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1136.6 is revised as follows:

§ 1136.6 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all Government reservations and installations and all municipalities, within the places listed below:

UTAH COUNTIES

Box Elder.	Morgan.
Cache (city of Logan only).	Salt Lake.
Carbon.	Sanpete.
Daggett.	Sevier.
Davis.	Summit.
Duchesne.	Tooele.
Emery.	Uintah.
Grand.	Utah.
Juab.	Wasatch.
Millard.	Weber.

NEVADA COUNTIES

Elko.	White Pine.

WYOMING COUNTY

Uinta (town of Evanston only).

2. Section 1136.8 is revised as follows:

§ 1136.8 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and 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 conditions 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 his sole risk and under his complete and exclusive management and control;

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

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(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: *Provided*, That:

(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) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 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

(3) For the purpose of this section, all fluid milk products disposed of on routes or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; 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.

3. Section 1136.9 is revised as follows:

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more (1) pool plants, (2) partially regulated distributing plants, or (3) other fluid milk plants described in § 1136.10(a);

(b) Any cooperative association with respect to milk diverted for its account as described in § 1136.13;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association; and

(d) A vendor (any person who does not operate a plant described in paragraph (a) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

4. Section 1136.10 is revised as follows:

§ 1136.10 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which any fluid milk product is disposed of during the month on routes in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§§ 1136.11, 1136.12, 1136.16 [Amended]

4a. In §§1136.11, 1136.12, and 1136.16, "approved plant" is changed to "fluid milk plant" in each place it appears in such sections.

5. In § 1136.11(a), "equal to not less than 50 percent of the receipts during the month at such plant of producer milk, producer milk diverted therefrom by the plant operator and receipts at the plant of fluid milk products, except filled milk, from plants described pursuant to paragraph (b) of this section," is changed to "of not less than 50 percent of the fluid milk products approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13."

6. Section 1136.13 is revised as follows:

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk of producers for which another person is the handler pursuant to § 1136.9(c): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act shall not be producer milk;

(b) Received by a cooperative association which is defined as a handler pursuant to § 1136.9(c);

(c) Diverted from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt distributing plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (4) and (5) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk;

(7) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a

request in writing with the market administrator on or before the 1st day of the month the agreement is effective. This request shall specify the basis for assigning overdiverted milk to the producer members of each cooperative association according to a method approved by the market administrator; or

(d) Diverted from a pool plant to an other order plant if a Class III classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order. The conditions described in subparagraphs (1) through (7) of paragraph (c) of this section shall apply to this paragraph as if set forth in full herein.

7. Section 1136.15 is revised as follows:

§ 1136.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, filled milk, cream (sweet or sour) except frozen cream, concentrated milk (fresh or frozen), fortified milk or skim milk, reconstituted milk or skim milk or any mixture in fluid form of milk, skim milk and cream (except ice cream, ice cream and other frozen dessert mixes, eggnog, a product which contains six percent or more nonmilk fat (or oil), aerated cream, evaporated or condensed milk (plain or sweetened, and sterilized products in hermetically sealed containers).

§ 1136.22 [Amended]

8. In § 1136.22(1), the reference to "§ 1136.44(a)(8)" is changed to "§ 1136.44(a)(10)."

9. Section 1136.31 is revised as follows:

§ 1136.31 Other reports.

(a) Each producer-handler and each handler pursuant to § 1136.9(d) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who operates another order plant with disposition of fluid milk products on routes in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

* * * * *

10. In § 1136.32, the introductory text is revised as follows:

§ 1136.32 Payroll reports.

Each handler, except one exempt pursuant to § 1136.61 or one making payment pursuant to § 1136.62(b), shall report to the market administrator as follows:

* * * * *

11. Section 1136.41 is revised as follows:

§ 1136.41 Classes of utilization.

Subject to the conditions set forth in §§ 1136.42 through 1136.45, the classes of utilization shall be as follows:

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

(1) Disposed of from a plant in the form of a fluid milk product except:

(i) Those classified pursuant to paragraph (c) (3), (4), and (7) of this section; and

(ii) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content;

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

(3) Not otherwise specifically accounted for as Class II or Class III utilization.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (except that classified pursuant to paragraph (c) (3) and (4) of this section) used to produce cottage cheese.

(c) *Class III milk.* Class III milk shall be all skim and butterfat:

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

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

(3) Contained in the skim milk portion only of fluid milk products and cottage cheese disposed of for livestock feed;

(4) Contained in the skim milk portion only of fluid milk products and cottage cheese dumped after prior notification to and opportunity for verification by the market administrator;

(5) In shrinkage of skim milk and butterfat, respectively, at each pool plant, or a handler pursuant to § 1136.9(c), assigned pursuant to § 1136.45(b)(1), but not to exceed the following:

(i) Two percent of producer milk (except diverted milk); plus

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

(iii) One and one-half percent of milk received from a handler pursuant to § 1136.9(c) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk tank lots to other pool plants (except when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be 2 percent);

(6) In shrinkage assigned pursuant to § 1136.45(b)(2);

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

(8) Contained in any fortified fluid milk product in excess of the pounds classified as Class I milk pursuant to paragraph (a)(1)(ii) of this section.

12. Section 1136.42 is revised as follows:

§ 1136.42 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1136.44(a)(10) and the corresponding step of § 1136.44(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1136.44(a)(5) and the corresponding step of § 1136.44(b), the skim milk and butterfat so transferred shall be classified so as to allocate the lowest possible classification to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1136.44(a)(9) and (10) and the corresponding steps of § 1136.44(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants;

(b) As Class I milk, if transferred in the form of a fluid milk product from a pool plant to a producer-handler or to an exempt plant pursuant to § 1136.60a;

(c) As Class I milk, if transferred or diverted in bulk in the form of a fluid milk product to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler requests classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1136.30 for the month within which such transaction occurred;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in

excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any such Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(ii) Any such Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

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

(iv) Class II utilization shall next be assigned to remaining receipts in the sequence provided in subdivision (iii) of this subparagraph (3). Skim milk and butterfat transferred or diverted from pool plants to which neither Class I nor Class II utilization has been assigned pursuant to this subparagraph shall be classified as Class III milk; and

(d) As follows, if transferred or diverted to an other order plant in excess of receipts from such paint in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1136.41.

13. Section 1136.43 is revised as follows:

§ 1136.43 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1136.30. The skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids. The market administrator shall compute the skim milk and butterfat in each class at all pool plants of such handler, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1136.44 and computation of obligation pursuant to § 1136.70 shall be based upon the combined utilization so computed. Producer milk for which a cooperative association is the responsible handler pursuant to § 1136.9 (b) or (c) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1136.44 and computation of obligation pursuant to § 1136.70.

14. Section 1136.44 is revised as follows:

§ 1136.44 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1136.43, the market administrator shall determine each month the classification of milk received from producers by each cooperative association handler pursuant to § 1136.9 (b) and (c) which was not received at a pool plant and the classification of milk received from producers and from cooperative association handlers pursuant to § 1136.9 (c) by each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1136.41(c)(5);

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

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

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1136.41(c)(8) plus 2 percent of such receipts (weight of an equal volume of a like unmodified product of the same butterfat content);

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

(iii) In the event that packaged other order milk receipts (including filled milk) are in excess of the total amount subtracted pursuant to subdivisions (i) and (ii) of this subparagraph the remaining quantity shall be subtracted from the utilization remaining in Class III and then Class II;

(4) Except for the first month that this subparagraph is effective, subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

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

(ii) Receipts of fluid milk products (except filled milk) not qualified for fluid consumption and receipts of fluid milk products from unidentified sources;

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

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (2) of this paragraph; and

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

(5a) Subtract from the pounds of skim milk remaining in Class II and Class III, beginning with Class II, receipts from pool plants of other handlers in the form of cottage cheese;

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

(i) Receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraphs (2) and (5)(iv) of this paragraph, for which the handler requests Class III utilization;

(ii) Receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraphs (2) and (5)(iv) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts from pool plants of other handlers, and in receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (5)(v) of this paragraph;

(iii) Receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (5)(v) of this paragraph, in excess of similar transfers to such plant, if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the other order;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

(8) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) 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 plants which were not subtracted pursuant to subparagraph (2), (5)(iv), or (6) (i) or (ii) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plants, in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5)(v) or (6) (iii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1136.22(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk at the pool plant of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1136.42(a);

(12) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

15. Section 1136.50(a) is revised as follows:

§ 1136.50 Class prices.

* * * * *

(a) *Class I milk price.* The price for Class I milk shall be the basic formula price for the preceding month plus $2.02 and plus 20 cents.

* * * * *

16. Section 1136.52(a) is revised as follows:

§ 1136.52 Butterfat differentials to handlers.

* * * * *

(a) *Class I milk.* Multiply the butter price for the preceding month by 1.20, divide the result by 10, and round to the nearest one-tenth cent.

* * * * *

17. Section 1136.53(a) is revised as follows:

§ 1136.53 Location differentials to handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a cooperative association pursuant to § 1136.9(c) to a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

	Rate per hundredweight (cents)
Distance (miles):	
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be measured from the plant to the nearer of the city halls in Ogden or Provo, Utah;

* * * * *

§ 1136.61 [Amended]

18. In § 1136.61(d)(2), add immediately following "other order plant" the following: "(but the adjusted price not to be less than the Class III price)".

19. Section 1136.62(b)(2) is revised as follows:

§ 1136.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

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

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

* * * * *

20. In § 1136.62(b)(5), add immediately following the second reference therein to "Class I price applicable at the location of the nonpool plant" the following: "(but the adjusted price not to be less than the Class III price)".

21. A new § 1136.63 is added as follows:

§ 1136.63 Obligation of a vendor on receipts from a producer-handler.

Each vendor shall pay the market administrator for the producer-settlement fund on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price, subject to the following conditions:

(a) The quantities of skim milk and butterfat in fluid milk products on which payments shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing area during the month; and

(b) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1136.8 (b)(3).

22. Section 1136.70 is revised as follows:

§ 1136.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler and of each cooperative association handler pursuant to § 1136.9 (b) and (c) shall be a sum of money computed each month by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1136.44(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44 (b) by the applicable class price;

(c) Add the amount obtained from multiplying the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44 (a)(7) and the corresponding step of § 1136.44(b) for the current month;

(d) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(5) and the corresponding step of § 1136.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1136.44(a)(5) (iv) and (v) and the corresponding step of § 1136.44(b) the Class I price shall be adjusted to the location of the transferor plant (but the adjusted price not to be less than the Class III price); and

(e) 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 the adjusted price not to be less than the Class III price) of the skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

23. Section 1136.81 is revised as follows:

§ 1136.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.61, 1136.62, 1136.63, 1136.82, and 1136.84, and out of which he shall make all payments pursuant to §§ 1136.83 and 1136.84: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

24. Section 1136.86 is revised as follows:

§ 1136.86 Expense of administration.

As his pro rata share of the expense of administration of the order each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including that classified pursuant to § 1136.40(b) but excluding, in the case of a cooperative association which is a handelr pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production.

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (5) and (9) and the corresponding steps of § 1136.44(b);

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants; and

(d) Class I milk disposed of by a vendor in the marketing area on which a payment to the producer-settlement fund is due pursuant to § 1136.63.

25. A new § 1136.88 is added as follows:

§ 1136.88 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1136.62, 1136.63, 1136.82, 1136.84, 1136.86, and 1136.87 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

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

Effective date: November 1, 1970.

Signed at Washington, D.C., on September 29, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-13197; Filed, Oct. 1, 1970; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Confidential Secretary to the Director, Office of Science and Technology, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (6) is added to paragraph (c) of § 213.3303 as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(c) *Office of Science and Technology.* * * *

(6) One Confidential Secretary to the Director.

* * * * *

(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. 70-13246; Filed, Oct. 1, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Special Assistant to the Director, National Park Service, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (3) of paragraph (h) of § 213.3312 is amended as set out below.

§ 213.3312 Department of the Interior.

* * * * *

(h) *National Park Service.* * * *

(3) Two Special Assistants to the Director.

* * * * *

(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. 70-13245; Filed, Oct. 1, 1970; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-272]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, in paragraph (e)(6) relating to the State of Massachusetts, subdivision (i) relating to Bristol County is amended to read:

(6) *Massachusetts.* (i) That portion of Bristol County comprised of Acushnet, Fairhaven, and New Bedford Townships, and Raynhan Town and Taunton Town.

2. In § 76.2, in paragraph (e)(13) relating to the State of Texas, subdivision (xii) relating to Montgomery, San Jacinto, Harris, and Liberty Counties is amended, and a new subdivision (xviii) relating to El Paso County is added to read:

(13) *Texas.* * * *

(xii) The adjacent portions of Harris, Liberty, and Montgomery Counties bounded by a line beginning at the junction of U.S. Highway 59 and Texas Highway 321; thence, following Texas Highway 321 in a southeasterly direction to Farm-to-Market Road 686; thence, following Farm-to-Market Road 686 in a generally southwesterly direction to Farm-to-Market Road 1960; thence, following Farm-to-Market Road 1960 in a generally southwesterly direction to U.S. Highway 59; thence, following U.S. Highway 59 in a northeasterly direction to its junction with Texas Highway 321.

* * * * *

(xviii) That portion of El Paso County bounded by a line beginning at the junction of Interstate Highway 10 and the O. T. Smith Road; thence, following Interstate Highway 10 in a southeasterly direction to the El Paso-Hudspeth County line; thence, following the El Paso-Hudspeth County line in a southwesterly direction to the Rio Grande River; thence following the north bank of the Rio Grande River in a northwesterly direction to Farm-to-Market Road 1109; thence, following Farm-to-Market Road 1109 in a generally northeasterly direction to U.S. Highway 80; thence, following U.S. Highway 80 in a southeasterly direction to the O. T. Smith Road; thence, following the O. T. Smith Road in a northeasterly direction to its junction with Interstate Highway 10.

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

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

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

The amendments also exclude portions of San Jacinto, Montgomery, Harris, and Liberty Counties in Texas 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 areas excluded from quarantine.

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

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

Done at Washington, D.C., this 28th day of September 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-13182; Filed, Oct. 1, 1970; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-CE-51]

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

Designation of Transition Area

On page 11520 of the FEDERAL REGISTER dated July 17, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Nappanee, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

The coordinates recited in the Nappanee, Ind., Municipal Airport, transition area designation as "latitude 41°26'40" N., longitude 85°56'05" W." is changed to read "latitude 41°26'45" N., longitude 85°56'00" W.".

This amendment shall be effective 0901 G.m.t., December 10, 1970.

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

Issued in Kansas City, Mo., on September 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

NAPPANEE, IND.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Nappanee Municipal Airport (latitude 41°26'45" N., longitude 85°56'00" W.); and within 2 miles each side of the 138° radial of the Goshen, Ind., VORTAC extending from the 5½-mile radius area to 14 miles southeast of the VORTAC excluding the airspace which overlies the Goshen, Ind., transition area.

[F.R. Doc. 70-13207; Filed, Oct. 1, 1970; 8:48 a.m.]

[Airspace Docket No. 70-CE-63]

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

Alteration of Transition Area

On pages 11520 and 11521 of the FEDERAL REGISTER dated July 17, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Woodruff, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

The Lakeland Airport coordinates recited in the Woodruff, Wis., transition area alteration as "latitude 46°55'45" N., longitude 89°43'45" W.," are changed to read "latitude 45°55'40" N., longitude 89°43'55" W.".

This amendment shall be effective 0901 G.m.t., December 10, 1970.

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

Issued in Kansas City, Mo., on September 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

WOODRUFF, WIS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lakeland Airport (latitude 45°55'40" N., longitude 89°43'55" W.); within 3 miles each side of the 347° bearing from Lakeland Airport, extending from the 5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the 197° bearing from Lakeland Airport extending from the 5-mile radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 167° and 347° bearings from Lakeland Airport, extending

from 8 miles south to 18½ miles north of the airport; and within 4½ miles west and 9½ miles east of the 017° and 197° bearings from Lakeland Airport, extending from 6 miles north to 18½ miles south of the airport, excluding the portion which overlies the Rhinelander, Wis. transition area.

[F.R. Doc. 70-13208; Filed, Oct. 1, 1970; 8:48 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

SUBCHAPTER C—DRUGS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Recodification of Certain Food Additive Regulations

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-51; 21 U.S.C. 360b, 371(a)), in accordance with § 3.517, and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), food additive regulations establishing safe tolerances for residues of animal drugs in food for human consumption are deleted from Part 121, Subpart D, and recodified in Part 135g as follows:

1. Part 121 is amended in Subpart D by deleting the following sections: § 121.1002 *Buquinolate*, § 121.1005 *Bacitracin*, § 121.1007 *Reserpine*, § 121.1011 *Oleandomycin*, § 121.1013 *Zoalene*, § 121.1014 *Chlortetracycline*, § 121.1022 *Amprolium*, § 121.1024 *Hygromycin B*, § 121.1025 *Streptomycin*, § 121.1026 *Penicillin*, § 121.1033 *Novobiocin*, § 121.1046 *Oxytetracycline*, § 121.1049 *Tylosin*, § 121.1051 *Dihydrostreptomycin*, § 121.1054 *Promazine hydrochloride*, § 121.1055 *Nystatin*, § 121.1078 *Ronnel*, § 121.1094 *Furaltadone*, § 121.1103 *Nihydrazone*, § 121.1106 *Ethopabate*, § 121.1118 *Diethylstilbestrol*, § 121.1124 *Sulfamethazine*, § 121.1127 *Progesterone*, § 121.1128 *Estradiol benzoate*, § 121.1129 *Testosterone propionate*, § 121.1131 *Chlorobutanol*, § 121.1138 *Arsenic*, § 121.1140 *Salicylic acid*, § 121.1143 *Erythromycin*, § 121.1144 *Sulfaethoxypyridazine*, § 121.1145 *Furazolidone*, § 121.1147 *Prednisolone*, § 121.1150 *Estradiol monopalmitate*, § 121.1153 *Thiabendazole*, § 121.1157 *Prednisone*, § 121.1158 *Methylparaben*, § 121.1159 *Propylparaben*, § 121.1167 *Dimetridazola*, § 121.1168 *3,5-Dinitrobenzamide*, § 121.1169 *Sulfanitran*, § 121.1173 *Dienestrol diacetate*, § 121.1175 *Chlorhexidine*, § 121.1177 *Aklomide*, § 121.1184 *Ethylenediamine*, § 121.1187 *Medroxyprogesterone acetate*, § 121.1188 *Hexachlorophene*, § 121.1189 *Phenothiazine*, § 121.1191 *Chlormadinone acetate*, § 121.1200 *Sodium sulfachloropyrazine monohydrate*, § 121.1201 *Testosterone*, § 121.1210 *Carbomycin*, § 121.1212 *Sulfamerazine*, § 121.1214 *Melengestrol acetate*, § 121.1215 *Sulfachlorpyridazine*, § 121.1216 *Sulfadimethoxine*, § 121.1217 *Sulfomyxin*, § 121.1222 *Metoserpate hydrochloride*, § 121.1223 *Clopidol*, and § 121.1227 *Spectinomycin*.

2. Part 135g is amended by adding the following new sections:

§ 135g.1 General considerations; tolerances for residues of new animal drugs in food.

(a) Tolerances established in this part are based upon residues of drugs in edible products of food-producing animals treated with such drugs. Consideration of an appropriate tolerance for a drug shall result in a conclusion either that:

(1) Finite residues will be present in the edible products—in which case a finite tolerance is required; or

(2) It is not possible to determine whether finite residues will be incurred but there is reasonable expectation that they may be present—in which case a tolerance for negligible residue is required; or

(3) The drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, has been shown to induce cancer in man or animal; however, such drug will not adversely affect the animals for which it is intended, and no residue of such drug will be found by prescribed methods of analysis in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animal—in which case the accepted method of analysis shall be published or cited, if previously published and available elsewhere, in this part; or

(4) It may or may not be possible to determine whether finite residues will be incurred but there is no reasonable expectation that they may be present—in which case the establishment of a tolerance is not required; or

(5) The drug is such that it may be metabolized and/or assimilated in such form that any possible residue would be indistinguishable from normal tissue constituents—in which case the establishment of a tolerance is not required.

(b) No tolerance established pursuant to paragraph (a)(1) of this section will be set at any level higher than that reflected by the permitted use of the drug.

(c) Any tolerance required pursuant to this section will, in addition to the toxicological considerations, be conditioned on the availability of a practicable analytical method to determine the quantity of residue. Such method must be sensitive to and reliable at the established tolerance level or, in certain instances, may be sensitive at a higher level where such level is also deemed satisfactory and safe in light of the toxicity of the drug residue and of the unlikelihood of such residue's exceeding the tolerance.

§ 135g.2 Buquinolate.

Tolerances for residues of buquinolate (ethyl-4-hydroxy-6, 7-diisobutoxy-3-quinolinecarboxylate) in uncooked edible tissues and eggs of chickens are established as follows: 0.4 part per million in liver, kidney, and skin with fat; 0.1 part per million in muscle; and 0.01 part per million (negligible residue) in eggs.

§ 135g.4 Bacitracin.

Tolerances for residues of bacitracin from bacitracin, zinc bacitracin, manganese bacitracin, or bacitracin methylene disalicylate are established at 0.5 part per million (0.02 unit per gram), negligible residue, in uncooked edible tissues of cattle, swine, chickens, turkeys, pheasants, and quail, and in milk and eggs.

§ 135g.5 Reserpine.

A tolerance of zero is established for residues of reserpine and its metabolites in or on the uncooked edible tissues and eggs of chickens and turkeys.

§ 135g.6 Oleandomycin.

Tolerances are established for negligible residues of oleandomycin in uncooked edible tissues of chickens, turkeys, and swine at 0.15 part per million.

§ 135g.7 Zoalene.

Tolerances are established for residues of zoalene (3,5-dinitro-o-toluamide) and its metabolite 3-amino-5-nitro-o-toluamide in food as follows:

(a) In edible tissues of chickens:

(1) 6 parts per million in uncooked liver and kidney.

(2) 3 parts per million in uncooked muscle tissue.

(3) 2 parts per million in uncooked fat.

(b) In edible tissues of turkeys: 3 parts per million in uncooked muscle tissue and liver.

§ 135g.8 Chlortetracycline.

Tolerances are established for residues of chlortetracycline in food as follows:

(a) In edible tissues and in eggs of chickens and turkeys:

(1) 4 parts per million in uncooked kidney.

(2) 1 part per million in uncooked muscle, liver, fat, and skin.

(3) Zero in eggs.

(b) In edible tissues of swine:

(1) 4 parts per million in uncooked kidney.

(2) 2 parts per million in uncooked liver.

(3) 1 part per million in uncooked muscle.

(4) 0.2 part per million in uncooked fat.

(c) In edible tissues of calves:

(1) 4 parts per million in uncooked liver and kidney.

(2) 1 part per million in uncooked muscle and fat.

(d) In edible tissues of beef cattle and nonlactating dairy cows:

(1) 0.1 part per million in uncooked kidney, liver, and muscle.

(2) Zero in uncooked fat.

(e) Zero in milk.

§ 135g.9 Amprolium.

Tolerances are established as follows for residues of amprolium (1-(4-amino-2-*n*-propyl-5-pyrimidinylmethyl)-2-picolinium chloride hydrochloride) in the edible tissues and in eggs of chickens and turkeys:

(a) 1 part per million in uncooked liver and kidney.

(b) 0.5 part per million in uncooked muscle tissue.

(c) In eggs:

(1) 8 parts per million in egg yolks.

(2) 4 parts per million in whole eggs.

§ 135g.10 Hygromycin B.

A tolerance of zero is established for residues of hygromycin B in or on eggs and the uncooked edible tissues of swine and poultry.

§ 135g.11 Streptomycin.

A tolerance of zero is established for residues of streptomycin in the uncooked edible tissues of chickens, turkeys, and swine, and in eggs.

§ 135g.12 Penicillin.

A tolerance of zero is established for residues of penicillin and the salts of penicillin in the uncooked edible tissues of chickens, turkeys, pheasants, quail, and swine, in eggs, and in milk or in any processed food because of use therein of such milk.

§ 135g.13 Novobiocin.

A tolerance of zero is established for residues of novobiocin in milk from dairy animals, in eggs, and in the uncooked edible tissues of chickens, and turkeys.

§ 135g.14 Oxytetracycline.

Tolerances are established for residues of oxytetracycline in food as follows:

(a) In edible tissues of chickens and turkeys:

(1) 3 parts per million in uncooked kidney.

(2) 1 part per million in uncooked muscle, liver, fat, and skin.

(b) Zero in uncooked edible tissues of swine.

(c) Zero in uncooked edible tissues of beef cattle.

(d) A tolerance of 0.1 part per million is established for neglible residues of oxtetracycline in uncooked edible tissues of salmonids and catfish.

§ 135g.15 Tylosin.

Tolerances are established for residues of tylosin in edible products of animals as follows:

(a) In chickens and turkeys: 0.2 part per million (negligible residue) in uncooked fat, muscle, liver, and kidney.

(b) In cattle: 0.2 part per million (negligible residue) in uncooked fat, muscle, liver, and kidney.

(c) In swine: 0.2 part per million (negligible residue) in uncooked fat, muscle, liver, and kidney.

(d) In milk: 0.05 part per million (negligible residue).

(e) In eggs: 0.2 part per million (negligible residue).

§ 135g.16 Promazine hydrochloride.

A tolerance of zero is established for residues of promazine hydrochloride in or on the uncooked edible tissues of food-producing animals.

§ 135g.17 Nystatin.

A tolerance of zero is established for residues of nystatin in or on eggs and the uncooked edible tissues of swine and poultry.

§ 135g.18 Dihydrostreptomycin.

A tolerance of zero is established for residues of dihydrostreptomycin in uncooked edible tissues of calves, in milk from dairy animals, and in any food in which such milk has been used.

§ 135g.19 Ronnel.

A tolerance of zero is established for residues of ronnel (*O,O*-dimethyl *O*-(2,4,5-trichlorphenyl) phosphorothioate) in milk from cows.

§ 135g.20 Furaltadone.

A tolerance of zero is established for residues of furaltadone in milk of dairy cows.

§ 135g.21 Nihydrazone.

A tolerance of zero is established for residues of nihydrazone (5-nitro-2-furaldehyde acetylhydrazone) in the uncooked edible tissues and eggs of chickens.

§ 135g.22 Ethopabate.

Tolerances for residues of ethopabate converted to metaphenetidine are established in the edible tissues of chickens as follows:

(a) 1.5 parts per million in uncooked liver and kidney.

(b) 0.5 part per million in uncooked muscle.

§ 135g.23 Chlormadinone acetate.

No residues of chlormadinone acetate (6 - chloro - 17 - hydroxypregna - 4,6 - diene-3,20-dione acetate) may be found in the uncooked edible tissues of beef heifers and beef cows as determined by the following method of analysis:

I. *Method of analysis.* Chlormadinone acetate (CAP) is extracted from muscle, liver, and kidney with methanol or from fat with hexane. The samples are purified by liquid-liquid extraction and by column chromatography. Final measurement is made by gas-liquid chromatography.

II. *Reagents.*

A. Methanol, analytical reagent (AR).

B. Carbon tetrachloride AR.

C. Dichloromethane AR (redistilled).

D. Benzene, nanograde.

E. Hexane AR.

F. Acetonitrile AR.

G. Chloroform AR.

H. Chloroform AR containing 50 percent by volume dichloromethane AR.

I. Silica gel 0.2 to 0.5 millimeter for column chromatography, Brinkmann Institute, Inc., or equivalent.

J. Activated Alumina. Alcoa F-20, Alcoa Corp., or equivalent.

K. Sodium sulfate, anhydrous.

L. Chlormadinone acetate standard, Elanco Products Co.

III. *Apparatus.*

A. Tissue blender—Hamilton Beach Model 8, or equivalent, equipped with blender heads to fit half-pint Mason jars.

B. Centrifuge—International Model V, or equivalent, equipped to receive 250-milliliter centrifuge tubes.

C. Separatory funnels—250-milliliters.

D. Glass chromatography columns—14 x 250 millimeters.

E. Rotary vacuum evaporator—Rinco, or equivalent.

F. Evaporating flasks—300 and 125 milliliters.

G. Assorted volumetric flasks, pipettes, and graduated cylinders.

H. Gas chromatograph—Jarrell-Ash Model 28-700, or equivalent, equipped with an electron affinity cell.

I. Preparation of column packing:

Gas chrom Q (80–100 mesh)—Applied Science Laboratories, Inc., or equivalent.

XE-60 (silicone gum [nitrile] G.E.)—F and M Scientific Corp. or Applied Science Laboratories, or equivalent.

Weigh 19.7 grams of the Gas Chrom Q, transfer to a 1-liter round-bottom flask and add sufficient acetone to cover the solid support. Weigh 300 milligrams of the XE-60 in a 150-milliliter beaker, dissolve in 75 milliliters of acetone, and transfer to the flask containing the solid support. Rinse beaker several times with acetone and add rinses to the flask.

Evaporate the acetone in a rotary vacuum evaporator using continuous rotation. A warm water bath (40° C.) is used to hasten the evaporation.

"Caking" of the solid may occur during the evaporation before all the acetone is removed. On continued evaporation, the solid will tumble freely. When the coated phase tumbles freely in the flask and no odor of acetone is detected, the phase is removed from the flask. (A Morton type flask may be substituted for the round-bottom flask, if intermittent rotation is used during the evaporation.)

Pour the prepared phase on a 60-mesh screen sieve and collect that portion of the phase that passes the 60-mesh screen and is retained on the 100-mesh screen. Use gentle tapping during screening step to avoid breaking of particles. Discard that portion of the phase which is retained on the 60-mesh screen and that portion which passes through the 100-mesh screen.

IV. *Standard solutions.*

A. Chlormadinone acetate standard solution, 50 micrograms per milliliter—accurately weigh 5 milligrams of standard chlormadinone acetate and transfer quantitatively to a 100-milliliter volumetric flask. Dissolve the standard and dilute to the mark with nanograde benzene. Mix the solution thoroughly.

B. Chlormadinone acetate standard solution, 1 microgram per milliliter—pipette 2 milliliters of 50 mcg./ml. from A above into a 100-milliliter volumetric flask and dilute to the mark with methanol.

NOTE: Chlormadinone acetate is relatively stable in these solutions; however, it is recommended that solution A (50 mcg./ml. in benzene) be prepared fresh every month and that solution B be prepared fresh each week.

V. *Procedure.*

A. Extraction and purification of muscle and liver sample.

1. Thoroughly grind tissue and weigh a representative 20-gram sample of tissue into a half-pint Mason jar.

2. Add 2 milliliters of methanol per gram of sample.

3. Blend the sample until uniform.

4. Transfer as much of the sample as possible to a 250-milliliter centrifuge bottle and centrifuge for 20 minutes at about 2,000 r.p.m.

NOTE: Do not rinse with additional solvent since this would introduce an unknown in the volume from which the aliquot in step 5 below is taken.

5. Immediately transfer 30 milliliters of supernatant liquid (measured with a graduated cylinder) to a 250-milliliter separatory funnel.

NOTE: The aliquot should be taken soon after centrifuging. Otherwise the solids tend to expand and reduce the amount of supernate which can be decanted.

NOTE: Smaller aliquots may be taken in cases where the liquid yield is less than 30 milliliters. In a series of samples the calculations may be expedited by using a uniform aliquot size for all samples and standard recoveries in the series.

6. Extract the supernate from step 5 above about 20 seconds with 30 milliliters of carbon tetrachloride (CCl_4). Transfer the CCl_4 fraction (lower phase) to a 300-milliliter evaporating flask. Extract the aqueous methanol phase with two more 30-milliliter portions of CCl_4 and combine the extracts. *Stopping place.* Evaporate the combined CCl_4 fractions to dryness by rotary vacuum evaporation using a water bath at about 50° C.

NOTE: If the CCl_4 fractions are cloudy or appear to contain emulsion, the CCl_4 should be filtered through anhydrous sodium sulfate into the evaporating flask.

7. Prepare a silica gel column for each sample as follows:

a. Place about 10 milliliters of dichloromethane (CH_2Cl_2) into a 14 x 250-millimeter glass chromatographic column. Insert a glass wool pledget and tamp with a glass stirring rod to eliminate air bubbles.

b. Add 10 milliliters (about 4.8 grams) of silica gel to the column through a powder funnel.

c. Add about 5 milliliters of dichloromethane (CH_2Cl_2) to the top of the column and stir the silica gel with a stirring rod to eliminate air bubbles.

d. After the silica gel has settled, add about 2 centimeters of anhydrous sodium sulfate to the column, layering it carefully to avoid disturbance of the silica gel surface.

e. Drain the CH_2Cl_2 to the top of the sodium sulfate.

8. Dissolve the sample from step 6 above in 10 milliliters of CH_2Cl_2 and charge the chromatographic column with the solution at a flow rate of about 3 milliliters per minute.

9. Rinse the flask with 10 milliliters of CH_2Cl_2 and transfer the rinse to the column after all solution from step 8 above has passed into the column.

10. Develop the column with 75 milliliters of 50/50 dichloromethane/chloroform (discard this fraction).

11. Place a 125-milliliter evaporating flask into position to receive the column eluate.

12. Elute the column with 75 milliliters of chloroform.

13. Evaporate the eluate to dryness by rotary evaporation.

14. Transfer the sample to a 15-milliliter glass sample vial with the aid of about 5 milliliters of acetone (or chloroform) in 2 or 3 portions. Evaporate the acetone under a stream of compressed air and close the vial with an aluminum-lined screwcap.

15. Dissolve the sample in 1.0 milliliter of nanograde benzene.

16. Assay the sample by gas-liquid chromatography as described in E below.

B. Extraction and purification of kidney samples.

1. Process kidney samples exactly as described for muscle and liver in A, steps 1 through 6, above.

2. Prepare an alumina column for each sample as follows:

a. Place about 10 milliliters of CH_2Cl_2 into a 14 x 250-millimeter glass chromatographic column. Insert a glass wool pledget and tamp with a glass stirring rod to eliminate air bubbles.

b. Add 10 milliliters of alumina to the column through a powder funnel.

c. Add about 5 milliliters of CH_2Cl_2 to the top of the column and stir the alumina with a stirring rod to eliminate air bubbles.

d. After the alumina has settled, add about 2 centimeters of anhydrous sodium sulfate to the column, layering it carefully to avoid disturbance of the alumina surface.

e. Drain the CH_2Cl_2 to the top of the sodium sulfate.

3. Dissolve the kidney sample in 10 milliliters of CH_2Cl_2 and charge the chromatographic column with the solution at a flow rate of about 3 milliliters per minute.

4. Rinse the flask with 10 milliliters of CH_2Cl_2 and transfer the rinse to the column after all solution from step 3 above has passed into the column.

5. Develop the column with 75 milliliters of CH_2Cl_2 and discard this fraction.

6. Place a 125-milliliter evaporating flask into position to receive the column eluate.

7. Elute the column with 75 milliliters of chloroform.

8. Continue exactly as in steps 13 through 16 in A above.

NOTE: The suitability of each lot of alumina should be evaluated prior to its use for experimental samples. This is done by assaying duplicate 1-microgram chlormadinone acetate standard samples by the alumina column procedure as described in steps 2 through 7 above. The sample is then evaporated, dissolved in 1 milliliter of benzene, and subjected to gas chromatographic measurement. Percent recovery as compared to a 1 mcg./ml. standard should be 90 to 100 percent.

C. Extraction and purification of fat samples.

1. Weigh a representative 15-gram sample of fat into a 250-milliliter beaker.

2. Warm the fat on a steam bath until the sample melts or becomes semisolid.

3. Dissolve the fat in 125 milliliters of hexane and allow the sample to cool to room temperature. Mix the sample with a glass stirring rod to effect solution of the fat.

4. Prepare a funnel with approximately a 1½-inch bed of anhydrous sodium sulfate. Pass the hexane solution of fat through the sodium sulfate into a 250-milliliter separatory funnel.

NOTE: This step removes connective tissue and other hexane insoluble materials.

5. Wash the sodium sulfate with two 15-milliliter portions of hexane.

6. Extract the hexane fraction about 20 seconds with 30 milliliters of acetonitrile. Pass the acetonitrile (lower phase) through a sodium sulfate bed into a 300-milliliter evaporating flask.

7. Repeat step 6 above with 3 additional 30-milliliter portions of acetonitrile and combine the extracts.

8. Wash the sodium sulfate with 10 milliliters of acetonitrile and evaporate the acetonitrile fraction to dryness by rotary vacuum evaporation.

9. Dissolve the sample in 10 milliliters of dichloromethane and purify by silica gel column chromatography exactly as described in steps 7 through 14 under A above.

10. Assay the sample by gas-liquid chromatography as described in E below.

D. Preparation of control and standard recovery samples. If control tissues are available, one control and one standard recovery sample are assayed with each day's experimental samples. Control tissues are assayed exactly as described in A, B, and C above. Standard recovery samples are prepared by fortifying control tissues with chlormadinone acetate at a level of 0.05 part per million as follows:

1. Muscle, liver, and kidney—weigh 20 grams of tissue into a half-pint Mason jar and add 1.0 milliliter of a methanol solution containing 1 mcg./ml. chlormadinone acetate (standard solution B).

2. Fat—weigh 15 grams of fat into a 250-milliliter beaker and add 0.75 milliliter of 1 mcg./ml. standard solution B.

NOTE: A 1-milliliter measuring pipette graduated in 0.01-milliliter increments is ordinarily used for this purpose.

3. Process the standard recovery exactly as in A, B, and C above.

E. Measurement. Samples from A, B, and C above are measured by gas-liquid chromatography (GLC) using an instrument equipped and adjusted as described in H below.

1. Prepare a 1-mcg./ml. chlormadinone standard in benzene by pipetting 1 milliliter of standard solution B into a sample vial, evaporating to dryness under compressed air, and redissolving in 1 milliliter of nanograde benzene.

2. Condition the gas chromatographic column each day prior to assay of experimental samples.

a. Inject 1 microliter of the 50 mcg./ml. standard (solution A) into the GLC instrument.

b. Inject 1-microliter portions of nanograde benzene until the chromatogram shows no chlormadinone acetate peak.

3. Adjust the GLC instrument to give a peak height of about 3 centimeters (2.5 to 3.5) upon injection of 1 microliter of 1-mcg./ml. standard from step 1 above).

NOTE: The injection technique is "injection by difference" using plug injection as described in the "U.S. Health, Education, and Welfare Pesticide Analytical Manual," vol. I, July 1965, section 2.17, page 7.

4. Inject repeated 1-microliter samples of the 1-mcg./ml. standard (step 1) until successive injections show a reproducibility of peak height of about ±5 percent.

5. Inject 1 microliter of the 0.05 part per million standard recovery sample until successive injections shows a reproducibility of peak height of about ±5 percent.

6. Inject 1 microliter of each experimental sample.

NOTE: If an experimental sample gives a response in excess of twice that of the 1-mcg./ml. standard, the sample should be diluted with benzene and reassayed. This will necessitate making the appropriate changes in the calculation.

7. Repeat injection of the 0.05 part per million standard recovery sample after each 4 or 5 experimental samples to compensate for slight changes in instrument parameters.

NOTE: If a standard recovery sample is not prepared, use periodic injections of the 1-mcg./ml. standard.

8. Measure the peak height of chlormadinone acetate in centimeters for all samples and standards.

F. Calculation of chlormadinone acetate in muscle, liver, and kidney.

1. Percent recovery = $\frac{\text{pH recovery sample}}{\text{pH direct standard}} \times 1.8 \times 100$, where pH = peak height.

2. Calculation of residue in parts per million (mcg./g) when standard recovery at 0.050 part per million are run with assay samples:

$$\frac{\text{Sample pH}}{\text{Standard recovery pH}} \times 0.05 \text{ mcg./g.} = \text{mcg./g. chlormadinone acetate in assay sample.}$$

This computation is recommended since the assay samples are compared directly to the 0.050-part per million standard recovery. This practice compensates for recovery factors encountered and aliquots taken during the assay procedure.

3. When a standard recovery sample is not prepared with the assay samples:

$$\text{Part per million} = \frac{\text{pH sample}}{\text{pH direct standard}} \times 1.0 \text{ mcg./ml.} \times \frac{1.0 \text{ ml. benzene}}{30 \text{ ml. aliquot}} \times \frac{(2.0 \times \text{sample weight} + 0.7 \times \text{sample weight})}{\text{Sample weight}}$$

This equation reduces to:

$$\frac{\text{pH sample}}{\text{pH direct standard}} \times 0.09 = \text{Parts per million of chlormadinone acetate in assay sample.}$$

The above equation is based on the assumption that muscle, liver, and kidney contain 70 percent water. Further, the total volume (milliliters) of liquid obtained after blending is assumed to be 2.7 times the tissue weight; for example, 2 milliliters of methanol per gram of tissue and 0.7 milliliter of water per gram of tissue. These assumptions are not absolutely correct because of slight differences in the water content of tissues and the slight volume change which occurs when methanol and water are combined; however, the assumptions are considered to be accurate enough for practical purposes.

G. Calculations of chlormadinone acetate in fat. Since the fat samples are sampled by exhaustive extraction rather than by aliquot, a different calculation is necessary.

1. Percent recovery = $\frac{\text{pH recovery sample}}{\text{pH direct standard}} \times 1.33 \times 100$.

2. Calculation of residue in parts per million when a standard recovery sample at 0.05 part per million is included:

$$\frac{\text{pH sample}}{\text{pH standard recovery}} \times 0.05 \text{ mcg./g.} = \text{mcg./g. chlormadinone acetate.}$$

3. Calculation of residue when no standard recovery is included:

$$\frac{\text{pH sample}}{\text{pH direct standard}} \times \frac{1.0 \text{ mcg./ml.}}{1.0 \text{ ml.}} \times \frac{1}{\text{sample weight}} = \text{mcg./g. chlormadinone acetate.}$$

H. Gas-liquid chromatography.

1. Instrument parameters.

a. Jarrell-Ash Model 28-700.

Column—16 inches of packing in 4-millimeter i.d. borosilicate glass.

Packing—1.5 percent XE-60 on Gas Chrom Q 80/100 mesh.

Column temperature—220° C.

Cell temperature—210° C.

Injector temperature—250° C.

Electrometer range—1×10^{-9} amperes full scale.

Detector—electron affinity with plane parallel electrodes.

Detector voltage—to give 70 percent of standing current.

Carrier gas—prepurified nitrogen 170 ml./min.

b. F and M Model 402.

Column—16 inches of packing in 4-millimeter i.d. borosilicate glass column.

Column packing—1.5 percent XE-60 on Gas Chrom Q80/100 mesh.

Detector—electron capture—tritium source.

Column temperature—250° C.

Cell temperature—200° C.

Flash Heater—305° C.

Pulse—150 μsec.

Range and attenuation—to obtain a peak height of 2.5 to 3.5 centimeters with injection of 1.0 μl of a 1.0 mcg./ml. standard in benzene.

Carrier gas—argon/methane 90/10.

Gas flow—190-200 milliliters per minute.

Under these conditions, the retention time of chlormadinone acetate is approximately 5 minutes.

§ 135g.24 Spectinomycin.

A tolerance of 0.1 part per million is established for negligible residues of spectinomycin in the uncooked edible tissues of chickens.

§ 135g.26 Diethylstilbestrol.

(a) No residues of diethylstilbestrol may be found in the uncooked edible tissues of beef cattle and sheep after slaughter.

(b) The method of examination prescribed for the quantitative determination of estrogenic activity is the method of E. J. Umberger, G. H. Gass, and J. M. Curtis published in "Endocrinology," volume 63, page 806 (1958).

(c) The method of examination prescribed for the qualitative identification of estrogenic activity as diethylstilbestrol is as follows:

(1) (i) Extract the diethylstilbestrol with alkali from a suitably prepared sample of fat dissolved in isooctane; or

(ii) Extract the diethylstilbestrol with ethyl alcohol from lean meat or liver, followed by hydrolysis of the alcohol extractive with dilute hydrochloric acid.

(2) Either of the solutions of diethylstilbestrol described in subparagraph (1) of this paragraph is next extracted with chloroform, and the chloroform extract is washed with 10 percent sodium carbonate to remove strongly acidic substances.

(3) The chloroform extractive of diethylstilbestrol is then extracted with 1 percent sodium hydroxide, and the resulting solution is acidified.

(4) The hormone is reextracted from the acidified solution with chloroform. If the solution is colored, the extraction procedures may be repeated.

(5) The chloroform is evaporated and the remaining residue is dissolved in a suitable volume of methyl alcohol for identification of the diethylstilbestrol, as follows:

(i) Impregnate Whatman No. 1 filter paper with a solution of 40 percent formamide in methyl alcohol, blot it lightly, and dry for 5 minutes.

(ii) Spot an aliquot of the methyl alcohol solution on the paper.

(iii) Similarly, spot an aliquot of methyl alcohol solution of Reference Standard diethylstilbestrol for identification comparison.

(iv) Place the paper in a chromatographic tank and develop, using the continuous ascending technique, either with the solvent system heptane:toluene::1:4 for 2.5 hours, or the solvent system cyclohexene:cyclohexanol::98:2 for 45 minutes.

(v) Remove the paper from the tank and, while still wet, irradiate it with ultraviolet light from a 15-watt germicidal lamp for 1 minute.

(vi) Observe fluorescence through a black-light viewing apparatus.

§ 135g.27 Sulfamethazine.

A tolerance of 0.1 part per million is established for negligible residues of sulfamethazine in the uncooked edible tissues of cattle and swine.

§ 135g.28 Progesterone.

(a) No residue of progesterone may be found in the uncooked edible tissues of lambs and steers.

(b) The method of examination prescribed for the quantitative determination of progesterone is as follows: Prepare an extractive of the tissues as described in this paragraph, and bioassay the extractive in a vegetable oil vehicle by the method of Hooker and Forbes, published in Endocrinology, volume 41, page 158 (1947).

(1) Extraction procedure for liver, lean meat, and kidney tissue:

(i) Extract 1 kilogram of finely minced tissue with 20 volumes of a mixture of chloroform:methyl alcohol::2:1 in a tissue homogenizer.

(ii) Separate the insoluble material by filtration with suction and reextract with two volumes of the chloroform-methyl alcohol mixture.

(iii) Again separate the insoluble material, and extract it with one-fifth volume of water. Separate the water from the insoluble material and extract the water two times with two volumes of chloroform.

(iv) Combine the chloroform-methyl alcohol and the chloroform extractives from subdivisions (i), (ii), and (iii) of this subparagraph and evaporate to dryness in vacuum under a stream of nitrogen. Redissolve the residue in chloroform-methyl alcohol mixture, separate any insoluble protein, and again evaporate to dryness in vacuum under a stream of nitrogen.

(v) Dissolve the residue from subdivision (iv) of this subparagraph in three volumes of petroleum ether, and extract four times with equal volumes of fresh portions of 70 percent methyl alcohol in

water. Combine the 70 percent methyl alcohol extractives, and wash the methyl alcohol solution with one-fourth volume of petroleum ether. Discard the petroleum ether.

(vi) Concentrate the aqueous methyl alcohol solution from subdivision (v) of this subparagraph under vacuum to remove the methyl alcohol, and extract the aqueous solution four times with equal volumes of ethyl ether.

(vii) Combine the ethyl ether extractives, and evaporate to dryness. The residue is dissolved in a suitable amount of solvent for bioassay.

(2) Extraction procedure for fatty tissue:

(i) Extract 1 kilogram of finely minced tissue two times with five volumes of a mixture of hexane:benzene::1:1 and one time with one volume of the same solvent.

(ii) Combine hexane-benzene extractives and evaporate to dryness.

(iii) Dissolve the residue from subdivision (ii) of this subparagraph in 12 liters of petroleum ether and extract five times with ½-liter of 70 percent ethyl alcohol in water. Combine the 70 percent ethyl alcohol extractive, and concentrate by evaporation to remove most of the ethyl alcohol. Discard the petroleum ether.

(iv) Extract the aqueous solution from subdivision (iii) of this subparagraph four times with one-half volume of ethyl ether.

(v) Combine the ethyl ether extracts and evaporate to dryness. The residue is dissolved in a suitable amount of solvent for bioassay.

§ 135g.29 Testosterone propionate.

(a) No residues of testosterone propionate may be found in the uncooked edible tissues of heifers.

(b) The method of examination prescribed for the quantitative determination of testosterone propionate is as follows: Prepare an extract of the tissues as described in § 135g.28(b) (1) and (2) and bioassay the extractive in an ethyl alcohol vehicle by inunction on the day-old chick's comb by the method published in "Methods in Hormone Research," New York, Academic Press, volume II, page 286 (1962).

§ 135g.30 Estradiol benzoate.

(a) No residues of estradiol benzoate may be found in the uncooked edible tissues of heifers, lambs, and steers.

(b) The method of examination prescribed for the quantitative determination of estradiol benzoate is as follows: Incorporate the finely ground tissues in the diet of immature mice, and assay by the mouse uterine weight method of E. J. Umberger, G. H. Gass, and J. M. Curtis, published in "Endocrinology," volume 63, page 806 (1958).

§ 135g.31 Chlorobutanol.

A tolerance of zero is established for residues of chlorobutanol in milk from dairy animals.

§ 135g.32 Salicylic acid.

A tolerance of zero is established for residues of salicylic acid in milk from dairy animals.

§ 135g.33 Arsenic.

Tolerances for total residues of combined arsenic (calculated as As) in food are established as follows:

(a) In edible tissues and in eggs of chickens and turkeys:

(1) 0.5 part per million in uncooked muscle tissue.

(2) 1 part per million in uncooked edible byproducts.

(3) 0.5 part per million in eggs.

(b) In edible tissues of swine:

(1) 2 parts per million in uncooked liver and kidney.

(2) 0.5 part per million in uncooked muscle tissue and byproducts other than liver and kidney.

§ 135g.34 Erythromycin.

A tolerance of zero is established for residues of erythromycin in the uncooked edible tissues of chickens, turkeys, and beef cattle, in uncooked eggs, and in milk.

§ 135g.35 Sulfaethoxypyridazine.

A tolerance of zero is established for residues of sulfaethoxypyridazine in the uncooked edible tissues of swine and cattle and in milk.

§ 135g.36 Furazolidone.

A tolerance of zero is established for residues of furazolidone in the uncooked edible tissues of swine.

§ 135g.37 Prednisolone.

A tolerance of zero is established for residues of prednisolone in milk from dairy animals.

§ 135g.38 Ehtradiol monopalmitate.

(a) No residues of estradiol monopalmitate may be found in the uncooked edible tissues of chickens.

(b) The method of examination prescribed for the quantitative determination of estradiol monopalmitate is as follows: Incorporate finely ground tissues of the treated chickens in the diet of immature mice and assay by the mouse uterine weight method of E. J. Umberger, J. H. Gass, and J. M. Curtis published in "Endocrinolgoy," volume 63, page 806 (1958).

§ 135g.39 Thiabendazole.

Tolerances are established at 0.1 part per million for negligible residues of thiabendazole in uncooked edible tissues of cattle, goats, sheep, and swine, and at 0.05 part per million for negligible residues in milk.

§ 135g.40 Prednisone.

A tolerance of zero is established for residues of prednisone in milk from dairy animals.

§ 135g.41 Methylparaben.

A tolerance of zero is established for residues of methylparaben in milk from dairy animals.

§ 135g.42 Propylparaben.

A tolerance of zero is established for residues of propylparaben in milk from dairy animals.

§ 135g.44 Dimetridazole.

A tolerance of zero is established for residues of dimetridazole in the uncooked edible tissues and eggs of turkeys.

§ 135g.45 3,5-Dinitrobenzamide.

No residue s of 3,5-dinitrobenzamide may be found in the uncooked edible tissues of chickens as determined by the following method of analysis:

I. *Method of analysis—3,5-dinitrobenzamide.* A method for 3,5-dinitrobenzamide (3,5-DNBA) in chicken tissues is described with a cleanup step that removes most of the interfering materials, thus allowing uncompensated measurements to be read. The 3,5-DNBA is extracted from the sample with acetone and chloroform and prepared for chromatography by removing the aqueous phase in a separatory funnel and the solvents in a flash evaporator. The extract residue is chromatographed on alumina to remove several lipid components and residues of other drugs. The benzamide eluate is passed through a column of Dowex-50 resin, or equivalent, to remove arylamines; for example, 3-amino-5-nitrobenzamide. The 3,5-DNBA fraction is reduced, after removal of alcohol, with $TiCl_3$ in basic solution to an arylamine, presumably 3,5-diaminobenzamide. The reduced fraction is placed on another Dowex-50 column, most of the interfering substances are removed with washings of alcohol and water, and the arylamine residue is eluted with 4*N* HCl. Colorimetric measurement is made in a 100-millimeter cell at 530 millimicrons after reacting the residue with Bratton-Marshall reagents.

II. *Reagents.* A. Acetone.

B. Acetyl-(*p*-nitrophenyl)-sulfanilamide (APNPS) standard—melting point range 264° C.–267° C. Weigh and transfer 10 milligrams of APNPS to a 100-milliliter flask, dissolve and dilute to volume with acetone.

C. Alumina—activated F-20, 80–200 mesh, Aluminum Co. of America, or equivalent substance.

D. Ammonium sulfamate.

E. Ammonium sulfamate solution—1.25 grams of ammonium sulfamate per 100 milliliters of water. Refrigerate when not in use. Prepare fresh weekly.

F. Cation-exchange resin—Dowex 50W-X8, 200–400 mesh, Baker Analyzed Reagent, or equivalent, prepared as follows:

1. Place 500 grams of resin into a 3-liter beaker.

2. Add 2,000 milligrams of 6*N* HCl.

3. Heat and stir while on a bath at 80° C. for 6 hours. Discontinue heating and continue stirring overnight.

4. Filter the resin on a Buchner funnel (24 cm.) fitted with Whatman No. 1 paper.

5. Wash the resin bed with four 500-milliliter portions of 6*N* HCl.

6. Wash the resin bed with 500-milliliter portions of deionized water until the effluent has a pH of 5 or higher.

7. Wash the resin bed with three 400-milliliter portions of specially denatured alcohol 3A. Drain thoroughly.

8. Make a slurry of resin in 1,250 milliliters of specially denatured alcohol 3A.

G. Chloroform.

H. Coupling reagent—0.25 gram of *N*-1-naphthyl-ethylenediamine dihydrochloride per 100 milliliters of water. Refrigerate when not in use. Prepare fresh weekly.

I. 3,5-Dinitrobenzamide (3,5-DNBA standard). Add to boiling specially denatured alcohol 3A until a saturated solution is obtained and treat with activated carbon, filtered and crystallize by cooling to room temperature. The 3,5-DNBA therefrom is treated a second time with activated carbon and then recrystallized three more times from specially denatured alcohol 3A. The third crystallization is washed with diethyl ether and dried in a vacuum desiccator, melting point range 185° C.–186° C.

J. Ethyl alcohol—absolute, A.C.S.

K. Eluting reagent A. The formula and volume required in procedure step V–D is dependent on the adsorptive strength of the Al_2O_3. For each lot Al_2O_3, make the following test:

1. Prepare a column (see procedure step V–D for determining formula and volume of eluting reagent A).

2. Transfer 1 milliliter of APNPS standard (100 micrograms per milliliter) in 75 milliliters of chloroform to the column.

3. Wash the column with 100 milliliters of chloroform and discard the eluate.

4. Pass through 100 milliliters of solution consisting of specially denatured alcohol 3A and ethyl alcohol 1:1 (volume to volume). Collect one 50-milliliter and five 10-milliliter portions; these make up the first, second, third, fourth, fifth, and sixth portions of eluate.

5. Place in beakers under a stream of air on a water bath (90° C.) until the solvents are evaporated.

6. Add 10 milliliters of 4*N* HCl to each, cover with watch glasses and heat (90° C.) for 30 minutes; cool to room temperature.

7. Add the Bratton-Marshall reagents.

8. All fractions show a slight color. Note the portion containing the first significant increase in pink color.

a. If the color increases in the second, third, or fourth portions of eluate, the formula in procedure step V–D is suitable and, depending on the portion, 45, 55, or 65 milliliters, respectively, should be used in procedure step V–D4. Thereby, the APNPS is retained on the column and the benzamides are eluted.

b. If the color increases in the first portion, the eluting strength of the reagent is too strong. Return the test, substituting 1:4 (volume to volume) in procedure step V–D4. If 1:4 (volume to volume) is too strong, rerun with ethyl alcohol in procedure step V–D. If none of these are suitable, another lot of AL_2O_3 should be used.

c. If the color increases in the fifth or sixth portion, the eluting strength of the reagent is too weak. Rerun the test, substituting in procedure step V–D4, respectively, 4:1 (volume to volume), specially denatured alcohol 3A: methyl alcohol, 4:1 (volume to volume), until a suitable formula is found. If none of these are suitable, another lot of AL_2O_3 should be used.

L. Hydrochloric acid, 4*N*. Add two volumes of water to one volume of HCl.

M. Diatomaceous earth—Hyflo Super Cel, Johns-Manville Co., or equivalent substance.

N. *N*-1-Naphthylethylenediamine dihydrochloride.

O. Sodium hydroxide solution, 10*N*. Dissolve 100 grams of sodium hydroxide in water and dilute to 25 milliliters.

P. Sodium nitrite solution—0.25 grams of sodium nitrite per 100 milliliters of water. Refrigerate when not in use. Prepare fresh weekly.

Q. Specially denatured alcohol, formula 3A—100 parts of 190-proof ethyl alcohol plus 5 parts of commercial methyl alcohol.

R. Titanium(ous) chloride—20 percent solution.

III. *Special apparatus.* A. Absorption cells—Beckman No. 75195 matched set of two cylindrical silica cells with 100-millimeter optical length, or equivalent cells.

B. Autotransformer—type 500B, or equivalent. To regulate speed of mixer.

C. Centrifuge.

D. Centrifuge tubes—50-milliliter size with glass stopper.

E. Chromatography tubes—Corning No. 38460, 20 millimeters x 400 millimeters and having a tapered 29/42 joint with coarse, fritted disc, or equivalent tubes.

F. Evaporator—vacuum, rotary, thin film.

G. Ion-exchange column—as described by Thiegs et al. in "Determination of 3-amino-5-nitro-o-toluamide (ANOT) in chicken tissues" published in "Journal of Agricultural and Food Chemistry," volume 9, pages 201–204 (1961).

H. Glycerol manostat. For regulating pressure on columns: To Al_2O_3 columns, 15-inch head pressure; to ion-exchange columns, 30-inch head pressure.

I. Motor speed control. For regulating speed on 1-quart blendor.

J. Volumetric flasks—50 milliliter size, actinic ware.

K. Mixer—Vortex Jr. Model K–500–1, Scientific Industries, Inc., or equivalent mixer.

L. One-quart blendor.

M. Water bath (45° C.–50° C.).

N. Water bath (90° C.).

IV. *Standard curve.* A. 1. Weigh 100 milligrams of 3,5-DNBA and transfer to a 1-liter volumetric flask with acetone.

2. Dissolve and dilute with acetone to volume.

3. Dilute 1 milliliter to 100 milliliters.

4. Add 5.0 milliliters of water to each of six centrifuge tubes.

5. Add standard to each of the tubes to contain one of the following amounts: 0.0, 1.0, 2.0, 3.0, 5.0, and 10.0 micrograms of 3,5-DNBA.

B. Prepare each tube for colorimetric measurement as follows:

1. Place the tube in a hot water bath (90° C.) until 5.0 milliliters remain. Cool to room temperature.

2. While mixing on Vortex mixer, or equivalent, regulated with an autotransformer, add 2 drops of $TiCl_3$ and 4 drops of 10*N* NaOH. Continue mixing until chalky-white in appearance.

3. Add 2 milliliters of HCl, mix, and allow to stand for 5 minutes.

4. Transfer to 50-milliliter volumetric flask and dilute with 4*N* HCl to 40–45 milliliters.

5. Cool to 0° C.–5° C. by placing in a freezer or ice bath.

6. Perform the Bratton-Marshall reaction in subdued light as follows:

a. Add 1 milliliter of sodium nitrite reagent, mix, and allow to stand for 1 minute.

b. Add 1 milliliter of ammonium sulfamate reagent, mix, and allow to stand for 1 minute.

c. Add 1 milliliter of coupling reagent, mix, and allow to stand for 10 minutes.

d. Dilute to volume with 4*N* HCl.

C. Perform colorimetric measurement at 530 millimicrons as follows:

1. Fill two matched 100-millimeter cells with 4*N* HCl and place into spectrophotometer.

2. Adjust dark current.

3. Adjust to zero absorbance.

4. Replace acid in cell of sample side of compartment with standard to be measured.

5. The standard curve should be run five different times. Plot equivalent concentration in tissue versus mean absorbance at each concentration. If computer is available, a better procedure is to calculate the equation of the standard curve by means of least squares.

V. *Procedure.* A. Extraction. 1. Mince 350 grams of tissue in a 1-quart blending jar for 3 minutes. Use samples obtained from either freshly killed or quickly frozen birds. The latter should be analyzed as soon as thawed. For fibrous meats (for example, muscle, skin) put through a meat grinder before mincing.

2. Weigh 100±0.5 grams of each replicate sample in a 150-milliliter beaker. Analyze each sample in triplicate and average the results. Reproducibility of ±10 percent between such analyses has been obtained.

3. Transfer the sample to a 1-quart blendor jar. For kidney and liver tissues, make a slurry with acetone in the weighing beaker. Transfer with several rinses of acetone.

4. Blend the sample for 5 minutes with 250 milliliters of acetone and a 100-milliliter beakerful of diatomaceous earth.

5. Filter through a Buchner funnel containing a wetted Whatman No. 5 filter paper (12.5 cm.) into a 1-liter suction flask.

6. Rinse the blendor jar into the funnel with three 25-milliliter portions of acetone.

7. Transfer the pulp and paper from the funnel to the aforementioned blendor jar.

8. Add 250 milliliters of chloroform.

9. Blend for 3 minutes.

10. Filter through the aforementioned apparatus of procedure step V–A5. For rapid filtration of skin and blood samples, prepare funnel by adding diatomaceous earth and tamping evenly over paper to a thickness of 3 to 5 millimeters.

11. Rinse the blendor jar into the funnel with three 25-milliliter rinses of chloroform.

B. Phasic separation. 1. Pour the combined filtrates into a 1-liter separatory funnel.

2. Rinse the suction flask twice with 25 milliliters of chloroform.

3. Mix the funnel contents by gently rocking and swirling for 30 seconds.

4. Let stand 10 minutes to allow phases to separate.

a. The upper (aqueous) phase (30 to 50 milliliters) is not always emulsion-free. Losses from emulsions have not been significant.

b. If an upper (aqueous) phase does not appear, add an additional 100 milliliters of chloroform and 10 milliliters of water and repeat procedure step V–B3.

5. Withdraw the lower phase into a 1-liter round-bottom flask, and discard upper phase. Withdraw nearly all of the lower phase, let stand for 2 to 3 minutes, then withdraw the remainder.

C. Evaporation. Attach the flask on a thin-film rotary evaporator connected to a vacuum supply, and place in a water bath maintained at 45° C.–50° C. until an oily residue remains. Do not overheat the sample or allow to go to dryness.

D. Adsorption chromatography. 1. Prepare a chromatography column using a column with calibrated etchings to indicate appropriate adsorbent and solvent levels as follows:

a. Fill tube to a depth of 60 millimeters with Al_2O_3.

b. Tap walls gently with hands.

c. Add anhydrous sodium sulfate to an additional depth of 25 millimeters.

d. Wet and wash column with 50 milliliters of chloroform.

i. During chromatography, make each addition to the tube when the liquid level has reached the top of the sodium sulfate layer.

ii. Increase the percolation rates by applying a slight air pressure to the top of the column.

2. Transfer the residue from procedure step V–C to the column with four 15-milliliter rinses of chloroform. Then rinse the walls of the tube and sodium sulfate layer with three 5-milliliter portions of chloroform. Percolation rate: 15 to 25 milliliters per minute. No color from sample should be seen in sodium sulfate layer after final rinse.

3. Wash column with 100 milliliters of chloroform. Discard eluate.

4. Add 75 milliliters of eluting reagent A and collect eluate A in a 250-milliliter beaker for cation-exchange chromatography.

a. Refer to "Eluting reagent A" under "Reagents" (II–K) for determining formula and volume.

b. Percolation rate: 8 to 12 milliliters per minute.

E. Cation-exchange chromatography—No. 1. 1. Prepare an ion-exchange column as follows:

a. Add a uniform slurry of resin to the column to obtain a 4 to 5 centimeter bed depth after settling.

i. Obtain a uniform slurry using a magnetic stirrer. To add the required amount of resin, calibrate the slurry and transfer it with a 10-milliliter pipette to deliver a reproducible volume.

ii. Increase the flow rate to 2 to 4 milliliters per minute by applying air pressure to the column. A glycerol manostat adjusted to 30 inches and attached between an air supply and column provides adequate pressure.

b. Wash the resin with 10 milliliters of eluting reagent A. Discard eluate.

2. Pass eluate A from procedure step V–D4 through the column. Collect in a 250-milliliter beaker.

3. Pass 50 milliliters of specially denatured alcohol 3A through the column. Combine with the eluate of procedure step V–E2.

F. Reduction. 1. Place the eluate A fraction from procedure step V–E3 on a hot water bath (90° C.) and evaporate with a stream of air until 5 to 10 milliliters remain. Do not overheat the sample or allow the sample to go to dryness.

2. Transfer to centrifuge tube and rinse beaker three times with 3 milliliters of specially denatured alcohol 3A.

3. Evaporate on a hot water bath (90° C.) under a stream of air until alcohol has evaporated. Do not overheat the sample or allow the sample to go to dryness.

4. Remove the tube from the water bath and immediately add 5.0 milliliters of water.

5. While mixing, add 2 drops of titanium chloride and 4 drops of 10*N* sodium hydroxide. Continue mixing until greyish color disappears.

a. Mix on Vortex Jr. mixer, or equivalent, regulated with autotransformer.

b. Precipitate of insoluble tissue substances and white titanium salts is present after reduction is complete.

6. Dilute to 50 milliliters with specially denatured alcohol 3A and mix.

7. Centrifuge for 5 minutes at 2,000 r.p.m.

G. Cation-exchange chromatography—No. 2. 1. Prepare resin column by procedure step V–E.

2. Pass the centrifugate of procedure step V–F7 through column. Use three rinses of specially denatured alcohol 3A, each 5 milliliters, to aid in transferring of sample.

3. Pass 50 milliliters of specially denatured alcohol 3A through the column.

4. Pass 50 milliliters of deionized water through the column.

5. Elute arylamine residue from the resin with 40 to 43 milliliters of 4*N* HCl into a 50-milliliter volumetric flask (actinic ware) for 3,5-DNBA analysis. Avoid direct sunlight. The arylamine has been found to be photosensitive.

H. Color development and measurement. 1. Cool to 0° C.–5° C. by placing in a freezer or ice bath.

2. Perform the Bratton-Marshall reaction in subdued light as follows:

a. Add 1 milliliter of sodium nitrite reagent, mix, and allow to stand for 1 minute.

b. Add 1 milliliter of ammonium sulfamate reagent, mix, and allow to stand for 1 minute.

c. Add 1 milliliter of coupling reagent, mix, and allow to stand for 10 minutes.

d. Dilute to volume with 4*N* HCl.

3. Perform colorimetric measurement at 530 millimicrons as follows:

a. Fill two matched 100-millimeter cells with 4*N* HCl and place into instrument.

b. Adjust dark current.

c. Adjust to zero absorbance.

d. Replace acid in cell of sample side of compartment with sample to be measured.

e. Record absorbance observed.

I. Calculations. Determine parts per billion (observed) from the standard curve.

§ 135g.46 Dienestrol diacetate.

(a) No residues of dienestrol diacetate may be found in the uncooked edible tissues of chickens and turkeys.

(b) The method of examination prescribed for the quantitative determination of dienestrol diacetate is as follows: Incorporate the finely ground tissues in the diet of immature mice, and assay by the mouse uterine weight method of E. J. Umberger, G. H. Gass, and J. M. Curtis, published in "Endocrinology," volume 63, page 806 (1958).

§ 135g.47 Chlorhexidine.

A tolerance of zero is established for residues of chlorhexidine in the uncooked edible tissues of calves.

§ 135g.48 Ethylenediamine.

A tolerance of zero is established for residues of ethylenediamine in milk.

§ 135g.49 Medroxyprogesterone acetate.

(a) No residues of medroxyprogesterone acetate (17-hydroxy-6α-methylpregn-4-ene-3,20-dione 17-acetate) may be found in the uncooked edible tissues of sheep and cattle or in milk.

(b) The method of examination used in the quantitative determination of medroxyprogesterone acetate to establish that there were no residues present in tissues or milk in an exaggerated study is as follows:

(1) *Apparatus.* A Lourdes Tissue Homogenizer or equivalent; dialyzer tubing, Visking No. 30, 32, or equivalent.

(2) *Reagents.* Methylene chloride, redistilled in all-glass equipment, using a Vigreaux distilling lead (store in brown bottles); Skellysolve B (distill and store in brown bottles); chromatographic alumina; Woelm acid, activity grade 1, for chromatography.

(3) *Preparation of samples*—(i) *Tissue.* Grind fresh tissue in a household meat grinder. If analysis is delayed, the ground tissue must be stored in a deep freeze and thawed just prior to analysis. Transfer 10 grams of tissue to a 60-milliliter stainless steel can, add 40–45 milliliters of 95 percent ethyl alcohol and two 4.25-centimeter circles of Whatman No. 4 filter paper. Attach can to the tissue homogenizer, immerse in an ice bath, and homogenize for 5 minutes. Filter with suction through a Büchner funnel using a Whatman No. 4 filter paper. Return the filter cake to the stainless steel can, add 40–45 milliliters of 95 percent ethyl alcohol and homogenize for 5 minutes as before. Filter as before, adding the second filtrate to the first. Repeat the extraction a third time and combine the filtrate with the first two.

(ii) *Bone marrow or fat.* Extract as under subdivision (i) of this subparagraph, using 4:1 Skellysolve B-absolute ethyl alcohol instead of 95 percent ethyl alcohol.

(iii) *Brain tissue.* Extract as under subdivision (i) of this subparagraph, using 95 percent ethyl alcohol for the first extract, 4:1 Skellysolve B-absolute ethyl alcohol for the second extract, and 95 percent ethyl alcohol for the third extract. Transfer the combined extracts to a 500-milliliter separator, add an equal volume of water, and extract with four successive 50-milliliter volumes of methylene chloride. Evaporate the combined extracts to dryness. Dissolve the oily residue in 20 milliliters Skellysolve B and retain for the chromatographic separation.

(iv) *Milk.* Transfer 180 milliliters of milk to a beaker, add 20 milliliters of absolute methyl alcohol, and mix by stirring. Transfer the solution to a pre-extracted No. 30 or 32 Visking tubing. Tie both ends of the tubing with double overhand knots. Care must be exercised to avoid making the milk-filled casing too taut. Place the filled casing carefully in a large Soxhlet extractor, add 850 milliliters of absolute methyl alcohol, and extract for 48 hours. Transfer the extract into a rotary evaporator and evaporate with vacuum until the volume is reduced to 50–100 milliliters. This will remove all the methyl alcohol. Transfer the aqueous residue to a 500-milliliter separator, using sufficient wash water to produce a volume of about 150 milliliters. Extract with four successive 50-milliliter portions of methylene chloride, and evaporate the combined extracts until only an oily residue remains. Dissolve the residue in 20 milliliters of Skellysolve B and retain for the chromatographic separation.

(4) *Preparation of chromatographic column.* Partially fill the column with chloroform. Slurry 15 grams of chromatographic alumina with chloroform and transfer to the column. Place a small plug of glass wool on top of the alumina. (NOTE: Keep exposure of the alumina to air to a minimum.) Wash the column with a total of 125 milliliters of chloroform, including the volume used to make the slurry. Follow with a second wash, using 100 milliliters of Skellysolve B.

(5) *Determination.* (i) When the final portion of the Skellysolve B wash passes into the column, transfer the reserved sample solution to the column with the aid of two additional 20-milliliter portions of Skellysolve B. Add each rinse to the column when the solvent level has just reached the glass wool plug over the alumina. Pass an additional 50-milliliter portion of Skellysolve B through the column and follow it with 50 milliliters of 2 percent acetone in Skellysolve B. Discard these washings. Elute the medroxyprogesterone acetate with 75 milliliters of 1:1 chloroform-Skellysolve B. Evaporate the effluent to dryness. Dissolve the residue in 10 milliliters of Skellysolve B saturated with 70 percent methyl alcohol and transfer to a 125-milliliter separator. Rinse the container with a second 10-milliliter portion of the above solvent and add to the separator. Rinse the container with

20 milliliters of 70 percent methyl alcohol, add to the separator, shake, and allow the two phases to separate. Transfer the lower layer to a second 125-milliliter separator containing 20 milliliters of Skellysolve B saturated with 70 percent methyl alcohol. Shake, allow the phases to separate, and transfer the lower layer to a 250-milliliter beaker. Extract the two separators serially with four successive 20-milliliter portions of 70 percent methyl alcohol, and add the washings to the beaker. Evaporate the combined extracts just to dryness on a steam bath. Dissolve the residue in 2 milliliters of 1:1 methyl alcohol-methylene chloride, and transfer to a 5-milliliter beaker. Complete the transfer with three additional 2-milliliter portions of the solvent (evaporate the solvent in the 5-milliliter beaker between addition of washings). Reduce the volume to 0.1 milliliter in preparation for paper chromatography.

(ii) *Paper chromatographic analysis*—(*a*) *Apparatus.* A descending paper chromatographic apparatus designed to use a series of strips; Whatman No. 1 paper, washed overnight with 95 percent ethyl alcohol.

(*b*) *Reagents*—(*1*) *Immobile solvent.* Diethylene glycol monoethyl ether.

(*2*) *Mobile solvent.* Diethylene glycol monoethyl ether-saturated methylcyclohexane.

(*3*) *Standard solution.* Dissolve a weighed amount of medroxyprogesterone acetate standard in 1:1 methyl alcohol-methylene chloride, and dilute to a concentration of 100 micrograms per milliliter.

Saturate a sheet of washed chromatographic paper with diethylene glycol monoethyl ether and remove the excess by blotting between sheets of filter paper. Transfer the total sample to a spot on the starting line, using a micro pipette. Spot a 100-microliter portion of the standard solution in the same manner. Place paper in tank and develop for 6 hours. Following development, air dry the papers at room temperature over night. Locate and mark the zones under ultraviolet light. Remove the zones, cut into small pieces, and place each in a 10-milliliter beaker. Add 5 milliliters of 95 percent methyl alcohol to each beaker, cover, and heat on steam bath for 10 minutes. Cool and transfer solutions to 10-milliliter volumetric flasks. Wash paper residues and beakers with small amounts of 95 percent ethyl alcohol and use washing to make to volume. Determine the absorbance, *A*, of sample and standard solutions at 242 mμ relative to an ethyl alcohol blank, using matched 1-centimeter cells.

$$\text{1 part per million of medroxyprogesterone acetate} = \frac{A \text{ sample solution}}{A \text{ standard solution}} \times \frac{100}{\text{weight sample}}$$

§ 135g.50 Hexachlorophene.

A tolerance of zero is established for residues of hexachlorophene in milk from dairy animals and in uncooked edible tissues of cattle.

§ 135g.51 Phenothiazine.

A tolerance of zero is established for residues of phenothiazine in milk from dairy animals and in uncooked edible tissues of cattle.

§ 135g.52 Sodium sulfachloropyrazine monohydrate.

A tolerance of zero is established for residues of sodium sulfachloropyrazine monohydrate in the uncooked edible tissues of chickens.

§ 135g.53 Testosterone.

(a) No residues of testosterone may be found in the uncooked edible tissues of beef cattle.

(b) The method of examination prescribed for the quantitative determination of testosterone is as follows: Prepare an extract of the tissues as described in § 135g.28(b) (1) and (2) and bioassay the extractive in an ethyl alcohol vehicle by inunction of the day-old chick's comb by the method published in "Methods in Hormone Research," New York, Academic Press, volume II, page 286, (1962).

§ 135g.54 Carbomycin.

A tolerance of zero is established for residues of carbomycin in the uncooked edible tissues of chickens.

§ 135g.55 Sulfamerazine.

A tolerance of zero is established for residues of sulfamerazine (N'-[4-methyl-2-pyrimidinyl]sulfanilamide) in the uncooked edible tissues of trout.

§ 135g.56 Melengestrol acetate.

No residues of metengestrol acetate (17-hydroxy-6-methyl-16-methylene-pregna-4,6-diene-3,20-dione acetate) may be found in uncooked edible tissues of cattle as determined by the following method of analysis:

I. *Method of analysis—melengestrol acetate.* A gas-liquid chromatographic (GLC) method for melengestrol acetate (MGA) in frozen bovine tissue is described which removes, through several partition and chromatography cleanup steps, most interfering materials before injection of the sample onto the column for detection. MGA is extracted from lean tissues with ethanol and transferred, after dilution with water, into chloroform. MGA in fatty tissues is extracted with hexane and transferred first into aqueous methanol, then into methylene chloride. The residue from either extract, after evaporation of solvent, is chromatographed on silica gel to remove lipid materials using hexane and a mixture of ethyl ether-benzene. MGA is eluted with ethyl acetate. The residue, after evaporation, is dissolved in hexane and transferred first into aqueous methanol and then into methylene chloride. The dried residue is transferred to aluminum oxide thin layer chromatography (TLC) plates which are developed in a benzene-chloroform-ethyl acetate system. The zone containing MGA is removed and eluted with ethanol. The ethanol is evaporated and the MGA is dissolved into an exact volume of chloroform. MGA is injected onto a 3-percent QF-1 column in an all-glass system and quantitated by peak height measurements from a flame ionization detector.

MGA can be detected at a level of 25 parts per billion with negligible interference from tissues or reagents. Observed recovery ± estimated standard deviation at 25 parts per billion in muscle, liver, and fat is 74.4±8.0 percent.

II. *Reagents.* All solvents must be GLC pure when processed through the entire procedure in the absence of tissue, see VII *Recovery study* below.

A. Air—20 pounds per square inch purified by passage through a Linde Molecular Sieve, type 4A, 1/16-inch pellets, or equivalent.

B. Aluminum oxide GF254, Brinkman Instruments, or equivalent.

C. Benzene—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

D. Chloroform—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

E. Column packing—3-percent QF-1 on Gas Chrom Q, 100–120 mesh, Applied Science Laboratories, Inc., or equivalent.

F. Dry ice.

G. Ethanol—absolute, synthetic, Gold Shield, Commercial Solvents Corp., or equivalent. A 25-milliliter portion roto-evaporated to dryness, taken up in 0.1 milliliter chloroform and 10 microliters injected into the gas chromatograph should show no contaminants. Contaminated alcohol must be redistilled in an all-glass system and retested.

H. Ethanol—190 proof, synthetic, Gold Shield, Commercial Solvents Corp., or equivalent.

I. Ethyl acetate—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

J. Ethyl ether—anhydrous, Mallinckrodt AR, 1-pound can, or equivalent.

K. Glassware cleaner—Haemo-Sol, Scientific Products, or equivalent.

L. Helium—99.5 percent minimum, The Matheson Co., or equivalent.

M. Hexane—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

N. Hydrogen—99.5 percent minimum, Ohio Chemical Co., or equivalent.

O. Melengestrol acetate—MGA Standard, 99.5 percent purity, The Upjohn Co.

P. Methanol—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

Q. Methylene chloride—Burdick and Jackson Laboratories, Distilled-in-Glass grade, or equivalent.

R. Nitrogen—filtered, see III–D below, The Matheson Co., or equivalent.

S. Progesterone—The Upjohn Co., or equivalent.

T. Silica gel—for chromatographic columns, 50–200 mesh, G. Frederick Smith Chemical Co., or equivalent.

U. Sodium sulfate—anhydrous, Mallinckrodt AR, granular, or equivalent.

V. Water—double distilled in glass or deionized.

W. Solvent mixtures—ratios by volume:

1. 10:1:1 benzene-chloroform-ethyl acetate.
2. 1:1 chloroform-methanol.
3. 19:1 ethanol, absolute-double distilled water.
4. 1:19 ethyl ether-benzene.
5. Hexane saturated with 7:3 methanol-water.
6. 7:3 methanol-water.
7. 9:1 methanol-water.
8. Saturated sodium sulfate solution, aqueous.

III. *Special apparatus.* A. Adapters—24/40, No. 5225, Ace Glass, Inc., or equivalent.

B. Blender—Waring Blender, or equivalent.

C. Chromatography columns—glass columns 28 (inside diameter) x 600 millimeters, fitted with Teflon stopcocks and medium porosity, sintered glass disks, Fisher and Porter 274–100, or equivalent.

D. Filters—Koby "Junior," air purifier and flow equalizer, low pressure, The Koby Corp., or equivalent.

E. Filtrator—Fisher Filtrator, Fisher Scientific Co., or equivalent.

F. Gas chromatograph—Micro Tek 220, or F and M 402, or equivalent. Instrument must have an all-glass on-column injection system and a flame detector. Electrometer sensitivity of 10^{-12} amperes and recorder sensitivity of 1 millivolt.

G. Gas chromatography columns—use borosilicate glass tubing, 0.2362±0.013 inch outside diameter and 0.118±0.01 inch inside diameter, Wilkens Anderson Co., or equivalent. Bend 2-foot and 3-foot pieces of tubing into the proper design for the instrument to be used. Pack the columns with 16 and 28 inches, respectively, of 3-percent QF–1 and plug both ends with 0.5 centimeter of loosely packed, silanized glass wool. Pack far enough from the ends so that no part of the column packing or glass wool will be inside the heated injection port or outlet fitting. Insert column into the GLC oven and condition with carrier gas off for 2 hours at 240° C., then at 220° C. overnight with the carrier gas on at a rate of 10 milliliters per minute.

H. Micropipettes—5 and 25 microliters, Microcap Disposable Pipettes, Drummond Scientific Co., or equivalent.

I. Micropipette—500 microliters, Kirk type, Microchemical Specialties Co., or equivalent.

J. Miniature jet evaporator—several transfer pipettes (see III–L below) connected through a manifold to a nitrogen supply.

K. Oven—110° C.

L. Pipettes—transfer pipettes, 9-inch disposable pipettes, Scientific Products, or equivalent.

M. Roto-evaporator—four to six small size Rinco evaporators, or equivalent, controlled with 4-millimeter bore stopcocks connected to a manifold which leads to two condensation traps (1–2 liters) connected in series to a vacuum pump of 140 liters per minute free air capacity. The traps are cooled with a dry ice-solvent mixture. The time for roto-evaporation of 200 milliliters of 7:3 methanol-water is 35–40 minutes. Each sample in around-bottomed flask is connected with two adapters (see III–A above) in a series to an evaporator and heated in a thermostatically controlled water bath at 45° C.

N. Separatory funnels—fitted with Teflon stopcocks, 125, 500, and 2,000 milliliters.

O. Shevky-Stafford tubes—6.5 milliliters, Arthur H. Thomas Co., or equivalent. Must be calibrated at the 0.100 milliliter mark to contain 0.100±0.002 milliliters.

P. Silanized glass wool—Applied Science Laboratories, or equivalent.

Q. Sintered glass Buchner funnels—fine porosity, 2.5 x 5.0 centimeters.

R. Syringe—25-Microliter, Hamilton No. 702, Hamilton Co., Inc., or equivalent.

S. Thin layer chromatography equipment—spreader suitable for preparing five plates, 0.75-millimeter thickness. Glass tanks for developing TLC plates.

T. TLC plates—200 x 200 millimeters, prepared as follows:

1. Place 5 plates (200 x 200 millimeters) in the template, wipe the surface with absolute ethyl alcohol, and dry with lintless tissue.

a. TLC plates are best cleaned by immersion in a sonic-oscillation bath.

b. Hand washing is not recommended unless absolutely necessary.

2. Adjust the spreader for 0.75 millimeters.

3. Weigh out 90 grams of aluminum oxide and place in a clean, dry blender jar.

a. Add 140 milliliters of distilled water and blend at low speed for 30 seconds.

b. Remove the jar from the blender and swirl the contents.

c. After 90 seconds has elapsed from the time the blender was turned on, pour the slurry into the spreader and coat the five plates.

d. It may be necessary to make minor operational changes such as amount of water and mixing time in order to obtain plates of uniform thickness free of checks and bubbles.

i. If checks or cracks appear, decrease the amount of water.

ii. If bubbles appear, decrease blending time or speed.

4. Allow the plates to dry 2 days or longer at room temperature.

a. Plates aged 2 to 4 weeks show less tendency to flake in the mobile solvent systems.

b. Plates may be stored on the bench exposed to laboratory air if it can be demonstrated that no air contaminants are present as shown by a TLC blank run through the GLC starting with procedure step V–G9.

5. Activate the plates for 1 hour at 110° C. in a hot air oven, cool 30 minutes in laboratory air.

a. Use plates the same day they are activated.

b. Oven should be free of contaminants that may be absorbed by the plates as shown by a TLC blank run through the GLC starting with procedure step V–G9.

c. Relative humidity of 40–60 percent aids in dissipating the static charge which appears to be characteristic of heated alumina plates. Unless this charge is dissipated, attraction of alumina for the spotting pipette causes disruption of the surface.

d. If humidity conditions cannot be met, longer standing will suffice to dissipate the charge.

6. Scribe the TLC plates at right angles to the direction in which they are poured in the following manner:

a. Remove 2 millimeters alumina from vertical edges of each plate.

b. Scribe the rest of the plate with 2-millimeter wide lines so as to give two 80-millimeter strips and one 20-millimeter vertical strip between them.

U. Tissue homogenizer—Lourdes tissue homogenizer with 300-milliliter stainless steel cups fitted with silicone rubber gaskets. Do not use any lubricant. Reduce wear between cup head and shaft bushings with Teflon-fiberglass washers made from Teflon tape impregnated with 15 percent glass, 0.015 inch thick, Detroit Ball Bearing Co., or equivalent.

V. Ultraviolet lamp—Mineralight Model 2L–2537 (shortwave), or equivalent.

W. Vacuum oven—20–35° C., 20–30 millimeters mercury.

X. Volumetric flasks—1 milliliter.

Y. Vortex mixer—Fisher Mini-Shaker, or equivalent.

IV. *Standard solutions.* A. Stock solution A—6.00 milligrams of MGA in 100 milliliters of absolute ethanol.

B. Stock solution B—dilute 5 milliliters of stock solution A to 200 milliliters with absolute ethanol.

C. Stock solution C—20 milligrams of MGA in 100 milliliters of absolute ethanol.

D. Stock solution D—Dilute 5 milliliters stock solution C to 100 milliliters with chloroform.

E. Stock solution E—10 milligrams of MGA and 10 milligrams of progesterone in 10 milliliters of absolute ethanol.

F. Stock solution F—10 milligrams of MGA in 10 milliliters of absolute ethanol.

V. *Procedure.* A. Preparation of glassware. All glassware should be washed in detergent to remove contaminants and rinsed in water to remove traces of cleaning agent. Rinse with solvents before using.

B. Preparation of sample:

1. Grind the fresh tissue in a meat grinder and store in a suitable container in a deep freeze.

2. Chill the leg bones in the refrigerator for 24 hours, saw them lengthwise (commercial meat bandsaw), remove the bone marrow, and place in the deep freeze.

3. Steam the tripe for 5 minutes and strip off the muscle layer and store in deep freeze.

C. Extraction procedure for muscle, liver, kidney, and tripe:

1. Clean homogenizer by disassembling mixer heads completely and soaking in detergent with the cups. Keep all parts from each mixer head separated from those of the other assemblies. Brush all parts and rinse thoroughly with tap water and then with distilled water. Let dry and reassemble the mixer heads without using a lubricant.

2. Weigh 60 grams of the partially thawed tissue into a 300-milliliter homogenizing cup and refreeze the unused portion immediately.

3. Add 175 milliliters of 190 proof ethanol and a circle of Whatman filter paper No. 40, 12.5 centimeters, as a filter aid.

4. Homogenize for 2 minutes in an ice bath.

5. Filter the slurry through Whatman filter paper No. 40, 12.5 centimeters, in a Buchner funnel into a 1-liter filter flask using a vacuum supply.

6. Wash the cup with 20–25 milliliters of 190 proof ethanol using a wash bottle and filter the washings through the Buchner funnel.

7. Transfer the dry filter cake with its filter paper to the cup and add 175 milliliters of 190 proof ethanol.

8. Homogenize for 2 minutes and filter the slurry.

9. Repeat step 7, but this time homogenize the dry cake without its filter paper for 2 minutes and filter.

10. Mark the level of the combined alcohol eluates in the 1-liter filter flask and quantitatively transfer it to a 2-liter separatory funnel.

11. Add water to the marked level; add 100 milliliters of water and 20 milliliters of saturated sodium sulfate solution to the flask, mix, and transfer the mixture to the separatory funnel.

12. Add 100 milliliters of chloroform and shake the separatory funnel vigorously for 1 minute.

13. Let stand for 30 minutes or until complete phase separation takes place. If the chloroform layer is less than 50 milliliters, add 25 milliliters more of chloroform and shake again.

14. Drain the chloroform phase into a 1-liter round-bottomed flask.

15. Repeat procedure steps V–12, 13, and 14 three more times.

16. Roto-evaporate the combined chloroform extracts and remove the last trace of water in the following manner avoiding violent bubbling during roto-evaporation.

a. This can be done by restricting the vacuum supply by partially opening the stopcock slowly or by starting the roto-evaporator with the round-bottomed flask out of the water bath. When flask is cool or shows frosting, place it into water bath.

b. To the flask add with swirling 25 milliliters of hexane followed by 25 milliliters of absolute ethanol.

c. Swirl until the solids and/or oil are dissolved or suspended in the solvents and roto-evaporate.

d. Add 25 milliliters of absolute ethanol and roto-evaporate until 15 minutes after the solvent has been removed.

17. Close the stopcock and open the system at the glass joint between the two adapters.

a. This prevents back-flushing of contaminants from the roto-evaporator.

b. *Stopping place.* Leave the adapter in place, stopper, and store in refrigerator or deep freeze.

c. Storage of sample in the solvent should be avoided.

D. Extraction procedure for fat and bone marrow:

1. Clean homogenizer cups and heads, procedure step V–C1; weigh samples as in procedure step V–C2.

2. Add 150 milliliters of hexane and warm on a steam bath without boiling.

3. Stir the solution with a spatula until the fat dissolves.

4. Filter the warm solution through Whatman No. 40 filter paper, 12.5 centimeters, into a 1-liter filter flask.

5. Transfer the filter cake, including filter paper, to the cup and add 150 milliliters of hexane.

6. Homogenize for 2 minutes in an ice bath, rewarm the cup, and filter the warm solution into the filter flask.

7. Repeat the homogenization and extraction of the filter cake one more time.

8. Warm the filter flask until the solution is relatively clear and transfer the warm hexane solution into a 2-liter separatory funnel.

9. Add 500 milliliters of hexane, 250 milliliters of 9:1 methanol-water, and shake vigorously for 1 minute.

10. Let stand 30 minutes and drain the lower phase into a 2-liter separatory funnel.

11. Extract with three 250-milliliter portions of 9:1 methanol-water and combine the extracts.

12. To the combined filtrates in the 2-liter separatory funnel, add 500 milliliters of water and 2 milliliters of saturated sodium sulfate solution to give 55 to 60 percent aqueous methanol.

13. Shake vigorously for 1 minute the aqueous methanol with 300 milliliters of methylene chloride. If the phases do not separate well, add 2 milliliters of saturated sodium sulfate solution and shake again.

14. Let phases stand 20 minutes and drain into a 1-liter round-bottomed flask.

15. Extract with three successive portions of 100 milliliters of methylene chloride.

16. Roto-evaporate the combined extracts as in procedure step V–C16.

17. *Stopping place.* Leave adapter in place, stopper, and store in the refrigerator or deep freeze.

E. Defatting on silica gel columns: 1. Prepare silica gel column as follows:

a. Clean the column with 50 milliliters of absolute ethanol, allowing it to flow through the sintered disk. Aspirate air through the column until dry.

b. Half fill a column with hexane, slurry 20 grams silica gel in hexane, and pour it into the column.

c. Rinse the sides of the beaker and column with hexane.

d. Adjust the flow rate to 8–10 milliliters per minute.

e. While maintaining at least 15 centimeters of solvent, slowly add anhydrous sodium sulfate to a depth of 3 centimeters. The sodium sulfate layer should be free of air bubbles and should not disrupt the silica gel surface.

2. Take residue from procedure steps V–C17b and V–D17. Remove and rinse adapter with stopper in place as follows:

a. Invert and pour 20 milliliters of hexane into the adapter and swirl.

b. Pour the contents onto the residue.

c. Rinse the adapter twice with hexane using a wash bottle and transfer the washings to the residue.

3. Swirl and transfer the hexane solution to the silica gel column.

4. Allow the solution to be completely absorbed into the column, but do not allow the column to go to dryness.

5. Maintain a flow rate of 8–10 milliliters per minute.

6. Rinse the round-bottomed flask twice with 10-milliliter portions of hexane and transfer to the column.

7. Wash the column with the following solvents, discarding the effluents:

a. Rinse the round-bottomed flask with 75 milliliters of hexane and pour onto the column.

b. 350 milliliters of 1:19 ethyl ether-benzene (prepared daily from fresh ether, do not reuse opened cans).

8. Elute MGA fraction with 350 milliliters of ethyl acetate into a 1-liter round-bottomed flask and roto-evaporate off the solvent.

a. Discard the adapters.

b. *Stopping place.* Stopper and store in refrigerator or deep freeze.

F. Solvent partition: 1. Transfer the residue to a 125-milliliter separatory funnel using two 20-milliliter portions of hexane saturated with 7:3 methanol-water.

2. Extract the hexane phase with 40 milliliters of 7:3 methanol-water, first rinsing the round-bottomed flask with the aqueous methanol.

a. Shake the funnel vigorously for 1 minute; let the phases separate at least 1 hour.

b. Drain the lower phases into a 500-milliliter separatory funnel containing 50 milliliters of methylene chloride, 80 milliliters of water, and 0.5 milliliter of saturated sodium sulfate solution.

3. Repeat step 2 four more times combining all extracts in the 500-milliliter separatory funnel.

4. Stopper the 500-milliliter separatory funnel, invert carefully, and vent immediately. Shake the funnel cautiously, venting frequently. When all pressure subsides, shake the funnel vigorously for 1 minute, wait 20–30 minutes, and drain the lower phase into a 500-milliliter round-bottomed flask. This precaution does not apply to the subsequent shakings.

5. Extract with three more 50-milliliter portions of methylene chloride, each time draining the lower phase into the flask.

6. Roto-evaporate the combined extracts until all the solvent has been removed. *Stopping place.* Stopper and store in refrigerator or deep freeze.

G. Thin layer chromatography. 1. Transfer the residue to a 1-milliliter volumetric flask using five 2-milliliter portions of 1:1 chloroform-methanol.

a. A 1-milliliter volumetric flask holds over 2 milliliters.

b. After each transfer, place the 1-milliliter flask in a water bath at 35–40° C. and evaporate the solvents on the miniature jet evaporator, see apparatus III–J.

c. Evaporate the last portion under nitrogen to just below the 1-milliliter mark.

d. Label this flask "A".

e. Bring the volume back to the 1-milliliter mark, stopper, and mix.

2. Accurately transfer 500 microliters from flask "A" into another 1-milliliter volumetric flask and evaporate to dryness under nitrogen.

a. Label this flask "B".

b. This will ultimately be the portion of the split sample that is assayed by GLC.

3. Add 25 microliters of stock solution F to volumetric flask "A" and evaporate the solvents under nitrogen.

a. This half will be used to locate the MGA area on the plate.

b. All samples are split and fortified as described above in procedure steps V–G2 and V–G3.

c. *Stopping place.* Stopper and store in refrigerator or deep freeze.

4. To the residue in flasks "A" and "B", add 10–12 drops of 1:1 chloroform-methanol.

5. Apply the entire sample in flask "A" across the entire 80-millimeter band 3 centimeters from the bottom of the plate.

a. Apply the sample in 10- to 20-microliter portions using a 25-microliter pipette. Apply the residue as a band 10 to 15 millimeters wide and 80 millimeters long. Flow the solution onto the plate as rapidly as possible with no forced drying.

b. Label this side of the plate "A".

6. Rinse the flask with 10 drops of 1:1 chloroform-methanol and apply to the same streaked area as soon as possible.

7. Repeat once more with 5 drops.

8. Place sample "B" on the other 80-millimeter strip in a similar manner as in procedure step V–G 5, 6, and 7, and label this side of the plate "B".

9. Spot 5 microliters of stock solution E on the 20-millimeter strip.

10. Allow the plate to dry for 15 minutes at room temperature.

11. Place the plate in a tank containing fresh 1:1 chloroform-methanol. Saturation of tank atmosphere is not necessary.

12. Remove the plate from the tank when the solvent front has moved 5 centimeters from the bottom of the plate. MGA and similar substances concentrate as a narrow band at the solvent front.

13. Remove and air dry the plate in a horizontal position on a cork ring for all subsequent plate-drying steps.

14. Dry for 15 minutes at room temperature and for another 15 minutes in a vacuum oven.

15. Place the plate in a tank containing fresh 10:1:1 benzene-chloroform-ethyl acetate. Saturation of tank atmosphere is unnecessary.

16. Allow the solvent to rise 17 centimeters from the bottom of the plate.

17. Determine the position of MGA on the plate in section A with UV radiation referring to the lower spot in the center section. MGA will be below progesterone.

18. Scribe horizontal lines on section B above and below the MGA area using section A as a guide to determine the width of the band to be removed. Do not disturb section A.

19. Wash a sintered glass funnel with chloroform, hexane, and alcohol using a vacuum supply.

20. Scrape the MGA zone with a clean razor blade onto a piece of weighing paper and transfer the scrapings to the sintered glass funnel.

a. Do not rinse the weighing paper with alcohol.

b. Clean razor blade with hexane before and after each sample.

21. Add four 5-milliliter portions of 19:1 ethanol-water, stir with a glass rod, let stand 5 minutes, and filter with vacuum into a 50-milliliter round-bottomed flask using a filtrator.

22. Roto-evaporate the combined filtrates. *Stopping place.* Stopper and store in a refrigerator or deep freeze.

H. Gas liquid chromatography:

1. Transfer the residue from the round-bottomed flask to a Shevky-Stafford tube with four 1-milliliter portions of chloroform.

2. Place the tubes into a water bath (35–40° C.) and evaporate the solvent with a gentle stream of nitrogen, using the miniature jet evaporator.

3. Rinse the sides down with approximately 1 milliliter of chloroform and once again evaporate the solvent.

4. Remove the tube from the evaporator as soon as possible after solvent has been removed.

5. Bring the volume up to the 0.1 milliliter mark with chloroform and swirl with a vortex mixer.

6. On a 2-foot conditioned column, adjust the gas flow and oven temperature to give a 10–15 minute retention time and adjust attenuation to give a peak height of 20–35 millimeters for 0.1 micrograms of MGA.

a. Suggested parameters are: Oven temperature, 210°–225° C; detector temperature, 275°–280° C; inlet temperature, 255° C; carrier gas flow for helium, 60–120 milliliters per minute, for hydrogen, 40–60 milliliters per minute, for air, 300 milliliters per minute; chart speed, 0.25–0.5 inch per minute.

b. Do not exceed an oven temperature of 230° C.

7. Inject 10 microliters of stock solution D and measure the peak height in millimeters.

8. Inject 10 microliters of the sample and measure the peak height in millimeters.

9. For fat samples or problem samples use the 3-foot column providing a longer retention time of 16–20 minutes.

VI. *Calculations.* Calculate the parts per billion MGA by the following formula:

$$\text{Parts per billion} = \frac{\text{Peak height of unknown}}{\text{Peak height of standard}} \times 33.3$$

VII. *Recovery study.* A. Fortification of reagent blank:

1. For those using this method for the first time either for recovery study or tissue assay, a solvent blank and solvent fortified with MGA should be processed through the entire procedure. This preliminary operation will establish whether or not the procedure is free from contamination arising from solvents and glassware and demonstrate the level of recovery of standard MGA. Level of recovery should be in the same range as the samples.

2. Place 175 milliliters of 190 proof ethanol into the homogenizer.

3. To another 175 milliliters of 190 proof ethanol in a homogenizer cup add 1 milliliter of stock solution B.

4. Assay both samples as described in the procedure beginning with the extraction step V–C4.

B. Fortification of the samples:

1. Weigh 60-gram portions of the unfortified tissue into homogenizer cups and set half of them aside to serve as tissue blanks.

2. Add to the remaining samples 1 milliliter of stock solution B to serve as fortified samples to which 25 parts per billion have been added.

3. Assay both fortified and unfortified tissue as described in the procedure section beginning with the extraction step V–C3 or the extraction step V–D2, whichever is appropriate.

§ 135g.57 Sulfadimethoxine.

Tolerances are established for residues of sulfadimethoxine in edible products of animals as follows:

(a) In the uncooked edible tissues of chickens, turkeys, and cattle at 0.1 part per million (negligible residue).

(b) In milk at 0.01 part per million (negligible residue).

§ 135g.58 Sulfomyxin.

A tolerance of zero is established for residues of sulfomyxin (N-sulfomethylpolymyxin B sodium salt) in uncooked edible tissues from chickens and turkeys.

§ 135g.59 Sulfanitran.

A tolerance of zero is established for residues of sulfanitran (acetyl(*p*-nitrophenyl) sulfanilamide) and its metabolites in the uncooked edible tissues of chickens.

§ 135g.60 Aklomide.

A tolerance of zero is established for residues of aklomide (2-chloro-4-nitrobenzamide) and its metabolites in the uncooked edible tissues of chickens.

§ 135g.61 Metoserpate hydrochloride.

A tolerance of 0.02 part per million is established for negligible residues of metoserpate hydrochloride (methyl-o-methyl-18-epireserpate hydrochloride) in uncooked edible tissues of chickens.

§ 135g.62 Clopidol.

Tolerances for residues of clopidol 3,5 - dichloro-2,6-dimethyl-4-pyridinol) in food are established as follows:

(a) In cereal grains, vegetables, and fruits: 0.2 part per million.

(b) In chickens:

(1) 15 parts per million in uncooked liver and kidney.

(2) 5 parts per million in uncooked muscle.

(c) In cattle, sheep, and goats:

(1) 3 parts per million in uncooked kidney.

(2) 1.5 parts per million in uncooked liver.

(3) 0.2 part per million in uncooked muscle.

(d) In swine: 0.2 part per million in uncooked edible tissues.

(e) In milk: 0.02 part per million (negligible residue).

§ 135g.77 Sulfachlorpyridazine.

A tolerance of 0.1 part per million is established for negligible residues of sulfachlorpyridazine in uncooked edible tissues of calves and swine.

Since this order recodifies and rearranges existing material without significant change, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

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

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–51; 21 U.S.C. 360b, 371(a))

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-13187; Filed, Oct. 1, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 884—DELIVERY OF AIR FORCE PERSONNEL TO U.S. CIVILIAN AUTHORITIES FOR TRIAL

Miscellaneous Amendments

The heading of Part 884 of Title 32 of the Code of Federal Regulations is amended to read as set forth above.

Sections 884.4, 884.5, 884.6, 884.7, and 884.8 are revised to read as follows:

§ 884.4 Policy.

(a) *Requests by Federal authorities for personnel stationed within the United States, and its possessions.* Air Force policy is to deliver members of the Air Force to such authorities upon their request when the request is accompanied by a warrant for the member's arrest issued pursuant to the Federal Rules of Criminal Procedure, 18 U.S.C. Appendix, or when the requesting officer represents that such a warrant has been issued.

(b) *Requests by authorities of the State in which the member requested is located.* (1) Offenses punishable by imprisonment for more than 1 year. Air Force policy is to turn over to the civil authorities of the State, upon their request, members of the Air Force charged with an offense against civil authority punishable by imprisonment for more than 1 year, when such request is accompanied by a copy of the indictment, information, or other document which may be used in the particular jurisdiction to prefer formal charges of the commission of a criminal offense.

(2) Offenses punishable by imprisonment for 1 year or less. Upon request of civil authorities for the delivery of a member charged with an offense against civil authority punishable by imprisonment for 1 year or less, the commander authorized to deliver will exercise his discretion after consideration of the nature of the offense charged, other facts and circumstances, and the existing military situation. The request for delivery will be accompanied by a copy of the information or other document which may be used in the particular jurisdiction to prefer formal charges.

(c) *Request for delivery by authorities of any other State.* With respect to extradition process, military personnel have the same status as persons not in the Armed Forces. Accordingly, if the delivery of an Air Force member is requested by a State other than the State in which he is located, the authorities of the requesting State will be required, in the absence of a waiver of extradition process by the member concerned, to

complete extradition process according to the prescribed procedures to obtain custody of a person from the State in which the individual is located and to make arrangements to take the individual into custody there. It is contrary to Air Force policy to transfer an Air Force member from a station within one State to a station within another State for the purpose of making him amenable to prosecution by civil authorities.

(d) *Requests for custody of members stationed outside the United States.* All such requests will be forwarded to Hq USAF/JAJ for appropriate action.

§ 884.5 Procedure for delivery.

(a) *Delivery to State authorities.* Before making delivery to civil authorities of a State, the commander having authority to deliver will obtain from the Governor or other duly authorized officer of such State, a written agreement substantially in the following form:

In consideration of the delivery at _____ of (Name, Grade, and Social Security Account Number, U.S. Air Force, to me, (Name and capacity) _____, for trial upon the charge of _____ I hereby agree, pursuant to the authority vested in me as _____ that the commander of _____ will be informed of the outcome of the trial and that said _____ will be returned to Air Force authorities at the aforesaid place of his delivery, or to such other place as may be designated by the Department of the Air Force, or issued transportation thereto without expense of the United States or to the person delivered, immediately upon completion of his trial upon the charge aforesaid in the event that he is acquitted upon said trial, or immediately upon satisfying the sentence imposed, or upon other disposition of his case, unless the Air Force authorities shall have indicated that return is not desired. Pending disposition of the charge aforesaid, _____ will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or his own recognizance, in which event (Air Force Unit, Activity, or Recruiting Office nearest place of trial), will be notified.

Where, under the laws of the State concerned, no authority exists permitting agreement to one or more of the conditions set out in the form, appropriate modification may be authorized by the commander. The Air Force considers this agreement substantially complied with when the Air Force authority who delivered the accused is informed of his prospective release for return to Air Force authorities, and when the individual is furnished transportation back to his station together with necessary funds to cover his incidental expenses en route thereto.

(b) *Delivery to Federal authorities.* Persons desired by the Federal authorities for trial will be called for and taken into custody by a U.S. marshal, deputy marshal, or other officer authorized by law. Request officer taking custody to execute statement in substantially the following form:

A warrant for the arrest of (Name, Grade, and Social Security Account Number) upon the charge of _____ has been issued by _____ and in execution thereof, I accept custody of (Name) _____. The commander, _____, will be advised of the outcome of the trial and _____ will be returned to the custody of the Air Force at (Air Force Unit, Activity, or Recruiting Office nearest place of trial) immediately upon completion of his trial upon the charge aforesaid in the event that he is acquitted upon said trial, or immediately upon satisfying the sentence imposed, or upon other disposition of his case, unless the Air Force authorities shall have indicated that return is not desired. Pending disposition of the charge aforesaid, _____ will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or his own recognizance, in which event (Air Force Unit, Activity, or Recruiting Office nearest place of trial) will be notified.

Furnish officer with copies for authorities concerned.

§ 884.6 Procedure upon refusal of request.

In any case where a request is made for delivery to the civil authorities of a State or to the Federal authorities, and such request is refused, the circumstances of the case and the basis for the refusal will be reported without delay to Hq USAF/JAJ through, when applicable, the officer exercising general court-martial jurisdiction.

§ 884.7 Release on bail or recognizance.

The civil authority to which an Air Force member is delivered under this part may release the member on bail or his own recognizance before final disposition of the charges against him. The commander authorized to deliver or his designee will, before delivery, direct the member in writing to report to a designated Air Force unit, activity, or recruiting office for further instructions should he be so released. If the civil authority to which delivery was authorized is in the immediate vicinity of the member's station, the activity designated ordinarily will be the member's unit. The designated authority will be advised of this action. The authority to whom the member reports will communicate, by the fastest practicable means, the member's name, rank, SSAN, organization, and other pertinent information to and request disposition instructions from the commander who authorized the member delivered to civil authorities. If contact with such commander is not feasible, instructions will be obtained from USAFMPC/AFP MPKA.

§ 884.8 Cases involving special circumstances.

The policies stated in § 884.4 are intended to provide guidance only and are not to be considered as providing a solution for every case. In cases involving special circumstances, the commander authorized to deliver may transmit the request to Hq USAF/JAJ for determination of appropriate action.

(Secs. 8012, 814, 70A Stat. 488, 41; 10 U.S.C. 8012, 814)

For the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70-13177; Filed, Oct. 1, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17159; FCC 70-1042]

OPERATION OF LOW POWER FM BROADCAST TRANSLATOR AND BOOSTER STATIONS

Report and Order

In the matter of amendment of Part 74 of the Commission's rules and regulations to permit the operation of low power FM broadcast translator and booster stations, Docket No. 17159, RM-909.

1. The Commission has before it for consideration its notice of inquiry, released February 6, 1967 (FCC 67-152), and its notice of proposed rule making (FCC 69-33, 34 F.R. 761, released Jan. 15, 1969), proposing to amend Part 74 of the Commission's rules to authorize FM broadcast translator stations and FM broadcast booster stations. In addition to the parties who filed comments in connection with our notice of inquiry, 27 parties filed comments in response to the notice of proposed rule making. Inasmuch as we noted in the notice of proposed rule making that we had considered all of the comments filed in response to the notice of inquiry, we here consider only those additional comments filed in response to the notice of proposed rule making. The list of parties responding is attached hereto as Appendix I.[1]

2. *Frequency assignment.* We are persuaded that a need has been established for FM broadcast translator stations and FM booster stations to provide FM radio service to areas and populations which are unable to receive satisfactory service by reason of distance or intervening terrain obstructions. Accordingly, we are amending Part 74 of the Commission's rules to add Subpart L, authorizing low-power FM broadcast translator stations and FM booster stations. Commercial FM broadcast translator stations will be authorized only on Class A channels which are so designated in § 73.206(a)(1) of the Commission's rules; noncommercial educational FM translators will be authorized on the 20 FM channels (channels 201 through 220, 88.1 MHz through 91.9 MHz) reserved for noncommercial educational use, but will also be authorized on the commercial Class A channels. We will not accept for filing any application proposed for an

[1] Filed as part of the original document.

FM translator to rebroadcast a commercial FM station on a channel reserved for noncommercial educational use. Channels 201 through 260 will not be asisgned for FM translator use in Alaska because those frequencies (88.1 MHz through 99.9 MHz) are allocated for government radio services and nongovernment fixed service in Alaska. Channels 251 through 300 will not be assigned for FM translator use in Hawaii because those frequencies (98.1 MHz through 107.9 MHz) are reserved for nonbroadcast use in Hawaii. Assignments will be made for FM translator stations on the designated Class A channels irrespective of whether those channels are assigned to a community listed in the FM Table of Assignments. Some of the comments received in this proceeding urged that commercial FM translators not be confined to the 20 Class A channels, but we are of the view that, for the time being, these frequencies will be sufficient for FM translators and represent less of a potential for interference. Of course, should experience dictate that additional frequencies be made available, we will give the matter further study with a view toward removing the restrictions by a rule-making proceeding.

3. *Interference.* FM translators, like television translators, will be authorized on a no-interference basis. An FM translator will be authorized subject to the condition that it will not cause interference to off-the-air reception by the public of the signals of any other authorized station. Because of the potential for interference to reception of the signals of television stations or television broadcast translator stations operating on Channels 6–13, our rules will be phrased to provide that FM translators shall protect television translator stations against interference to reception of their transmitted signals. Because the sources of aural broadcast signals may be more numerous than television signals, we think it important to make it clear that a television translator station's input signal must be protected against interference by an FM translator station.

4. *Purpose and permissible service.* We do not propose to prohibit the use of FM translators to relay the signals of an FM radio broadcast station or another FM translator station to a more distant FM translator, so long as this is not the sole purpose of the station. We believe that, to the extent a translator station provides a service to the public which it would not otherwise receive, the public benefits and there is no valid reason to preclude a station because its incidental or primary purpose is as a relay. We anticipate that, as in the case of UHF television translators, there may be a problem of financial support for community-sponsored FM translator stations and we have, therefore, provided for local origination of voice announcements soliciting or acknowledging local public financial support. We see no need for this practice by station-owned FM translators, but we have imposed no restriction on such use. Where necessary to raise sufficient funds to maintain and operate a community-sponsored FM translator, the announcements may be commerical advertising matter. The translator licensee who seeks to originate local announcements for the purpose of soliciting or acknowledging public financial support need not obtain prior authorization. However, only equipment which has been specifically type-accepted for this purpose may be used.

5. *Eligibility and licensing requirements.* Our new rules provide that more than one FM translator will be authorized to the same party whether or not the translators will serve the same area, upon an appropriate showing of the need for the additional station or stations. The need will be presumed where the translators will rebroadcast different primary stations; a showing of need will be required only where the same programing would be provided to substantially the same area or where the question of need is raised by a party in interest who objects to grant of the application and makes a prima facie showing of the lack of need for the proposed new FM translator.

6. Some of the comments indicated a belief that commercial FM translators should not be restricted to the area within the primary station's predicted 1 mv/m field strength contour. Because we recognize that community-sponsored FM translators will be requested only where there is a real public demand, we will impose no restriction on the location of the areas they will serve. FM translators may not, however, be used by FM station licensees as a competitive means to expand a primary station's service area and, for this reason, we believe that areas to be served by station-owned FM translators must be confined to the predicted 1 mv/m field strength contour of the primary station and used as a "fill-in" service. The same considerations do not exist with respect to areas beyond a primary station's predicted 1 mv/m field strength contour where there is no other predicted FM radio service. Of course, no similar restrictions will be imposed in the location of FM translators rebroadcasting noncommercial educational FM broadcast stations. The 1 mv/m field strength contour will be the predicted contour as determined by the procedures set forth in § 73.313 of the Commission's rules and, for the purpose of determining whether an FM translator station or booster station will serve an area located within its primary station's 1 mv/m field strength contour, alternative methods will not be permitted. In short, the contour, for this purpose, will be the predicted contour without regard to any terrain-limiting factors.[3]

7. In the notice of proposed rule making, we proposed to adopt § 74.1232(e) which would provide that the Commission will not act upon applications for new stations in this service or for changes in existing translators where such changes will result in an increase in signal range in any horizontal direction until 30 days after the Commission gives public notice of the acceptance of such an application for filing. We have decided not to adopt this part of the proposed rules because our experience in television translators indicates that it is not necessary. The Commission is prohibited by section 309(b) of the Communications Act from granting an application for a new broadcast station less than 30 days after the Commission gives public notice of the acceptance of the application for filing. With respect to a modification application which would extend signal range in any horizontal direction, we have found that there are seldom any objections and, in any event, the number of pending applications has prevented action on such applications in less than 30 days. Should the situation be different with respect to FM translators or boosters, we would not hesitate to amend the rules accordingly.

8. *Power.* Several comments were addressed to the matter of power limitations on FM translators. After reviewing these comments, we are of the view that there is merit in the arguments that power in excess of 1 watt would represent a more efficient use of frequencies, subject to certain geographical restrictions discussed below. We have decided to allow FM boosters with transmitter power output of up to 10 watts nationwide and FM translators with transmitter power output of up to 10 watts west of the Mississippi River except for Zone I–A. East of the Mississippi River and in Zone I–A, power will be limited to 1 watt. There will be no limit on effective radiated power which may be obtained by the use of directive transmitting antennas. One of the reasons for limiting power to 10 watts is that we do not visualize translators as devices to provide wide area coverage and regular FM radio stations are available for higher power service. East of the Mississippi and in Zone I–A, the frequency congestion is such that we believe it necessary to restrict power in order to avoid a multitude of interference problems. FM translators proposed within 20 miles of the Canadian border are subject to coordination with the Canadian government. Until an agreement can be reached with the Government of Mexico, no application for an FM translator will be accepted for filing which proposes to serve an area within 200 miles of the Mexican border or, if inadvertently accepted for filing, will not be granted. Applicants seeking FM translators with power of 10 watts will be expected to make thorough frequency searches to ascertain the possibility of interference to any authorized broadcast or licensed nonbroadcast service (including government stations), and be prepared to demonstrate, in their applications, the extent of such frequency searches. The same limitations will be applicable to FM booster stations.

[3] In the case of an FM broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, an FM booster station will only be authorized within the 1 mv/m contour as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM station concerned.

9. We have provided for the use of multiple output amplifiers with FM translators and boosters: *Provided, however*, That each 10-watt amplifier and, east of the Mississipi River and in Zone I–A, each 1-watt amplifier, must be used to serve a separate community or area. The transmitting antennas must be so designed and installed as to prevent reinforcement of the radiated signals to achieve effective radiated power in any direction in excess of that which could be achieved with a single antenna of the same design fed by a radiofrequency amplifier with power output not in excess of 10 watts west of the Mississippi River (except for Zone I-A) or not in excess of 1-watt east of the Mississippi River and in Zone I–A. A 1-watt FM translator or booster, using a multiple output amplifier, which serves an area west of the Mississippi outside of Zone I–A will not be restricted by this rule if the combination of all of its outputs could not exceed 10 watts. Thus, we do not mean to impose these limits on 1-watt stations west of the Mississippi outside of Zone I–A.

10. *Equipment.* The transmitting apparatus to be employed by an FM translator must be type accepted. An application specifying transmitting apparatus which is not type accepted will not be accepted for filing, as of the effective date of these rules. No change may be made in type accepted transmitting apparatus without grant of authority to make the change. Our rules with respect to the changes in equipment for which authority must be sought by formal application will conform to the television translator rules and are set forth in § 74.1251.

11. *Time of operation.* Translators are not, of course, expected to adhere to any regular schedule of operation. Each station, however, is expected to provide a dependable service and licensees will be held responsible for unwarranted interruptions of service. License renewal applications will contain a question requiring the applicant to account for time that the translator has been inoperative during the prior license period, whether for reasons within the licensee's control or for reasons beyond the licensee's control. If an FM translator is inoperative for a period in excess of 10 days, whatever the reason, the licensee must notify the Engineer in Charge of the radio district[3] in which the translator is located, in writing, describing the cause of inoperation and the steps being taken to place the station back into regular operation. The licensee must notify the Engineer in Charge promptly upon resumption of operation. In the event that a translator station is inoperative for 30 days, except for causes beyond the licensee's control, such inoperation shall be deemed evidence of discontinuance of operation and the license of the station will be cancelled and its call letter deleted. Evidence of continued equipment failure or unsatisfactory service for any reason shall be cause for the Commission to require immediate remedial measures or suspension of operation until satisfactory operation can be resumed with the assurance of satisfactory service thereafter.

12. *Operator requirements.* Section 318 of the Communications Act requires that the operation of every broadcast station, with the specific exception of television broadcast stations engaged solely in rebroadcasting, be placed in charge of a licensed operator. The Commission cannot, of course, waive this statutory requirement, although we are now preparing a proposal for submission to Congress to amend the statute to allow a similar exception for FM translators. Until Congress changes the law, a licensed radiotelephone operator is required. As indicated in our notice of proposed rule making (paragraphs 14–16), a person holding a valid restricted radiotelephone operator permit will satisfy this requirement. We proposed that this operator observe the operation of the translator at least every 6 hours, beginning at 8 a.m. or when the primary station commences operation, whichever is later, and ending at 10 p.m. In the event of malfunction, the operator would be required to discontinue operation of the translator until it can be placed in proper operating condition.

13. The National Association of Broadcasters expressed the view that these requirements are wholly unrealistic because what is being asked of the licensed operator is to perform a listening function, a function which will be performed, in any event, by thousands of ordinary listeners and if there is malfunction, ordinary listeners are likely to make the condition known. NAB believes that the requirement for observation at specified times may deter the employment of persons holding restricted permits because these persons would have other regular employment and may also impede the use and development of FM translators. NAB suggests, therefore, that the rule require only that a person holding a restricted permit make observations as frequently as necessary to assure that the station is functioning properly.

14. The observations of the operation of the translator and booster stations which the rules would require do not necessarily involve on-site inspection of the transmitting equipment. We believe that the requirements of the Communications Act will be satisfied by aural monitoring by use of a conventional FM broadcast receiver. Accordingly, our rules will provide that an operator holding a Restricted Radiotelephone Operator Permit or higher grade license will monitor the operation of the FM translator or booster at least once every 6 hours beginning at 8 a.m. or when the primary station commences operation whichever is later, and ending at 10 p.m. These requirements are expected to be temporary and will be removed if the Communications Act is amended to provide an exception for FM translators as is now provided for television translators.

15. *Other rule changes.* As indicated in our notice of proposed rule making, other changes in the rules will be necessary to effectuate the new FM translator service. The rule changes are shown in Appendix II set forth below, but some of the changes require some discussion.

A. *Section 74.15.* This section of the rules will be amended to provide that the licenses of FM translator stations will expire in each State on the same dates as those of television translator stations in the same States. A list of license expiration dates is attached as Appendix III.[4]

B. *Sections 1.533, 1.536, and 1.539.* These sections of the rules are concerned with application forms. The existing forms now used by applicants for television translator stations will be modified to enable them to be used by applicants for FM translator stations. Sections 1.533(a)(8), 1.536(a)(7), and 1.539(d)(7) will be amended to include FM translators; §§ 1.533(a)(9), 1.536(a)(8), and 1.539(d)(8) will be added to provide for application forms for FM broadcast booster stations.

C. *Section 1.573(a)(1).* This section of the rules defines a major change in FM broadcast stations. It will be amended to add the following immediately preceding the proviso: "In the case of FM translator stations authorized under Part 74 of this chapter, it is any change in frequency (output channel), primary station, or principal community or communities". Any change other than the specified changes will be a minor change, including a change in input channel where no change in primary station is involved.

D. *Section 74.1202(b)(3).* The proposed new rules concerning frequency assignment are to be designated as § 74.1202. Paragraph (b) of this rule is concerned with channels on which FM translators will be permitted to operate, as discussed in paragraph 2, supra. We will add a paragraph (b)(3) to restrict the use of channels in Alaska and Hawaii for FM translator use as discussed in paragraph 2, supra. Channel assignment and use by FM translators and boosters will, of course, be subject to the outcome of the proceedings in Docket No. 14185, proposing a Table of Assignments for noncommercial educational FM broadcast stations, and will also be subject to the outcome of negotiations being conducted with the governments of Mexico and Canada concerning FM broadcast stations in close proximity to the borders of these nations.

E. *Section 1.580.* Those subsections of § 1.580 which are concerned with the requirement of publication of local public notice of the filing of an application for a new television broadcast translator station or for a major change in an existing television translator station will be amended to include FM translators and boosters. Paragraphs (c) and (d) contain publication and broadcast provisions relating to various types of applications and each contains an exception for television broadcast translator stations; paragraph (g), which sets forth what is required to be contained in the

[3] The address of the Engineer in Charge of each radio district may be found in § 0.121 of the Commission's rules.

[4] Filed as part of the original document.

local public notice, is presently applicable only to television translator stations. Finally, paragraph (h) requires the filing of proof of publication in triplicate. Our experience with television translator stations has shown that only one copy is necessary and we will, therefore, take this opportunity to amend that subsection to require only one copy of proof of publication in connection with TV and FM translators and FM boosters.

F. *Sections 1.526(a); 1.594 (a), (b), and (f); 1.597(a)(1).* Because there is a separate section of the rules governing publication requirements for translators, these sections of the rules contain certain specific exceptions for television translator stations. Each will be amended to include exceptions for FM translators and boosters, except that § 1.597(a)(1) will be amended to add boosters only.

G. *Section 74.1283.* In our notice of proposed rule making, we proposed to authorize FM translators and boosters with transmitter power output not to exceed 1 watt. For this reason, we did not believe that we should require that FM translators or boosters be identified. In view of the fact that our new rules will permit FM translators and boosters of up to 10 watts, we find it necessary to add a new section to the rules which will be concerned with station identification. We think that, to the extent possible, station identification rules for FM translators should conform closely to the recently revised rules for identification of TV translator stations (Report and Order in Docket No. 18568, 20 FCC 2d 858, 17 RR 2d 1699). Accordingly, the new rules will provide that FM translator stations operating with transmitter power output of 1 watt will not be required to be identified, although we would urge that identification be accomplished on a voluntary basis by the primary station. FM translators of more than 1 watt may make arrangements to be identified by the primary station. The licensee's responsibility will be to furnish and keep on file with the primary station current information regarding the translator's or booster's call letters, exact location, and the name, address, and telephone number of the person who may be contacted in an emergency to suspend operation of the station. While our experience with the newly revised television translator identification rules is negligible at this time, we believe that FM translator operators will find identification by primary station to be the simplest method of identification and the instances where self-identification will be necessary are expected to be rare. Where suitable arrangements cannot be made for identification by primary station or where, for any other reason, self-identification becomes necessary, the same alternative methods of identification will be available for FM translators as are now available for television translators, i.e., frequency shift keying (FSK) or amplitude modulation of the FM carrier. Separate identification of FM booster stations will not be required since they will be identified by the primary station when it broadcasts its own call letters.

16. *Call signs.* Call signs will be assigned to FM translator stations in much the same manner as in the case of television translator stations. FM translator call signs will consist of a single letter designating its location with respect to the Mississippi River, followed by three digits indicating the output channel on which it operates, and this will be followed by two letters assigned in the order in which the station is authorized. For example, an FM translator located west of the Mississippi River will be designated with the letter "K" and one east of the Mississippi River will have the initial letter "W". K221AA would indicate an FM translator west of the Mississippi River operating on Channel 221, the first such station authorized. The next such station operating west of the Mississippi River on Channel 221 would have the call sign K221AB. There is no need to distinguish commercial from noncommercial educational since normally the channel numbers themselves will be sufficient distinction, there being only certain channels which will be used by noncommercial educational FM translators in most cases.

17. *FM booster stations.* For ease of administration, we have integrated the rules relating to FM booster stations into the new subpart L with the FM translator rules. Except as specifically indicated in the rules, the same rules, procedures and policies will apply to FM boosters as to FM translators. For this reason, we here discuss only those aspects of FM boosters which differ from FM translators.

18. FM booster stations will be authorized only to the licensee or permittee of the FM radio broadcast station whose signals the booster station will rebroadcast. The booster station will operate on the same output frequency as the primary station and the identification requirements will be satisfied when the primary station broadcasts its own call letters; separate identification will not be necessary. Since FM boosters will be available only to the licensees of FM radio broadcast stations, the same restrictions with respect to location within the primary station's predicted 1 mv/m field strength contour will apply as applies with respect to licensee-owned FM translators, except that an FM booster station will be permitted to serve only an area within its primary station's predicted 1 mv/m field strength contour.[3] The license of an FM booster will expire on the same date as the license of its primary station.

19. An FM booster station will be permitted to rebroadcast only the signals of its primary station, received directly off the air; an FM booster station will not be permitted to rebroadcast the signals of an FM translator station or another FM booster station. Because the information required of an applicant for an FM booster station will be substantially less than that required of an applicant for an FM translator station, different application forms will be used in connection with FM boosters.

20. It must be recognized that, by the indiscriminate use of an FM broadcast booster, an FM station can actually degrade its own service. This occurs when signals from the primary station and the booster arrive at a receiver with relatively equal amplitudes, but different phases, because of unequal path lengths. Due consideration must be given to the engineering aspects of the booster installation to insure that degraded areas are kept to a minimum. This objective can be aided by the judicious choice of a transmitter location to take advantage of terrain shielding, and the selection of a suitable transmitting antenna with the proper directional qualities to provide radiation toward those areas where service is desired and away from areas where interference would occur.

21. *Miscellaneous matters.* Applications filed pursuant to Subpart L of the rules will be subject to the provisions of § 1.70 of the Commission's rules, relating to the location of transmitting apparatus on lands administered by the U.S. Government. Application forms will be revised to provide a section for applicants to indicate compliance with the provisions of that rule.

22. Generally, we have adopted the rules as proposed in the notice of proposed rule making, with the additions and changes indicated in preceding paragraphs of this document. The proposed wording of many of the rules has, however, been altered to conform them, where applicable, to the existing rules for television broadcast translator stations. Such changes have been made, for example, in § 74.1203 of the new rules, which is concerned with interference.

23. We find that it is in the public interest to amend Part 74 of the Commission's rules to add Subpart L authorizing FM broadcast translator stations and FM broadcast booster stations. Accordingly, *It is ordered*, That, pursuant to authority contained in section 4(i) and section 303 (a) through (g) and (r) of the Communications Act of 1934, as amended, the rule amendments set out below, are adopted, effective November 6, 1970, and that this proceeding is terminated.

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

Adopted: September 23, 1970.

Released: September 29, 1970.

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

PART 0—COMMISSION ORGANIZATION

1. Part 0 of the Commission's rules and regulations is amended as follows:

In § 0.281(a), subparagraph (1) is amended to read as follows:

§ 0.281 Authority delegated.

* * * * *

[3] See Footnote 2, supra.

(a) * * *

(1) For construction permits for new or changed standard, FM, noncommercial educational FM, television, television translator, FM translator, FM booster facilities, and UHF television booster facilities, or for modification thereof; for licenses or modification thereof; or for renewal of licenses for such facilities for the normal license term, which applications comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, are not mutually exclusive with any other application, and concerning which no petition to deny pursuant to § 1.580 of this chapter or other substantial objection has been filed.

* * * * *

PART 1—PRACTICE AND PROCEDURE

II. Part 1 of the Commission's rules and regulations is amended as follows:

1. In § 1.526, the introductory text of paragraph (a) is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) of this paragraph, and every permittee or licensee of a station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraphs (1), (2), (3), and (4) of this paragraph: *Provided, however,* That the foregoing requirements shall not apply to applicants for or permittees or licensees of television broadcast translator stations, FM broadcast translator stations, or FM broadcast booster stations. The material to be contained in the file is as follows:

* * * * *

2. In § 1.533(a), subparagraph (8) is amended and a new paragraph (9) is added to read as follows:

§ 1.533 Application forms for authority to construct a new station or make changes in an existing station.

(a) * * *

(8) FCC Form 346 "Application for Authority to Construct or Make Changes in a Television or FM Broadcast Translator Station."

(9) FCC Form 349P "Application for Authority to Construct or Make Changes in an FM Broadcast Booster Station."

* * * * *

3. In § 1.536(b), subparagraph (7) is amended and a new subparagraph (8) is added to read as follows:

§ 1.536 Application for license to cover construction permit.

* * * * *

(b) * * *

(7) FCC Form 347 "Application for Television or FM Broadcast Translator Station License."

(8) FCC Form 349L "Application for FM Broadcast Booster Station License."

4. In § 1.539(d), subparagraphs (7) and (8) are amended to read as follows:

§ 1.539 Application for renewal of license.

* * * * *

(d) * * *

(7) FCC Form 348 "Application for Renewal of Television or FM Broadcast Translator Station License."

(8) FCC 349R "Application for Renewal of FM Broadcast Booster Station License."

5. In § 1.573(a), subparagraph (1) is amended to read as follows:

§ 1.573 Processing of FM and noncommercial educational FM broadcast applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, i.e., (i) any change in frequency, station location or class of station, and (ii) any change in power, antenna height above average terrain and/or antenna location, if the change or combination of changes results in a change of 50 percent or more in the area within the station's predicted 1 mv/m field strength contour; in the case of FM translator stations authorized under Part 74 of this chapter, it is any change in frequency (output channel), primary station, or authorized principal community or area: *Provided, however,* That the Commission may, within 15 days after the tender for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.580.

* * * * *

6. In § 1.580, the introductory texts of paragraphs (c), (d), and (g), and paragraph (h) are amended to read as follows:

§ 1.580 Local notice of the filing of broadcast applications, and timely filing of petitions to deny them.

* * * * *

(c) Except as otherwise provided in paragraph (e) of this section, an applicant filing any application or an amendment thereto which is subject to the provisions of this section (except for applications for stations in the international broadcast service, television translator stations, FM translator stations, and FM booster stations) shall cause to be published a notice of such filing as follows: Notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the tendering for filing of such application or amendment, or at least twice a week for 2 consecutive weeks within the 3-week period immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located: *Provided, however,* That if there is no such daily newspaper published in the community, the notice shall be published as follows:

* * * * *

(d) If the application seeks modification, assignment or transfer of an operating broadcast station (except for applications for stations in the international broadcast service, television translator stations, FM translator stations and FM booster stations), or is an amendment of an application for renewal of a broadcast station license, the applicant shall, in addition to publishing a notice of such filing as provided in paragraph (c) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the tendering for filing of such application, or in the second week immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578. In the case of applications for the renewal of broadcast station licenses, but not amendment thereof, notice shall be broadcast at least once daily on 4 days of any single week starting not more than 45 days prior to the due date for filing the renewal application. In the case of television broadcast stations and noncommercial educational television broadcast stations, such notice shall be broadcast orally with camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

* * * * *

(g) An applicant filing an application or an amendment thereto for a television broadcast translator station, an FM broadcast translator station, or an FM broadcast booster station which is subject to this section shall cause to be published a notice of such filing at least once during the 2-week period immediately following the tendering for filing of such application or major amendment, or, when an applicant is specifically advised by the Commission that public notice is required in a particular case pursuant to § 1.572, such notice shall be published at least once during the 2-week period immediately following Commission notification, in a daily, weekly or biweekly publication having general circulation in the community or area to be served: *Provided, however,* That, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

* * * * *

(h) Within 7 days of the last day of publication or broadcast of the notice required by paragraphs (c), (d), or (g) of this section, the applicant shall file a statement with the Commission (in triplicate if filed pursuant to paragraph (c) or (d); original only, if filed pursuant to paragraph (g) of this section, setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable the dates

and times that the notice was broadcast and the text thereof. When public notice is given by other means, as provided in paragraph (g) of this section, the applicant shall file, within 7 days of the giving of such notice, the text of the notice, the means by which it was accomplished, and the date thereof.

* * * * *

7. In § 1.594, the introductory texts of paragraphs (a), (b), and (f) are amended to read as follows:

§ 1.594 Local notice of designation for hearing.

(a) Except as otherwise provided in paragraph (c) of this section, when an application subject to the provisions of § 1.580 (except for applications in the international broadcast service, for television translator stations, FM translator stations and FM booster stations) is designated for hearing, the applicant shall cause to be published a notice of such designation as follows: Notice shall be published at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located: *Provided, however,* That if there is no such daily newspaper published in the community, the notice shall be published as follows:

* * * * *

(b) When an application which is subject to the provisions of § 1.580 and which seeks modification, assignment, transfer, or renewal of an operating broadcast station is designated for hearing (except for applications in the international broadcast service, for television translator stations, FM translator stations, and FM booster stations), the applicant shall, in addition to publishing a notice of such designation as provided in paragraph (a) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the release of the Commission's order specifying the time and place of the commencement of the hearing. In the case of television broadcast stations and noncommercial educational television broadcast stations, such notice shall be broadcast orally with camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

* * * * *

(f) When an application for a television broadcast translator station, an FM broacast translator station, or an FM broadcast booster station which is subject to the provisions of § 1.580 is designated for hearing, the applicant shall cause to be published a notice of such designation as follows: Notice shall be published at least once during the 2-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing in a daily, weekly, or biweekly publication having general circulation in the community or area to be served: *Provided, however,* That, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

* * * * *

8. In § 1.597(a), subparagraph (1) is amended to read as follows:

§ 1.597 Procedures on transfer and assignment applications.

(a) * * *

(1) The application involves a translator station or FM booster station only, or an FM station operate for at least 3 years together with a Subsidiary Communications Authorization held for a lesser period; or

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

III. Part 74 of the Commission's rules is amended as follows:

1. In § 74.15, paragraph (c) and the introductory text of paragraph (d) are amended to read as follows:

§ 74.15 License period.

* * * * *

(c) The license of an FM broadcast booster station will be issued for a period running concurrently with the license of the FM radio broadcast station (Primary Station) with which it is used.

(d) Initial licenses for television broadcast translator stations and FM broadcast translator stations will ordinarily be issued for a period running until the date specified in this section for the State or territory in which the station is located or, if issued after such date, to the next triennial renewal date determined in accordance with this section; and, when renewed, will normally be renewed for 3 years; *Provided, however,* That, if the Commission finds that the public interest, convenience or necessity will be served, thereby, it may issue either an initial license or a renewal thereof for a lesser term. The time of expiration of normally issued initial and renewed licenses will be 3 a.m., local time, on the following dates, and at 3-year intervals thereafter:

* * * * *

2. A new Subpart L is added to read as follows:

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

DEFINITIONS AND ALLOCATIONS OF FREQUENCIES

Sec.
74.1201 Definitions.
74.1202 Frequency assignment.
74.1203 Interference.

ADMINISTRATIVE PROCEDURE

Sec.
73.1211 Cross reference.

LICENSING POLICIES AND GENERAL OPERATING REQUIREMENTS

74.1231 Purpose and permissible service.
74.1232 Eligibility and licensing requirements.
74.1234 Unattended operation.
74.1235 Power limitations.
74.1236 Emissions and bandwidth.
74.1237 Antenna location.

EQUIPMENT

74.1250 Equipment and installation.
74.1251 Equipment changes.

TECHNICAL OPERATION AND OPERATORS

74.1261 Frequency tolerance.
74.1262 Frequency monitors and measurements.
74.1263 Time of operation.
74.1264 Station inspection.
74.1265 Posting of station license.
74.1266 Operator requirements.
74.1267 Marking and lighting of antenna structures.
74.1268 Additional orders.
74.1269 Copies of rules.

OTHER OPERATING REQUIREMENTS

74.1281 Station records.
74.1283 Station identification.
74.1284 Rebroadcasts.

AUTHORITY: The provisions of this Subpart L issued under sec. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

DEFINITIONS AND ALLOCATIONS OF FREQUENCIES

§ 74.1201 Definitions.

(a) *FM translator.* A station in the broadcasting service operated for the purpose of retransmitting the signals of an FM radio broadcast station or another FM broadcast translator station by means of direct frequency conversion and amplification of the incoming signals without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide FM broadcast service to the general public.

(b) *Commercial FM translator.* An FM broadcast translator station which rebroadcasts the signals of a commercial FM radio broadcast station.

(c) *Noncommercial FM translator.* An FM broadcast translator station which rebroadcasts the signals of a noncommercial educational FM radio broadcast station.

(d) *Primary station.* The FM radio broadcast station radiating the signals which are retransmitted by an FM broadcast translator station or an FM broadcast booster station.

(e) *FM radio broadcast station.* When used in this Subpart L, the term FM broadcast station or FM radio broadcast station refers to commercial and noncommercial educational FM radio broadcast stations as defined in § 2.1 of this chapter, unless the context indicates otherwise.

(f) *FM broadcast booster station.* A station in the broadcasting service operated for the sole purpose of retransmitting the signals of an FM radio broadcast station by amplifying and reradiating such signals which have been received directly through space from the FM radio broadcast station, without significantly altering any characteristic of the incoming signal other than its amplitude.

§ 74.1202 Frequency assignment.

(a) An applicant for a new FM broadcast translator station or for changes in the facilities of an authorized translator station shall endeavor to select a channel on which its operation is not likely to cause interference to the reception of other stations. The application must be specific with regard to the frequency requested. Only one output channel will be assigned to each translator station.

(b) Subject to compliance with all the requirements of this subpart, FM broadcast translators may be authorized to operate on the following FM channels regardless of whether they are assigned for local use in the FM Table of Assignments (§ 73.202(b) of this chapter):

(1) Commercial FM translators: Class A channels so designated in § 73.206(a) (1) of this chapter;

(2) Noncommercial FM translators: The channels available for noncommercial use under § 73.501 of this chapter;

(3) Channels 201–260 (88.1 MHz through 99.9 MHz) are allocated for government radio services and nongovernment fixed service in Alaska and these frequencies will not be assigned for use by FM translators in Alaska. Channels 251 through 300 (98.1 MHz through 107.9 MHz) are allocated for nonbroadcast use in Hawaii and these frequencies will not be assigned for use by FM translators in Hawaii.

(c) No minimum distance separation between FM translators operating on the same channel is specified. However, assignments which will obviously result in mutual interference between translators will not be made.

(d) Adjacent channel assignments will not be made to FM translators intended to serve all or part of the same area.

(e) An FM broadcast booster station will be assigned the channel assigned to its primary station.

§ 74.1203 Interference.

(a) FM translators will be authorized and permitted to continue to operate only where they cause no interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station. FM translators shall not cause harmful interference to the transmissions of any other authorized radio station nor shall an FM translator cause interference to reception by a television broadcast translator station of its input signals. FM translator stations which may cause any such interference will not be authorized.

(b) Interference will be considered to occur whenever reception of a regularly used off-the-air signal by viewers or listeners is impaired by the signals radiated by the translator, regardless of the quality of such reception, the strength of the signals so used, or the channel on which the protected signal is transmitted.

(c) If interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending translator shall be immediately suspended and shall not be resumed until the interference has been eliminated. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. If a complainant refuses to permit the translator licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment to the original reception, the licensee of the translator is absolved of further responsibility.

(d) It shall be the responsibility of the licensee of an FM translator station to correct any condition of interference which results from the radiation of radio frequency energy by its equipment on any frequency outside the assigned channel. Upon notice by the Commission to the station licensee or operator that such interference is being caused, the operation of the translator station shall be immediately suspended and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions by the FM translator station; *Provided, however,* That short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

ADMINISTRATIVE PROCEDURE

§ 74.1211 Cross reference.

See §§ 74.11 to 74.16.

LICENSING POLICIES AND GENERAL OPERATING REQUIREMENTS

§ 74.1231 Purpose and permissible service.

(a) FM translators provide a means whereby the signals of FM broadcast stations may be retransmitted to areas in which direct reception of such FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraphs (f) and (g) of this section, an FM translator may be used only for the purpose of retransmitting the signals of an FM broadcast station or another FM translator station which have been received directly through space, converted, and suitably amplified.

(c) The transmissions of each FM translator shall be intended for direct reception by the general public and any other use shall be incidental thereto. An FM translator shall not be operated solely for the purpose of relaying signals to one or more fixed received points for retransmission, distribution, or further relaying.

(d) The technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on conventional FM broadcast receivers.

(e) An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized by license to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.

(f) A locally generated radio frequency signal similar to that of an FM broadcast station and modulated with aural information may be connected to the input terminals of an FM translator for the purpose of transmitting voice announcements. The radiofrequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast and the duration of such transmissions shall not exceed 20 seconds at intervals of no less than one hour. Connection of the locally generated signals shall be made automatically by means of a time-switch. The switching device shall be so designed that the translator input circuit will be returned to the off-the-air signal within 20 seconds. The apparatus used to generate the local signal that is used to modulate the FM translator must be capable of producing an aural signal which will provide acceptable reception on FM receivers designed for the transmission standards employed by FM broadcast stations. Before commencing originations authorized in this paragraph, the licensee of the translator shall furnish to the Commission a statement identifying the type-accepted transmitting apparatus proposed to be used for such local originations.

(g) The aural material transmitted as permitted in paragraph (f) of this section shall be limited to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Accordingly, such originations are limited to the soliciation of contributions toward defrayal of the costs of installation, operation, and maintenance of the translator or acknowledgments of financial support for those purposes. Such acknowledgments may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors.

(h) FM broadcast booster stations provide a means whereby the licensee of an FM radio broadcast station may provide service to areas of low signal intensity in any region within the primary station's predicted 1 mv/m field strength contour. An FM broadcast booster station is authorized to retransmit only the signals of its primary station; it shall not retransmit the signals of any other station nor make independent transmissions; *Provided, however,* That locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.

NOTE: In the case of an FM broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, an FM booster station will only be authorized within the 1 mv/m contour as predicted on the basis of the maximum powers and heights set forth in that section for the

applicable class of FM radio broadcast station concerned.

(i) The transmissions of an FM broadcast booster station shall be intended for direct reception by the general public. Such stations will not be authorized to establish a point-to-point FM radio relay system.

§ 74.1232 Eligibility and licensing requirements.

(a) Subject to the restrictions set forth in paragraph (d) of this section, a license for an FM broadcast translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body, upon an appropriate showing that plans for financing the installation and operation of the translator are sufficiently sound to assure prompt construction of the translator and dependable service.

(b) More than one FM translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of need for such additional stations. FM translators are not counted as FM stations for the purposes of § 73.240 of this chapter, concerning multiple ownership.

(c) Only one input and one output channel will be assigned to each FM translator. Additional FM translators may be authorized to provide additional reception. A separate application is required for each FM translator and each application shall be complete in all respects.

(d) An authorization for a commercial FM translator which is intended to provide reception to places which are beyond the predicted 1 mv/m field strength contour of the primary station and within the predicted 1 mv/m field strength contour of another commercial FM radio broadcast station assigned to a different principal community will not be granted to:

(1) The licensee or permittee of an FM radio broadcast station, or

(2) An applicant who receives from such FM radio broadcast station licensee or permittee or from any person associated therewith, directly or indirectly, any financial support or contribution toward the costs incurred up to the time such translator commences operation.

NOTE 1: The 1 mv/m field strength contour of an FM radio broadcast station, for the purposes of this subpart, shall be the contour as predicted in accordance with § 73.313 (a) through (d) of this chapter. See Note, § 74.1231(h).

NOTE 2: Financial support prohibited in paragraph (d) includes only support for the preparation, filing and prosecution of applications for new FM translators, for the acquisition and installation of transmitting and other apparatus employed by such FM translators, and for the defrayal of any other costs necessary to placing such FM translators in operation. Paragraph (d) thus will not bar or limit contributions or support, by any station licensee or permittee or any person associated therewith, for the operation or maintenance of an FM translator, whether such support is provided in the form of financial contributions or by providing operation or maintenance services or advice.

(e) An FM broadcast booster station will be authorized only to the licensee or permittee of the FM radio broadcast station whose signals the booster station will retransmit, to serve areas within the predicted 1 mv/m field strength contour of the primary station, subject to Note, § 74.1231(h).

(f) No numerical limit is placed upon the number of FM booster stations which may be licensed to a single licensee. A separate application is required for each FM booster station. FM broadcast booster stations are not counted as FM broadcast stations for the purposes of § 73.240 of this chapter, concerning multiple ownership.

(g) Each application for an FM broadcast booster station shall include a statement concerning the steps which have been taken in the design and location of the equipment to insure that areas of service from the primary FM station will not be degraded by operation of the FM booster station.

§ 74.1234 Unattended operation.

(a) A station authorized under this subpart may be operated without a licensed radio operator in attendance if the following requirements are met:

(1) If the transmitter site cannot be reached promptly at all hours and in all seasons, means shall be provided so that the transmitting apparatus can be turned on and off at will from a point which is readily accessible at all hours and in all seasons.

(2) The transmitter shall also be equipped with suitable automatic circuits which will place it in a nonradiating condition in the absence of a signal on the input channel.

(3) The on-and-off control (if at a location other than the transmitter site) and the transmitting apparatus, shall be adequately protected against tampering by unauthorized persons.

(4) The Commission shall be supplied with the name, address, and telephone number of a person or persons who may be contacted to secure prompt suspension of operation of the transmitter should such action be deemed necessary by the Commission. Such information shall be kept current by the licensee.

(5) Where the antenna and supporting structure are required to be painted and lighted under the provisions of Part 17 of this chapter, the licensee shall make suitable arrangements for the daily inspection and logging of the obstruction lighting and associated control equipment as required by §§ 17.47, 17.48, and 17.49 of this chapter.

(b) An application for authority to construct a new station pursuant to this subpart or to make changes in the facilities of such a station, which proposes unattended operation shall include an adequate showing as to the manner of compliance with this section.

(c) Unless the applicant specifically requests unattended opefation and makes the showing required by paragraph (b) of this section, a licensed radio operator meeting the requirements of § 74.1266 shall be on duty at the transmitter site whenever the station is operated.

§ 74.1235 Power limitations.

(a) The power output of the final radiofrequency amplifier of a station authorized under this subpart shall not exceed 10 watts, except that FM broadcast translator stations serving areas east of the Mississippi River or in Zone I–A shall be limited to 1 watt. This power may be fed into a single transmitting antenna or may be divided between two or more transmitting antennas or antenna arrays in any manner found useful or desirable by the licensee. In individual cases, the Commission may authorize the use of more than one final radio frequency amplifier at a single station under the following conditions:

(1) Each such amplifier shall be used to serve a different community or area. More than one final radiofrequency amplifier will not be authorized to provide service to all or a part of the same community or area.

(2) Each final radiofrequency amplifier shall feed a separate transmitting antenna or antenna array. The transmitting antennas or antenna arrays shall be so designed and installed that the outputs of the separate radiofrequency amplifiers will not combine to reinforce the signals radiated by the separate antennas or otherwise achieve the effect of radiated power in any direction in excess of that which could be obtained with a single antenna of the same design fed by a radiofrequency amplifier with power output no greater than that authorized pursuant to this paragraph.

NOTE: The provisions of §§ 74.1235(a) (1) and (2) will not apply to 1-watt stations serving areas west of the Mississippi River outside of Zone I–A. See § 73.205(b) of this chapter.

(3) Stations authorized under this subpart employing multiple radiofrequency amplifiers will be licensed as a single station.

(4) No limit is placed upon the effective radiated power which may be obtained by the use of horizontally or vertically directive transmitting antennas.

(b) In no event shall a station authorized under this subpart be operated with a power output in excess of the transmitter type-accepted rating.

§ 74.1236 Emissions and bandwidth.

(a) The license of a station authorized under this subpart authorizes the transmission of either F3 or F9 emission (frequency modulation).

(b) Standard width FM channels will be assigned and the transmitting apparatus shall be operated so as to limit spurious emissions to the lowest practicable value. Any emissions including intermodulation products and radiofrequency harmonics which are not essential for the transmission of the desired aural information shall be considered to be spurious emissions.

(c) The power of emissions appearing outside the assigned channel shall be attenuated below the total power of the emission as follows:

Distance of emission from center frequency:	Minimum attenuation below unmodulated carrier
120 to 240 kHz	25 db
over 240 and up to 600 kHz	35 db
over 600 kHz	60 db

(d) Greater attenuation than that specified in paragraph (c) of this section may be required if interference results outside the assigned channel.

§ 74.1237 Antenna location.

(a) An applicant for a new station to be authorized under this subpart or for a change in the facilities of such a station shall endeavor to select a site which will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station. The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(b) Consideration should be given to accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the FM translator.

(c) Consideration should be given to the existence of strong radiofrequency fields from other transmitters at the translator site and the possibility that such fields may result in the retransmission of signals originating on frequencies other than that of the primary station.

(d) The transmitting antenna of an FM broadcast booster station shall be located within the predicted 1 mv/m field strength contour of its primary station, subject to note, § 74.1231(h).

EQUIPMENT

§ 74.1250 Equipment and installation.

(a) Applications for new stations authorized under this subpart or for changes in the facilities of existing stations will not be accepted for filing unless the transmitting apparatus to be employed is type accepted.

(b) Transmitting antennas, antennas used to receive signals to be rebroadcast, and transmission lines are not subject to the requirement for type acceptance.

(c) The following requirements must be met before translator or booster equipment will be type accepted by the Commission:

(1) The frequency converter and associated amplifiers of an FM translator shall be so designed that the electrical characteristics of a standard FM signal, including stereophonic subchannel, introduced into the input terminals will not be significantly altered by passage through the apparatus except as to frequency and amplitude. The overall frequency response of the apparatus within its assigned channel when operating at its rated power output and measured at the output terminals, shall provide a smooth curve, varying within limits separated by no more than 3 decibels.

(2) Radiofrequency harmonics of the output carrier frequency measured at the output terminals of the transmitter, shall be attenuated at least 60 decibels below the fundamental output carrier level. All other emissions appearing outside the assigned channel shall conform with the specifications set forth in §74.1236(c).

(3) The local oscillator or oscillators employed in the translator equipment shall, when subjected to variations in ambient temperature between minus 30° and plus 50° centigrade and in primary supply voltage between 85 percent and 115 percent of the rated value, be sufficiently stable to maintain the output carrier frequency of the translator within plus or minus 0.005 percent of its assigned frequency, assuming zero variation of the received primary station signal from its assigned frequency.

(4) The apparatus shall contain automatic circuits which will maintain the power output constant within 2 decibels when the level of the signal at the input terminals is varied over a range of 40 decibels and which will not permit power output to exceed the maximum rated power output under any condition. If a manual adjustment is provided to compensate for different average signals levels, provision shall be made for determining the proper setting for the control and if improper adjustment of the control could result in improper operations, a label shall be affixed at the adjustment control bearing a suitable warning.

(5) The apparatus shall be equipped with automatic controls which will place it in a nonradiating condition when no signal is being received on the input channel, either due to absence of a transmitter signal or failure of the receiving portion of the translator or booster. The automatic control may include a time delay feature to prevent interruptions in the operation of the station caused by fading or other momentary failures of the incoming signal.

(6) The amplifying devices employed in the final radiofrequency amplifier shall be of the appropriate power rating to provide the rated power output of the translator or booster. The normal operating constants for operation at the rated power output shall be specified. The apparatus shall be equipped with suitable meters or meter jacks so that appropriate voltage and current measurements may be made while the apparatus is in operation.

(7) Transmitters of FM broadcast translator stations of more than 1 watt transmitter output power shall be equipped with an automatic keying device which will transmit the call sign assigned to the station, in International Morse Code, at least once each 30 minutes during the time the station is in operation unless there is in effect a firm arrangement with the station's primary station as provided in § 74.1283(c)(1). Transmission of the call sign can be accomplished in either of the following ways:

(i) By frequency shift keying; the carrier shift shall not be less than 5 kilohertz nor greater than 25 kilohertz;

(ii) By amplitude modulation of the FM carrier of at least 30 percent modulation. The audio frequency tone used shall not be within 200 hertz of the 1,000 hertz tone used for Emergency Broadcast System Alerting.

NOTE: The National Industry Advisory Committee (NIAC) has under study for the Commission an alerting system using the frequencies 853 and 960 hertz per second. Pending resolution of this study, audio frequency tones for identification purposes within 200 hertz of those frequencies shall not be used.

(8) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice.

(d) The exciter employed to provide a locally generated and modulated input signal to the translator pursuant to § 74.1231(f) shall be type accepted and shall meet the following specifications for type acceptance by the Commission:

(1) The local oscillator or oscillators employed in the exciter, when subjected to variations in ambient temperature between minus 30° and plus 50° centigrade, and in primary supply voltage between 85 percent and 115 percent of the rated value, shall be sufficiently stable to maintain the output center frequency of the exciter within plus or minus 0.005 percent of the frequency assigned to the primary station.

(2) Automatic means shall be provided for limiting the level of the audio frequency voltage applied to the modulator to insure that a frequency swing in excess of 75 kHz will not occur under any condition of modulation.

(3) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice.

(e) Type acceptance will be granted only upon a satisfactory showing that the apparatus is capable of meeting the requirements of paragraphs (c) and (d) of this section. The following procedures shall apply:

(1) Any manufacturer of apparatus intended for use by a station authorized under this subpart may request type acceptance by following the procedures set forth in Part 2, Subpart F, of this chapter. Equipment found to be acceptable by the Commission will be listed in the "Radio Equipment List" published by the Commission. These lists are available for inspection at any Field Office of the Commission and at the Washington, D.C., offices of the Commission.

(2) Apparatus for use by stations authorized under this subpart which has been type accepted by the Commission will normally be authorized without additional measurements by the applicant.

(3) Other rules concerning type acceptance, including information regarding withdrawal of type acceptance, modification of type accepted equipment and limitations on the findings upon which type acceptance is based, are set forth in Part 2, Subpart F, of this chapter.

(f) The installation of an FM translator or booster station employing type accepted apparatus may be made by a person with sufficient technical knowledge and skill to correctly follow the manufacturer's instructions.

(g) Simple repairs such as the replacement of tubes, fuses, or other plug-in components and the adjustment of noncritical circuits which require no particular technical skill may be made by an unskilled person. Repairs which require the replacement of attached components, adjustment of critical circuits, or technical measurements, shall be made only by a person with the knowledge and skill to perform such tasks.

(h) Any tests or adjustments which require the radiation of signals for their completion and which could result in improper operation of the apparatus, shall be made by or under the immediate supervision of a licensed first or second class radiotelephone operator.

(i) The transmitting antenna may be designed to produce either horizontal or vertical polarization.

§ 74.1251 Equipment changes.

(a) No change, either mechanical or electrical, except as provided in § 2.584 of this chapter, may be made in FM translator or booster apparatus which has been type accepted by the Commission without prior authority of the Commission.

(b) Formal application is required for any of the following changes, to be made on FCC Form 346 in the case of FM broadcast translator stations and on FCC Form 349P in the case of FM broadcast booster stations:

(1) Replacement of the translator or booster as a whole except in those cases where the replacement is an identical translator or booster or is a translator or booster of identical power rating and is listed in the Commission's "Radio Equipment List." The Commission's office in Washington, D.C., and the Engineer in Charge of the radio district in which the translator or booster is located shall be promptly notified of translator or booster replacement made without formal authorization pursuant to the exceptions of this paragraph, giving the manufacturer's name and type number of the new translator or booster, together with a statement certifying that the new installation is operating in accordance with the Commission's rules and the terms of the license or construction permit.

(2) A change in the transmitting antenna system, including the direction of radiation or directive antenna pattern.

(3) Any change in the overall height of the antenna structure except where notice to the Federal Aviation Administration is specifically not required under § 17.14(b) of this chapter.

(4) Any change in the location of the translator or booster except a move within the same building or upon the same pole or tower.

(5) Any horizontal change in the location of the antenna structure which would (i) be in excess of 500 feet or (ii) would require notice to the Federal Aviation Administration pursuant to § 17.7 of this chapter.

(6) Any change of input or output frequency of a translator.

(7) Any change of primary station of a translator.

(8) Any change of authorized transmitter operating power output.

(9) Any change in authorized principal community or area being served.

(c) Other equipment changes not specifically referred to above may be made at the discretion of the licensee: *Provided*, That the Engineer in Charge of the radio district in which the translator or booster is located and the Commission's Washington, D.C., office are notified in writing upon completion of such changes: *And provided further*, That the changes are appropriately reflected in the next application for renewal of license of the FM translator or booster station.

Technical Operation and Operators

§ 74.1261 Frequency tolerance.

The licensee of an FM translator station shall maintain the center frequency at the output of the translator within 0.01 percent of its assigned frequency. The output frequency of an FM booster station shall be the exact frequency of its primary station.

§ 74.1262 Frequency monitors and measurements.

(a) The licensee of a station authorized under this subpart is not required to provide means for measuring the operating frequency of the transmitter. However, only equipment having the required stability will be approved for use by an FM translator or booster.

(b) In the event that a station authorized under this subpart is found to be operating beyond the frequency tolerance prescribed in § 74.1261, the licensee shall promptly suspend operation of the station and shall not resume operation until the station has been restored to its assigned frequency. Adjustment of the frequency determining circuits of an FM translator or booster shall be made by a qualified person in accordance with § 74.1250(g).

§ 74.1263 Time of operation.

(a) An FM translator is not required to adhere to any regular schedule of operation. However, the licensee of an FM translator is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.

(b) If an FM translator station is inoperative for 10 days or more, the licensee shall notify the Engineer in Charge of the radio district in which the station is located promptly, in writing, describing the cause of the inoperation and the steps being taken to place the translator in operation again and shall notify the Engineer in Charge promptly when operation is resumed.

(c) Failure of an FM translator to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuance of operation and the license of the translator will be cancelled.

(d) An FM translator shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.

§ 74.1264 Station inspection.

The licensee of a station authorized under this subpart shall make the station and the records required to be kept by the rules in this subpart available for inspection by representatives of the Commission.

§ 74.1265 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or the manner of operation shall be kept in the station record file maintained by the licensee so as to be available for inspection upon request to any authorized representative of the Commission.

(b) The call sign of the station, together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the station, shall be displayed at the transmitter site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.

§ 74.1266 Operator requirements.

(a) An operator holding a valid restricted radiotelephone operator permit shall observe the operation of a station authorized under this subpart by obtaining reception of its transmissions as frequently as may be necessary to assure proper operation, but in any event within 1 hour of the time the primary station commences operation or at 8 a.m., whichever is later, and thereafter at intervals of not more than 6 hours. Except as necessary in case of malfunction of the station, such observations need not be made between 10 p.m. and 8 a.m. the following day.

(b) In the event of malfunction, or upon notice by the Commission, the operator shall immediately cause the operation of the station to cease until the malfunction is corrected or until the conditions requiring suspension of operation are corrected.

§ 74.1267 Marking and lighting of antenna structures.

The marking and lighting of antenna structures employed by stations licensed under this subpart, where required, will be specified in the authorization issued by the Commission. Part 17 of this chapter sets forth the conditions under which marking and lighting will be required and the responsibility of the licensee with regard thereto.

§ 74.1268 Additional orders.

In cases where the rules contained in this part do not cover all phases of operation or experimentation with respect to external effects, the Commission may make supplemental or additional orders in each case as may be deemed necessary.

§ 74.1269 Copies of rules.

The licensee or permittee of a station authorized under this subpart shall have a current copy of Volumes I and III of the Commission's rules and shall make the same available for use by the operator in charge. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

OTHER OPERATING REQUIREMENTS

§ 74.1281 Station records.

(a) The licensee of a station authorized under this subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the Commission, maintenance records, contracts, permissions for rebroadcast, and other pertinent documents.

(b) The records to be maintained where an antenna structure is required to be marked or lighted shall be governed by the provisions of § 17.49 of this chapter.

(c) The station records shall be made available upon request to any authorized representatives of the Commission.

(d) Station records shall be retained for a period of 2 years.

§ 74.1283 Station identification.

(a) Every station authorized under this subpart with transmitter output power of more than 1 watt shall be identified in accordance with the provisions of this section. Stations with transmitter output power of 1 watt or less need not be identified.

(b) FM broadcast booster stations shall be identified by their primary stations by the broadcasting by the primary station of the primary station's call letters and location, in accordance with the provisions of § 73.287 of this chapter.

(c) FM broadcast translator stations with transmitter output power of more than 1 watt shall be identified by one of the methods prescribed herein:

(1) The licensee or permittee of such station may make arrangements with the licensee of its primary station for the broadcast by the primary station of the call letters and location of the translator station. Identification in this manner is to be accomplished three times each day: Once between the hours of 7 and 9 a.m., unless the primary station's broadcast day begins after 9 a.m., in which case identification will be made at the beginning of its broadcast day and at the other times specified herein; once between 12:55 p.m. and 1:05 p.m.; and once between the hours of 4 and 6 p.m. Arrangements will be made so that the licensee of the primary station will keep on record, and make available to any responsible person the call letters and location of each translator station rebroadcasting its signals, with the name, address, and telephone number of the licensee or the person designated to be contacted in case of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information in this respect to the primary station.

(2) Where the licensee or permittee of an FM translator station has not made arrangements for station identification in accordance with subparagraph (1) of this paragraph, such FM translator station shall transmit its call sign in International Morse Code at least once each 30 minutes during the time the station is in operation. The transmission may be accomplished by means of an automatic device as required by § 74.1250(c)(7). Call sign transmission shall be made at a code speed not in excess of 20 words per minute. At this speed, the transmission of each individual call sign will require approximately 4 seconds.

(d) The Commission may, in its discretion, specify other methods of identification.

(e) The call sign of an FM broadcast translator station will consist of the initial letter K or W followed by the channel number assigned to the translator and two letters. The use of the initial letter will generally conform to the pattern used in the broadcast service. The two letter combinations following the channel number will be assigned in order and requests for the assignment of particular combinations of letters will not be considered.

§ 74.1284 Rebroadcasts.

(a) The term "rebroadcast" means the reception by radio of the programs or other signals of a radio station and the simultaneous retransmission of such programs or signals for direct reception by the general public.

(b) The licensee of an FM translator shall not rebroadcast the programs of any FM broadcast station or other FM translator without obtaining prior consent of the primary station whose programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written consent has been received from the licensee of the station whose programs are retransmitted.

(c) An FM translator is not authorized to rebroadcast the transmissions of any class of station other than an FM broadcast station or another FM translator.

[F.R. Doc. 70-13194; Filed, Oct. 1, 1970; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

Park-Use Permit System for Public Gatherings

By notice of proposed rule making published in the FEDERAL REGISTER, July 17, 1970 (35 F.R. 11485), it was proposed to amend Title 36, Code of Federal Regulations, to provide a park-use permit system for public gatherings in National Park Service areas administered by National Capital Parks, National Park Service, located in the District of Columbia and its environs.

Interested persons were invited to submit written comments, suggestions, or recommendations on the proposed regulations to the Superintendent, National Capital Parks, National Park Service, Washington, D.C. Interested persons were also invited to include in their written submissions such views as they desired to present to the Secretary of the Interior relative to the desirability of having an opportunity to present their views orally before an official of the Department to be designated for this purpose.

None of the written submissions commenting upon the proposed revision contained a request for oral presentation of views.

The written comments and suggestions received were given due consideration, and the following changes have been made: The definition of "public gathering" is clarified by adding the specification that the term include gatherings for entertainment purposes. Paragraph (b) is revised to make it clear that "NPS events" may be sanctioned in all park areas, including the White House area. Paragraph (e)(1) is revised to require 48-hour notice for permit applications for all public gatherings in the White House area instead of the proposed rule which would have required applications for public gatherings of 100 or more persons in the White House area to be filed 7 days in advance.

The revised regulations as set forth below shall become effective 30 days after the date of their publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 1, et seq.)

Dated: September 30, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

Section 50.19 is revised to read as follows:

§ 50.19 Public gatherings.

(a) Definitions:

(1) The term "public gatherings" includes, but is not limited to, demonstrations, picketing, speechmaking, holding of vigils, parades, ceremonies, meetings, entertainment and all other forms of public assembly.

(2) The term "White House area" means all park areas, including sidewalks adjacent thereto, within these bounds: on the south, Constitution Avenue NW.; on the north, H Street NW.; on the east, 15th Street NW.; and on the west, 17th Street NW.

(3) The term "White House sidewalk" means the south sidewalk of Pennsylvania Avenue NW., between East and West Executive Avenues NW.

(4) The term "park areas" shall include all areas, including sidewalks adjacent thereto, other than the White House area, administered by National Capital Parks of the National Park Service.

(5) The term "NPS event" means any celebration, commemorative, or recreational event sponsored or co-sponsored by the National Park Service.

(b) Public gatherings, other than NPS events, may be held only pursuant to a valid official permit issued in accordance with the provisions of this section. NPS events are excepted from the operation of this section. They will not require official permits; may be held in any park area or the White House area; and may preempt any such areas to the exclusion of other public gatherings.

(c) Speaker's stands or platforms may be erected, where needed, as adjuncts to any permitted public gathering, except on the White House sidewalk; but no other structures (including billboards, displays, etc.) may be erected on park lands except in connection with NPS events. All such structures shall be erected as inconspicuously as possible, and with least possible damage to basic National Park System values, and shall be dismantled as soon as practicable after conclusion of the public gathering.

(d) In connection with permitted public gatherings, except on the White House sidewalk, movable facilities—such as stands, lecterns, sound amplification equipment, chairs, portable sanitary facilities, and press and news facilities—reasonably necessary as an integral part of a public gathering, shall be permitted, provided prior notice has been given to the Superintendent, except that:

(1) The Superintendent reserves the right to limit the sound amplification equipment, so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area.

(2) No sound amplification equipment shall be used on the White House sidewalk, other than hand-portable sound amplification equipment which the Superintendent determines, in the exercise of his judgment, is necessary for crowd control purposes.

(3) The Superintendent may impose reasonable restrictions upon the moveable facilities permitted, in the interest of protecting the park area involved for the primary park purpose to which it has been dedicated, traffic considerations, and other legitimate park value concerns.

(e) Permit applications shall be submitted to the General Superintendent, National Capital Parks, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20243:

(1) White House Area: Permit applications shall be submitted in writing on a form provided by National Park Service so as to be received by the Superintendent at least 48 hours in advance of any proposed public gathering.

(2) Park Areas: Permit applications for all park areas, except the White House area, shall provide the following information: Area, date, time, duration, and nature of the public gathering; estimated number of participants; sponsoring organization; props and equipment to be used; and name, address, and phone number of applicant.

(f) The Superintendent shall process with reasonable promptness applications in order of receipt; and, subject to the limitations set forth in the next following subsection, he shall issue an official permit upon proper application, authorizing a peaceable and orderly public gathering to be held, unless:

(1) A proper prior application for the same time and place has been received, and has been or will be granted on an "exclusive" use basis; or

(2) It reasonably appears that the proposed public gathering will present a clear and present danger to the public safety, good order, or health; or

(3) The proposed public gathering is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; in that event, an alternate site if available for the activity shall be proposed by the Superintendent to the applicant; in this connection, the Superintendent shall reasonably take into account possible damage to the park including trees, shrubbery, other plantings, park installations and statues.

(4) The permit is subject to denial as contrary to any of the provisions in this section.

(g) Issuance of permits under paragraph (f) of this section shall be subject to the following limitations:

(1) No permit shall be issued for any place within the White House area, except for the White House sidewalk, Lafayette Park, and the Ellipse.

(2) No more than 100 persons shall be permitted to conduct a public gathering on the White House sidewalk at any one time.

(3) No more than 500 persons shall be permitted to conduct a public gathering at Lafayette Park at any one time.

(4) No permit shall be issued authorizing public gatherings to be held simultaneously on the White House sidewalk and in Lafayette Park.

(5) No permit shall be issued for a period of more than 7 consecutive days, and no permit shall authorize any public gathering having a duration of more than 24 consecutive hours.

(6) No public gatherings shall be permitted to be held between the hours of 7:00–9:30 a.m. and 4:00–6:30 p.m., except on Saturdays, Sundays, and legal holidays, unless it shall be made to appear to the satisfaction of the Superintendent that the holding of the particular public gathering will not unreasonably interfere with rush-hour traffic.

(h) Authorized permits may contain additional reasonable conditions and additional time limitations, consistent with this regulation, in the interest of protecting the park site involved for the primary park purpose to which it has been dedicated, the use of nearby areas by other persons, and other legitimate park value concerns.

(i) Public gatherings may be held and speeches may be made in the following areas under the jurisdiction of the National Capital Parks without official permit. The conduct of any such gathering shall be reasonably consistent with the protection and use of the area for the purposes for which it is maintained:

(1) *Franklin Park.* Thirteenth Street, between I and K Streets NW., for no more than 500 persons.

(2) *McPherson Square.* Fifteenth Street, between I and K Streets NW., for no more than 500 persons.

(3) *U.S. Reservation No. 31.* West of 18th Street and south of H Street NW., for no more than 100 persons.

(4) *Rock Creek and Potomac Parkway.* West of 23d Street, south of P Street NW., for no more than 1,000 persons.

(5) *Garfield Park.* East side of Second Street SE., between Virginia Avenue and South Carolina Avenue, for no more than 1,000 persons.

(6) *U.S. Reservation No. 46.* North side of Pennsylvania Avenue, west of Eighth Street and south of D Street SE., for no more than 25 persons.

[F.R. Doc. 70-13280; Filed, Oct. 1, 1970; 9:53 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1042, Amdt. 1]

PART 1033—CAR SERVICE

Chicago and North Western Railway Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of September 1970.

Upon further consideration of Service Order No. 1042 (35 F.R. 10150), and good cause appearing therefor:

It is ordered, That:

Section 1033.1042 *Service Order No. 1042* (Chicago and North Western Railway Co. authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This section shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1970.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railrods subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at

Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13201; Filed, Oct. 1, 1970; 8:47 a.m.]

[S.O. 1050]

PART 1033—CAR SERVICE

Demurrage and Detention Charges on Open-Top Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 25th day of September 1970.

It appearing, that acute shortages of open-top hopper cars exist throughout the country; that certain carriers are unable to furnish an adequate supply of these cars to coal mines and other shippers located on their lines; that these shortages are impeding the movement of coal required by the nation's electric power plants; that these shortages are also impeding the movements of ore, construction materials, sugar beets and other commodities vital to the Nation's economy; that many open-top hopper cars are held by shippers for loading, unloading, or instructions for movement, in excess of the free time periods established by the applicable demurrage and detention tariffs; that such practices immobilize large numbers of open-top hopper cars needed by shippers for transportation of other freight; and that the existing demurrage and detention rules, regulations and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of open-top hopper cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1050 Service Order No. 1050.

(a) *Demurrage and detention charges on open-top hopper cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its demurrage and detention rules, practices, and charges.

(b) *Description of cars subject to this section.* This section shall apply to open-top hopper cars listed in the Official Railway Equipment Register, ICC RER No. 376, issued by E. J. McFarland, or successive issues thereof, as having mechanical designations "HE," "HD," "HF," "HFA," "HFB," "HK," "HM," "HMA," "HT," or "HTA."

(c) *Demurrage charges.* All demurrage or detention charges for the holding of open-top hopper cars, described in paragraph (b) of this section, in excess of the free time periods described in applicable tariffs shall be increased 100 percent.

(d) *Average demurrage agreements at ocean, lake, or river ports.* The provisions of this section shall apply to any average agreement demurrage or detention charges applicable to the holding of open-top hopper cars, described in paragraph (b) of this section at any ocean, lake, or river port. Debits charged against cars held at ocean, lake, or river ports for detention during the period this order is in effect may be offset only by credits earned during the period this section is in effect; *Provided*, That such offsetting of debits with credits is authorized in the applicable tariffs.

(e) *Average demurrage agreements at other points.* The provisions of Item 940, Rule 9, of section 1 of Freight Tariff 4-I, ICC H-36, issued by B. B. Maurer, supplements thereto or reissues thereof, shall not apply to open-top hopper cars described in paragraph (b) of this section.

(f) *Application.* The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(g) *Regulations suspended; announcement required.* The operation of all rules and regulations, insofar as they conflict with the provisions of this section, is hereby suspended and each railroad subject to this section, or its agent, shall publish, file, and post a supplement to its tariffs affected hereby, in substantial accordance with the provisions of Rule 9(k) of the Commission's Tariff Circular No. 20, announcing such suspension.

(h) *Effective date.* This section shall become effective at 7 a.m., October 1, 1970.

(i) *Expiration date.* This section shall expire at 6:59 a.m., December 1, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, 17(2). Interprets or applies secs. 1(10-17), 15(4), 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13200; Filed, Oct. 1, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1001, 1002, 1004, 1006, 1007, 1011–1013, 1015, 1030, 1032, 1033, 1036, 1040, 1043, 1044, 1046, 1049, 1050, 1060–1065, 1068–1071, 1073, 1075, 1076, 1078, 1079, 1090, 1094, 1096–1099, 1101–1104, 1106, 1108, 1120, 1121, 1124–1134, 1136–1138]

[Docket No. AO–10–A41 etc.]

MILK IN ST. LOUIS-OZARKS AND CERTAIN OTHER MARKETING AREAS

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

7 CFR part	Marketing area	Docket No.
1002	St. Louis-Ozarks	AO–10–A41.
1001	Massachusetts-Rhode Island-New Hampshire.	AO–14–A47–RO1.
1002	New York-New Jersey	AO–71–A59.
1004	Middle Atlantic	AO–160–A43–RO2.
1006	Upper Florida	AO–356–A5.
1007	Georgia	AO–366–A3.
1011	Appalachian	AO–251–A12.
1012	Tampa Bay	AO–347–A9.
1013	Southeastern Florida	AO–286–A17.
1015	Connecticut	AO–308–A25.
1030	Chicago Regional	AO–361–A2–RO1.
1032	Southern Illinois	AO–313–A18.
1033	Ohio Valley	AO–166–A40–RO1.
1036	Eastern Ohio-Western Pennsylvania.	AO–179–A32–RO1.
1040	Southern Michigan	AO–225–A22.
1043	Upstate Michigan	AO–247–A15.
1044	Michigan Upper Peninsula.	AO–299–A17.
1046	Louisville-Lexington-Evansville.	AO–123–A36.
1049	Indiana	AO–319–A15.
1050	Central Illinois	AO–355–A7.
1060	Minnesota-North Dakota	AO–360–A4.
1061	Southeastern Minnesota-Northern Iowa.	AO–367–A1.
1063	Quad Cities-Dubuque	AO–105–A31.
1064	Greater Kansas City	AO–23–A38.
1065	Nebraska-Western Iowa	AO–86–A23.
1068	Minneapolis-St. Paul	AO–178–A25.
1069	Duluth-Superior	AO–153–A17.
1070	Cedar Rapids-Iowa City	AO–220–A22.
1071	Neosho Valley	AO–227–A24.
1073	Wichita	AO–173–A24.
1075	Black Hills	AO–248–A12.
1076	Eastern South Dakota	AO–260–A15.
1078	North Central Iowa	AO–272–A17.
1079	Des Moines	AO–295–A20.
1090	Chattanooga	AO–206–A13.
1094	New Orleans	AO–103–A29.
1096	Northern Louisiana	AO–257–A18.
1097	Memphis	AO–219–A23.
1098	Nashville	AO–184–A28.
1099	Paducah	AO–183–A23.
1101	Knoxville	AO–195–A19.
1102	Fort Smith	AO–237–A18.
1103	Mississippi	AO–346–A11.
1104	Red River Valley	AO–208–A16.
1106	Oklahoma Metropolitan	AO–210–A28.
1108	Central Arkansas	AO–243–A20.
1120	Lubbock-Plainview	AO–328–A10.
1121	South Texas	AO–364–A1.
1124	Oregon-Washington	AO–368–A1.
1125	Puget Sound	AO–225–A21.
1126	North Texas	AO–231–A33.
1127	San Antonio	AO–232–A20.
1128	Central West Texas	AO–238–A23.
1129	Austin-Waco	AO–256–A16.
1130	Corpus Christi	AO–259–A20.
1131	Central Arizona	AO–271–A13.
1132	Texas Panhandle	AO–262–A20.
1133	Inland Empire	AO–275–A21.
1134	Western Colorado	AO–301–A11.
1136	Great Basin	AO–309–A15–RO1.
1137	Eastern Colorado	AO–326–A18.
1138	Rio Grande Valley	AO–335–A15.

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 each of the marketing areas heretofore specified.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 30th 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 of opportunity to file exceptions thereto is 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 certain proposed amendments to the tentative marketing agreements and to the orders as amended, were considered, was conducted at Clayton, Mo., January 20–23, 1970, pursuant to notice thereof which was issued November 26, 1969 (34 F.R. 19078), and at New York City, February 17 and 18, 1970, pursuant to supplementary notices issued January 8, 1970 (35 F.R. 435), and January 29, 1970 (35 F.R. 2527).

Sixty-eight milk orders were listed in the notice of hearing. Eight of these orders have since been merged with other orders. Washington, D.C. (Part 1003), Delaware Valley (Part 1004), and Upper Chesapeake Bay (Part 1016) were merged into the Middle Atlantic order. Tri-State (Part 1005), Greater Cincinnati (Part 1033), Miami Valley (Part 1034), Columbus (Part 1035), and Northwestern Ohio (Part 1041) were merged into the Ohio Valley order.

As a result, this decision relates only to the existing 62 orders as merged. Such mergers have had no effect on the basic issue involved in this proceeding. This is because the decision herein deals with the matter of how Class I milk should be priced under all Federal milk orders. The uniform system proposed would have applied to each of the orders prior to merger or to the orders as merged. Therefore, the findings and conclusions of this decision are equally applicable to the orders as merged.

For the Massachusetts-Rhode Island-New Hampshire, Middle Atlantic, Chicago Regional, Ohio Valley, Eastern Ohio-Western Pennsylvania, and Great Basin markets the hearing constituted a reopening of prior hearings on matters relating to the particular markets, including issues other than the issue herein discussed.

The material issue on the record of the hearing relates to:

Whether an "economic" formula should be adopted, changing the present basis for moving Class I prices under all Federal milk orders.

Description of the proposed formula. The National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, proposed the "economic" formula. The member cooperatives of the Federation are dispersed throughout 49 States and the organization does business in all 50 States of the Union. Milk of one or more member cooperative associations is marketed in each of the areas regulated by a Federal order, and, in most instances, the majority of milk supplied to each Federal milk marketing order area originates through cooperative associations which are members of the Federation.

Following the annual convention of the National Milk Producers Federation in St. Louis, Mo., in November 1968, a Class I Price Policy Committee was appointed by the president of this producer organization for the purpose of considering the need for an "economic" formula for use in all milk orders. This committee selected a Task Force of agricultural economists and dairy specialists to develop the formula and the rationale supporting it. The Task Force consisted of seven members and two alternates. Of the nine members, five were from producer organizations, three were university professors, and the other was an attorney who was legal counsel for the producer organization at the hearing. This Task Force developed the formula which the National Milk Producers Federation and others supported at the hearing.

The proposed formula utilized 12 prices or indexes set up in four groups. All prices and indexes are national averages except the prices of dairy products which are representative wholesale prices at midwestern pricing points. The groups and factors proposed were:

GROUP A

Disposable Personal Income Per Capita, current dollars, seasonally adjusted.
Consumer Price Index, all items.
Wholesale Price Index, all commodities.

GROUP B

Index of Prices Paid by Farmers, including interest, taxes, and wage rates.
Average Prices Paid by Farmers for Dairy Feed, 16 percent protein content.
Index of Composite Wage Rates for Hired Labor, seasonally adjusted.

GROUP C

Index of Prices Received by Farmers for all Farm Products.
Prices Received by Farmers for Beef Cattle.
Percent Unemployed, all Civilian Workers, seasonally adjusted (expressed inversely).

GROUP D

Price of Butter.
Price of Cheese.
Price of Nonfat Dry Milk.

An index was established for each variable in the first three factor groups and for the composite sum of the dairy product prices in the last category. The 1968 annual average was used as the base to construct the "economic" formula indexes.

The first group of factors (Group A) was described in the Task Force Report as a measurement of the ability and willingness of consumers to buy milk. The composite index for this group was a simple average of the three indexes.

The second group of factors (Group B) was characterized as cost factors in producing milk. Proponent stated that the index of prices paid reflects general changes in cost of producing milk as well as all other farm commodities, and feed prices and farm wages are the two most important items of cost in producing milk. The composite index for this group was a simple average of the index of prices paid by farmers (parity index), the feed price index, and the index of farm wage rates.

A third group of factors (Group C) was chosen to reflect alternative opportunities, farm and nonfarm, for the use of milk production resources. According to the Task Force, prices received by farmers for all farm products reflects the attractiveness of alternative farm enterprises for the use of resources. The price received by farmers for beef cattle was described as affecting milk supplies in two ways: First, as a closely related alternative farm enterprise, and second, as a factor affecting the rate of culling of milk cows. The study group indicated that milk supplies are affected also by opportunities in nonfarm employment and proposed the unemployment percentage to reflect this consideration.

The Task Force proposed that the unemployment percentage be used inversely as an index. By using it inversely all the indexes could be related positively to the Class I price. The procedure proposed in the formula would change the factor index by two-thirds point for each 0.1 change in the rate of unemployment. Thus, if unemployment increases by 0.1, the index is decreased by 0.7. After making this adjustment in the employment index, it was combined with the index of prices received for all farm products, and the index of prices received for beef cattle in a simple average to establish a composite index for the "alternative opportunity" factor group.

The fourth group of factors (Group D) was composed of prices of three dairy products—butter, nonfat dry milk, and cheese. A sum of the dairy product prices was computed by adding the price of 1 pound of cheese, 1 pound of butter, and 2 pounds of nonfat dry milk. This sum was converted to an index, which was the Group D composite index.

The four composite group indexes were combined in a simple average to make the "economic index". The Class I price effective in each order the month prior to the effective date the formula was adopted would be the base price. Starting with this base price the movements of Class I prices in all Federal order markets would take place simultaneously (upward or downward) based on the movement of the "economic index".

The proposed formula provided for "quarterly" pricing. A computation of the "economic index" on the 25th day of each December, March, June, and September, based on the latest available data at such time, would be used for establishing Class I prices under all orders for the next following quarter beginning on the first day of January, April, July, and October, respectively.

The proposed formula also would incorporate a bracketed system of pricing in 20-cent increments. The Task Force relied on the experience of fluid milk price movements during the 1960's to determine how much change in the "economic index" should signal a 20-cent change in the Class I price level. Their analysis based on the 1960's showed that Class I prices in that period changed by 7.027 cents for each change of one point in the proposed formula "economic index". Hence, the Task Force recommended that a movement of 2.85 points in the index should result in a 20-cent change in the Class I price.

The recommended table of bracketed prices provided an upper and lower limit for each bracket. The bracket itself from the lower to the upper limit incorporated either 1.5 or 1.6 points, respectively. There was an interval of 1.3 points after reaching the upper limit of one bracket to the lower limit of the next bracket. When the "economic index" fell in the interval between brackets the price would remain unchanged, and the effective price would reflect the price bracket through which the "economic index" had most recently passed. This interval was designed to prevent frequent price changes occurring as a result of shifting from one bracket to another with little change in the "economic index".

The proposed formula also included a contraseasonal provision which would prevent price decreases on July 1 and October 1. Price reductions indicated by the "economic index" could be made only for the quarters beginning January 1 and April 1.

The purposed formula further specified five conditions which could be used as "trigger devices" to indicate that a hearing should be called to review the operation of the "economic" formula. The Secretary was to determine if a hearing were necessary in any of these situations:

(1) When the composite index of manufactured dairy product prices (Group D) departed by more than seven index units from the most recent simple average of the other nine indexes included in the "economic index".

(2) When an index of the ratio of total U.S. milk production to sales of fluid milk products departed by more than 3 percent from a base of 100. The index of the most recent 12-month moving total of U.S. milk production, expressed inversely, would be multiplied by a demand index based on the most recent 12-month moving total of sales of fluid milk items in marketing areas of comparable markets as reported in the "Fluid Milk and Cream Report" issued monthly by U.S. Department of Agriculture. The 3 percent variation would be measured from a base reflecting data current at the time of the hearing.

(3) When purchases under the price support program (butterfat basis) during the immediately preceding 12 months exceeded 6 percent of the butterfat in total U.S. milk production.

(4) When the most recent quarterly index of per capita disposable income in the United States, deflated by the implicit price index used to deflate Gross National Product, departed from the "economic index" by more than five points.

(5) When the formula had been in effect for 18 months, and none of the other bases for hearing calls to review the formula had operated in the most recent 6 months.

Modifications proposed and supported. In their brief, the National Milk Producers Federation and other cooperatives modified their support of the formula proposal in regard to four of its components. First, they supported the Milk Industry Foundation recommendation that price changes be made in 15-cent increments rather than the original 20-cent proposal. This modification would change the Class I price 15 cents with a change in the "economic index" of 2.2 points rather than by 20 cents for each 2.85 points change in the index. To accommodate the 15-cent price changes, the size of the brackets would be reduced to 1.1 points with the interval between the upper limit of one bracket and the lower limit of the next bracket changed to 1.1 points.

In addition, the producer associations, in their brief, supported the announcement of Class I prices on the 5th day of each December, March, June, and September for the respective quarters beginning on the 1st of January, April, July, and October following.

The producer group proposed at the hearing that the base price should be the Class I price effective the last month before the "economic formula" is adopted. In their brief, they requested that during the first year such base price should be increased for the first month the formula is in effect by any amount that $4.71 exceeds the Minnesota-Wisconsin manufacturing milk price for the previous month, and then for each later month by any amount that the

Minnesota-Wisconsin price for the preceding month exceeds $4.71.

On a fourth issue, producers revised their position regarding the conditions under which the Secretary should consider calling a hearing. The cooperative organizations supported calling a hearing within 5 days to review the operation of the formula, unless the Secretary issues a finding that a hearing is not necessary, if one of the following conditions should occur:

(1) Purchases under the price support program during the immediately preceding 12 months exceed 6 percent of the total U.S. milk production.

(2) The composite index of manufactured dairy product prices (Group D) departs by more than seven index units from the most recent simple average of the other nine indexes included in the "economic index".

(3) The formula has been in effect for 18 months, and none of the other bases for hearing calls to review the formula has operated in the most recent 6 months.

As previously stated, the formula, as proposed in the hearing notice, included five conditions which would trigger a hearing unless the Secretary issued a finding that a hearing was unnecessary. At the hearing, the cooperative organization described each of these trigger devices but stated that the five trigger devices were not an integral part of its proposal and were presented for review and consideration only. Even though data for the computation of a trigger device based on a supply-sales ratio and a device comparing the economic index to deflated disposable income were presented for consideration at the hearing, these devices were omitted from consideration in the brief filed by the cooperative associations.

Pure Milk Products Cooperative, a bargaining cooperative representing dairy farmers in the Wisconsin area, testified that the Minnesota-Wisconsin price series is a more appropriate measure to reflect manufacturing milk values than is the proposed sum of the prices of three dairy products. This cooperative stated that if manufactured product prices are used to reflect the value of manufacturing milk in the "economic" formula, the weighting chosen by the Federation to reflect the manufactured milk value should be revised.

The Milk Industry Foundation, a national trade association of fluid milk processors and distributors, urged the adoption of the Federation's proposed "economic" formula provided the formula were modified to include price changes in 15-cent multiples and at least a 25-day advance notification of any change in the Class I price. The Foundation represents a large proportion of handlers who are regulated by milk orders. At least one member is subject to the regulation of each Federal milk order effective at the present time. Foundation witnesses presented most of the testimony for handlers at the hearing. However, several individual handlers also supported the Foundation's position concerning 15-cent brackets and advance notice of prices.

Eastern Milk Producers Cooperative Association, Inc., a cooperative representing 8,500 members residing primarily in the States of New York, Pennsylvania, and Vermont, with a large majority of its members' milk marketed under Federal orders No. 1, 2, 4, 15, and 36 supported the idea of an "economic" formula but proposed a formula quite different from the one proposed by the National Milk Producers Federation.

Eastern proposed the establishment of an "economic index" based on three indexes: The U.S. Wholesale Price Index, an index of per capita disposable income, and an index of prices paid by farmers. The indexes of income and prices paid would reflect local conditions in each market, or in groups of closely related markets. In addition, this cooperative association proposed the inclusion of a supply-demand factor for each Federal order market, or regional combination of markets, based on local or regional comparisons of the milk supply with Class I sales. Also, Eastern would make the base Class I price in each market the prevailing price in such market including any premiums over order minimum prices.

Findings and Conclusions

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

No action should be taken with respect to the proposed formula on the basis of this hearing record. However, on the basis of exceptions filed to this decision, consideration will be given to reopening the hearing for further examination of the proposal.

Proponents did not establish that the proposed pricing system would be in the public interest and would tend to effectuate the declared policy of the Act.

This recommended decision describes the specific areas in which further evidence would be needed to support a finding to adopt the proposed formula. Interested persons are requested to file with their exceptions to this decision views as to whether the hearing should be reopened, together with a brief summary of the nature of any further evidence they would present at such a hearing.

Questions presented by proposal. Any pricing system adopted must meet the standards prescribed by the Agricultural Marketing Agreement Act of 1937 which requires that such milk prices be either "parity prices," or if parity prices are unreasonable "in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area," the prices established must be those which "will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest."

The proposed formula is based on indexes of various prices and other statistical measures of economic conditions. However, in order to meet the statutory pricing standards, there must be reasonable assurance that the design and performance of the proposed formula will reflect accurately the economic forces which are most important in determining milk prices so as to maintain a reasonable equation between milk supply and fluid sales. Specifically, it is necessary to have greater assurance that the proposed formula will (1) accurately reflect needed changes in fluid milk prices, (2) maintain appropriate price relationships among markets and uses of milk, and (3) be compatible with other program responsibilities of the Secretary.

(1) *Reliability of performance.* The essential feature of the proposed formula is the use of a group of index factors to determine changes in Class I milk prices to replace the single factor now used (the average price paid for manufacturing grade milk in Minnesota and Wisconsin).

Proponents of the formula claim that whereas the manufacturing milk price reflects changes which have already taken place in supply and demand conditions for milk, the proposed economic index would signal the need for price changes before any change in milk supply or sales actually takes place. A central question is whether this proposed formula is so composed that it could reasonably be expected to reach that goal.

Proponents point out that the Secretary could call a hearing and modify the "economic" formula price if it did not reflect supply and demand conditions for milk, or if it did not appear to be in the public interest. They suggested specified conditions under which a public hearing could be called to consider whether the economic formula price should be modified.

Two conditions for hearing calls which proponents supported in their brief were (1) situations indicative of an oversupply of milk as reflected in excessive purchases of dairy products under the price support program, and (2) an excessive disparity between manufactured dairy product prices and other factors in the economic index. Several other situations were included in the hearing call and considered at the hearing for use as "trigger" devices. However, the above two conditions plus a regular review every 18 months were the only "trigger" provisions finally supported by the formula proponents.

The first condition (excessive price support purchases) would have suggested nearly continuous review of the economic formula price at hearings from January 1962 through July 1965 and from December 1967 through April 1968. The second condition (disparity between manufactured product prices and other index factors) would have suggested hearings to supersede the economic formula in most of these same periods. In addition, the price disparity condition would have suggested hearings in three of four quarters in 1960 and for the price for the second quarter in 1961. Also, it would have required hearings in the last half of 1965 and the first half of 1966.

Thus, the formula price would have been subject to review under the suggested hearing calls continuously during most of the sixties. Only in one year, 1969, would there have been no hearing call.

Based on the test of what the "economic" formula would have done if in operation in the recent past, we could expect it to be subject to the hearing review most of the time. This raises a question as to the appropriateness of the formula as an effective instrument for appraising and determining Class I price levels in the Federal order markets.

Proponents did not attempt to show the amount and type of causal influence each factor of the proposed formula would have on future milk prices. They relied on past performance of the composite index as compared to actual prices during the 10-year period, 1960–69, to demonstrate its likely future price-setting performance.

Since the "economic" index was constructed so as to match milk price changes which occurred in the 1960's, it shows a close relationship of movement to actual prices when compared over the period as a whole. The Task Force found the "economic" index was correlated to milk price changes (dealer's average buying price for fluid distribution, United States) in the 1960–69 period at the high level 0.933. However, when a similar correlation is computed for the 10-year period, 1955–64, it is only 0.01, indicating no significant relationship between the proposed index and milk prices. In view of this, further demonstration of the reliability of the "economic" index as a predictor of milk prices in other time periods is warranted.

Additional evidence is needed also to demonstrate that the individual components of the composite "economic" index are the most appropriate measures of the economic forces they seek to reflect, and whether each factor is weighted according to its importance as a price determinant.

Proponents included three national indexes in the formula to reflect the ability and willingness of consumers to buy milk. These were disposable per capita personal income, consumer prices, and wholesale prices. Proponents selected these indexes as a measure of the ability and willingness of consumers to purchase goods and services and as indicative of the demand for milk for fluid use.

There is a question as to the adequacy of these indexes in predicting the level of consumer demand for milk. Total United States per capita sales of fluid milk products on a product weight basis [1] in 1960 were 309 pounds per person. By 1969 such per capita sales had dropped to 296 pounds, a decrease of 4 percent per person. In the same period per capita disposable income in current dollars rose about 60 percent. The Consumer Price Index rose 24 percent and the Wholesale Price Index rose 12 percent. The fact that all three selected indexes moved up in this period while per capita sales declined brings into question the reliability of these indexes as predictors of demand for milk. Some further explanation of the relative influence these selected indexes have on milk sales is needed.

The three indexes selected by proponents to represent cost of milk production were: Prices paid by farmers, feed prices, and farm wage rates. The cost of these input factors obviously affects prices which will maintain an adequate milk supply. But productivity factors also must be taken into consideration.

Each of the indexes selected by proponents measures a cost of a production unit input. The cost factor relevant to the Class I milk price, however, is the cost per unit of output, that is the cost per hundredweight of milk sold by the producer.

Milk output per unit of labor input (labor productivity) rose 76 percent from 1960 to 1968.[2] Thus, even though the proposed composite wage rate rose 48 percent in the same period, labor cost adjusted by the productivity factor showed a drop of 12 percent per 100 pounds of milk produced. Increased labor productivity is an important element in determining the cost of producing milk. The cost of labor per hundredweight of milk produced is not reflected by the wage rate alone.

There is a question also as to whether the proposed index of farm wage rates is representative of dairy farm wage rates. The proposed index represents composite wage rates paid to all hired farm workers in the United States. The seven States which represent about half the total hired labor force have only 15 percent of the nation's milk production. The three largest milk-producing States, Wisconsin, New York, and Minnesota, where one-third of the total milk supply is produced, represented less than 6 percent of the hired labor force in 1969. Official notice is taken of "Farm Labor" for January 1970, published by the U.S. Department of Agriculture. Further evidence is required to show that the proposed wage index accurately reflects changes in dairy farm wage rates.

The index of prices paid by farmers for all commodities and services, like wage rates, is useful as a cost measure only when it is adjusted to reflect changes in productivity. This index, commonly known as the "parity" index, measures cost of input items covering a wide range of goods and services.

The "parity" index is used as a factor in establishing dairy price support levels. But under that program, productivity is taken into account (within the range of 75 to 90 percent of parity) through the statutory requirement that the support level must be such that it will assure an adequate supply. Thus, factors which affect supply, including changing productivity rates, are considered. Additional evidence is needed as to how the public interest would be served by using the proposed index for Class I pricing without some means of adjusting cost rates to output.

Of the three indexes recommended as reflectors of dairying costs, the feed index represents the closest tie to the dairy industry. The value of dairy ration fed to milk cows in the United States in 1969 per 100 pounds of milk produced was $1.28 ("Milk Production," issued by U.S. Department of Agriculture, May 12, 1970). This represents 23 percent of the average price received in that year for all milk sold wholesale by farmers. In the proposed formula, however, the dairy feed price would be given a direct weight of 8 percent plus the small additional influence exerted through the index of prices paid by farmers for all commodities. The importance of feed as a cost item per unit of output might suggest that it deserves a greater weight in the "economic" index.

On the other hand, during the 1960–69 period, milk prices did not appear to be influenced greatly by feed prices. The dealers' buying price for milk rose 24 percent from 1960 to 1969, whereas dairy feed prices in 1969 averaged 1 percent less than in 1960. Despite the substantial increase in milk prices relative to dairy feed prices during the sixties, milk production in 1969 was 5 percent less than in 1960. Although feed prices are an important factor affecting the cost of milk production, this suggests that the extent of their impact on the milk supply may vary in different time periods. Further analysis of the importance and use of the feed cost factor as a determinant of milk prices is warranted.

A third group of factors recommended by proponents for inclusion in the proposed formula was selected to represent the attractiveness of other opportunities in relation to dairying. This included the index of prices received by U.S. farmers for all products, the average prices received for beef cattle, and the unemployment index.

The rationale for including the index of prices received by farmers for all products is that milk production and other farm production enterprises are closely related alternative uses of resources. If so, one reasonably could expect milk production to increase when milk prices increase more than other farm prices. During the period, 1964 to 1969, the index of prices received by farmers for all products increased by about 17 percent. During the same period prices received by dairy farmers for all milk sold wholesale increased by approximately 30 percent.[3] Desite the greater increase in milk prices, total milk production fell 8 percent in this period.

The index of prices of beef cattle was included as a closely related alternative enterprise to dairying, and for its effect on culling of dairy animals. It is generally accepted by agricultural economists

[1] Such sales are reported both on a product weight basis and in terms of the whole milk equivalent of the butterfat contained in such sales. The product weight figure corresponds to Class I sales which are accounted for in terms of the pounds of liquid skim milk and butterfat therein.

[2] Official notice is taken of "Dairy Situation," September 1969, issued by U.S. Department of Agriculture.

[3] Dairy Situation, U.S. Department of Agriculture, November 1969.

that beef cattle prices do exert an influence on milk production through their effect on culling rates. Also, since feed crop resources are largely interchangeable for feeding either milk cows or beef cattle, higher relative prices for beef than for milk sustained over a period of time will affect milk production. Thus, the impact of beef prices on milk prices comes indirectly through the effect of such price relationships on beef supply and milk production.

Beef prices relative to milk prices are affected, however, not only by their respective supplies but also by the respective demands for beef and milk. In the period 1960 to 1969, per capita consumption of beef increased 29 percent [4] while consumption of all dairy products in terms of milk equivalent of butterfat declined 14 percent.[5]

If milk prices were tied directly to beef prices as the formula is constructed, it would imply that milk prices should rise in direct proportion to beef prices regardless of the demand for each product. This aspect of the milk-beef price relationship requires further examination.

An index of employment in nonfarm occupations was proposed as another alternative cost factor. The index was based on the percentage of nonfarm workers unemployed, used inversely.

The availability of employment in nonfarm occupations was cited as a reason why many dairymen, particularly those with relatively small farm output, went out of dairying in the sixties. It was argued that the opportunity for nonfarm employment affects the supply of hired labor willing to work on dairy farms, and thus affects the total milk supply.

There is a question, however, about the extent to which nonfarm employment opportunities affect milk prices under present conditions of declining need for workers on dairy farms. The labor force used in milk production in 1960 was down nearly 30 percent from the 1955 labor force. From 1960 to 1968 it dropped another 45 percent. The significance of the proposed unemployment factor as an influence on milk production should be evaluated in the light of this sharp downward trend in labor requirements on dairy farms.

The index of cheese, butter, and nonfat dry milk prices was proposed to reflect in the "economic" formula the value of milk used to produce manufactured milk products. Proponents expressed a preference for deriving a value for manufacturing milk from wholesale product prices rather than employing the actual prices paid for manufacturing grade milk, but they did not explain the basis for their preference. Task Force members were divided on the issue of whether a product price index or the actual pay price for manufacturing milk should be used as a factor in the formula. Other witnesses supported the use of the Minnesota-Wisconsin manufacturing milk price in place of the dairy product price index. Inasmuch as the Minnesota-Wisconsin manufacturing milk price as reported by the Department has long been used as a factor in order pricing formulas and is a recognized measure of the level of actual prices paid in a competitive market for manufacturing milk, further explanation is needed as to why the proposed product price index should be substituted for it.

There is a further question as to whether the impact of the manufacturing milk price on the Class I price level is adequately reflected in the proposed composite index. Proponents recognized the relatively greater weight to be given the manufacturing milk value compared to other items in the composite index. They recommended that the manufacturing milk price index be given 25 percent weight in the composite. This gives it more importance than any other single factor, but it is still a minor role as compared to the total of other factors which carry 75 percent weight. Further evidence is needed to show that the "economic" formula adequately considers the economic interrelationship of Class I prices and manufacturing milk prices. This is discussed further in the following section.

(2) *Interrelationship of markets and uses for milk.* A fundamental aspect of the "economic" formula proposal is that it would be used identically in all orders to provide uniform Class I price movements throughout the Federal order system. Proponents state that the coordination of Class I price movements is needed because Class I milk now moves readily between and among Federal order markets. Thus, the Class I price in one market frequently will be the alternative supply price for another market. Without price coordination, even small disparities in the normal price relationships may encourage the uneconomic movement of milk and disruption of markets. Proponents of the "economic" formula thus regard its application so as to provide identical Class I price changes in all orders as a necessary and key feature.

Technological advances in milk assembly and distribution have made it feasible to transport milk from large centralized bottling plants over wide sales areas often extending into several states. Improved highway systems have aided and encouraged this broadening of distribution areas. The large processing plants require the assembly of milk from greater distances. Thus, both the assembly and distribution of milk in many cases now extend over wide areas.

This is greatly different from the market structure of the 1930's when Federal milk orders came into being. Milk in that period customarily was delivered in cans to a nearby plant where it was received and cooled and then processed for distribution or shipped to another processing plant. Now milk is delivered in bulk to tank trucks which may take such milk 1 day to a nearby plant and the next day to a plant 400 miles or more away.

The mobility of milk supplies and the present distribution system has changed the character of fluid milk markets to the extent that there are no longer any isolated local markets. Because milk can be moved so readily from one market to another, changing Class I price relationships among markets creates the incentive to shift milk supplies.

While the individual order formulas do not employ precisely the same language, the present price system under Federal orders operates in such a way that it provides uniform price changes in all orders.[6] Some orders provide that the Class I price shall be the price established in a nearby order, plus or minus a stated amount. Certain northeastern markets provide that the Class I price shall be a stated amount adjusted by the amount by which the Minnesota-Wisconsin manufacturing milk price exceeds $4.33. Most orders establish Class I prices by adding a specified differential directly to the Minnesota-Wisconsin manufacturing milk price.

The present system of uniformity has evolved from the necessity, apparently recognized by proponents of the "economic" formula, to coordinate price changes within regions and also to provide coordination on an interregional basis. The first step in coordinating price changes was the use of formulas which changed Class I milk prices as the value of manufacturing milk changed. Several different formulas for computing the value of manufacturing milk were used at one time. After the Minnesota-Wisconsin manufacturing milk price was developed, however, all orders using a manufacturing milk price formula in determining Class I prices were amended to use the Minnesota-Wisconsin price. The last step in this evolution of the uniform pricing concept was taken September 1, 1969, by the amendment of northeastern orders.

During most of the period since 1966, substantially uniform price increases have been made in all market Class I prices in the effort to halt the general decline in milk production. Such uniform price increases throughout the country applicable to both fluid market and manufacturing grade milk appeared to be appropriate since the milk supply at one location could be made available readily to another market or for another use. Local intermarket or interregional price adjustments have been made only to insure that the available milk supply would be distributed efficiently among the various markets in accordance with their respective needs to cover Class I sales.

The increasing interrelationship among milk prices applies also between fluid market milk and manufacturing grade milk. There is a developing trend toward one grade of milk. Many manufacturing grade milk producers are either going out of business or converting to

[4] U.S. Department of Agriculture Handbook No. 373, issued November 1969.

[5] Dairy Situation, U.S. Department of Agriculture, November 1969.

[6] An exception is the Knoxville, Tenn., order where the Class I price is adjusted by a supply-demand adjustor. At the time of the hearing, supply-demand adjustors also were used in five additional orders. Official notice is taken of the order amendments and termination actions removing such provisions from the five orders.

production of milk eligible for sale in fluid markets.

Many of the smaller producers who have gone out of milk production in recent years were producers of manufacturing grade milk. Those with larger output who remained in business have been compelled by circumstances to increase their investment in order to meet new sanitary requirements for milk used in manufactured products. Having made this investment many of these dairymen find that it costs very little more to meet sanitary requirements for fluid milk markets.

Conversion was a gradual process from 1960 through 1968. In 1960, 67 percent of all milk sold to plants and dealers in the United States was eligible for the fluid market.[7] Eight years later, in 1968, 70 percent was eligible for fluid markets. But then in 1969, 1 year later, milk eligible for fluid markets jumped to 72 percent. Fluid grade marketings increased by about 2 billion pounds from 1968 to 1969 even though total milk production declined slightly.

Although the quantity of manufacturing grade milk is declining, the 30 billion pounds sold in 1969 supplied half the milk used in manufactured dairy products during the year. This is still a substantial part of both the total milk supply and the supply used in manufactured products.

The economic impact of the manufacturing milk supply and price on the Class I milk supply and price is greatest in the area where there is the most manufacturing grade milk in relation to fluid grade milk. More than half the manufacturing grade milk in 1969, 16 billion pounds, was concentrated in two States, Wisconsin and Minnesota. Wisconsin alone marketed 9 billion pounds of manufacturing grade milk. Although milk production in Wisconsin declined slightly from 1968 to 1969, milk eligible for fluid market sales increased 3 percent. The additional volume of fluid grade milk amounted to 272 million pounds.

Most of this new supply of fluid grade milk went to plants regulated under the Chicago Regional order which obtains a large part of its supply from Wisconsin. Receipts from producers at such plants were 229 million pounds greater in the last half of 1969 than in the last half of 1968.[8] Comparative data are available only for a half year since the Chicago Regional order became effective on July 1, 1968. The same trend appears to be continuing in 1970. Receipts from producers at Chicago Regional order plants during the first half of 1970 were 216 million pounds greater than in the same period of 1969.

Similar changes are taking place in Minnesota. More milk is being sold as fluid market milk and it is being sold in Federal order markets.

The rapid influx of new supplies to Federal order markets in these two States from sources historically supplying manufacturing grade milk has created within this region a problem of price alignment highly similar to the pressures which prompted proponents to endorse the system of uniform Class I price changes throughout the Nation. In these States the competitive pressure comes not from Class I prices in other markets, since Class I prices in this region are the lowest in the country, but from the differential between the Class I prices in these markets and the manufacturing milk price.

In view of this situation, the uniform pricing provided by the proposed "economic" formula would not achieve adequate coordination of prices in all markets with the price of alternative milk supplies. Although Class I prices would move by uniform amounts in all fluid markets, these prices could rise or fall by 30 to 35 cents in relation to manufacturing milk prices before a hearing would be suggested to consider any corrective price action.

(3) *Compatibility of objectives.* The major objectives sought by proponents of the proposed formula appear to be: (1) To tie Class I prices primarily to certain economic indicators; (2) to break the historical relationship of Class I prices to manufacturing milk prices; and (3) to lag and bracket Class I price changes.

To be in the public interest as required by the statute, the formula's objectives should complement, and not conflict with, the objectives of other Government programs. There is a question as to whether the objectives which proponents seek through this formula are compatible with the objectives of other programs for which the Secretary is responsible.

The proposed "economic" formula is weighted heavily with measures of general price and income changes. Proponents state its purpose is to keep milk prices moving with the general economy. This is also the objective for which the "parity" index has been used with farm programs for many years. The "economic" index is very highly correlated to the "parity" index. In the 10-year period 1960–69 these two indexes were correlated at the 0.975 level and in the 1956–64 period, at 0.959.

The essential difference between the "economic" index formula and the "parity" index is in the way the "economic" index would be used. In using the "parity" index to determine the support price level, the Secretary must fix the support price level at 75 to 90 percent of the "parity" price to achieve an adequate, but not excessive, supply of milk. The proposed "economic" formula price would not be subject to an adjustment reflecting milk supply in relation to sales. This also is an important characteristic of this "economic" formula when compared to similar "economic" formulas used previously in some Federal orders to move Class I prices. The "economic" formulas used heretofore did provide for adjusting the "economic" index price to reflect changes in Class I sales in the respective area in relation to producers' deliveries of milk. The use of an "economic" formula not providing such an adjustment for Class I pricing, and a support price based on the prescribed limits of "parity" which must reflect prevailing supply conditions, presents a problem of conflicting objectives for the two programs.

One of proponents' principal objectives is to abandon the present direct tie to manufacturing milk prices. Proponents' testimony dealt more with why they believed the additional indexes they proposed should be used than with any shortcomings of the present system which links Class I price changes to manufacturing milk price changes. It appears, however, that in looking to other factors to establish Class I prices, proponents have been motivated by the awareness that the manufacturing milk price may not be available in the future. As pointed out earlier, manufacturing grade milk supplies are declining. It is frequently predicted that within a few years all milk will be eligible for fluid market sales.

It is not apparent that the disappearance of manufacturing milk as a separate grade should be a basis for abandoning the close alignment of the movements of prices for Class I milk with changes in prices for milk used in manufactured products. Rather it would appear that since requirements for all uses of milk then would come from a single, common supply, such price alignment might take on even greater importance.

In view of the pace at which manufacturing grade milk is disappearing, it is important that consideration be given to a possible alternative pricing system. An alternative system conceivably may be needed not only for establishing Class I prices, but also for pricing milk used in manufactured products. In such circumstance, it would seem logical that there would still be need to coordinate prices in all uses.

Further, proponents' objective to break the tie between Class I prices and manufacturing milk prices could have important impact on the dairy price support program.

The present typing of Class I prices to manufacturing milk prices provides the Secretary a measure of control over the cos. to the public of the price support program. The only curb on price support cost increases which might come about as a consequence of "economic" formula prices is the trigger device which would indicate when a hearing should be called. This would be no curb until some action was taken on the basis of the hearing. The trigger would not signal the need for a hearing until the annual rate of support purchases reached 6 percent of production. At that time the cost of the support program (based on 1969 fiscal year rates[9] adjusted to the 6 percent level) would be close to one-half billion dollars. Net Government expenditures in the 1969 fiscal year on dairy price support were $312 million.

---

[7] Milk Production, Disposition and Income, issued by U.S. Department of Agriculture, April 1970.

[8] Federal Milk Order Market Statistics, annual 1969 and monthly issues 1970, issued by U.S. Department of Agriculture.

[9] Dairy Situation, U.S. Department of Agriculture, November 1969.

Since the call of a hearing and the amendment procedure would require some time, the price could not be corrected in a timely manner and support program costs could rise even further before action could be taken to reverse the oversupply condition. Funds would have to be provided to carry out the support program at whatever level became necessary as a consequence of the formula price.

Certain operating features of the formula were designed to assist handlers in adjusting resale prices when producer price increases occur so as to provide handlers satisfactory operating margins. These features are: quarterly pricing; advance announcement of the price before each quarter; and adjustment of the Class I price in multiples of 15 cents.

The quarterly pricing periods proposed for adjusting and announcing Class I prices would begin January 1, April 1, July 1, and October 1. Class I prices would be computed and announced prior to the beginning of each quarter. Dates proposed for such advance announcement varied from 5 to 35 days prior to the effective date. In briefs, however, most parties supported an advance announcement date 25 days before the first day of each quarterly pricing period.

Proponents' original proposal provided that price adjustments be made in 20-cent amounts, or multiples of 20 cents. Handlers supported the use of such bracketed pricing but maintained that the brackets should be in 15-cent amounts. In their brief following the hearing, producer proponents also supported the 15-cent figure.

Using the three features described above, Class I prices would be based on data lagged significantly, thus delaying adjustments that might be called for by any rapid change in marketing conditions. A 25-day advance notice of the Class I price coupled with holding the Class I price constant for a quarter of the year would result in Class I prices in the last month of each quarter based on data reflecting economic conditions as much as 9 months earlier for one factor, while all factors would reflect conditions at least 4 months earlier. This contrasts with present pricing formulas which fix prices on the latest data available at the time of the price announcement.

At the hearing cooperative proponents indicated they favor price changes in bracketed amounts, to be announced in advance for 3 months. However, in their brief following the hearing the producer groups requested that, during the first year in which the formula was effective, Class I prices also reflect any monthly increase (irrespective of amount) which might occur in manufacturing milk prices. By attaching this proviso to their proposal, it appears that producers, even though they supported the price lagging features at the hearing, may not be ready to forego immediate price increases when supply conditions in the dairy industry indicate a price increase is appropriate.

Handlers requested the bracketed prices in 15-cent amounts. With each such increase in the producer price, handler witnesses stated their handling margins could be increased 8 cents per hundredweight. The combined increase of producer price and handling margin would thus add to 23 cents per hundredweight, or the quivalent of 1 cent per half-gallon by which the selling price would be raised.

Changes in actual handlers' margins fail to demonstrate any tendency for margin changes to be associated with producer price changes as proposed. Prevailing prices paid by consumers and paid to producers are reported for 25 cities each month in the "Fluid Milk and Cream Report", issued by U.S. Department of Agriculture. A comparison of such reports for the period January 1968 through February 1970 showed 147 changes in the price per half-gallon for the most common grade of milk sold out of stores. This was the total number of changes in the 25 markets.

Of the 147 consumer price changes, 13 moved in the opposite direction from the producer price change and 74 occurred with no change in the producer price. There were eight consumer price changes of 1 cent per half-gallon or more when producer prices changed more than 18 cents. There were 33 such consumer price changes when the producer price change was less than 12 cents. The remaining price changes, 19, were associated with producer price changes of 12 to 18 cents. Thus, only 19 of the 147 resale price adjustments were associated with a producer price change of 15 cents, plus or minus 3 cents.

Since actual adjustments in handlers' margins have varied so greatly from the pattern they now propose, the question is raised as to whether there is any need now to adopt a producer pricing system calculated to facilitate the proposed adjustments in handlers' margins.

Summary. In view of the numerous questions regarding the proposed pricing formula which remain unanswered on this hearing record, it is concluded that no action be taken on the basis of this record. However, if interested parties desire to reexamine the proposal in the light of the questions herein set forth, further consideration will be given, upon receipt of exceptions to this decision, to whether the hearing on this issue should be reopened.

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.

Determination

The findings and conclusions of this decision do not require any changes in the regulatory provisions of the respective orders regulating the handling of milk in the aforesaid marketing areas.

Signed at Washington, D.C., on September 29, 1970.

John C. Blum,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-13185; Filed, Oct. 1, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

USE OF IMPACT-RESISTANT LENSES IN EYEGLASSES AND SUNGLASSES

Statements of General Policy or Interpretation

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502 (j), 701(a), 52 Stat. 1051, 1055; 21 U.S.C. 352(j), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes that Part 3 be amended by adding thereto the following statement of policy on the use of impact-resistant lenses in all eyeglasses and sunglasses:

§ 3._____ Use of impact resistant lenses in eyeglasses and sunglasses.

(a) Data received by the Food and Drug Administration indicates that approximately 20,000 school children are being injured in the United States each year by ordinary crown glass lenses while they play on school grounds. Another 100,000 Americans are estimated to be injured by unsafe lenses at home.

(b) The consensus of informed medical opinion is that the number of eye injuries would be substantially reduced by the use of either plastic lenses or heat-treated crown glass lenses in eyeglasses and sunglasses. For example, the National Society for the Prevention of Blindness reports records of 34,000 people in whom serious eye injuries were prevented by the wearing of safety glasses. Of these, 22,000 were recorded in the last 8 years.

(c) To protect the public more adequately from potential eye injury, eyeglass and sunglass lenses distributed, sold, or delivered shall be made of impact-resistant material, except in those cases where the physician or optometrist finds that such lenses will not fulfill the visual requirements of the particular patient, directs in writing the use of other lenses, and gives written notification thereof to the patient.

(d) The physician or optometrist shall have the option of ordering heat-treated glass lenses, plastic lenses, or laminated lenses; however, if plastic or heat-treated glass lenses are ordered, they must be

capable of withstanding an impact test of a ⅝-inch steel ball dropped from a height of 50 inches. This test will be conducted at room temperature, with the lens supported by a plastic tube (1-inch inside diameter, 1¼-inch outside diameter) with a ⅛ x ⅛ inch neoprene gasket on top edge. Heat-treated glass lenses should not be less than 2-millimeter optical center thickness, with average thickness between the center and the thinnest edge not less than 1.7 millimeters and an edge thickness of not less than 1.0 millimeter at the thinnest point of the edged lens.

(e) This statement of policy does not apply to contact lenses.

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

Dated: September 3, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-13227; Filed, Oct. 1, 1970; 8:49 a.m.]

[21 CFR Part 30]

TABLE SIRUPS

Proposed Standards of Identity

The Commissioner of Food and Drugs, on his own initiative, proposes establishment of standards of identity for table sirup, maple sirup, cane sirup, and sorghum sirup as set forth below. Fruit sirups and special "low-calorie, dietary" sirups are not intended for inclusion in these proposed standards.

Accordingly, the Commissioner proposes that the following new Part 30 be added to Title 21, Chapter I:

PART 30—TABLE SIRUPS

Sec.
30.1 Table sirup; identity; label statement of optional ingredients.
30.2 Maple sirup; identity; label statement of optional ingredients.
30.3 Cane sirup; identity; label statement of optional ingredients.
30.4 Sorghum sirup; identity; label statement of optional ingredients.

AUTHORITY: The provisions of this Part 30 issued under secs. 401, 701, 52 Stat. 1046, as amended, 1055, as amended; 21 U.S.C. 341, 371.

§ 30.1 Table sirup; identity; label statement of optional ingredients.

(a) Table sirup is the liquid food consisting of one or more of the optional sweetening ingredients provided for in paragraph (b)(1) of this section. The food contains not less than 65 percent soluble sweetener solids by weight and is prepared with or without added water. It may contain one or more of the optional ingredients prescribed in paragraph (b) (2) through (13) of this section. For purposes of this section, the phrase "safe and suitable" when used to describe ingredients means that such ingredients shall be functionally suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as to defined or color additives as defined by section 201(t) of the act, they shall be used only in conformity with regulations established pursuant to section 409 or 706 of the act.

(b) The optional ingredients that may be used in table sirup in such proportions as reasonably required to accomplish their intended effects are:

(1) One or more of the nutritive sweeteners prescribed in subdivisions (i) (in such an amount that each such sweetener used constitutes not less than 2 percent by weight of the finished food), (ii), and (iii) of this subparagraph.

(i) The sirups identified by §§ 30.2, 30.3, and 30.4.

(ii) Glucose sirup (a purified concentrated aqueous solution of nutritive saccharides obtained from starch), dried glucose sirup, corn sirup (glucose sirup obtained wholly from corn starch), and dried corn sirup.

(iii) Any other edible nutritive sweeteners including, but not limited to, sugar, sugar sirup, invert sugar, dextrose, molasses, and refiners' sirup.

(2) Honey, in a quantity not less than 2 percent by weight of the finished food.

(3) Butter, in a quantity not less than 2 percent by weight of the finished food.

(4) Edible fats.

(5) Safe and suitable emulsifiers or stabilizers or both, in a quantity not more than reasonably necessary to accomplish the intend effect.

(6) Natural and artificial flavorings, alone or in safe and suitable carriers.

(7) Natural and artificial color additives.

(8) Salt.

(9) One or more safe and suitable chemical preservatives including, but not limited to, sodium benzoate, potassium sorbate, sorbic acid, propylparaben, and methylparaben.

(10) Safe and suitable viscosity adjusting agents.

(11) Safe and suitable food adjuncts; for example, shredded coconut, ground orange peel, etc.

(12) One or more safe and suitable acidifying, alkalizing, or buffering agents including, but not limited to, citric acid, tartaric acid, lactic acid, phosphoric acid, sodium carbonate, sodium bicarbonate, sodium hydroxide, and sodium citrate.

(13) Dimethylpolysiloxane, margarine, or other safe and suitable defoaming agents.

(c) Except as provided for in this paragraph and in paragraph (d) (2) and (3) of this section, the name of the food is "table sirup," "sirup," "pancake sirup," "waffle sirup," "pancake and waffle sirup," or "_____ sirup," the blank being filled in with the word or words that designate the sweetening ingredient that characterizes the food (except "maple," "cane," or "sorghum" alone, such sirups being required to comply in all respects with §§ 30.2, 30.3, and 30.4 respectively) and, in the case of more than one, in the order that they predominate by weight in the food. When one of the sweeteners constitutes at least 80 percent of the total sweetener solids, the name of the food may be designated as the corresponding sirup (for example, "corn sirup"), provided that the name is immediately and conspicuously followed, without intervening written, printed, or graphic matter, by the statement "with _____" as part of the name, the blank being filled in with the name or names of each additional sweetening ingredient present, stated in a clear legible manner in letters not less than one-half the height of the letters used in the name of the principal sweetener. When butter is used, as provided for in paragraph (b)(3) of this section, the name of the food may be "buttered sirup." When artificial maple flavor is present in characterizing amounts, the name "imitation maple flavored sirup" in type of uniform size and prominence may be used. Alternatively, the word "sirup" may be spelled "syrup."

(d) (1) When present, the common names of any optional ingredients prescribed in paragraph (b) (1) through (11) of this section shall be listed on the label in order of predominance by weight with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase except that flavorings and colorings may be declared as such.

(2) A statement identifying the flavor may be included on the label if such flavor reasonably characterizes the flavor of the sirup, provided that if maple, honey, or both maple and honey are the named characterizing flavors, the total quantity of maple sirup or honey, singly or in combination, is not less than 10 percent by weight of the finished food. When artificial maple flavor or artificial honey flavor or both are also added, however, no flavor identification statement shall be made with respect to such flavors unless the presence of such artificial flavor is declared on the label in type equally as conspicuous as the type used for the identified flavor.

(3) If any optional sweetening ingredient provided for in paragraph (b) (1) and (2) of this section constitutes less than 20 percent by weight of the finished food and such ingredient is represented by label statement as furnishing a significant organoleptic contribution to the composition of the table sirup, the label shall bear a statement of the percentage by weight of the sweetening ingredients so used and so represented with such prominence and conspicuousness as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase.

(4) When artificial coloring or artificial flavoring is used, it shall be declared in the ingredient statement as "with _____ added," the blank being filled in with the words "artificial coloring," "artificial flavoring," a combination of these words as appropriate, or words of similar import.

(5) When chemical preservatives are used, they shall be declared in the ingredient statement as "_____ added as a preservative," or words of similar import, the blank being filled in with the common name of the preservative ingredient used.

§ 30.2 Maple sirup; identity; label statement of optional ingredients.

(a) Maple sirup is the liquid food derived by concentration and heat treatment of the sap of the maple tree (*Acer saccharum* M. or *Acer nigrum Michx* F.) or by solution of maple sugar (maple concrete) in water. It contains not less than 66 percent by weight of soluble solids derived solely from such sap and its concentration may be adjusted with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. For purposes of this section, the phrase "safe and suitable" when used to describe ingredients means that such ingredients shall be functionally suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they shall be used only in conformity with regulations established pursuant to section 409 of the act.

(b) The optional ingredients that may be used in maple sirup in such proportions as reasonably required to accomplish their intended effects are:

(1) One or more safe and suitable chemical preservatives including, but not limited to, sodium benzoate, potassium sorbate, sorbic acid, propylparaben, and methylparaben.

(2) Salt.

(3) Dimethylpolysiloxane, margarine, or other safe and suitable defoaming agents.

(c) The name of the food is "maple sirup." Alternatively, the word "sirup" may be spelled "syrup."

(d) The common names of any optional ingredients used, as provided for in paragraph (b) (1) and (2) of this section, shall be listed on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. When chemical preservatives are used, they shall be declared in the ingredient statement as "_____ added as a preservative," or words of similar import, the blank being filled in with the common name of the preservative ingredient used.

§ 30.3 Cane sirup; identity; label statement of optional ingredients.

(a) Cane sirup is the liquid food derived by concentration and heat treatment of the juice of sugarcane (*Saccharum officinarum* L.) or by solution of sugarcane concrete in water. It contains not less than 74 percent by weight of soluble solids derived solely from such juice and may be adjusted to that concentration with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. For purposes of this section, the phrase "safe and suitable" when used to describe ingredients means that such ingredients shall be functionally suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they shall be used only in conformity with regulations established pursuant to section 409 of the act.

(b) The optional ingredients that may be used in cane sirup in such proportions as reasonably required to accomplish their intended effects are:

(1) One or more safe and suitable chemical preservatives including, but not limited to, sodium benzoate, potassium sorbate, sorbic acid, propylparaben, and methylparaben.

(2) Salt.

(3) Dimethylpolysiloxane, margarine, or other safe and suitable defoaming agents.

(c) The name of the food is "cane sirup" or "ribbon cane sirup." Alternatively, the word "sirup" may be spelled "syrup."

(d) The common names of any optional ingredients used, as provided for in paragraph (b) (1) and (2) of this section, shall be listed on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. When chemical preservatives are used, they shall be declared in the ingredient statement as "_____ added as a preservative," or words of similar import, the blank being filled in with the common name of the preservative ingredient used.

§ 30.4 Sorghum sirup; identity; label statement of optional ingredients.

(a) Sorghum sirup is the liquid food derived by evaporation and heat treatment of the juice of sorghum cane (sorgos) (*Sorhum vulgare*). It contains not less than 74 percent by weight of soluble solids derived solely from such juice and may be adjusted to that concentration with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. For purposes of this section, the phrase "safe and suitable" when used to describe ingredients means that such ingredients shall be functionally suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they shall be used only in conformity with regulations established pursuant to section 409 of the act.

(b) The optional ingredients that may be used in sorghum sirup in such proportions as reasonably required to accomplish their intended effects are:

(1) One or more safe and suitable chemical preservatives including, but not limited to, sodium benzoate, potassium sorbate, sorbic acid, propylparaben, and methylparaben.

(2) Salt.

(3) Dimethylpolysiloxane, margarine, or other safe and suitable defoaming agents.

(c) The name of the food is "sorghum sirup." Alternatively, the word "sirup" may be spelled "syrup."

(d) The common names of any optional ingredients used, as provided for in paragraph (b) (1) and (2) of this section, shall be listed on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. When chemical preservatives are used, they shall be declared in the ingredient statement as "_____ added as a preservative," or words of similar import, the blank being filled in with the common name of the preservative ingredient used.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof.

Dated: September 23, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-13191; Filed, Oct. 1, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-CE-93]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Dexter, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Comunications should be submitted in triplicate to the Director, Central Region, Attention:

Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Dexter, Mo., Municipal Airport utilizing a city owned nondirectional radio beacon as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Dexter, Mo. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic at this location will be controlled by the Memphis Air Route Traffic Control Center.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (35 F.R. 2134), the following transition area is added:

DEXTER, MO.

That airspace extended upward from 700 feet above the surface within an 8½-mile radius of the Dexter Municipal Airport (latitude 36°46'30" N., longitude 89°56'30" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 180° bearing from Dexter Municipal Airport extending from the airport to 18½ miles south of the airport, excluding the portion which overlies the Malden, Mo., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 10, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-13209; Filed, Oct. 1, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-95]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at McPherson, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at McPherson, Kans., a new public use instrument approach procedure has been developed for the McPherson Municipal Airport. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the McPherson transition area to adequately protect aircraft executing the new approach procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

MCPHERSON, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McPherson Municipal Airport (latitude 38°21'25" N., longitude 97°41'30" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles southwest and 4½ miles northeast of the 309° bearing from the McPherson Municipal Airport, extending from the airport to 18½ miles northwest of the airport, excluding the portions that overlie the Salina and Hutchinson, Kans., 1,200-foot floor transition areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 10, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-13210; Filed, Oct. 1, 1970; 8:48 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 70-WA-34]

TEMPORARY RESTRICTED AREA

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations which would extend the time of use of a temporary restricted area at White Sands Proving Grounds, N. Mex.

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

In Airspace Docket No. 70-SW-17 (35 F.R. 13118), Restricted Area R-5116A at White Sands Proving Grounds, N. Mex., was designated for the period October 1, 1970, through December 31, 1970, in support of a classified project associated with the Hound Dog Missile Program. The Air Force Missile Development Center has now advised that the Hound Dog Project will need this restricted area until March 31, 1971, for additional missile launches.

In consideration of the foregoing, the FAA proposes to extend the designation of R-5116A as follows.

R-5116A WHITE SANDS PROVING GROUNDS, N. MEX.

Boundaries: Beginning at lat. 33°53'40" N., long. 106°44'35" W.; to lat. 34°20'35" N., long.

107°02'35" W.; to lat. 34°25'00" N., long. 106°51'45" W.; to lat. 34°09'55" N., long. 106°41'35" W.; to the point of beginning.

Designated altitudes. Surface to FL 240, excluding the airspace below 7,000 feet MSL west of long. 106°50'00" W.

Time of designation. Sunrise to sunset, January 1, 1971 through March 31, 1971, as published in NOTAMs at least 12 hours in advance of use.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commander, Air Force Special Weapons Center, Kirtland AFB, N. Mex.

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

Issued in Washington, D.C., on September 24, 1970.

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

[F.R. Doc. 70-13206; Filed, Oct. 1, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-389A]

INITIAL RATES FOR FUTURE SALES OF NATURAL GAS FOR ALL AREAS

Order Denying Petition To Proceed in Forma Pauperis Without Prejudice

SEPTEMBER 25, 1970.

On September 4, 1970, a party to this proceeding, People Organized to Win Effective Regulation (POWER), filed a motion entitled "Request to Intervene Without Payment of Costs—Request for Transcripts." By order dated August 28, 1970, we set out the requirements for seeking leave to proceed in forma pauperis in this proceeding as follows:

Any party unable to provide service on the other parties in this proceeding due to financial hardship should file with the Commission, under oath, a letter seeking leave to proceed in forma pauperis and demonstrating that the party is unable to pay such costs. Upon receipt of such letter, the Commission will consider the conditions of financial hardship, and, if the Commission determines that the conditions so warrant, may require the filing of only an original with the Commission. Further, the Commission shall, at its expense, serve all other parties with the filing made by the indigent party. Parties who waive their right to make a written submittal by making an oral presentation are deemed to have served all other parties with copies since the transcript is available to all parties.

By the same order we set forth the requirements for obtaining a copy of the transcripts by parties unable to purchase one due to financial hardship:

Parties who desire a copy of the transcripts but are unable to purchase one due to financial hardship should file a letter, under oath, with the Commission seeking leave to proceed in forma pauperis and demonstrating that the party is unable to pay such costs. Upon receipt of such letter, the Commission will consider the conditions of financial hardship, and, if the Commission determines that the conditions so warrant, the requesting party will be provided a copy of each transcript without charge.

The motion filed wholly fails to demonstrate that this party is unable to pay costs. To the contrary, "voluntary contributions" are recited and it is disclaimed that the representative is "indigent, poor or otherwise impaired." No information concerning the resources available to the group has been provided. Accordingly, the petition is denied without prejudice to the filing of a subsequent petition seeking to establish that leave to proceed in forma pauperis should be granted.

The Commission finds: The motion of POWER filed on September 4, 1970, fails to establish that due to financial hardship POWER is unable to provide service on the other parties in this proceeding or unable to purchase a copy of the transcripts.

The Commission orders: The motion of POWER filed on September 4, 1970 is denied. Any party wishing to obtain a copy of the transcripts may do so upon payment of $15 for each hearing, or a total of $120 for all of the eight cities in which oral submittals were accepted in lieu of written submittals, and any party wishing to respond in writing to any other submittal shall file the original and 14 copies of such written reply submittal with the Secretary not later than October 1, 1970 and shall serve such submittal upon all other parties to this proceeding, unless the Commission should otherwise order after receipt of a subsequent petition to proceed in forma pauperis.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13181; Filed, Oct. 1, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Geological Survey

CERTAIN OFFICIALS AND EMPLOYEES

Delegation of Authority

SEPTEMBER 28, 1970.

The following material is a revision of that portion of the Geological Survey Manual and the numbering system is that of the Manual. (Part 205, General Redelegations, Chapter 4 Procurement) (27 F.R. 2574 and amendment 28 F.R. 3704 are revoked.)

.1 *Delegation.* Under authority delegated to heads of bureaus by the Secretary of the Interior in Departmental Manual, Part 205, General Delegations dated November 30, 1961 (26 F.R. 11748), redelegation of authority to officials and employees of the Geological Survey is hereby made.

.2 *Exercise of authority.* The redelegation hereby made is of authority on behalf of the United States and the Geological Survey, to enter into contracts for construction, supplies, or services, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations; with respect to any such contract, to issue change orders and extra work orders pursuant to the contracts, to enter into modifications of the contract which are legally permissible, and to terminate the contract if such action is legally authorized. This authority is redelegated under categories depending upon the amount involved.

A. Irrespective of the amount involved to:

Assistant Director for Administration.
Chief, Branch of Contracts.
Assistant Chief, Branch of Contracts.

B. All contracts advertised or negotiated not exceeding $100,000:

Contract Specialists, Branch of Contracts.

C. Helicopter Services not to exceed $100,000 to :

Contract Specialists, Procurement Agents, Branch of Contracts.
Management Officer, Chief Procurement Officer, and Contract Specialists at Menlo Park, Calif., and Denver, Colo.

D. All other contracts advertised or negotiated not exceeding $50,000 to:

Management Officer, Chief Procurement Officer and Contract Specialists at Menlo Park, Calif., and Denver, Colo.
All advertised contracts not exceeding $50,000 to Procurement Agents, Branch of Contracts.

W. T. PECORA,
Director.

[F.R. Doc. 70-13174; Filed, Oct. 1, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

WILLIAMS LIVESTOCK AUCTION CO., INC., ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
CALIFORNIA	
Williams Auction Yard, Williams, Oct. 12, 1959	Williams Livestock Auction Co., Inc., Aug. 1, 1970.
NEW YORK	
Seymours Commission Sales, Dekalb Junction, Aug. 8, 1960.	Seymour Commission Sale, Sept. 3, 1970.
OREGON	
Corvallis Livestock Auction Market, Inc., Corvallis, Sept. 22, 1959.	Corvallis Livestock Market, Inc., Aug. 1, 1970.
TEXAS	
Hockley Livestock Commission Company, Hockley, Apr. 30, 1957.	Hockley Livestock Commission Co., June 19, 1970.
WYOMING	
Sheridan Stockyards, Inc., Sheridan, June 30, 1950.	Sheridan Livestock Exchange, Inc., Aug. 14, 1970.

Done at Washington, D.C., this 28th day of September 1970.

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

[F.R. Doc. 70-13186; Filed, Oct. 1, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-159; NADA No. 13-375V]

UPJOHN CO.

Predef 2X Liquid; Notice of Opportunity for Hearing

An announcement published in the FEDERAL REGISTER of April 12, 1969 (34 F.R. 6447), invited the holder of new animal drug application No. 13-375V for Predef 2X Liquid (a drug product containing 2 milligrams of 9-fluorprednisolone acetate per cubic centimeter), and any other interested person, to submit pertinent data on the drug's effectiveness. No efficacy data were submitted in response to the announcement, and available information still does not provide substantial evidence of effectiveness of the drug for use in cattle and horses as recommended in the labeling.

Therefore, notice is given to The Upjohn Co., Kalamazoo, Mich. 49001, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)), withdrawing approval of new animal drug application No. 13-375V and all amendments and supplements thereto held by The Upjohn Co. for the drug Predef 2X Liquid on the grounds that:

Information before the Commissioner with respect to the drug, evaluated together with the evidence available to him when the application was approved, does not provide substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant, and any interested person who may be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 13-375V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to Predef 2X Liquid and recommended for similar conditions of use as published

in the FEDERAL REGISTER of April 12, 1969 (34 F.R. 6447), to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data. If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: September 23, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-13188; Filed, Oct. 1, 1970; 8:46 a.m.]

[Docket No. FDC-D-190; NADA No. 8-695V]

NORDEN LABORATORIES, INC.

Fomene; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing on the matter of withdrawing approval of new animal drug application No. 8-695V for Fomene was published in the FEDERAL REGISTER of July 17, 1970 (35 F.R. 11535). Norden Laboratories, Inc., 601 West Oak, Lincoln, Nebr. 68501, holder of said application, filed a letter requesting a hearing, but did not file adequate data to support such a request. The Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact to justify a hearing (35 F.R. 7250; May 8, 1970).

Based on the foregoing finding and on the grounds set forth in the said notice of opportunity for hearing, the Commissioner concludes that approval of new animal drug application No. 8-695V should be withdrawn. Therefore, pursuant to the provision of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-47; 21 U.S.C. 360b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 8-695V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of signature of this document.

Dated: September 18, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-13189; Filed, Oct. 1, 1970; 8:46 a.m.]

[DESI 0061 NV]

BACITRACIN WITH OR WITHOUT PENICILLIN

Drugs for Veterinary Use; Drug Efficacy Study Implementation

There was an announcement published in the FEDERAL REGISTER of July 17, 1970 (35 F.R. 11531), regarding the efficacy of certain products which contain bacitracin with or without penicillin. Based on reevaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, the Commissioner of Food and Drugs concludes that the first sentence in the first paragraph following the list of products in said announcement should be amended to read as follows: "The Academy evaluated these products as probably effective for the growth claim in poultry, probably not effective for the therapeutic claims, and the Academy stated that more information is needed for the growth claim in swine."

This notice is issued pursuant to provisions of the Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, as amended, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: September 18, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-13190; Filed, Oct. 1, 1970; 8:46 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT SECRETARY FOR METROPOLITAN PLANNING AND DEVELOPMENT

Delegation of Authority

The delegation of authority to the Assistant Secretary for Metropolitan Planning and Development, effective February 7, 1970 (35 F.R. 2745), is amended as follows:

I. Revise section D to read:

SEC. D. *Authority to redelegate.* The Assistant Secretary for Metropolitan Planning and Development is authorized to redelegate to employees of the Department any of the authority delegated under section A.

II. Add the following section E immediately following section D:

SEC. E. *Exercise of redelegated authority.* Redelegations of final authority pursuant to section D of this delegation shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator and Area Director, and their respective deputies, to whom a delegate is responsible, and these supervisors shall, in addition to any other authority delegated to them, have the same final authority redelegated to their subordinates.

III. Change existing section E to read "Section F."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This amendment of delegation of authority shall be effective as of September 1, 1970.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[F.R. Doc. 70-13215; Filed, Oct. 1, 1970; 8:48 a.m.]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority With Respect to Metropolitan Planning and Development Programs

SECTION A. *Authority redelegated with respect to specific programs.* I. Each Regional Administrator, Deputy Regional

Administrator, Area Director, and Deputy Area Director of the Department of Housing and Urban Development is hereby authorized, with respect to the following programs, to (a) authorize grants and loans, as applicable, and establish the terms thereof; (b) execute agreements for grants, loans, and advances, as applicable, and amendments thereto; and (c) approve requisitions for funds and third-party contracts:

1. Basic Water and Sewer Facilities Grant Program under sections 702 and 705(b) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102 and 3105(b)).

2. Neighborhood Facilities Grant Program under sections 703(a) and 705(b) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3103(a) and 3105(b)).

3. Public Facility Loans Program under section 202 (a), (c), and (e) of the Housing Amendments of 1955 (42 U.S.C. 1492 (a), (c), and (e)), including the authority to provide for postponement of payment of interest under section 202 (b)(2).

4. Open-Space Land and Urban Beautification Programs under sections 702 (a), 705, and 706 of the Housing Act of 1961 (42 U.S.C. 1500a(a), 1500c–1, and 1500–2), except the authority to authorize disposition of any interest, in whole or in part, in property acquired thereunder.

5. Advance Acquisition of Land Program under sections 704 and 705(b) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3104, 3105(b)), except the authority to determine not to require an applicant to repay under section 704 (d).

6. Program of Advances for Public Works Planning (including 1st and 2d programs) under:

a. Section 702(a) of the Housing Act of 1954 (40 U.S.C. 462(a)), including authority with respect to repayment under section 702 (c), (g), and (h) (40 U.S.C. 462 (c), (g), and (h)).

b. Title V of the War Mobilization and Reconversion Act of 1944, Public Law 458, 78th Congress (50 U.S.C. App. 1671 note), and the Act of October 13, 1949, Public Law 352, 81st Congress (40 U.S.C. 451), subject to section 1112 of the Housing and Urban Development Act of 1965 (40 U.S.C. 462 note).

7. Comprehensive Planning Assistance Grant Program under section 701 of the Housing Act of 1954 (40 U.S.C. 461), except the authority under section 701(b).

II. Historic Preservation Grant Program.

1. The Director and the Deputy Director, Office of Resources Development, of the Department of Housing and Urban Development, each is hereby authorized, with respect to the Historic Preservation Grant Program under section 709 of the Housing Act of 1961 (42 U.S.C. 1500d–1), to (a) authorize grants and establish the terms thereof; (b) execute grant agreements and amendments thereto; and (c) approve requisitions for funds and third-party contracts.

2. Each Regional Administrator, Deputy Regional Administrator, Area Director, and Deputy Area Director of the Department of Housing and Urban Development is hereby authorized, with respect to the Historic Preservation Grant Program, to (a) execute grant agreements and authorize and execute amendments thereto within the amounts approved by the Assistant Secretary or Deputy Assistant Secretary for Metropolitan Planning and Development, or by the Director or Deputy Director, Office of Resources Development; and (b) approve requisitions for funds.

III. Each Regional Administrator, Deputy Regional Administrator, Area Director, and Deputy Area Director is further authorized, to the extent applicable to matters redelegated under AI and AII, to exercise the authority of the Assistant Secretary for Metropolitan Planning and Development with respect to:

1. Compensation of condemnees under sections 402 and 403, and grants for relocation payments under section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3072–3074).

2. Powers under section 402(c) (4) through (9) of the Housing Act of 1950 (12 U.S.C. 1749a(c) (4)–(9)) (regarding, but without limitation, the acquisition, sale, or lease of property and various incidents of ownership or exchange associated therewith).

IV. Urban Systems Engineering Demonstration Program.

1. Each Regional Administrator and Deputy Regional Administrator of the Department of Housing and Urban Development is hereby authorized, with respect to the Urban Systems Engineering Demonstration Program under section 701(b) of the Housing Act of 1954 (40 U.S.C. 461), to (a) authorize grants and establish the terms thereof; (b) execute grant agreements and amendments thereto; and (c) approve requisitions for funds and third-party contracts.

2. Each Area Director and Deputy Area Director of the Department of Housing and Urban Development is hereby authorized, with respect to the Urban Systems Engineering Demonstration Program, to (a) execute grant agreements and amendments thereto; and (b) approve requisitions for funds.

V. Community Development Training Grant Program.

1. Each Regional Administrator, Deputy Regional Administrator, and Assistant Regional Administrator for Metropolitan Planning and Development of the Department of Housing and Urban Development is hereby authorized, with respect to the Community Development Training Grant Program under section 803 of the Housing Act of 1964 (20 U.S.C. 803), to (a) authorize grants and establish the terms thereof; (b) execute grant agreements and amendments thereto; and (c) approve requisitions for funds and third-party contracts.

2. Each Intergovernmental Relations Officer in a Regional Office of the Department of Housing and Urban Development is hereby authorized, with respect to the Community Development Training Grant Program, to (a) execute grant agreements and authorize and execute amendments thereto within the amounts and general terms approved by the Assistant Secretary or Deputy Assistant Secretary for Metropolitan Planning and Development, the Regional Administrator, the Deputy Regional Administrator, or the Assistant Regional Administrator for Metropolitan Planning and Development; and (b) approve requisitions for funds and third-party contracts.

VI. Workable Programs for Community Improvement.

Each Regional Administrator, Deputy Regional Administrator, Area Director, and Deputy Area Director of the Department of Housing and Urban Development is hereby authorized to determine that a workable program for community improvement meets the requirements of section 101(c) of the Housing Act of 1949 (42 U.S.C. 1451(c)), and certify that Federal assistance of the types enumerated in, or subject to the requirements of, section 101(c) may be made available in the community.

SEC. B. *Delegations to the Denver Regional Office.* The Assistant Regional Administrator for Metropolitan Planning and Development in the Denver Regional Office of the Department of Housing and Urban Development is hereby authorized to exercise the powers and authorities redelegated in this document to Area Directors and Deputy Area Directors.

SEC. C. *Exercise of redelegated authority.* Redelegations of authority made under sections A and B shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator and Deputy Regional Administrator to whom a delegate is responsible, and these supervisors shall, in addition to any other authority delegated to them, have the same final authority redelegated to their subordinates.

SEC. D. *Continuation in effect of existing redelegations.* Redelegations of authority previously made by the Assistant Secretary for Metropolitan Planning and Development and successive redelegations are superseded only to the extent they are inconsistent with redelegations set forth in sections A and B, herein, and prior redelegations not inconsistent with or affected by said sections A and B remain in full force and effect until expressly revoked.

(Secretary's delegations of authority published at 35 F.R. 2745–2746, effective Feb. 7, 1970)

Effective date. This redelegation of authority shall be effective as of September 1, 1970.

SAMUEL C. JACKSON,
Assistant Secretary for Metropolitan Planning and Development.

[F.R. Doc. 70–13216; Filed, Oct. 1, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT AND AIRWAY COST ALLOCATION AND EQUITABLE DISTRIBUTION OF TAX BURDEN

Notice of Invitation for Comments on Study

This notice is in further implementation of the Department of Transportation's policy of regular consultation with aviation users, the aviation industry, State, and local governments, other government agencies, and the general public concerning the future planning of the national aviation system. (Policy and procedures were previously announced in 35 F.R. 367 and 33 F.R. 19205.)

The purpose of this notice is to invite comments on the work statement for consultant assistance on a proposed study of airport and airway cost allocation and aviation taxes. It responds to sections 4 and 209 of the Airport and Airway Development and Revenue Acts of 1970 (84 Stat. 219) which direct the Secretary of Transportation to conduct the designated studies in consultation with the users of the airport and airway systems.

The work statement contained herein is written in the language of a request for proposals to consultant firms, to describe generally the scope and substance and administration of the study effort.

We welcome any comments on the work statement and on any aspect of the study effort. Comments in writing must be received by the Department by October 30, 1970. Comments should be addressed to the Chief, Economic Analysis Division, Office of Aviation Economics, Federal Aviation Administration, Washington, D.C. 20590.

The study proposal is given below.

Issued in Washington, D.C., on September 29, 1970.

RICHARD J. BARBER,
Deputy Assistant Secretary for Policy and International Affairs.

A STUDY TO ALLOCATE THE FEDERAL GOVERNMENT'S COSTS OF THE AIRPORT AND AIRWAY SYSTEM

Study purpose. This study effort is designed to respond to the following language in the Airport and Airway Development and Revenue Acts of 1970 (84 Stat. 219):

TITLE I—SECTION 4. COST ALLOCATION STUDY

The Secretary of Transportation shall conduct a study respecting the appropriate method for allocating the cost of the airport and airway system among the various users, and shall identify the cost to the Federal Government that should appropriately be charged to the system and the value to be assigned to any general public benefit, including military, which may be determined to exist. In conducting the study the Secretary shall consult fully with and give careful consideration to the views of the users of the system. The Secretary shall report the results of the study to Congress within 2 years from the date of enactment of this title.

TITLE II—SECTION 209. INVESTIGATION AND REPORT TO CONGRESS

(a) *Study and investigation.* The Secretary of Transportation is hereby authorized and directed, in cooperation with such other Federal officers and agencies as may be designated by the President and through full consultation with and consideration of the views of the users of the system, to make a study and investigation to make available to the Congress information on the basis of which it may determine what revisions, if any, of the taxes imposed by the United States should be made in order to assure, insofar as practicable, an equitable distribution of the tax burden among the various classes of persons using the airports and airways of the United States or otherwise deriving benefits from such airports and airways.

Thus, the study effort has these two primary objectives: (1) To develop a method through research and analysis, and the compilation of data, to allocate the Federal Government's costs of the airport and airway system; and (2) to recommend a structure of user taxes, based on an evaluation of alternatives, that is equitable and otherwise appropriate in terms of national objectives and total national welfare.

Costs to be included in the study. Since 1926 the Federal Government has provided, maintained, and operated a national system of air traffic control, flight advisory services, and aids to air navigation to serve the aircraft of civil and military aviation. This complex of facilities and services—generally referred to as the airway system—has been planned and managed by, and paid from appropriations of, the Federal Aviation Administration and its predecessor agencies. It is a common system in the sense that it is available to all aviation—military, commercial, business, and personal.

In addition to equipping and operating the airway system, the FAA has the responsibility under existing legislation for a number of other programs of aviation investment, regulation and service which involve substantial expenditures of public funds each year. One such program is the administration of a grants-in-aid program for airport development to local and State governments and public authorities.

Another program of the FAA consists of aviation safety regulation applicable to the design, test, production, and performance of aircraft; the inspection, certification, and surveillance of aircraft airworthiness and of maintenance airmen personnel; and the examination, certification, and surveillance of the technical and physical competence of airmen.

For all these programs the FAA conducts research and development designed to improve aviation services.

Other Federal Government agencies also provide airport and airway system services of a kind to be included within the scope of this study. These are: (1) The meteorological information and forecasting services of the Environmental Science Services Administration; (2) the aeronautical charting of the Coast and Geodetic Survey; (3) the search and rescue operations of the Coast Guard; (4) the customs services of the Treasury Department; (5) the direct and indirect air traffic control and navigation, and airport services of the Department of Defense which are used by and benefit civil aviation; (6) the civil aviation research and development of the National Aeronautics and Space Administration; and (7) the aviation regulatory and administrative services of the Civil Aeronautics Board and the National Transportation Safety Board.

The expenditures of the Federal Government for all these facilities and services identified above—hereafter referred to collectively as the airport and airway system—are the subject of this study. The expenditures of the Federal Government for the following programs are not to be included in this study: (1) Investments in and operation of Washington National and Dulles International airports; and (2) the development of the civil supersonic aircraft. Additionally, the investments in, and expenditures for the operation and maintenance of, public airports by local and State governments, and by regional authorities are not a subject of this study.

STATEMENT OF WORK

The Contractor shall provide the necessary qualified personnel, facilities, materials, equipment, and services to accomplish the tasks set forth in the following sections.

A. *The scope and structure of the study.* The total study effort will be divided into separately funded phases as described later in this statement. Proposals should be submitted in response to this request for only the Phase I work. A contract will be awarded for only this phase of the work. The remaining work of the study under this contract will be contingent upon the successful completion of the work of the first phase. The general description of the tasks to be included beyond the first phase is included in this statement only as information to enable bidders to organize their proposals on the first phase more intelligently. It is recognized that the nature and extent of the work beyond Phase I will depend in large part on the findings and conclusions of the Phase I work and, thus, cannot be clearly seen until the Phase I is completed.

For the total study, as well as the Phase I work, the Contractor will be responsible for all the conceptual and empirical analysis and research. At the request of the Contractor, the FAA will provide from its sources budget data, accounting records, air traffic statistics, and other agency data. The FAA will also assist the Contractor in obtaining cost and other record data from other Federal Government agencies. For relevant data which can only be obtained by analysis (e.g., marginal costs) and/or by new surveys (e.g., more detailed air traffic statistics than are available from existing sources), the Contractor will be expected to provide all the necessary professional and clerical labor. The FAA will assist in the administration of any surveys. These procedures will also leave for the Contractor the responsibility for obtaining data and information from other than Federal Government sources.

The Contractor will be expected to review previous studies prepared by and for the Federal Government on aviation user charges, and other available reports by industry groups and spokesmen on the subject, including particularly those submitted at congressional hearings, to acquire a thorough knowledge of the issues, the various viewpoints, and the nature and extent of information and data available for the total study effort. It is estimated this review will extend to the equivalent of 12 to 15 reports of 200 pages each—and will be less to the extent the Contractor is already familiar with the subject.

It will be necessary that the Contractor have, or obtain as part of the study effort, a thorough knowledge of the functioning of the airport and airway system, and of the administration and substance of the Federal aid to airports, safety regulation, and the other aviation facilities and services programs, from the viewpoints of both the Federal Government and the aviation users and beneficiaries.

For the study effort the FAA will establish a small group of representatives from the aviation community to advise the Contractor and the FAA during the course of the study. The Contractor will be expected to meet with this advisory group periodically. The purpose of these meetings will be: (1) To ensure that the viewpoints of the aviation community on the issues relevant to the study are considered by the Contractor in the course of his research and analysis; (2) to provide a means by which the Contractor can acquire from industry sources information and data useful to the study effort; and (3) to inform the aviation community through the group on the scope and content of the study as it progresses. The advisory group will have no authority to impose requirements or its viewpoints on the Contractor in regard to the study. Establishment of the advisory group will in no way preclude the Contractor from seeking counsel, information, and data from other sources.

Meetings between the Contractor and the advisory group will be conducted in the FAA Headquarters building in Washington, D.C., or at a mutually agreeable location. The individual meetings are not expected to last longer than 1 day. The first meeting will take place shortly after the contract award, at which the Contractor will explain his study plan, and invite the suggestions of the advisory group.

In the study, the Contractor will be addressing issues which are related directly and indirectly to equity in allocating cost responsibility and imposing charges and fees. Clearly, such issues cannot be entirely resolved objectively, and with reference only to economic principles and criteria. The ultimate decisions by the Federal Government on charging for the aviation facilities and services programs will be made by the normal governmental process, with the application of subjective values and judgments, and with some compromise of opposing viewpoints on the issues.

It will be the objective of the Contractor's study to inform that process, and to reduce the areas of uncertainty in decision-making, through the provision of objective information and data and the normative guidance which can be obtained from economics and other disciplines.

It will not be any part of the work of the Contractor to anticipate the nature of the policy decisions which ultimately will be made within the Federal Government on the distribution of the tax burden for the aviation facilities and services programs, or to seek a consensus or agreement among affected aviation groups on the issues. The Contractor will be required to develop the methodology for cost allocations and to recommend a structure of taxes based on his research, analysis and findings.

B. *Specific work.* Without limiting the scope of the requirements under paragraph A, above, the Contractor shall accomplish the following work under this Contract—i.e., for only Phase I of the total study effort.

Develop in the light of economic principles, other public policy guidance, and national objectives, a conceptual and analytical framework for allocating the costs of and distributing the tax burden for the airport and airway system—including in the framework international as well as domestic traffic users and/or beneficiaries. In this work, the Contractor will not be expected to conduct analyses to determine the amount or nature of the Federal Government investments that are optimal for the various aviation facilities and services programs. This is not to say, however, that the concept of outlay optimization is without meaning to the study.

The methodology developed for the cost allocations and the tax structure should seek to satisfy the criterion of economic efficiency—in the utilization of the system in being, and in the allocation of national resources to civil aviation. The extent to which there may be conflict between this criterion and the objective of full cost recovery is a subject the study is expected to consider.

The methodology should also meet the test of feasibility in that it should not impose workload and costs by its analysis, application, or implementation that are unreasonable to the Federal Government and the aviation community. The cost allocation methodology and recommended tax structure should also be consistent administratively with the existing division of responsibilities in the subject area of civil aviation among State and local governments, and the Federal Government.

The following tasks, among others, are considered to be within the scope of the Phase I work. (Note that there is overlap in the analytical content among the list.)

(a) Identify what is conceptually relevant for the study's purpose in terms of the Federal Government objectives, principles of economics and taxation, other normative guidance, and Federal Government policy and practice in other subject areas.

(b) Examine the issues of an equitable distribution of the tax burden for the aviation facilities and services programs, and provide the rationale for recommended positions on the issues, including particularly the extent to which the general public should share in the tax burden.

(c) Describe the nature of the costs that are relevant to the study's purpose, and whose measurement or estimation should be undertaken after the completion of the Phase I work.

(d) Determine the appropriate structuring (or disaggregation) for the study's purpose of the complex of facilities, services and regulatory activities which comprise the airport and airway system, in terms of outputs, products, or goods to users and/or beneficiaries.

(e) Identify the measures of use and/or benefits of the aviation facilities and services programs that are relevant to the study's purpose, and whose measurement or estimation should be undertaken after the completion of the Phase I work.

(f) Describe the externalities that are relevant to the study's purpose, and whose estimation should be undertaken after the completion of the Phase I work.

(g) Examine conceptually the problem of user charges having the effect of reducing use and/or benefits of the various facilities and services programs, and to the extent appropriate, develop an analytical approach for estimating such effect.

The accomplishment of these tasks should provide information and data on the following issues, among others:

(a) To what extent should the airport-airway system costs be allocated to the general public because of economic benefits accruing to the general public from the aviation facilities and services provided by the Federal Government?

(b) Are there national defense benefits in the aviation facilities and services provided by the Federal Government which are not measured for purposes of cost allocation by the military and other government traffic using the facilities and services? Is there a military standby value, or a military priority benefit, in the aviation facilities and services which justify allocating some portion of the systems costs to the general public, in addition to the costs assigned to military and other government traffic?

(c) To what extent, both substantively and quantitatively, should systems costs incurred in the past in the form of capital expenditures be included in the cost allocations for user tax purposes?

(d) The extent to which system costs should be allocated to international use of the system as distinguished from domestic use.

(e) To what extent should systems costs in the form of new research and development be included in the cost allocations for user tax purposes?

(f) Should any of the systems expenditures in any given year be completely allocated to that year, or should accrual accounting procedures be the basis for systems cost allocation?

(g) What are the appropriate measures for determining use of the aviation facilities and services systems?

(h) What are the advantages and disadvantages of direct charging for the aviation facilities and services systems?

(i) What are the regulatory constraints and rules applicable to air traffic which should be recognized in the allocation of system costs?

(j) In what manner, and to what extent, should these concepts be considered in the system cost allocations: (1) Traffic needs; (2) actual traffic use; (3) the value of service; and (4) benefits received?

It is expected that the development of the theoretical and conceptual framework for the total study effort, and the description of the empirical research and analyses appropriate to the study's purpose, will be accomplished in the Phase I work. In evaluating proposals submitted in response to this request, major emphasis will be placed on the following factors: (1) The professional qualifications of the personnel who are identified to conduct the study; and (2) the evidence of insights into the relevance and feasibility of particular analytical approaches, as well as knowledge of the subject matter of the study. The amount of work described in the proposals will not, per se, be a major factor in awarding a contract.

C. *The work after Phase I.* In the study effort beyond Phase I, the extensive and essentially empirical work of developing the cost allocation methodology will be accomplished—it being recognized that variations in the methodology may be appropriate for the different aviation facilities and services of the airport and airway system. This part of the study will include specifically the examination of alternative methods of charging and obtaining tax revenues for the airport and airway system. The final tasks of the total study effort will be to prepare cost allocations and to recommend a structure of charges for the airport and airway system for fiscal years 1973–77, using planning data on proposed expenditures made available through the FAA. The details of this remaining work will be specified after the completion of Phase I. Approximately 14 months will be allowed for this remaining work.

D. *Reporting schedule.* The Contractor shall submit the following reports during the performance of this Contract:

1. Progress Reports, 50 copies, monthly, submitted by the tenth (10th) day of each calendar month for the preceding month, summarizing the work accomplished;

2. A report, 1,000 copies, including one reproducible, presenting all the findings and conclusions of the study (Phase I) for approval within 10 calendar months of the date of the contract.

[F.R. Doc. 70-13221; Filed, Oct. 1, 1970; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER CO.

Order Postponing and Setting New Date for Resumption of Hearing

In the matter of Consumers Power Co. (Palisades Plant), Docket No. 50-255.

On September 3, 1970, the hearing in this matter was recessed and set for resumption of hearing on October 5, 1970, in Kalamazoo, Mich.

On September 23, 1970, the principal Counsel for the Intervenors herein filed a Motion to postpone the hearing to an indefinite date for the reason that documents had not been received, although such had been expected to be received and reviewed by Intervenors in aid of preparation for the hearing. Counsel for the Applicant and Intervenors have submitted copies of several letters reflecting a confusion of arrangements and delay regarding the selection and preparation of the documents. In addition, said Counsel for the Intervenors has submitted an affidavit stating that he had been assigned to trial in the Federal District Court at Minneapolis for a long pending case and that assignment would prevent his being available for this hearing scheduled for October 5. The affidavit stated that the trial starting September 28 would last at least 2 weeks, and possibly a third week.

Applicant and the Staff have answered the Motion for postponement, alleging in general, that the request is dilatory and unnecessary, and in addition, the Staff stated that the documents that it was to prepare were now available (September 28). Intervenors had previously asserted they would need approximately 2 weeks to review such records. Applicant also alleges that the Federal trial to which Intervenor Counsel has been assigned was set for hearing at the request of Intervenor Counsel and his partner, the latter being the principal counsel for that trial.

Upon a consideration of the Motion, the supporting papers and affidavit, as well as the answers to the Motion, the Atomic Safety and Licensing Board concludes that in order to permit adequate examination of the records, now supplied to Intervenors, including those prepared by the Staff, good cause on that basis has been shown for a postponement of the hearing for 1 week.

Wherefore, it is ordered, Pursuant to the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the order is canceled setting this hearing for October 5, 1970, and

It is further ordered, That the hearing in this proceeding shall resume at 10 a.m. on Monday, October 12, 1970, in the Van Deusen Auditorium of the City Library System at 315 South Rose Street, Kalamazoo, Mich. 49006.

Issued: September 29, 1970, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 70-13258; Filed, Oct. 1, 1970; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22556; Order 70-9-145]

AIRLIFT INTERNATIONAL, INC., ET AL.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of September 1970.

Extension of expiry date on multicontainer rates proposed by: Airlift International, Inc., American Airlines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

By tariff revision[1] filed September 1, 1970, for effectiveness October 1, 1970, Airlift International, Inc. (Airlift), The Flying Tiger Line Inc. (Flying Tiger), and Trans World Airlines, Inc. (TWA), propose to extend the present expiry date of September 30, 1970, on rates for shipments of five or more Type A containers (multicontainer rates) to November 15 or November 30, 1970.[2]

In support of its proposal, Airlift asserts its continuing interest in a review of the cargo rate structure, and especially as to high-volume rates, and notes that it was recently furnished a copy of a study concerned with the feasibility of high-volume air freight discounts. It is currently reviewing that study and wishes to continue the present multicontainer rates until the review is completed.

A complaint was filed by American requesting suspension and investigation, asserting, inter alia, that in light of the Board's previous reservations toward multicontainer rates,[3] and a lack of demonstrable cost savings attributable to shipments of five or more containers, the proposals should be suspended and the present rates should be allowed to expire on September 30, 1970. An answer filed by TWA, asserts, inter alia, generally the same points advanced by Airlift in support of the filing.

Upon consideration of the complaint and other relevant matters, the Board finds that the complaint does not set forth facts sufficient to warrant investigation, and the request therefore, and consequently, the request for suspension will be denied and the complaint dismissed.

While the Board has on several occasions questioned the validity of multicontainer rates, it has attempted to strike a reasonable balance between existing rate structures and certain proposals thereby seeking to avoid sharp changes in rates. In light of the short period of time involved in the extension, and the indication by the carriers that in view of the study made of the feasibility of high volume discounts they are conducting individual analyses of possible future filings, we will allow a short extension of the present expiry date.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

The complaint of American Airlines, Inc., in Docket 22556 is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-13212; Filed, Oct. 1, 1970; 8:48 a.m.]

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 131.

[2] Airlift and TWA propose to extend the expiry date to Nov. 15, 1970, though allowing certain rates to expire on Sept. 30, 1970; Flying Tiger proposed an expiration date of Nov. 30, 1970; American Airlines, Inc. (American), and United Air Lines, Inc., have subsequently also filed for an extension.

[3] See Orders 70-7-1 dated July 1, 1970, and 70-3-78 dated Mar. 16, 1970.

[Docket No. 22518; Order 70-9-147]

OWENSBORO AVIATION

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 28, 1970.

The Postmaster General filed a notice of intent August 28, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of $1.12 per great circle aircraft mile for the transportation of mail by aircraft between Evansville, Ind., and Chicago, Ill., via Indianapolis, Ind., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Volpar-Beechcraft Turboliner aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed

to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to L. S. Cox, Jr., doing business as Owensboro Aviation, in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be $1.12 per great circle aircraft mile between Evansville, Ind., and Chicago, Ill., via Indianapolis, Ind., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. L. S. Cox, Jr., doing business as Owensboro Aviation, the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Ozark Air Lines, Inc., Trans World Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to L. S. Cox, Jr., doing business as Owensboro Aviation;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon L. S. Cox, Jr., doing business as Owensboro Aviation, the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Ozark Air Lines, Inc., and Trans World Airlines, Inc.;

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-13213; Filed, Oct. 1, 1970; 8:48 a.m.]

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 22385]

THOS. COOK & SON, INC.

Notice of Postponement of Hearing

Thos. Cook & Son, Ltd. (Great Britain), doing business as Thos. Cook & Son, Inc. (U.S.).

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding now assigned to be held on October 15, 1970, is hereby postponed to November 19, 1970, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner. Applicant's exhibits should be in the hands of other counsel and the examiner by November 9, 1970, and rebuttal exhibits should be in the hands of other counsel and the examiner by November 16, 1970.

Dated at Washington, D.C., September 28, 1970.

[SEAL] LOUIS W. SORNSON,
Hearing Examiner.

[F.R. Doc. 70-13214; Filed, Oct. 1, 1970; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Commission Order No. 1 (Revised)]

ORGANIZATION AND FUNCTIONS

SECTION 1. *Purpose.* 1.01 The purpose of this Order is to describe the organization and functions of the Federal Maritime Commission.

SEC. 2. *Organization of the Federal Maritime Commission*—2.01 *Establishment and composition of the Commission.* The Federal Maritime Commission was established as an independent agency by Reorganization Plan No. 7 of 1961, effective August 12, 1961. The Federal Maritime Commission is composed of five members appointed by the President, by and with the consent of the Senate. The President designates one of such members to be the Chairman.

2.02 *Quorum.* Any three members in office constitute a quorum for the transaction of the business of the Federal Maritime Commission. The affirmative vote of any three Commissioners shall be sufficient for the disposition of any matters which may come before the Commission.

2.03 *Organizational components.* The Federal Maritime Commission has the following major organizational components:

1. Office of the Chairman of the Federal Maritime Commission.
2. Offices of the Members of the Federal Maritime Commission.
3. Managing Director.
(1) Bureau of Compliance.
a. Office of Agreements.
b. Office of Tariffs and Practices.
c. Office of Industry Economics.
d. Office of Financial Analysis.
e. Public Reference Room—Agreements and Tariffs.
(2) Bureau of Enforcement.
a. Office of Investigation.
b. Office of Informal Complaints.
(3) Bureau of Certification and Licensing.
a. Office of Oil Pollution Responsibility.
b. Office of Freight Forwarders.
c. Office of Passenger Vessel Certification.
(4) Bureau of Hearing Counsel.
(5) Office of International Affairs and Relations.
(6) Office of Personnel.
(7) Office of Budget and Finance.
(8) Division of Office Services.
4. Office of the Secretary.
5. Office of the General Counsel.
6. Office of Hearing Examiners.

SEC. 3. *Lines of responsibility.* 3.01 The Managing Director shall be responsible to and report to, the Chairman, Federal Maritime Commission.

3.02. The Bureau of Compliance, Bureau of Enforcement, Bureau of Certification and Licensing, Bureau of Hearing Counsel, Office of International Affairs and Relations, Office of Personnel, Office of Budget and Finance, and the Division of Office Services shall be responsible to, and report to the Managing Director.

3.03 The Office of the Secretary and the Office of the General Counsel shall report to the Chairman, subject to the managerial direction and coordination of the Managing Director. The Managing Director shall, with respect to the activities of such offices, (1) coordinate the development and execution of major programs policies, plans and projects to accomplish the objectives established by the Chairman and/or the Commission; (2) determine work priorities and schedule the flow of work to meet such priorities; (3) review program and activity progress and otherwise maintain surveillance to assure the accomplishment of programs and projects of major importance.

3.04 The Office of Hearing Examiners shall report to the Chairman, subject to the administrative direction and coordination of the Managing Director.

SEC. 4. *General functions.* 4.01 The Federal Maritime Commission is responsible for administering the statutory functions and programs for the regulation of common carriers by water in the foreign and domestic offshore commerce of the United States and of other persons, under provisions of the Shipping Act, 1916, as amended; Merchant Marine Act, 1920, as amended; the Intercoastal Shipping Act, 1933, as amended; and other applicable statutes.

SEC. 5. *Specific functions of the organizational components of the Federal*

Maritime Commission. 5.01 The Office of the Chairman of the Federal Maritime Commission executes and administers the activities of the Federal Maritime Commission; serves as the executive head of the Commission; presides at meetings of the Commission; and administers the policies of the Commission to its responsible officials, and through conferences with and reports from such officials assures the efficient discharge of their responsibilities.

5.02 The Offices of the Members of the Federal Maritime Commission are responsible, with the Chairman, for establishing the policies of the Commission; making decisions and determinations in the disposition of docketed cases and other matters within the jurisdiction of the Commission; and performing other duties as may be assigned under the provisions of Reorganization Plan No. 7 of 1961.

5.03 The Managing Director directs and administers the organizations and activities as enumerated in subsections 5.031 through 5.039 below; provides managerial administrative direction to, and effects work coordination with, the Office of the General Counsel and the Office of the Secretary; provides administrative direction and coordination to the Office of Hearing Examiners; assists, advises, and consults with the Chairman and/or the Federal Maritime Commission in the performance of major executive functions; and directs general administrative activities.

1. The Bureau of Compliance is responsible for program development, administration, and activities in connection with the operations of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, to the extent that such operations fall within the program activities of the several offices which comprise the Bureau of Compliance, and administers the activities of such offices.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations, with respect to the program activities of the Bureau.

The program activities of the Bureau of Compliance are carried out by the Office of Agreements, the Office of Tariffs and Practices, the Office of Industry Economics, the Office of Financial Analysis, and the Public Reference Room—Agreements and Tariffs, as outlined below:

a. The Office of Agreements (1) examines agreements and modifications thereto filed by common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission for approval under statutory requirements; conducts negotiations with parties to such agreements for the purpose of obtaining information and compliance with applicable statutes, rules, and regulations; prepares for publication in the FEDERAL REGISTER notices of filings of agreements; prepares recommendations for approval, disapproval, or modification, or for formal investigation or hearing with respect thereto (these agreements include conference agreements, transshipment agreements, joint service agreements, pooling agreements, sailing agreements, passenger interchange agreements, terminal agreements, and other cooperative working arrangements); (2) examines and recommends appropriate action on requests for permission to use contract rate systems; (3) reviews annual and special reports submitted by common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, including minutes of conference meetings, shippers' requests and complaints reports, reports of self-policing, and pooling statements, and makes appropriate recommendations with respect to any such reports or activities which indicate possible violations of applicable statutes or Commission regulations; (4) prepares recommendations, collaborating with the Bureau of Enforcement and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (5) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Agreements.

b. The Office of Tariffs and Practices (1) reviews the rates and practices of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission in accordance with the requirements of law and the rules, orders, and regulations of the Commission; makes appropriate recommendations with respect to possible violations of applicable statutes and/or Commission regulations; and makes appropriate recommendations with respect to applications for special permission to file tariffs on less than statutory notice, or for waiver of tariff filing rules and regulations; (2) recommends appropriate action with respect to the rejection of improper or incorrectly filed tariffs; (3) recommends appropriate action with respect to the prescription of reasonable maximum and minimum rates of common carriers by water engaged in the domestic offshore commerce of the United States and conferences of such carriers; (4) prepares recommendations, collaborating with the Bureau of Enforcement and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (5) conducts studies and surveys for the development of new or revised policy and standards, rules, and regulations with respect to the program activities of the Office of Tariffs and Practices.

c. The Office of Industry Economics conducts research and economic studies necessary to the Commission in the fulfillment of its regulatory responsibilities. In this connection the staff compiles, interprets, and analyzes economic data essential to the study of freight rate structures and levels; conducts studies leading to determinations as to the reasonableness of specific cargo rates in the ocean trades of the United States; studies the economic implications of shipping practices; studies the economic implications of trends of commodity movement, worldwide; analyzes costs attributable to the movement of cargoes in the ocean-borne foreign and domestic offshore commerce of the United States; and conducts related studies and analyses requisite to rendering by the Commission of sound economic judgments and decisions.

d. The Office of Financial Analysis is responsible for and makes recommendations with respect to annual and special financial reports to be submitted by common carriers and other persons subject to the Act to bring about accurate, uniform, and comprehensive disclosure of financial data to the Commission; recommends accounting and reporting instructions; conducts examinations of the accounts, records, reports, and financial statements of such carriers to obtain and ascertain compliance with Commission regulations; determines the justification of increased or lowered rates of common carriers and other persons subject to the Act; directs field audit staff and develops and administers a continuing program for the audit of financial accounts and records of common carriers and other persons subject to the Commission's regulatory authorities; develops cost formulas and related reporting requirements for application to the movement of waterborne commerce in the domestic and foreign commerce of the United States; prepares reports and appears in rate proceedings and/or proceedings where rates and/or costs are a paramount issue; conducts studies, as appropriate, for the purpose of determining classes of depreciable property, depreciation percentages, replacement costs, reasonable overhead, etc.; analyzes, summarizes, and prepares studies and analytical reports of the financial statements filed with the Commission by common carriers and other persons subject to the Act; as required, conducts special studies, audits, and analyses of a financial nature for other branches of the Commission.

e. The Public Reference Room provides assistance to the public in the inspection of agreements, tariffs, and other public records, documents, and publications which are on file with, or prepared by, the Bureau of Compliance, and assists in obtaining copies of such documents for the public.

2. The Bureau of Enforcement is responsible for program development, administration, and activities in connection with the investigation of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers,

freight forwarders, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, and the disposition of informal complaints or protests against the practices of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, freight forwarders, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission.

The Bureau develops long-range programs, new or revised policies and standards, and rules, and regulations with respect to the program activities of the Bureau.

The program activities of the Bureau of Enforcement are carried out by the Office of Investigation and the Office of Informal Complaints, as outlined below:

a. The Office of Investigation (1) conducts investigations of the activities and practices of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, freight forwarders, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission; conducts periodic field examinations of the activities, transactions, and records of persons subject to the shipping statutes; (2) directs the New York City, New Orleans, and San Francisco offices, which are responsible for the administration of the field programs and activities of the Federal Maritime Commission within their respective areas; maintains contact with persons within their respective areas who are subject to the shipping statutes and the rules and regulations of the Commission, and consults with such persons in connection with the programs and activities of the Commission; and performs such other functions and duties as may be assigned by the Chairman or the Managing Director; (3) in collaboration with the Office of Informal Complaints, makes recommendations as to prosecution or other appropriate action where violations of the Shipping Acts or rules and regulations of the Commission have been developed; (4) consults with, advises and otherwise assists the Bureau of Hearing Counsel and/or the Office of General Counsel in preparing for formal hearings before the Commission or actions in Federal court; and (5) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Investigation.

b. The Office of Informal Complaints (1) reviews informal complaints or protests against the practices, methods, and operations of common carriers by water in the foreign or domestic offshore commerce of the United States, or conferences of such carriers, ocean freight forwarders, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission; (2) takes appropriate action relative thereto by (a) resolution through voluntary agreement of the parties, or (b) recommendation that the complaint or protest be rejected as not violative of the shipping statutes or rules or orders of the Commission, or (c) referral to the Office of Investigation for field inquiry, or (d) in collaboration with the Bureau of Compliance and the Bureau of Hearing Counsel, recommendation for formal action and proceedings by the Commission; (3) in collaboration with the Office of Investigation, makes recommendations as to prosecution or other appropriate action where violations of the Shipping Acts or rules and regulations of the Commission have been developed; and (4) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Informal Complaints.

3. The Bureau of Certification and Licensing is responsible for program development, administration, and activities in connection with the certification of vessel owners and operators as to their financial responsibility to satisfy liability which may be incurred as a result of oil pollution under the provisions of Public Law 91–224; the licensing of ocean freight forwarders under the provisions of the Shipping Act, 1916; and the certification of owners and operators of passenger vessels as to their financial responsibility to satisfy liability incurred by nonperformance of voyages or resulting from injury or death under Public Law 89–777.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations with respect to the program activities of the Bureau.

The program activities of the Bureau of Certification and Licensing are carried out by the Office of Oil Pollution Responsibility, the Office of Freight Forwarders, and the Office of Passenger Vessel Certification, as outlined below:

a. The Office of Oil Pollution Responsibility (1) administers the provisions of Public Law 91–224 with respect to evidence of financial responsibility by owners and operators of vessels which may be subjected to liability to the United States for the cost of removal of oil from the navigable waters of the United States, adjoining shorelines, or waters of the contiguous zone; (2) receives and processes applications for Certificates of Financial Responsibility (Oil Pollution) from vessel owners and operators who wish to evidence their financial responsibility by means of self-insurance, surety bonds, certificates of insurance, guaranties, insurance policies, or other methods acceptable to the Commission; (3) reviews and makes appropriate recommendations on the adequacy of such evidence; (4) receives and reviews prescribed periodic accounting reports from certificants who have qualified as self-insurers to assure that such certificants remain financially stable; (5) recommends issuance, denial, revocation, modification, or suspension of such Certificates; (6) notifies certificants whose evidence of financial responsibility is being canceled or due to expire, and makes appropriate recommendations in connection therewith; (7) maintains records, files, and listings of applicants, certificants, vessels, and underwriters for use internally and by other Government agencies; (8) recommends acceptance or denial of persons or firms wishing to qualify with the Commission as acceptable underwriters; and (9) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Oil Pollution Responsibility.

b. The Office of Freight Forwarders (1) processes applications for the licensing of freight forwarders and makes appropriate recommendations as to the granting or denying of such applications, in accordance with the requirements of law and the rules, orders, and regulations of the Commission; (2) reviews the practices of licensed freight forwarders and makes appropriate recommendations with respect to any activities which indicate possible violations of applicable statutes or commission regulations; (3) makes appropriate recommendations, collaborating with the Bureau of Enforcement and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (4) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Freight Forwarders.

c. The Office of Passenger Vessel Certification (1) administers the provisions of Public Law 89–777 with respect to the financial responsibility of operators of passenger vessels to meet liability for nonperformance of voyages and claims for injury or death aboard ships; (2) makes appropriate recommendations with respect to the financial responsibility of said operators of passenger vessels; and (3) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Passenger Vessel Certification.

4. The Bureau of Hearing Counsel acts as Hearing Counsel in all formal investigations, nonadjudicatory investigations, rulemaking proceedings, and any other proceedings initiated by the Federal Maritime Commission under the Shipping Act, 1916, and other applicable shipping acts; examines and cross-examines witnesses, prepares and files briefs, motions, exceptions, and other legal documents, and participates in oral arguments before the hearing and the Federal Maritime Commission; acts as Hearing Counsel, where intervention is permitted, in formal complaint proceedings initiated under section 22 of the Shipping Act; reviews and concurs in all recommendations of other bureaus recommending the institution of formal proceedings; prepares all orders, notices, and other documents which institute formal or informal Commission proceedings; furnishes consultative and advisory services, and otherwise assists other bureaus in formulating procedures to be

followed in connection with investigations and/or formal Commission proceedings; serves, with the concurrence of the Managing Director, as requested by the General Counsel and under his direction in matters of court litigation by or against the Commission rising out of violations previously adjudicated by the Commission.

5. The Office of International Affairs and Relations provides advisory, consultative, and coordinating services in connection with the activities of the Commission and on actions which influence the work of the Commission in the field of international trade and commerce; maintains continual surveillance over actions by foreign governments relating to international shipping; develops data on port conditions and interprets U.S. policies for other governments and foreign shipping lines; serves as a general clearinghouse for the disseminating of complete, accurate, and necessary information on the activities, functions, and responsibilities of the Federal Maritime Commission to the maritime industry, news media, general public, and other agencies of the Government; and provides copies of initial decisions of the hearing examiners, reports of the Commission, publications, and miscellaneous documents submitted in proceedings before the Commission.

6. The Office of Personnel plans and administers personnel management activities of the Commission in compliance with Federal laws and regulations; serves as staff advisor on personnel matters to executive management, supervisors, and individual employees; and initiates and implements programs designed to insure a progressive personnel program within the Commission.

7. The Office of Budget and Finance formulates recommendations and interprets budgetary policies and programs; develops and presents budget requests and justifications; develops and administers fiscal plans and systems of internal control which provide accountability for public funds; and is responsible for financial management policies, procedures, and planning.

8. The Division of Office Services provides office services for the Commission and its Field Offices, including communication services, printing, binding, and reproduction; mail services, procurement of supplies and equipment, space management, building services, safety programs, and records storage and retrieval; and formulates guides, regulations, methods, and procedures governing the use of office services and facilities.

5.04 The Office of the Secretary is responsible for preparing agenda and dockets of matters subject to action by the Federal Maritime Commission and the preparation of minutes with respect to such actions; receiving and processing formal complaints and staff recommendations for investigation and hearing involving violations of the Shipping Act, 1916, as amended, and other applicable laws, including the (a) reviewing of complaints for sufficiency and compliance with the Commission's rules of practice and procedure; (b) assigning official docket numbers to such complaints and orders of investigation and hearing; (c) serving copies of such complaints and orders upon the respondent(s); and (d) subsequent to Hearing Examiners decisions or other disposition of cases by Hearing Examiners, ruling upon requests for enlargement of time for the filing of exceptions to decisions and replies thereto, including ruling upon late filings of exceptions or replies, and processing all other motions and petitions to the Commission for action; issuing orders and notices of actions of the Commission; receiving formal communications, petitions, notices, documents, and other instruments directed to the Chairman and/or the Commission and maintaining official files and records with respect thereto; authenticating instruments or documents of the Commission; administering oaths; and issuing subpoenas at the direction of the Commission.

5.05 The Office of the General Counsel serves as the law office of the Commission and provides legal counsel to the Commission and its staff; reviews and approves as to legality and/or prepares proposed Commission rules, regulations, and orders; prepares drafts of proposed legislation and reports to Congressional committees; and represents the Commission in all matters before the courts.

5.06 The Office of Hearing Examiners holds hearings and renders decisions therein in formal rulemaking and adjudicatory proceedings as provided in the Shipping Act, 1916, as amended, and other applicable laws and other matters assigned by the Commission, all in accordance with the Administrative Procedure Act and the Commission's rules of practice and procedure. Hearing Examiners are exempt from all direction, supervision, or control except for administrative purposes.

SEC. 6. *Delegation of authorities.* 6.01 Pursuant to section 105 of Reorganization Plan No. 7 of 1961, effective August 12, 1961, the Federal Maritime Commission hereby delegates the authorities set forth in sections 7, 8, and 9 of this order to the officials designated therein, subject to the limitations prescribed in sections 6.02, 6.03, 6.04, and 6.05 of this order.

6.02 The delegate shall exercise the authorities delegated herein in a manner consistent with the established policy of the Federal Maritime Commission.

6.03 The authorities delegated herein, except those delegated to the Chief Examiner, may not be exercised unless resolution of all legal questions and the approval of the form of all legal documents have been obtained either concurrently or previously, from the General Counsel, or his designee.

6.04 The delegatees may in their discretion redelegate their authorities, unless otherwise restricted herein, to subordinate personnel under their direction: *Provided*, That such redelegation does not grant the recipient the authority to subsequent redelegation. The delegatees retain full responsibility for actions taken by their subordinates under any authority redelegated by them.

6.05 Notwithstanding the delegations contained herein, the Commission retains its discretionary right of review as provided in section 105(b) of Reorganization Plan No. 7 of 1961.

SEC. 7. *Specific authorities delegated to the Managing Director.* 7.01 Authority to accept or reject tariff filings of domestic offshore carriers or common carriers in the foreign commerce of the United States, or conferences of such carriers for failure to meet the requirements of statute or the Commission's requirements, or for lack of completeness and clarity of the rules and regulations governing the tariff, or noncompliance with special permission or other order of the Commission.

7.02 Authority to approve special permission applications submitted by domestic offshore carriers or carriers in the foreign commerce of the United States, or conferences of such carriers for relief from statutory and/or Commission tariff requirements.

7.03 Authority to review and determine the validity of alleged or suspected violations, exclusive of formal complaints, of the shipping statutes and rules and regulations of the Commission by common carriers by water in the domestic offshore or the foreign commerce of the United States, terminal operators, freight forwarders, and other persons subject to the provisions of the shipping statutes; authority to determine corrective action necessary with respect to violations and conduct negotiations and obtain compliance by the violating parties, except where violations involve major questions of policy or major interpretations of statutes, or orders, rules, and regulations of the Commission, or acts having material effect upon the commerce of the United States; authority to determine, with respect to the foregoing, whether alleged or suspected violations should or should not be referred to the Department of Justice for prosecution.

7.04 Authority to (a) approve, within the framework of prescribed Commission policy and criteria, applications for licenses and to issue or reissue or transfer licenses to persons, partnerships, corporations, or associations desiring to engage in the business of ocean freight forwarding; (b) issue a letter stating that the Commission intends to deny an application unless within 20 days applicant requests a hearing to show that denial of the application is unwarranted or unless within 30 days required security has been filed; (c) deny any application for freight forwarder license where applicant has received a letter of intent to deny and, within the notice period, has not requested a hearing or has not furnished the required security; (d) rescind letters of intent to deny or grant extensions of the time specified in such letters; (e) revoke the grandfather rights of applicants who have requested withdrawal of the application, moved from their last known address and reasonable efforts to locate their present whereabouts have

failed, or been denied a license in accordance with subsection (c) of this section; (f) revoke the license of a freight forwarder upon request of the licensee; (g) upon receipt of notice of cancellation of any bond, to notify the licensee in writing that his license will automatically be suspended or revoked, effective on the bond cancellation date, unless a new or reinstated bond is submitted to and approved by the Commission prior to such date, and subsequently to order such suspension or revocation for failure to maintain a bond.

7.05 Authority to develop, prescribe, and administer programs to assure compliance with the provisions of the shipping statutes of all persons subject thereto, including without limitation those programs for: (a) The submission of regular and special reports, information, and data; (b) the conduct of a plan for the field audit of activities and practices of common carriers by water in the domestic offshore trade and the foreign commerce of the United States, conferences of such carriers, terminal operators, freight forwarders, and other persons subject to the shipping statutes; and (c) the conduct of rate studies.

7.06 Authority to approve, pursuant to section 15, Shipping Act, 1916, as amended, unprotested, cooperative working arrangements between independent ocean freight forwarders eligible to carry on the business of forwarding pursuant to section 44, Shipping Act, 1916, as amended.

7.07 Authority to approve, pursuant to section 15, Shipping Act, 1916, unprotested modifications to terminal conference agreements and unprotested terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916.

7.08 Authority to determine whether terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, are within the purview of section 15.

7.09 Authority to approve unprotested transshipment agreements covering transportation of cargo in the foreign commerce of the United States which are not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act, 1916, as amended; such agreements should include the:

1. Complete name of the parties entering into the arrangement and specifically setting forth the portion of the trade that each party will cover, including: ports or areas of origin and destination; cargo to be carried; and ports or ranges of ports at which cargo will be transshipped;

2. Responsibility of parties for establishing and filing the applicable through rates, rules, regulations, and other tariff matters;

3. Provisions for the apportionment of the through revenue and transshipment expenses stated in percentages, or specific dollar amounts;

4. When applicable, provisions for application and apportionment of other expenses such as wharfage, special handling, lighterage, tonnage dues, surcharges, and other such charges assessed by a governmental authority;

5. When desired by the parties, provisions for indemnification between the parties for liabilities incurred from loss, damage, delay, or misdelivery of goods;

6. Provision for the termination of the agreement within a stated notice period; and

7. Provisions for the submission to the Federal Maritime Commission for approval of any modification or addition to the agreement.

7.10 The authority to approve or disapprove applications as specified in General Order 11, "Reports of Rate Base and Income Account by Vessel Operating Common Carriers in the Domestic Offshore Trades", sections: 512.3(c)(1)—extensions for time of filing; 512.3(c)(2)—alternate data; 512.3(c)(3)—waiver of filing; and 512.3(d) the submission of statements for the first 6 months of any fiscal year.

7.11 Authority to (1) approve modifications to section 15 agreements when such modifications are filed in accordance with the requirement of Commission rule or general order and are clearly in compliance with the criteria and/or intent of such rule or general order, and (2) require modification of the filed amendment to the extent necessary to conform to the requirements of such rule or general order.

7.12 Authority to approve the termination of section 15 (Shipping Act, 1916, as amended) agreements between common carriers by water and conferences of such carriers engaged in the foreign and domestic commerce of the United States, and between other persons subject to the Act, after publication of notice of intent to terminate in the FEDERAL REGISTER, when such terminations are (1) requested by the parties to the agreements or, (2) deemed to have occurred when it is determined that the parties are no longer engaged in concerted activities requiring section 15 approval and official inquiries and correspondence cannot be delivered to the parties.

7.13 Authority to approve unprotested modifications to approved section 15 agreements which are filed to (1) reflect changes in the name of a country or port or, (2) increase or decrease the trade areas within the general geographic scope of the approved existing agreements: *Provided*, That such increases or decreases do not involve foreign to foreign trade or, (3) reflect nonsubstantive changes in language, procedures, or administration.

7.14 Authority to approve, pursuant to section 15, Shipping Act, 1916, unprotested passenger agency agreements and container interchange agreements between ocean common carriers.

7.15 Authority to issue notices of intent to cancel inactive tariffs of carriers in the domestic offshore trades, after a diligent effort has been made to locate the carrier without success, or if the carrier has advised the Commission that it no longer offers a domestic common carrier service but refuses to cancel its tariff upon written request; and to cancel such tariff if within 30 days after publication, the carrier does not furnish reasons why such tariff should not be canceled.

7.16 Authority to accept financial and operating data alternative to that required by sections 511.2 and 511.3 of General Order 5, upon application and a showing of good cause that it is unnecessary to require full compliance to enable the Commission to carry out its regulatory function.

7.17 Authority to waive the requirements of sections 511.2 and 511.3 of General Order 5, for carriers with less than $25,000 gross revenue, upon application and showing that the gross revenue earned did not exceed such amount as provided by the order.

7.18 Authority to grant or deny, in accordance with the provisions of General Order 5, Amendment 5, extensions of time limits prescribed for the filing of financial reports by common carriers who are subject to the provisions of General Order 5, 46 CFR Part 511.

SEC. 8. *Specific authorities delegated to the Secretary.* 8.01 Authority to approve applications for permission to practice before the Federal Maritime Commission and to issue admission certificates to approved applicants.

8.02 Authority to prescribe a time limit less than 20 days from date published in the FEDERAL REGISTER, for the submission of written comments with reference to agreements filed pursuant to section 51 of the Shipping Act, 1916.

SEC. 9. *General authority delegated to the Managing Director, Secretary General Counsel, and Chief Examiner.*—9.01 Authority to exercise all functions and take all actions necessary to direct and carry out the duties and responsibilities assigned to the Managing Director, Office of the Secretary, Office of the General Counsel, and Office of Hearing Examiners, in accordance with their functional assignments as heretofore prescribed in this order.

SEC. 10. *Public requests for information and decisions.*—10.01 *General.* 1. 5 U.S.C. 552(a)(1)(A) requires that every agency shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

2. Section 5 of this order complies with that portion of the above requirement with respect to stating and publication of the descriptions of the Federal Maritime Commission's central and field organizations.

3. Accordingly, there is hereby stated and published for the guidance of the

public the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions. For this purpose, the officials hereinafter designated may be contacted by telephone, in writing, or in person, at the Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573.

10.02 The Director, Bureau of Compliance, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Compliance. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Compliance as set forth in section 5.031 of this order shall be filed with or submitted to the Director, Bureau of Compliance.

10.03 The Director, Bureau of Enforcement, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Enforcement. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Enforcement as set forth in section 5.032 of this order shall be filed with or submitted to the Director, Bureau of Enforcement.

10.04 The Director, Bureau of Certification and Licensing, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Certification and Licensing. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Certification and Licensing as set forth in section 5.033 of this order shall be filed with or submitted to the Director, Bureau of Certification and Licensing.

10.05 The Director, Bureau of Hearing Counsel, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Hearing Counsel: *Provided, however,* That the dissemination of such information or decisions is not prohibited by the Administrative Procedure Act or the Commission's rules of practice and procedure. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Hearing Counsel as set forth in section 5.034 of this order shall be filed with or submitted to the Director, Bureau of Hearing Counsel.

10.06 The Director, Office of International Affairs and Relations, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of International Affairs and Relations as set forth in section 5.035 of this order.

10.07 The Director, Office of Personnel, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Personnel as set forth in section 5.036 of this order.

10.08 The Director, Office of Budget and Finance, will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Budget and Finance as set forth in section 5.037 of this order.

10.09 The Secretary will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the Secretary. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the Secretary as set forth in section 5.04 of this order shall be filed with or submitted to the Secretary.

10.10 The General Counsel will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the General Counsel. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the General Counsel as set forth in section 5.05 of this order shall be filed with or submitted to the General Counsel.

10.11 The Chief Hearing Examiner will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Hearing Examiners. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of Hearing Examiners as set forth in section 5.06 of this order shall be filed with or submitted to the Chief Hearing Examiner.

10.12 The Directors of the New York City, New Orleans, and San Francisco offices will provide information and decisions to the extent possible to the public within their geographical areas, or will expedite the obtaining of information and decisions from the Washington office of the Federal Maritime Commission. The addresses of these offices are as follows:

Director, New York City Office, Federal Maritime Commission, 26 Federal Plaza, Room 4012, New York, N.Y. 10007.

Director, New Orleans Office, Federal Maritime Commission, Post Office Box 30550, 600 South Street, Room 946, New Orleans, La. 70130.

Director, San Francisco Office, Federal Maritime Commission, Federal Building, Room 2302, 100 McAllister Street, San Francisco, Calif. 94102.

10.13 In addition, the public may inspect or obtain copies of agreements, tariffs, and other public records or documents which are on file with or prepared by the Bureau of Compliance from the Public Reference Room, Bureau of Compliance, 1405 I Street NW., Washington, D.C. 20573.

SEC. 11. *Effect on other orders.* 11.01 This order supersedes Commission Order No. 1 (Revised) published in the FEDERAL REGISTER, March 13, 1970, and all amendments and supplements published subsequent thereto. In the FMC Manual of Orders, this supersedes Commission Order No. 1 (Revised), dated March 9, 1970, and all amendments and supplements thereto.

HELEN DELICH BENTLEY,
Chairman.

[F.R. Doc. 70-13223; Filed, Oct. 1, 1970; 8:49 a.m.]

[Commission Order No. 201.1 (Revised)]

MANAGING DIRECTOR OR DEPUTY MANAGING DIRECTOR

Redelegation of Authorities

SECTION 1. *Purpose.* 1.01 The purpose of this order is to revoke all authority previously delegated pursuant to C.O. 201.1 (Revised) effective March 9, 1970, and Amendment No. 1 thereto effective April 2, 1970.

SEC. 2. *Exercise of authority.* 2.01 All authority delegated to the Managing Director by Commission Order No. 1 (Revised) effective September 29, 1970, or any amendments or revisions thereto will hereafter be exercised by the Managing Director or Deputy Managing Director.

SEC. 3. *Effect on other orders.* 3.01 This order supersedes Commission Order No. 201.1 (Revised) effective March 9, 1970, and Amendment No. 1 thereto effective April 2, 1970.

AARON W. REESE,
Managing Director.

[F.R. Doc. 70-13222; Filed, Oct. 1, 1970; 8:49 a.m.]

ELLERMAN LINES, LTD., AND BLUE STAR LINE, LTD.

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:

Elmer C. Maddy, Esq., Kirlin, Campbell & Keating, One Twenty Broadway, New York, N.Y. 10005.

Agreement No. 9901 between Ellerman Lines, Ltd., and Blue Star Line, Ltd. provides for a thorough billing arrangement covering the transportation of cargo from Fremantle, Australia to United States Gulf ports with transshipment at Australian ports in the Adelaide/Brisbane range in accordance with the terms and conditions of the agreement.

Dated: September 29, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13219; Filed, Oct. 1, 1970; 8:49 a.m.]

ELLERMAN LINES, LTD., AND PORT LINE, LTD.

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:

Elmer C. Maddy, Esq., Kirlin, Campbell & Keating, One Twenty Broadway, New York, N.Y. 10005.

Agreement No. 9900 between Ellerman Lines, Ltd., and Port Line, Ltd., provides for a through billing arrangement covering the transportation of cargo from Fremantle, Australia, to United States Gulf ports with transshipment at Australian ports in the Adelaide/Brisbane range in accordance with the terms and conditions of the agreement.

Dated: September 29, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13220; Filed, Oct. 1, 1970; 8:49 a.m.]

NEW YORK SHIPPING ASSOCIATION, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed 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.

By order served November 28, 1969, in Docket No. 69-57, the Commission instituted an investigation to determine whether Agreement No. T-2336, a temporary assessment formula between the members of the New York Shipping Association, should be approved, modified or disapproved pursuant to section 15, Shipping Act, 1916. Subsequently, Agreements No. T-2336-1, T-2364, T-2390, T-2390-1, and T-2390-2 were filed and included in Docket No. 69-57 since the Commission order stated that in the event any modification of Agreement No. T-2336 or further agreement establishing a temporary or permanent assessment formula was filed with the Commission such agreement would be made subject to the investigation. Agreement No. T-2390-3, the subject agreement, will also be included in Docket No. 69-57. Persons who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Notice of agreement filed for approval by:

Mr. Alfred Giardino, Lorenz, Finn & Giardino, 21 West Street, New York, N.Y. 10006

Agreement No. T-2390-3 between the members of the New York Shipping Association, Inc. (NYSA), modifies the basic agreement which provides for a man-hour/tonnage assessment formula for the 2-year period beginning October 1, 1969, and ending September 30, 1971. The purpose of the modification is to extend the termination date of T-2390-2 from September 30, 1970, to December 31, 1970, but such agreement shall terminate and be of no further force or effect in the event that any Court or Administrative Agency issues an order staying or modifying the Commission's conditional approval of Agreement No. T-2390, or otherwise affect the implementation of the agreement. Agreement No. T-2390-2 modified T-2390 by extending the termination date of that agreement from May 29, 1970, to September 30, 1970.

Dated: September 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13267; Filed, Oct. 1, 1970; 8:50 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATIONS FOR RENEWAL PERMITS

Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been filed as follows:

(1) ICP Docket No. 10865, Kentland-Elkorn Coal Corp., Peter Creek Mine, USBM ID No. 15 02103 0, Mouthcard, Pike County, Ky., section ID No. 001 ("A" Panel Left off 1st Rt.) and section ID No. 002 ("B" Panel Right off 1st Rt.).

(2) ICP Docket No. 10864, Kentland-Elkorn Coal Corp., Kentland No. 2 Mine, USBM ID No. 15 02106 0, Mouthcard, Pike County, Ky., section ID No. 002 ("D" Panel off 9 Rt.).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

[F.R. Doc. 70-13193; Filed, Oct. 1, 1970; 8:47 a.m.]

APPLICATIONS FOR RENEWAL PERMITS

Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) have been filed as follows:

(1) ICP Docket No. 10843, Eastern Coal Corp., Stone Mine, USBM ID No. 15 02096 0, Stone Pike County, Ky. Section ID No. 001 (section 14, 6 Lt. Butt Off 4 Mains.). Section ID No. 002 (section 16, 1 Rt. Off 19 Rt.). Section ID No. 003 (section 17, 18½ Rt. Off 4 Mains.). Section ID No. 004 (section 18, 8 Lt. Butt, 4 Mains.). Section ID No. 005 (section 24, 8 Lt. Off 7 Mains.). Section ID No. 006 (section 25, 10 Rt. Off 7 Mains.). Section ID No. 007 (section 27, 12 Lt. Off 7 Mains.). Section ID No. 008 (section 29, 11 Rt. Off 7 Mains.). Section ID No. 009 (section 31, 2 Lt. Off N.E. Mains.). Section ID No. 010 (section 32, 1 Lt. Off N.E. Mains.).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the Office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

SEPTEMBER 29, 1970.

[F.R. Doc. 70-13175; Filed, Oct. 1, 1970; 8:45 a.m.]

APPLICATIONS FOR RENEWAL PERMITS

Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) have been filed as follows:

(1) ICP Docket No. 10143, Black Diamond Fuel Co., Mine No. 6, USBM ID No. 44 00382 0, Conaway, Buchanan County, Va. Section ID No. 001 (S. West Main).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

SEPTEMBER 29, 1970.

[F.R. Doc. 70-13176; Filed, Oct. 1, 1970; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-7009 etc.]

CITIES SERVICE OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

SEPTEMBER 23, 1970.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 16, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Any parties who have heretofore filed petitions to intervene or notices of intervention in the subject dockets should file again if they are still interested in participating in any proceedings in the subject dockets.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-7009 ..... D 8-27-70	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102 (partial abandonment).	United Fuel Gas Co., acreage in Pike County, Ky.	(4)	.....
G-10148 ..... D 8-28-70	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102 (partial abandonment).	Cities Service Gas Co., Rhodes Pool, Barber County, Kans.	Depleted	.....
G-16139 ..... D-9-8-70	Gulf Oil Corp. (partial abandonment).	Transwestern Pipeline Co., Panhandle Area, Hemphill County, Tex.	(5)	.....
G-18779 ..... A 6-11-70[3]	Texas Oil & Gas Corp. et al. (formerly Tex-Star Oil & Gas Corp. et al.), 1001 Americana Bldg., Houston, Tex. 77002.	Coastal States Gas Producing Co., Acreage in Hidalgo County, Tex.	11.1056	14.65
CI61-713 ..... C 8-31-70	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77027.	Transwestern Pipeline Co., Parsell (Lower Morrow) Field, Ochiltree County, Tex.	[6]17.0	14.65
CI63-410 ..... B 10-1-62	Herbert L. Dillon, Jr. (Operator) et al., 531 Texas National Bank Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Iowa Field, Calcasieu Parish, La.	Depleted	.....
CI63-708 ..... C 7-1-70	CRA, Inc.,[4] Post Office Box 7305, Kansas City, Mo. 64116.	Northern Natural Gas Co., Mertzon Plant, Irion County, Tex. (6 filings).	16.0	14.65
CI63-1139 ..... D 8-31-70	Harper Oil Co. (Operator) et al., 904 Hightower Bldg., Oklahoma City, Okla. 73102 (partial abandonment).	Arkansas Louisiana Gas Co., North Drummond Area, Garfield County, Okla.	Depleted	.....
CI64-670 ..... C 9-8-70[4]	Marathon Oil Co., 339 South Main St., Findlay, Ohio 45840.	Arkansas Louisiana Gas Co., Wilburton Field, Pittsburg County, Okla.	16.015	14.65
CI66-420 [7] ..... B 8-28-70	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Michigan Wisconsin Pipe Line Co., Southwest Lake Arthur Field, Cameron Parish, La.	(8)	.....
CI67-248 ..... 7-21-70[3]	Beacon Gasoline Co., Post Office Box 396, Minden, La. 71055.	Arkansas Louisiana Gas Co.,[4] Walker Creek Field, Lafayette and Columbia Counties, Ark.	[10]0.25 [11]1.5	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI67-1188 [1] ..... B 8-28-70	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	United Gas Pipe Line Co., North Greta Field, Refugio County, Tex.	Depleted	.....
CI68-38 ..... D 8-19-70	Allen Beard et al., c/o Paul N. Bowles, agent, Post Office Box 1386, Charleston, W. Va. 25325 (partial abandonment).	United Fuel Gas Co., Union District, Kanawha County, W. Va.	[2]	.....
CI68-262 ..... D 8-19-70	do	do	[2]	.....
CI68-1223 ..... D 8-19-70	do	do	[2]	.....
CI68-1224 ..... D 8-19-70	do	do	[2]	.....
CI68-1225 ..... D 8-19-70	do	do	[2]	.....
CI70-807 ..... C 9-8-70	Royal Resources Corp., 1100 Kermac Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Kinta Field, Pittsburg County, Okla.	[3] 15.0	14.65
CI71-145 ..... A 8-17-70	Continental Oil Co.,[4] Post Office Box 2197, Houston Tex. 77001.	Southern Union Gathering Co., Angels Peak Area, San Juan County, N. Mex.	[5] 13.0	15.025
CI71-148 ..... A 8-19-70	Woods Petroleum Corp., 4900 North Santa Fe, Oklahoma City, Okla. 73118.	Panhandle Eastern Pipe Line Co., Southeast Keenan Field, Woodward County, Okla.	[6] 17.0	14.65
CI71-155 ..... (CI70-395) F 8-21-70 [7]	Warren R. Haught et al., d.b.a. Haught Brothers Drilling Co. (successor to Arco Petroleum Co., by Arco Industries), Smithville, W. Va. 26178.	Equitable Gas Co., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI71-164 ..... A 8-24-70 [8]	P. & C. Co., Inc., Post Office Box 80, Ripley, W. Va. 25271.	Gas Transport, Inc., Union District, Jackson County, W. Va.	27.5	15.325
CI71-169 ..... A 8-26-70	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	Montana-Dakota Utilities Co., Ten-Sleep Cattle Co., Unit, Big Horn County, Wyo.	15.384	15.025
CI71-178 ..... (G-5368) F 8-24-70	John B. Hawley, Jr. and G. S. Davidson trustees under John B. Hawley, Jr. Trust No. I (successor to Skelly Oil Co.), 1915-57th Ave., North, Minneapolis, Minn. 55430.	Kansas-Nebraska Natural Gas Co., Inc., Kansas-Hugoton Field, Finney County, Kans.	[9] 12.0	14.65
CI71-181 ..... B 8-28-70	Union Oil Co. of California	Panhandle Eastern Pipe Line Co., Wil Field, Edwards County, Kans.	Depleted	.....
CI71-184 ..... A 8-28-70	Texas Oil & Gas Corp. (Operator) et al.	Transwestern Pipeline Co., acreage in Harper County, Okla.	[6] [10] 17.0	14.65
CI71-188 ..... (G-19302) F 8-31-70	John H. Hill et al. (successor to Texaco, Inc.) 1411 West Ave., Austin, Tex. 78701.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Mocane Field, Beaver County, Okla.	[6] 17.0	14.65
CI71-189 ..... (CI69-1000) F 8-28-70	A. W. Moursund (successor to John H. Hill (Operator) et al.), c/o Gordon L. Llewellyn, attorney, 905 Southland Center, Dallas, Tex. 75201.	do	[6] 15.0	14.65
CI71-192 ..... A 9-1-70	The Wiser Oil Co., Sistersville, W. Va. 26175.	Consolidated Gas Supply Corp., Greenbrier District, Doddridge County, W. Va.	28.0	15.325
CI71-193 ..... A 9-2-70	Reeves Lewenthal, 530 Park Ave., New York, N.Y. 10021.	Consolidated Gas Supply Corp., Elk District, Barbour County, W. Va.	28.0	15.325
CI71-194 ..... A 9-1-70	J. L. Trittipo, Inc., 600 Commerce Sq., Charleston, W. Va. 25301.	Consolidated Gas Supply Corp., Union District, Barbour County, W. Va.	28.0	15.325
CI71-195 ..... A 9-1-70	Casa de Cascade, Inc., 1000 Urlin Rd., Columbus, Ohio 43212.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	28.0	15.325
CI71-196 ..... A 9-1-70	Dougherty Oil Co. et al., St. Marys, W. Va. 26170.	Consolidated Gas Supply Corp., Clay District, Ritchie County; and Lafayette District, Pleasants County, W. Va.	28.0	15.325
CI71-197 ..... A 9-2-70	Petroleum Corp. of America, 137 East Main St., Bridgeport, W. Va. 26330.	Consolidated Gas Supply Corp., Elk and Simpson Districts, Harrison County, W. Va.	28.0	15.325
CI71-198 ..... A 8-31-70	White Shield Oil & Gas Corp., c/o Richard M. Reddecliff, attorney, Post Office Box 306, Buckhannon, W. Va. 26201.	Cumberland and Allegheny Gas Co., acreage in Upshur, Barbour, and Randolph Counties, W. Va.	[11] 27.0	15.325
CI71-199 ..... B 9-1-70	W. C. McBride, Inc., 25 North Brentwood, St. Louis, Mo. 63105.	Cities Service Gas Co., Agra Northwest Area, Lincoln County, Okla.	Depleted	.....
CI71-204 ..... (CI66-1341) F 8-31-70	Peter Kruidenier (Operator) et al. (successor to Exploration and Development, Inc.), 1111 Vickers Tower, Wichita, Kans. 67202.	Northern Natural Gas Co., Southwest Rozel Field, Pawnee County, Kans.	[6] 16.0	14.65
CI71-205 ..... (CI70-495) F 8-27-70	Hill-Tex Co. (successor to John H. Hill), 1100 Adolphus Tower Bldg., Dallas, Tex. 75202.	Western Gas Interstate Co. Northwest Six Mile Field, Beaver County, Okla.	14.5	14.65
CI71-208 ..... A 9-4-70	Jones & Pellow Oil Co., 101 Northeast 26th St., Oklahoma City, Okla. 73105.	El Paso Natural Gas Co., Ute Unit, La Plata County, Colo.	14.0	15.025
CI71-210 ..... B 9-1-70	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Southeast Greenbranch Field, McMullen County, Tex.	Depleted	.....
CI71-212 ..... A 9-1-70	Tenneco Oil Co.,[4] Post Office Box 2511, Houston, Tex. 77001.	Southern Union Gathering Co., Four Section Outlier Block, San Juan County, N. Mex.	[5] 13.0	15.025
CI71-213 ..... A 9-2-70	Mace Oil & Gas Co., Sand Ridge, W. Va. 26274.	Consolidated Gas Supply Corp., Lee and Sherman Districts, Calhoun County, W. Va.	20.0	15.325
CI71-214 ..... (G-17468) F 9-3-70 as amended 9-14-70	Lyons Petroleum (Operator) et al. (successor to Petroleum, Inc. and Hurt Oil & Gas Corp.), 1500 Beck Bldg., Shreveport, La. 71101.	United Gas Pipe Line Co., Houma Field, Terrebonne Parish, La.	[12] 20.0	15.025
CI71-215 ..... A 9-4-70	Pan American Petroleum Corp.,[4] Post Office Box 591, Tulsa, Okla. 74102.	Southern Union Gathering Co., Basin Dakota Field, San Juan County, N. Mex.	[5] 13.0	15.025
CI71-216 ..... A 9-8-70	Cumberland Gas Co., Post Office Box 2986, Charleston, W. Va. 25328.	United Fuel Gas Co., acreage in Lincoln and Cabell Counties, W. Va.	28.0	15.325
CI71-217 ..... A 9-8-70	H. E. Acker, Post Office Box 667, Weston, W. Va. 26452.	Equitable Gas Co., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI71-218 ..... A 9-8-70	Donald S. Garvin and Harold L. Summers, d.b.a. Garvin and Summers, 4515 North Santa Fe, Oklahoma City, Okla. 73118.	Equitable Gas Co., Otter District, Braxton County, W. Va.	28.0	15.325
CI71-219 ..... A 9-8-70	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Florida Gas Transmission Co., Jay Field, Santa Rosa County, Fla.	30.0	14.65
CI71-224 ..... (CI65-549) F 9-3-70	White Shield Oil & Gas Corp. (successor to Jennings Petroleum Corp.), Suite 102, 5963 East 31st St., Tulsa, Okla. 74135.	Equitable Gas Co., Otter and Salt Lick Districts, Braxton County, W. Va.	25.0	15.325
CI71-233 ..... A 7-16-70	Robert M. Cunningham et al., 113 High St., Mannington, W. Va. 26582.	Equitable Gas Co., Salt Lick District, Braxton County, W. Va.	25.0	15.325
CI71-234 ..... B 8-17-70	Cunningham and Sweeney, c/o Robert M. Cunningham, partner, 113 High St., Mannington, W. Va. 26582.	Welpenn Gas Co., Inc., Salt Lick District, Braxton County, W. Va.	[13]	.....

See footnotes at end of table.

[1] Deletes the Smith K No. 1 Well which was sold to Mrs. Flossie Smith Hunt.
[2] Deletes undeveloped leases.
[3] Notice of application in Docket No. G-18078 et. al., on Nov. 19, 1969, and published in the FEDERAL REGISTER on Nov. 26, 1969 (34 F.R. 9519).
[4] Subject to upward and downward B.t.u. adjustment.
[5] By letter filed Sept. 14, 1970, Applicant agreed to accept certificate conditioned as Opinion Nos. 468 and 468-A.
[6] Adds acreage acquired from Pan American Petroleum Corp.
[7] Original applications in Dockets Nos. CI66-420 and CI67-1188 sought certificates of public convenience and necessity. Applicants now propose to abandon service previously commenced pursuant to temporary authorization.
[8] Lease expired and acreage was released.
[9] Applicant will gather Arkansas Louisiana's gas from the Walker Creek Field, Lafayette and Columbia Counties, Ark., process and compress the gas in its Webster Parish, La., plant and then redeliver the residue gas to Texas Gas Transmission Corp. for the account of Arkansas Louisiana or redeliver the residue gas to Arkansas Louisiana at its Walker Creek Field for recycling operations.
[10] Gathering charge of 0.25 cent per Mcf of wellhead volumes.
[11] Transportation charge of 1.5 cent per Mcf of residue gas volumes until line paid for, then 0.25 cent per Mcf thereafter.
[12] Acreage assigned to buyer.
[13] Contract provides for rate of 16 cents per Mcf; however, Applicant states its willingness to accept certificate at 15 cents per Mcf.
[14] Applicant agrees to accept certificate at the 13-cent initial service ceiling providing the Commission permits the filing of a rate increase to the contract level and limits any suspension period to 1 day.
[15] As amended by letter filed Sept. 14, 1970.
[16] As amended by letter filed Sept. 3, 1970.
[17] Rate in effect subject to refund in Docket No. RI69-130.

[3] Contract provides for rate of 20 cents per Mcf; however, Applicant states its willingness to accept permanent certificate conditioned to initial rate of 17 cents per Mcf.
[4] Includes 2 cents per Mcf transportation charge.
[5] Includes 1.5 cents per Mcf tax reimbursement.
[6] Applicant desires to make sale to new purchaser.

[F.R. Doc. 70-13101; Filed, Oct. 1, 1970; 8:45 a.m.]

[Docket No. RI71-293]

PHILLIPS PETROLEUM CO.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

SEPTEMBER 24, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 16, 1970.

By the Commission.

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

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-293	Phillips Petroleum Co.	7	[1] 15	El Paso Natural Gas Co. (Goldsmith		8-25-70	9-25-70	Accepted	16.1380		RI70-86.
		7	16	Plant, Ector County, Tex., RR. District No. 8, Permian Basin).	$12,514	8-25-70	9-25-70	2-25-71	16.1380	16.6821	
	do	9	[1] 21	El Paso Natural Gas Co. (Crane		8-25-70	9-25-70	Accepted	15.8857		RI70-93.
		9	22	Plant, Crane County, Tex., RR. District No. 8, Permian Basin).	54,065	8-25-70	9-25-70	2-25-71	15.8857	16.4292	
	do	260	[1] 8	El Paso Natural Gas Co. (Noelke		8-25-70	9-25-70	Accepted	15.7093		RI68-528.
		260	9	Field, Crockett County, Tex., RR. District No. 70, Permian Basin).	436	8-25-70	9-25-70	2-25-71	15.7093	17.2933	
	do	315	[1] 6	El Paso Natural Gas Co. (Spraberry		8-25-70	9-25-70	Accepted	18.2430		
		315	7	Field, Reagan County, Tex., RR. District No. 70, Permian Basin).	175	8-25-70	9-25-70	2-25-71	18.2430	19.8364	RI68-528.
	do	65	[1] 17	El Paso Natural Gas Co. (Jal Field,		8-25-70	9-25-70	Accepted	17.9023		RI70-85.
		65	18	Lea County, N. Mex., Permian Basin).	4,910	8-25-70	9-25-70	2-25-71	[2] 17.9023	18.4138	
	do	151	[1] 11	do		8-25-70	9-25-70	Accepted	17.9023		RI70-86.
		151	12		818	8-25-70	9-25-70	2-25-71	[2] 17.9023	18.4138	
	do	64	[1] 18	El Paso Natural Gas Co. (Eunice		8-25-70	9-25-70	Accepted	16.2349		RI70-86.
		64	19	Plant, Lea County, N. Mex., Permian Basin).	38,583	8-25-70	9-25-70	2-25-71	[3] 16.2349	16.7426	
	do	33	[1] 19	El Paso Natural Gas Co. (Goldsmith		8-25-70	9-25-70	Accepted	16.1380		
		33	20	& Fullerton Plants, Ector and Andrews Counties, Tex., RR. District 8 and Eunice Plant, Lea County, N. Mex., Permian Basin).	[4] 182,267			2-25-71	[2] 16.2349 [4] 16.1380 16.2349	16.6821 16.7426	RI70-85.
	do	10	[1] 20	El Paso Natural Gas Co. (Keystone		8-25-70	9-25-70	Accepted	[5] 19.1411	[6]	RI70-86.
		10	21	Field, Winkler County, Tex., RR. District 8, Permian Basin).	9,400	8-25-70	9-25-70	2-25-71	19.1411	19.8105	
	do	243	[1] 22	El Paso Natural Gas Co. (Hobbs and		8-25-70	9-25-70	Accepted	16.2349		
		243	23	Lee Plants, Lea County, N. Mex., Permian Basin).	[4] 43,660 [4] 84,271	8-25-70	9-25-70	2-25-71	16.7426 [7] 16.2349 [8] 16.7426	[7] 16.7426 [8] 17.2593	RI70-93.
	do	256	[1] 9	El Paso Natural Gas Co. (Spraberry		8-25-70	9-25-70	Accepted	18.243		RI68-527.
		256	10	Field, Reagan County, Tex., RR. District No. 7-C, Permian Basin).	526	8-25-70	9-25-70	2-25-71	18.243	19.8364	
	do	32	[1] 34	El Paso Natural Gas Co. (Goldsmith and Fullerton Plants, Ector and Andrews Counties, Tex., RR. District 8 and Eunice Plant, Lea County, N. Mex., Permian Basin, and Dumas Plant, Panhandle Field, Moore County, Tex. RR. District No. 10.		8-25-70	9-25-70	Accepted	16.1380 16.2349 19.76325		
		32	35		[4] 188,877	8-25-70	9-25-70	2-25-71	[4] 16.1380	[4] 16.6821	RI70-85.
		32	36		[9] 60,805 1,788,207	8-25-70	9-25-70	2-25-71	[10] 16.2349 [11] 19.76325	[10] 16.7426 [11] 22.37950	G-20403.
	do	309	[1] [12] 12	El Paso Natural Gas Co. and Pecos		9-2-70	10-3-70	Accepted	15.2025		
		309	[1] [13] 13	Co. (Amacker-Tippett Field, Upton		9-2-70	10-3-70	Accepted	15.2025		
		309	14	County, Tex., RR. District 7C, Permian Basin).	474	9-2-70	10-3-70	3-3-71	15.2025	16.7846	RI68-528.

* Pressure base is 14.65 p.s.i.a.
[1] Amendatory agreement providing for a new pricing schedule is accepted effective as of date set forth in the "Effective Date Unless Suspended" column.
[2] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[3] Applicable to gas sold from Goldsmith and Fullerton Plants.
[4] Applicable to gas sold from Eunice Plant.
[5] No sales being made from the Eunice Plant under Rate Schedule No. 33.
[6] Subject to 1 cent per Mcf deduction for quality.
[7] Applicable to gas from Hobbs Plant.
[8] Applicable to gas from Lee Plant.
[9] Applicable to gas from Goldsmith and Fullerton Plants.
[10] Applicable to gas from Eunice Plant.
[11] Applicable to gas from Dumas Plant in Texas RR. District No. 10.
[12] Applicable to sales to El Paso Natural Gas Co.
[13] Applicable to sales to Pecos Co.

The amendatory agreements submitted by Phillips include the following provision:

"If the Federal Power Commission, or any successor governmental authority having jurisdiction in the premises, shall at any time after August 1, 1970, prescribe, for any area in which Seller's * * * [plants and/or properties] are situated, a higher rate for the purchase of gas than the price herein provided to be paid, then as to any such [plant and/or properties] so affected the price to be paid by Buyer to Seller for gas delivered under the provisions of this agreement from such [plant and/or properties] shall be increased, effective as of the date such higher price is prescribed, to equal such higher rate; provided, however, that Buyer shall have the right, at its option, to intervene in any area rate proceeding held to give consideration to any area rate higher than those provided for herein, to oppose therein any such higher area rate, and in the event such higher rate is prescribed, to seek relief therefrom in any regulatory agency or any court having jurisdiction, but such relief, if obtained, shall not result in a price hereunder which is less than the price set out in the foregoing subparagraphs of this subsection * * *"

The above-quoted price provisions do not conform with § 154.93(b-1) of the Commission's regulations and thus are subject to rejection. These provisions make no specific reference to any applicable price levels that may be established in an area rate proceeding. The agreements also fail to specify that any higher price levels which may be established in the areas involved need be related to the vintages and types of gas prescribed under the respective rate schedules involved here. Accordingly, the amendments are accepted subject to the condition that the above-quoted provisions shall be interpreted consistent with § 154.93(b-1) of the regulations and shall apply only upon the Commission's approval of a just and reasonable rate or settlement rate in an applicable area rate proceeding for gas of comparable quality and vintage.

As indicated in the table, some of Phillips' proposed rates include partial reimbursement for the full 2.55 percent New Mexico Emergency School tax. The buyer, El Paso, is expected to protest the tax reimbursement part of these proposed rates. In view of the contractual problem presented, the hearings provided with respect to these increased rate filings shall concern themselves with the contractual basis for such filings as well as the statutory lawfulness of the proposed rates.

Phillips requests an August 1, 1970, effective date for its proposed increased rates. Good cause has not been shown for waiving the 30-day statutory notice period and granting a retroactive effective date, and Phillips' request is therefore denied.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-13098; Filed, Oct. 1, 1970; 8:45 a.m.]

[Docket No. CS66-9 etc.]

FELIX A. FISHMAN ET AL.

Notice of Applications for "Small Producer" Certificates [1]

SEPTEMBER 25, 1970.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from areas for which just and reasonable rates have been established, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 20, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No.	Date filed	Name of applicant
CS66-9 [1]	8-10-70	Felix A. Fishman et al., Trustees (successor to Estate of William L. Hernstadt, deceased), 280 Park Ave., New York, N.Y. 10017.
CS71-10	9-14-70	Geochemical Surveys, Post Office Box 19508, Dallas, Tex. 75219.
CS71-11	9-4-70	Tipperary Resources Corp., 500 West Illinois, Midland, Tex. 79701.
CS71-12	9-17-70	Markum Corp., 1000 V & J Tower, Midland, Tex. 79701.

[1] By application filed Aug. 10, 1970, as corrected by letter filed Aug. 14, 1970, applicant requested that small producer certificate be changed to reflect the succession in interest by the trustees to the estate.

[F.R. Doc. 70-13178; Filed, Oct. 1, 1970; 8:45 a.m.]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket No. E-7559]

IDAHO POWER CO.

Notice of Application

SEPTEMBER 28, 1970.

Take notice that on September 15, 1970, Idaho Power Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $40 million in short-term unsecured promissory notes.

Applicant is incorporated under the laws of the State of Maine with its principal business office at Boise, Idaho, and is engaged in the electric utility business in the States of Idaho, Oregon, Nevada, and Wyoming.

The notes are to be issued from time to time to commercial banks or similar institutions and will mature within 1 year from their dates of issuance and in any event not later than December 31, 1972. The loans will be at the current rate applicable in New York for commercial bank loans.

The purpose for which the proposed short-term bank borrowings will be made, and promissory notes issued, is to obtain temporary, interim capital (including renewal of short-term notes now issued and outstanding or to be issued and outstanding pursuant to the authorization requested, prior to Dec. 31, 1971) for the construction, extension and improvement of operation facilities.

The expenditures for this program through December 31, 1971, are estimated at $30,187,000. Major items are $12,646,000 for the construction of a 500,000 kw. steam generating plant located near Rock Springs, Wyo., and $11,458,000 for distribution lines and substations.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13179; Filed, Oct. 1, 1970; 8:45 a.m.]

[Docket No. CP71-6, etc.]

EL PASO NATURAL GAS CO. AND WASHINGTON NATURAL GAS CO.

Order Granting Permanent Certificate, Consolidating Proceedings, Granting Interventions, Deferring Action on Temporary Applications, and Setting Date of Hearing

SEPTEMBER 25, 1970.

On July 8, 1970, El Paso Natural Gas Co. (El Paso), filed in Docket No. CP71-6 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of equal shares of cushion gas to Washington Natural Gas Co. (Washington Natural) and the Washington Water Power Co. (Water Power) for injection into the Jackson Prairie Underground Natural Gas Storage Project situated in Lewis County, Wash., for the respective accounts of Washington Natural and Water Power and to transport for injection into the storage project an equivalent share of cushion gas for El Paso's account; to transport for injection into the storage project working gas in quantities to support a new firm winter service proposed to be rendered by El Paso to distributor companies served by El Paso's Northwest Division System; and by way of rendition of such proposed service, to sell and deliver natural gas to Northwest Division System distributor companies for resale, during any seasonal period commencing on November 1, and continuing through the immediately succeeding April 15, in quantities not to exceed 180,000 Mcf on any day or 4,000,000 Mcf during any such seasonal period.

Also on July 8, 1970, Washington Natural filed companion applications in Dockets Nos. CP71-7 and CP71-8. In the former application it seeks a certificate of public convenience and necessity authorizing it, pursuant to section 7(c) of the Act, as project operator of the storage project, to operate the storage project on a permanent basis; to construct and operate certain storage project facilities required to place the storage project into permanent operation at the initial operating level proposed; and, in connection with such permanent operation of the storage project, to deliver natural gas to El Paso in support of the new firm winter service proposed to be rendered by El Paso from the storage project, during any seasonal period commencing on November 1, and continuing through the immediately succeeding April 15, in quantities not to exceed 180,000 Mcf on any day or 4,000,000 Mcf during any such seasonal period.

In Docket No. CP71-8, Washington Natural seeks an order from the Commission, pursuant to section 1(c) of the Act declaring that it is exempt from the provisions of the Act and the rules and regulations of the Commission thereunder, inasmuch as its natural gas activities are allegedly conducted in the State of Washington, other than the activities it proposes to conduct as project operator. Washington Natural states that, with the exception of its activities as project operator, it engages in the distribution of natural gas at retail in the Puget Sound area and that the Washington Utilities and Transportation Commission possesses, and is exercising, regulatory jurisdiction thereover.

On February 18, 1964, the Commission issued certificate authorizations to El Paso in Docket No. CP64-99 to proceed with its then proposed joint participation, with Washington Natural and Water Power, in the development of the Jackson Prairie gas storage project. See 31 FPC 422. Thereafter, several additional orders were issued amending the February 18, 1964, order so as to permit El Paso to expand its capital investment for further testing and development of the field. Most recently, the Commission further amended its prior orders by authorizing El Paso to inject working gas in the field in anticipation of rendering storage service during the oncoming 1970-71 winter heating season. See 44 FPC ——, order issued July 2, 1970. Inasmuch as the application in Docket No. CP64-99 involves the same subject matter as the applications in Dockets Nos. CP71-6, CP71-7, and CP71-8, as well as the fact that Cascade asserts that Water Power and Washington Natural should file section 7(c) certificate applications for authority nunc pro tunc, to participate in the Jackson Prairie project, it should be consolidated therewith for hearing and final disposition, including termination of further proceedings therein, as appropriate.

As a part of the application in Docket No. CP71-7, Washington Natural proposes to physically operate the storage project, accept cushion gas owned in equal undivided interests by all three parties for storage, accept working gas to be delivered to the project operator by El Paso for storage, and to redeliver working gas to El Paso upon demand. Prior to commencement of operations it will be necessary for the applicants to make minor compressor modifications on existing compressor units possessing 3,804 horsepower, place into permanent operation a 1,068 horsepower compressor unit previously paid for by Washington Natural, but not jointly owned by the parties, to loop entirely the existing 1.75-mile feeder line with 16-inch O.D. pipe and to provide additional dehydration capacity of 50,000 Mcf daily. The estimated cost of such facilities is $571,734 which will be financed by working funds. The applications also state that the jointly-owned storage project facilities will be further comprised of 51 wells, dehydration-equipment possessing a daily aggregate capacity of 150,000 Mcf, gathering lines and metering equipment. The estimated cost of all joint storage project facilities is $9,266,100, as of June 30, 1970.

The new winter service proposed by El Paso will be made available to the Northwest Division System distributor customers on a firm basis additional to contract demand service presently available to such customers, and El Paso states that no additional facilities are required to render such service.

Petitions seeking leave to intervene in these proceedings were timely filed (except where noted) as follows:

Petitioner	Dockets Nos.			
	CP71-6	CP71-7	CP71-8	CP64-99 [1]
Cascade Natural Gas Corp.	X	X	X	X
Northwest Natural Gas Co.	X	X	X	----
Southwest Gas Corp. [2]	X	X	----	X
Intermountain Gas Co.	X	X	X	X
California-Pacific Utilities Co.	X	X	X	----
Washington Natural Gas Co.	X	----	----	X
The Washington Water Power Co.	X	X	X	X
El Paso Natural Gas Co.	----	X	X	----

[1] These petitions to intervene were granted by Commission order issued in Docket No. CP64-99 on July 2, 1970, 44 FPC ——, and are being recorded here for convenient reference in these consolidated proceedings.
[2] This petition to intervene was filed late.

Notices of intervention were filed in these proceedings by the following parties: The Public Service Commission of Nevada and The Public Utility Commissioner of Oregon, each filed a notice in Docket No. CP71-6 and CP71-7, and the Idaho Public Utilities Commission filed in Dockets Nos. CP71-6, CP71-7, and CP71-8.

Companion applications for temporary certificates were filed by El Paso in Docket No. CP71-6 and by Washington Natural in Docket No. CP71-7. By such applications the applicants propose (1) to construct and install 1.75 miles of 16-inch pipeline, an additional dehydration unit, having a capacity of 50,000 Mcf daily, and make certain modifications to three existing 1,068 horsepower compressors, and (2) to initiate the storage service contemplated in these two dockets for a limited term commencing on November 1, 1970, and continuing through April 15, 1971, or permanently upon issuance of the authorizations sought in the applications for certificates of public convenience and necessity. Thus, El Paso would begin firm winter gas storage service to its distributor customers and the Northwest System which would be rendered under its proposed Rate Schedule SGS-1.

In addition to the construction of the above described facilities, Washington Natural as project operator, seeks authority to place the Jackson Prairie storage project into operation by withdrawing gas from storage and delivering it to El Paso for the proposed new firm storage service amounting to 180,000 Mcf daily and 4 billion cubic feet during the storage season ending April 15, 1971.

In support of the applications for temporary authority the applicants allege that an emergency exists within the meaning of section 7 of the Act. The

emergency as described by the applications consists of an unanticipated increase in firm peak day requirements which is in excess of those expected by El Paso based upon information received only in May of this year. This situation is further complicated by the fact that requisite authorization has not yet been issued by Canadian regulatory authorities for the export of additional gas amounting to 75,000 Mcf daily. See 43 FPC _____ and _____, orders issued January 20, 1970 and May 12, 1970. These two factors have combined to make it urgent that El Paso and Washington Natural seek the temporary authority summarized above, especially since a decision on the permanent certificates cannot be issued prior to November 1, 1970, in view of the need for formal hearings upon issues raised by the applications and the conflicting interests of the various parties. Other than the minor facilities described above no additional facilities are necessary in order to render the proposed storage service.

Several intervener parties replied to the applications for temporary authority. However, only Cascade Natural Gas Corp. (Cascade) voiced opposition and that opposition was limited to the operation of the project prior to the development of a hearing record which Cascade estimates could be substantially developed prior to November 1, 1970. Cascade does not oppose the construction of the facilities described above. Given the absence of opposition to the construction of the proposed facilities and the admitted immediate need for them, we will issue a permanent rather than a temporary certificate as hereinafter ordered. However, because of the manner in which the facilities will be operated, i.e., the gas storage volumes to be made available to El Paso's various customers is still being resolved by the affected parties, the remaining portions of the temporary requests are not yet ready for our consideration. Upon resolution of this problem, we expect El Paso to file an amendment to its application allocating the working gas of the storage project among the Northwest Division System customers. Therefore, pending the filing and consideration of such an amendment, we will defer action on El Paso's request for temporary authorization and the remaining portion of Washington Natural's application, that is, authorization to operate the project.

In its answer to the applications for temporary authority, Cascade also moved that the Commission require Water Power, as one of the three joint venturers of the Jackson Prairie storage project, to file an application for a certificate of public convenience and necessity for authority, for past and proposed construction of its one-third interest in the storage project, and for its activities nunc pro tunc, as operator of the storage facilities during the development and testing thereof. Further, it would have the Commission require Water Power to obtain temporary authorization in the same manner as its joint venturers for the construction of the storage project facilities and have the Commission require Washington Natural to request certificate authorization, nunc pro tunc, for the construction of its portion of the storage project including a 1,068 horsepower compressor unit which Washington Natural allegedly installed during the testing operations.

In addition Cascade moves that the Commission require the Management Committee, Jackson Prairie Storage Project Agreement, consisting of representatives of each of the 3 companies named above (Art. III, sec. 3.6), to file an application for certificate authority inasmuch as its responsibilities allegedly extend to operational plans, budgeting, scheduling of cushion gas injections, review and gas balances, and each allegedly is empowered to veto decisions by the Management Committee (Agreement, Art. III, sec. 3.4). Similarly, Cascade would have us require the Management Committee to apply for appropriate temporary certificate authority to construct and operate the necessary storage project facilities.

Cascade also contends that it is necessary to have El Paso amend its application in certain respects: El Paso has not submitted an allocation of its Northwest Division System cost of service in support of the new proposed rate schedule SGS–1; it contends that El Paso must be required to amend its DL and DI pipeline contract demand tariffs to provide for, and justify, conjunctive billing which allegedly will be accomplished in sales to Washington Natural and Water Power of the gas sold thereunder for storage purposes. Finally, Cascade argues that El Paso's instant application is defective because it does not allocate its one-third interest in the working gas of the storage project among the Northwest Division System customers.

We find it unnecessary to act upon Cascade's motion and its various contentions prior to the commencement of hearings and the issuance of the Examiner's decision in these proceedings. The Examiner, having the information contained in the related applications of El Paso and Washington Natural before him, and such additional information as may be obtained through regular discovery procedures available to the parties,[1] will be able to determine adequately the jurisdictional nature of facilities and the operational activities allegedly to be undertaken by Washington Natural, Water Power, and the Management Committee which is comprised of representatives of those two companies, plus El Paso. And, in the event he concludes, as contended by Cascade, that additional applications should be filed by these entities he can make findings and issue a recommended order issuing appropriate certificates to them, the effectiveness of which would be made nunc pro tunc, and contingent upon the subsequent filing of appropriate applications for certificates of public convenience and necessity. Thus, procedures are available for us to determine the jurisdictional questions raised by Cascade without requiring the filing of additional applications at this time. It should be clear, however, that the jurisdictional questions raised by Cascade are to be decided on this record as though the applications requested in Cascade's motion were actually on file with the Commission and consolidated with the above captioned applications. Cascade's other contentions are equally susceptible to being decided initially by the Examiner. Accordingly, Cascade's motion for a Commission order directing the filing of additional applications and certain information, is referred to the Examiner for such deterimnation as may be required by the record to be developed by the parties herein.

The Commission finds:

(1) Applicant, Washington Natural Gas Co., a corporation duly organized and existing under the laws of the State of Delaware and authorized to conduct business, as a foreign corporation, in the State of Washington, and having its principal place of business in Seattle, Wash., will be a "natural gas company" within the meaning of the Natural Gas Act upon the commencement of the activities authorized herein.

(2) It is desirable to allow the above-named petitioners to intervene in these proceedings.

(3) It is necessary and appropriate that the proceedings in the above-named applications be consolidated for hearing and decision.

(4) Consideration of the application of El Paso to render new firm winter service under its proposed Rate Schedule SGS–1, during the limited term commencing November 1, 1970, and continuing through April 15, 1971, should be deferred pending the filing of an amendment to its application allocating the working gas of the storage project described herein.

(5) The application of Washington Natural for permanent certificate should be granted as to the construction and installation of the minor facilities described above, but consideration of the requested operation of the facilities of the Jackson Prairie Gas Storage Project should be deferred pending the receipt of the application described in paragraph (4), above.

The Commission orders:

(A) A permanent certificate is issued to Washington Natural to construct, but not to operate, the facilities proposed in its application.

(B) The certificate issued in paragraph (A) above shall be subject to the following conditions:

(1) It shall be without prejudice to such final determination of the application for a certificate as the record may require.

(2) It shall be subject to paragraphs (a), (b), (c) (1), (3), (4), (e), and (g) of § 157.20 of the Commission's regulations.

(3) Construction shall be completed by November 1, 1970.

(C) The direct evidence of the intervening parties in these proceedings shall be filed on or before October 12, 1970.

[1] See the Commission's rules of practice and procedure, §§ 1.23 and 1.24.

(D) The above-designated matters are consolidated for the purposes of hearing and disposition.

(E) Each of the above-mentioned petitioners and State Commissions is permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in these proceedings.

(F) Formal hearings in these consolidated proceedings, in Docket No. CP71-6 et al., shall be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, on October 28, 1970, at 10 a.m., e.s.t. The Chief Examiner will designate an appropriate officer of the Commission to preside at the prehearing conference to commence on that date and at the formal hearing of these matters to commence thereafter, pursuant to the Commission's rules of practice and procedure.

By the Commission.

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

[F.R. Doc. 70-13180; Filed, Oct. 1, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FIRST VIRGINIA BANKSHARES CORPORATION

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 First Virginia Bankshares Corp., which is a bank holding company located in Arlington, Va., for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of the successor by merger to Citizens Bank of Poquoson, Poquoson, Va.

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 Richmond.

By order of the Board of Governors, September 28, 1970.

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

[F.R. Doc. 70-13192; Filed, Oct. 1, 1970; 8:48 a.m.]

MID AMERICA BANCORPORATION, INC.

Notice of Request and Order for Hearing

Notice is hereby given that request has been made to the Board of Governors of the Federal Reserve System, pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), and § 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)), by Mid America Bancorporation, Inc., St. Paul, Minn., a bank holding company, for a determination that the planned insurance activities of its proposed nonbanking subsidiary, Mid America Insurance Agency, are or are to be of the kind described in the aforementioned provisions of the Act and the regulation so as to make it unnecessary for the prohibitions of section 4 of the Act with respect to the acquisition or retention of shares in nonbanking organizations to apply in order to carry out the purposes of the Act.

Inasmuch as section 4(c)(8) of the Act requires that any determination pursuant thereto be made by the Board after due notice and hearing and on the basis of the record made at such hearing:

It is hereby ordered, That pursuant to section 4(c)(8) of the Bank Holding Company Act and in accordance with §§ 222.4(a) and 222.5(a) of Federal Reserve Regulation Y (12 CFR 222.4(a), 222.5(a)), promulgated under the Bank Holding Company Act, a hearing with respect to this matter be held commencing on November 3, 1970, at 10 a.m. at the Federal Reserve Bank of Minneapolis, 73 South Fifth Street, Minneapolis, Minn., before Philip J. LaMacchia (whose address is U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C.), a hearing examiner selected by the Civil Service Commission pursuant to section 3344 of title 5 of the United States Code. The hearing will be conducted in accordance with the Board's rules of practice for formal hearings (12 CFR Part 263). The right is reserved to the Board or the hearing examiner to designate any other date or place for such hearing, or any part thereof, that may be determined to be necessary or appropriate. Section 263.6(d) of the Board's rules of practice for formal hearings provides, in part, "Unless otherwise specifically provided by statute or by rule of the Board, a hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, representatives of the Board, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or a representative of the Board, or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public."

Any person not named herein as a party who wishes to be admitted as a party, or who wishes to participate in the hearing for a limited purpose, should file with the hearing examiner named hereinabove, on or before October 23, 1970, a written request containing a statement of the nature of the person's interests in the proceeding, and a summary of any matters concerning which said person wishes to give evidence. The application may be inspected at the Federal Reserve Bank of Minneapolis or at the Federal Reserve Building, 20th Street and Constitution Avenue NW., Washington, D.C.

By order of the General Counsel of the Board of Governors, September 25, 1970, acting on behalf of the Board pursuant to delegated authority (12 CFR 265.2(b)(4)).

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

[F.R. Doc. 70-13202; Filed, Oct. 1, 1970; 8:47 a.m.]

TARIFF COMMISSION

[337-22]

TRACTOR PARTS

Notice of Resumption of Hearing

Notice is hereby given that on October 19, 1970, the U.S. Tariff Commission will resume its public hearing in connection with Investigation No. 337-22, regarding alleged unfair methods of competition and unfair acts in the importation and sale of certain crawler tractor parts, which unfair methods or acts have the effect or tendency to restrain or monopolize trade or commerce in the United States in violation of the provisions of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Notice of institution of the investigation and hearing was published in the FEDERAL REGISTER of May 29, 1969 (34 F.R. 8321). Testimony at the hearing was completed on August 4, 1969, and a recess was ordered.

The hearing will be resumed on October 19, 1970, at 10 a.m., e.d.s.t., in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission no later than October 16, 1970. Parties wishing to submit documentary evidence for the record, but not desiring to make an appearance, should send such evidence to the Secretary in time for inclusion in the record when the hearing resumes.

Issued: September 29, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-13203; Filed, Oct. 1, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 596]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 29, 1970.

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

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

No. MC-FC-35432. By order of September 24, 1970, the Motor Carrier Board approved the lease to P & M Steel Transport, Inc., Galena Park, Tex., of certificate of registration No. MC-120571 (Sub-No. 1) issued August 22, 1968, to French, Ltd., of Houston, Inc., Houston, Tex., and leased to George Miller and Richard G. Payne, a partnership, doing business as P & M Trucking Co., Galena Park, Tex., pursuant to No. MC-FC-35423, evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in SMC certificate No. 25479 (old certificate No. 8226) issued by the Railroad Commission of Texas. Austin L. Hatchell, Lanham & Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-72302. By order of September 24, 1970, the Motor Carrier Board approved the transfer to Checker Van Lines, Lumberton, N.J., of the operating rights in certificate No. MC-106475 issued June 21, 1965, in the name of A. A. Lexington Moving and Storage Co., Inc., Lumberton, N.J., authorizing the transportation of household goods from, to, or between points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Missouri, North Carolina, Ohio, South Carolina, Virginia, and the District of Columbia. I. I. Jamison, 1315 Walnut Street, Philadelphia, Pa. 19107, attorney for applicants.

No. MC-FC-72303. By order of September 24, 1970, the Motor Carrier Board approved the transfer to Checker Van Lines, Lumberton, N.J., of the operating rights in certificates Nos. MC-69316 and MC-69316 (Sub-No. 5), issued November 14, 1961, and April 27, 1970, to George T. Donner, doing business as Checker Moving, Mount Holly, N.J., collectively authorizing the transportation of household goods and other specified commodities between specified points in Pennsylvania, Massachusetts, Connecticut, New York, New Jersey, Maryland, Virginia, and District of Columbia. I. I. Jamison, 1315 Walnut Street, Philadelphia, Pa. 19107, attorney for applicants.

No. MC-FC-72365. By order of September 24, 1970, the Motor Carrier Board approved the transfer to Trunk Line Distribution Systems, Inc., Indianapolis, Ind., of the operating rights in certificate No. MC-35286 issued October 6, 1943, to Doyle Lambert, doing business as Sheridan Truck Line, Sheridan, Ind., authorizing the transportation of general commodities, with usual exceptions, between Sheridan, Ind., and Indianapolis, Ind., serving all intermediate points, from Sheridan over Indiana Highway 47 to Bakers Corners, Ind., thence over U.S. Highway 31 to Indianapolis, and return over the same route. Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204, attorney for applicants.

No. MC-FC-72399. By order of September 28, 1970, the Motor Carrier Board approved the transfer to Bowers Transfer & Storage Co., a corporation, Denver, Colo., of the operating rights in certificate No. MC-126183, issued October 6, 1967, to R. E. Robinson, doing business as Bowers & Son, Denver, Colo., authorizing the transportation of uncrated store and office furnishing, fixtures, and equipment and component parts of the commodities described above, between Denver, Colo., and points in Denver County, Colo., on the one hand, and, on the other, points in Colorado; and uncrated business machines, between Denver, Colo., and points in Denver County, Colo., on the one hand, and, on the other, points in Colorado. Any repetition in the statement of the authority granted herein shall not be construed as conferring more than one operating right. Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Acting Secretary.*

[F.R. Doc. 70-13198; Filed, Oct. 1, 1970; 8:47 a.m.]

[Notice 161]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 29, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 55883 (Sub-No. 14 TA), filed September 17, 1970. Applicant: EXPRESS, INCORPORATED, Post Office Box 15, Stephenson, Va. 22656. Applicant's representative: Bill R. Davis, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Mount Jackson and Timberville, Va., Gardners and Biglerville, Pa., and Inwood, W. Va., to points in Florida; and from Winchester, Va., and Martinsburg, W. Va., to points in Florida (except Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, and Gulf Counties, Fla.), for 150 days. Supporting shippers: National Fruit Products Co., Inc., Winchester, Va., Musselman Fruit Products (Division of Pet, Inc.), Biglerville, Pa., Bowman Apple Products Co., Inc., Post Office Box 247, Mount Jackson, Va. 22842. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 92806 (Sub-No. 31 TA), filed September 23, 1970. Applicant: MILES & SONS TRUCKING SERVICE, CORP., 790 Yuba Drive, Post Office Box 430, Mountain View, Calif. 94040. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly Ash*, from Volta, Calif., to points along the Kesterson Canal Project in Merced County, Calif., on shipments having a prior movement by rail, for 150 days.

Supporting shipper: Gordon H. Ball, Inc., a subsidiary of Dillingham Corp., Box 278, Danville, Calif. 94526. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 105249 (Sub-No. 8 TA), filed September 23, 1970. Applicant: KEENAN TRANSFER & STORAGE, INC., 1205 Greenvale Road, ZIP 31705, 118 Baldwin Street, Post Office Box P, Albany, Ga. 31702. Applicant's representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except in bulk, in tank vehicles, from Thomasville, Ga., to points in those parts of Alabama and Florida on and bounded by a line beginning at the junction of Alabama Highway 84 at or near Enterprise, Ala., thence west and south along U.S. Highway 29 to the Alabama-Florida State line, thence west and south along the Alabama-Florida State line to junction U.S. Highway 98, thence east along U.S. Highway 98 to junction Florida Highway 79, thence north on Florida Highway 79 to junction Florida Highway 20, to junction Florida Highway 81, thence north along Florida Highway 81 to junction Florida Highway 183, thence north along Florida Highway 183 to Florida-Alabama State line, thence north on Alabama Highway 21, to junction Alabama Highway 84, thence north along Alabama Highway 84 to junction Alabama Highway 51, the point of beginning. Under continuing contract or contracts with John Morrell & Co., Ottumwa, Iowa, for 180 days. Supporting shipper: John Morrell & Co., Ottumwa, Iowa. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 107295 (Sub-No. 445 TA), filed September 23, 1970. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roof decking, platforms, and accessories used in the installation thereof*, from Oregon, Ohio, to points in Illinois, Indiana, Wisconsin, Michigan, Kentucky, New York, and Missouri, for 180 days. Supporting shipper: Metal Deck Co., Toledo, Ohio. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 113908 (Sub-No. 209 TA), filed September 23, 1970. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and syrup*, in bulk, in tank vehicles, from Mapleton, Ill., to points in California, Colorado, Oklahoma, Texas, New Mexico, Arizona, and Missouri, restricted to the transportation of shipments which originate at points in Illinois (other than Mapleton) and which are received by applicant in interline or interchange service at Mapleton for 180 days. NOTE: Applicant intends to tack the authority here applied for to other authority held by it. Supporting shippers: National Starch and Chemical Corp., 750 Third Avenue, New York, N.Y. 10017, Mckesson Chemical Co., Guinotte and Michigan Avenues, Kansas City, Mo. 64102. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 123157 (Sub-No. 17 TA), filed September 23, 1970. Applicant: CEMENT TRANSPORTERS, INC., Rillito, Ariz. 85246. Applicant's representative: Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Clarkdale, Ariz., to points in San Juan, Garfield, and Kane Counties, Utah, for 180 days. Supporting shipper: Phoenix Cement Co., Division of American Cement Corp., 3550 North Central Avenue, Phoenix, Ariz. 85012. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 124078 (Sub-No. 455 TA), filed September 23, 1970. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire retardant compound*, from Spencerville, Ohio, to points in Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New York, Pennsylvania, South Dakota, Virginia, and Wisconsin, for 150 days. Supporting shipper: Farm Service Center, Post Office Box 74, Spencerville, Ohio (R. I. Pisle, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 126346 (Sub-No. 7 TA), filed September 23, 1970. Applicant: HAUPT CONTRACT CARRIER, INC., 226 North 11th Avenue, Post Office Box 842, Wausau, Wis. 54401. Applicant's representative: Norman L. Haupt (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled material, handling equipment and self-propelled log slashing and skidding equipment* (except vehicles designed for transporting property on highways), *and parts and attachments*, between Baraga, Mich., and points in Minnesota, for 180 days. Supporting shipper: Pettibone Michigan Corp., Post Office Box 368, Baraga, Mich. 49908. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, Wis. 53703.

No. MC 126427 (Sub-No. 10 TA), filed September 23, 1970. Applicant: PALMER TRANSPORTATION, INC., Chester, N.Y. 10918. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, invert sugar, dextrose, corn syrup, syrups and blends, or mixtures thereof*, in bulk, in tank vehicles, (1) from New York, N.Y., and Yonkers, N.Y., to points in Delaware, Maryland, and Pennsylvania (*except* Williamsport, Milton, Berwick, Hazelton, Kingston, Scranton, and Wilkes-Barre, Pa.), (2) *Returned, refused, and rejected shipments of liquid sugar, invert sugar, dextrose, corn syrup, syrup, and blends or mixtures thereof*, in bulk, in tank vehicles, from points in Delaware, Maryland, and Pennsylvania (*except* Williamsport, Milton, Berwick, Hazleton, Kingston, Scranton, and Wilkes-Barre, Pa.), to New York, N.Y., and Yonkers, N.Y., for 150 days. Supporting shippers: SuCrest Corp., 120 Wall Street, New York, N.Y. 10005, CPC International, Inc., Refined Syrups and Syrups, Federal Street, Yonkers, N.Y. 10702. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 128645 (Sub-No. 3 TA), filed September 23, 1970. Applicant: JOE H. BLATTLER, Box 782, Carson, Wash. 98610. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (a) between Stevenson, Wash., and Cascade Locks, Oreg., (b) from Cascade Locks, Oreg., to points in Clark, Cowlitz, Lewis, Thurston, Pierce, King, and Snohomish Counties, Wash., (c) from points in Clark, Cowlitz, Skamanina, and Klickitat Counties, Wash., to Cascade Locks, Oreg., all under continuing contract with Cascade Wood Components, Cascade Locks, Oreg., for 180 days. Supporting shipper: Cascade Wood Components, Post Office Box 426, Cascade Locks, Oreg. 97014. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 129808 (Sub-No. 7 TA), filed September 22, 1970. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., 410 West Second Street, Box 399, Grand Island, Nebr. 68801. Applicant's representative: Earl H. Schudder, Jr., 300 N.S.E.A. Building, Lincoln, Nebr. 68501.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Breading meal and batter mix*, from the international boundary between the United States and Canada, at or near Detroit, Mich., and Buffalo, N.Y., to Grand Island, Nebr., for 150 days. Supporting shipper: Delicious Foods Co., North Highway, 281 Box 730, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 133000 (Sub-No. 6 TA), filed September 23, 1970. Applicant: DIAMOND SAND & STONE CO., 744 Riverside Avenue, ZIP 32204, Post Office Box 4667, Jacksonville, Fla. 32201. Applicant's representative: Martin Sack, Jr., Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bauxite ore*, in bulk, in dump vehicles, from Andersonville, Ga., to Eufaula, Ala., and from Eufaula, Ala., to Andersonville and Cedar Springs, Ga., and from the mine of Eufaula Bauxite Mining Co., 15 miles from Eufaula, Ala., to Andersonville, Ga., for 180 days. Supporting shipper: Eufaula Bauxite Mining Co., Post Office Box 556, Eufaula, Ala. 36027. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 133233 (Sub-No. 15 TA), filed September 23, 1970. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32d Avenue, Post Office Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, Post Office Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsite and storage facilities of Midwest Walnut Co. at or near Council Bluffs, Iowa, to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin, under continuing contract with Midwest Walnut Co., for 180 days. Supporting shipper: Midwest Walnut Co., 1914 Tostevin Street, Council Bluffs, Iowa 51501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13199; Filed, Oct. 1, 1970; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.