FEDERAL REGISTER

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Agricultural Stabilization and Conservation Service
Atomic Energy Commission
Civil Aeronautics Board
Coast Guard
Commodity Credit Corporation
Commodity Exchange Authority
Consumer and Marketing Service
Customs Bureau
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EXECUTIVE ORDER 11584

Inspection of Income, Excess-Profits, Estate, and Gift Tax Returns by the Senate Committee on Government Operations

By virtue of the authority vested in me by section 55(a) of the Internal Revenue Code of 1939, as amended (26 U.S.C. (1952 Ed.) 55(a)), and by section 6103(a) of the Internal Revenue Code of 1954 (26 U.S.C. 6103 (a)), it is hereby ordered that any income, excess-profits, estate, or gift tax return for the years 1950 to 1971, inclusive, shall, during the Ninety-second Congress, be open to inspection by the Senate Committee on Government Operations or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficency of the Government. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, and approved by the President on May 3, 1955.

Richard Nixon

THE WHITE HOUSE,
March 3, 1971.

[FR Doc.71-3151 Filed 3-3-71;12:51 pm]

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Title 7—AGRICULTURE

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SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 5]

PART 780—APPEAL REGULATIONS

Requests for Reconsideration and Appeals Requiring Special Handling

Section 780.11 of the appeal regulations, 7 CFR Part 780, is amended by revising paragraph (a) to read as follows:

§ 780.11 Requests for reconsideration and appeals requiring special handling.

(a) Determinations made by a State committee with respect to (1) the establishment of farm yields for wheat, feed grain, and cotton, (2) the establishment of wheat allotments, (3) the establishment of farm feed grain bases, (4) the establishment of upland cotton base acreage allotments, (5) the establishment of conserving bases, (6) matters rising under the tobacco discount variety program, and (7) eligibility provisions of the livestock feed program are not appealable to the Deputy Administrator.

* * * * *

Effective date: Upon publication in the FEDERAL REGISTER (3–5–71).

Signed at Washington, D.C., on March 1, 1971.

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

[FR Doc.71–3127 Filed 3–4–71;8:55 am]

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

[Milk Order No. 65]

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Order Suspending Certain Provisions

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 Nebraska-Western Iowa marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 3070) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of April through November 1971, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1065.71 the provisions (h) through (l) in their entirety.

Statement of consideration. Suspension of the "takeout–payback" plan of paying producers was requested by the Central States Division of Mid-America Dairymen, a cooperative association representing a major portion of the producers supplying the market.

This suspension order suspends, for 1971, the takeout-payback plan for paying producers, which provides for withholding from the pool 8 percent of the adjusted value of producer milk in each of the months of April, May, and June, for distribution to producers during September, October, and November according to their deliveries in these latter months. The purpose of the plan is to reduce seasonality of milk production for the market. The basis for the request is that seasonality of production has been reduced substantially and the operation of the takeout-payback plan for 1971 would not serve the purpose for which it was instituted in the order. Also, suspension of the plan will assure that the relationship of uniform prices to pay prices of nearby manufacturing plants during the coming months will not disrupt milk procurement at regulated plants.

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 it is the only practical means of rendering the provisions inoperative for the period designated;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective April 1, 1971, for the period through November 30, 1971.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period April 1, 1971, through November 30, 1971.

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

Effective date: April 1, 1971.

Signed at Washington, D.C., on March 1, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71–3130 Filed 3–4–71;8:56 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71–525]

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, paragraph (e)(15) relating to the State of Virginia is amended to read:

(15) *Virginia.* That portion of Isle of Wight County bounded by a line beginning at the junction of Secondary Highway 620 and the east bank of the Blackwater River; thence, following Secondary Highway 620 in a northeasterly then southeasterly direction to Secondary Highway 644; thence following Secondary Highway 644 in a southwesterly direction to Secondary Highway 654; thence following Secondary Highway 654 in a southeasterly direction to Secondary Highway 600; thence following Secondary Highway 600 in a southwesterly direction to Secondary Highway 637; thence, following Secondary Highway 637 in a southwesterly direction to Secondary Highway 606; thence following Secondary Highway 606 in a northwesterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally westerly direction to the Blackwater River; thence, following the east bank of the Blackwater

River in a northeasterly direction to its junction with Secondary Highway 620.

2. In § 76.2, in paragraph (e)(13) relating to the State of Texas, a new subdivision (xxiv) relating to McLennan County is added to read:

(13) *Texas.* * * *

(xxiv) That portion of McLennan County bounded by a line beginning at the junction of State Highway 6 and the McLennan-Falls County line; thence following State Highway 6 in a northwesterly direction to U.S. Highway 81; thence, following U.S. Highway 81 in a southwesterly direction to the McLennan-Falls County line; thence, following the McLennan-Falls County line in a northeasterly direction to its junction with State Highway 6.

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

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

The amendments quarantine a portion of McLennan County, Tex. and a portion of Isle of Wight County, Va., 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 impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable 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 2nd day of March 1971.

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

[FR Doc.71–3022 Filed 3–4–71;8:47 am]

[Docket No. 71–526]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e)(13) relating to the State of Texas, a new subdivision (xxv) relating to Hill County is added to read:

(13) *Texas.* * * *

(xxv) That portion of Hill County bounded by a line beginning at the junction of State Highway 174 and the Hill-Bosque County line; thence, following State Highway 174 in a northeasterly direction to Farm-to-Market Road 933; thence, following Farm-to-Market Road 933 in a southerly direction to Farm-to-Market Road 67; thence, following Farm-to-Market Road 67 in a southeasterly direction to Farm-to-Market Road 3049; thence, following Farm-to-Market Road 3049 in a southeasterly direction to Farm-to-Market Road 934; thence, following Farm-to-Market Road 934 in a northeasterly direction and then southeasterly direction to Farm-to-Market Road 309; thence, following Farm-to-Market Road 309 in a southeasterly direction to State Highway 22; thence, following State Highway 22 in a northeasterly direction to U.S. Highway 35, 81, and 77; thence, following U.S. Highway 35, 81, and 77 in a southeasterly direction to Farm-to-Market Road 1304; thence, following Farm-to-Market Road 1304 in a southwesterly direction to Farm-to-Market Road 2114; thence, following Farm-to-Market Road 2114 in a northwesterly direction to the Hill-Bosque County line; thence, following the Hill-Bosque County line in a generally northwesterly direction to its junction with State Highway 174.

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

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

The amendment quarantines a portion of Hill 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 portion of such county.

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

Done at Washington, D.C., this 2nd day of March 1971.

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

[FR Doc.71–3023 Filed 3–4–71;8:47 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Technetium 99m for Salivary Gland and Blood Pool Scans

Notice is hereby given of the amendment of the Atomic Energy Commission's regulation "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists two groups of diagnostic uses of byproduct material with well-established clinical procedures. Section 35.14 states that the Commission will consider an application for a specific license for any diagnostic use listed in Group I or Group II of § 35.100 as an application for all of the uses within the group if the applicant is qualified.

The use of technetium 99m as pertechnetate for salivary gland and blood pool scans has become a well-established clinical procedure. The amendment set forth below adds to paragraph (b), Group II, § 35.100, the use of technetium 99m as pertechnetate for salivary gland and blood pool scans other than placenta localizations.

Because this amendment relates solely to minor procedural matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecesary. Since the amendment relieves from restrictions under regulations currently in effect, it will become effective without the customary 30 day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 35, is published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER (3–5–71).

Paragraph (b) of § 35.100 of 10 CFR Part 35 is amended to add technetium 99m as pertechnetate for salivary gland and blood pool scans other than placenta localizations as follows:

§ 35.100 Schedule A—Groups of diagnostic uses of byproduct material in humans.

* * * * *

(b) *Group II.* Scans and tumor localizations.

* * * * *

(15) Technetium 99m as pertechnetate for salivary gland and blood pool scans other than placenta localizations.

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

Dated at Washington, D.C., this 10th day of February 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-3028 Filed 3-4-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-49-AD; Amdt. 39-1160]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-8 Series Airplanes

A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-347 (32 F.R. 2439), AD 67-5-3, to require repetitive inspections of the engine pylon spar following rework per the applicable service bulletins was published in 35 F.R. 19792.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-347 (32 F.R. 2439), AD 67-5-3, is amended as follows:

(1) Amend paragraph (b) to read:

On all airplanes having serial Nos. 45252-45272, 45274-45289, 45291-45306, 45376-45393, 45408-45413, 45416-45427, 45429-45431, 45433-45437, 45442-45445, 45526, 45565-45570, 45588-45614, 45616-45630, 45632-45638, 45640-45651, 45653, 45655-45663, 45665-45673, 45676, 45684, conduct an inspection for cracks on all upper inboard and outboard spar caps of the outboard pylons in the area between station YOP 214 and station YOP 255, and repair or replace if necessary as follows:

(2) Delete the second sentence of paragraph (b)(2).

(3) Add a new paragraph (b)(4) as follows:

(4) The inspections required in paragraphs (b)(1) and (b)(2) do not apply to airplanes modified in accordance with McDonnell Douglas Service Bulletin Nos. 54-33, dated March 15, 1963; 54-35, dated April 9, 1966; or later FAA-approved revisions. Each service bulletin contains the airplane serial numbers to which it is applicable.

However, all airplanes modified in accordance with S.B. Nos. 54-33 or 54-35 must be reinspected per Paragraph (b) above within the next 1,500 hours' time in service after the effective date of this AD amendment, unless already accomplished within the last 1,500 hours' time in service, and thereafter at intervals not to exceed 3,000 hours' time in service. Upon installation of an improved spar kit per McDonnell Douglas S.B. 54-57, Revision 1, dated December 9, 1969, or later FAA approved revision, these repetitive inspections may be discontinued.

This amendment becomes effective April 4, 1971.

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

Issued in Los Angeles, Calif., on February 23, 1971.

Lee E. Warren,
Acting Director,
FAA Western Region.

[FR Doc.71-3077 Filed 3-4-71;8:51 am]

[Airworthiness Docket No. 70-WE-50-AD; Amdt. 39-1161]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

Amendment 39-1130 (35 F.R. 19530), AD 70-26-3, provides for inspection of the main landing gear trunnion support beam per the manufacturer's service bulletin or an equivalent inspection approved by the Chief, Aircraft Engineering Division, FAA Western Region; it provides for replacement or repair of the beam, if cracks are found, in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region. Amendment 39-1130 does not provide for rework of cracks in the beams in accordance with the service bulletin. The agency has determined that a method for reworking cracks, as provided in Service Bulletin 57-115, is an approved method. Therefore, the AD is being amended to provide a rework procedure, thereby eliminating the need for individually approved rework procedures.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1130 (35 F.R. 19530), AD 70-26-3, is amended as follows:

(1) Amend paragraph (b) to read:

(b) If cracks are found, before further flight, accomplish one of the following:

(1) Rework the beam per Boeing Service Bulletin 57-115, dated November 20, 1970, or later FAA approved revisions, and repeat the inspection required in (3) above, or

(2) Repair the beam in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region, and repeat the inspection required in (3) above, or

(3) Replace the beam with a serviceable beam. If this beam is a previously reworked beam, or has 10,000 or more landings, repeat the inspection required in (3) above.

(2) Delete the "NOTE" in its entirety in the AD.

This amendment becomes effective March 6, 1971.

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

Issued in Los Angeles, Calif., on February 23, 1971.

Lee E. Warren,
Acting Director,
FAA Western Region.

[FR Doc.71-3078 Filed 3-4-71;8:52 am]

[Airworthiness Docket No. 71-WE-4-AD; Amdt. 39-1162]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

Cracks have been detected in the main landing gear trunnion support beam, P/N 65-16230, on numerous airplanes. In one case a crack emanating from the bearing bore resulted in complete beam failure and main landing gear collapse. Since this condition is likely to develop in other Model 727 airplanes, an Airworthiness Directive is being issued to require inspection and rework of the beam bearing bore.

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

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

Boeing. Applies to main landing gear trunnion support beams P/N 65-16230 on all model 727 series airplanes certificated in all categories.

Compliance required as indicated:

To detect cracks in the main landing gear trunnion support beam, accomplish the following:

(a) For all beams which have accumulated 4,500 hours time in service or 7,000 landings on the effective date of this AD, unless already accomplished within the last 1,000 hours time in service, inspect the bearing bore in each beam in accordance with (d) below, within the next 1,000 hours time in service.

(b) For all beams which have not accumulated 4,500 hours time in service or 7,000 landings on the effective date of this AD, inspect the bearing bore on the main landing gear trunnion beam in accordance with (d) below, prior to the accumulation of 5,500 hours time in service or 7,500 landings, whichever occurs first.

(c) Reinspect all beams in accordance with (d) below, at intervals not to exceed 2,000 hours time in service or 2,500 landings, whichever occurs first, after the initial inspection per (a) or (b) above, until the beam is reworked or replaced in accordance with (e) below.

(d) Inspect the bearing bore in accordance with Boeing Service Bulletin Number 57-119, dated 1 February 1971, or later FAA approved revision, or an equalivalent inspection approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

(e) Any beam in which evidence of a crack in the bearing bore is found must, prior to further flight, be replaced with a beam inspected per this AD and found to be uncracked, or reworked in accordance with instructions in Boeing Service Bulletin No. 57–119, dated 1 February 1971, or later FAA approved revisions, or in accordance with instructions approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) For the purpose of this AD, when conclusive records are not available to show the number of landings accumulated by a particular beam, the number of landings may be computed by dividing the airplane time in service since the beam was installed in the airplane by the operator's fleet average time per flight for his model 727 airplanes.

NOTE: This AD covers the bearing bore of the main landing gear beam and must be distinguished from the procedures prescribed in Amendment 39–1130, 35 F.R. 19503, AD 70–26–3 as amended.

This AD becomes effective March 6, 1971.

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

Issued in Los Angeles, Calif., on February 23, 1971.

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

[FR Doc.71–3079 Filed 3–4–71;8:52 am]

[Airspace Docket No. 71–CE–13]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Grand Marais, Minn.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Grand Marais, Minn., transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., April 29, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

GRAND MARAIS, MINN.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Devils Track Municipal Airport (latitude 47°49'35" N., longitude 90°22'45" W.); and within 4½ miles north and 9½ miles south of the 103° bearing from the Devils Track Municipal Airport, extending from the airport to 18½ miles east of the airport except for that portion which overlies P–204; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 273° bearing from the Devils Track Municipal Airport extending from the airport to 12 miles west of the airport.

(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 February 18, 1971.

DANIEL E. BARROW,
Acting Director,
Central Region.

[FR Doc.71–3080 Filed 3–4–71;8:52 am]

[Airspace Docket No. 71–CE–16]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the control zone and transition area at Cut Bank, Mont.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the control zone and transition area at Cut Bank, Mont. Action is taken herein to reflect these changes.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., April 29, 1971, as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

CUT BANK, MONT.

Within a 5-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 3½ miles each side of the Cut Bank VORTAC 150° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

CUT BANK, MONT.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 9½ miles northeast and 4½ miles southwest of the Cut Bank VORTAC 150° radial extending from the VORTAC to 18½ miles southeast of the VORTAC; and within a 12-mile radius extending from a line 5 miles west of and parallel to the Cut Bank VORTAC 172° radial counterclockwise to a line 5 miles northeast of and parallel to the Cut Bank VORTAC 150° radial.

(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 February 16, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71–3081 Filed 3–4–71;8:52 am]

[Airspace Docket No. 71–CE–19]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the control zone and transition area at Pierre, S. Dak.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria require minor alternation of the control zone and transition area at Pierre, S. Dak. Action is taken herein to reflect these changes.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., April 29, 1971, as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

PIERRE, S. DAK.

That airspace within a 5-mile radius of Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.).

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PIERRE, S. DAK.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); within 5 miles each side of the Pierre VORTAC 087° radial extending from the 8½-mile radius area to 7 miles east of the VORTAC; and within 5 miles each side of the Pierre VORTAC 265° radial extending from the 8½-mile radius area to 18½ miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9½ miles north and 4½ miles south of the Pierre VORTAC 087° radial extending from the VORTAC to 18½ miles east of the VORTAC; within 9½ miles south and 4½ miles north of the Pierre VORTAC 265° radial extending from 11½ miles west of the VORTAC to 30 miles west of the VORTAC; and within a 25-mile radius of the Pierre VORTAC extending clockwise from a line 5 miles south of and parallel to the VORTAC 253° radial to a line 5 miles northeast of and parallel to the VORTAC 302° radial.

(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 February 16, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-3082 Filed 3-4-71;8:52 am]

[Airspace Docket No. 71-CE-33]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the LeMars, Iowa, transition area.

The public use instrument approach procedure for LeMars, Iowa, Municipal Airport has been altered by moving the approach radial by approximately 10°. Therefore, it is necessary to alter the LeMars transition area to reflect this radial change and action is taken herein to reflect this change. This alteration does not involve the designation of any additional airspace.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the change may be accomplished by Final Rule Action.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

LEMARS, IOWA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of LeMars Municipal Airport (latitude 42°46'36" N., longitude 96°11'37" W.); and within 3 miles each side of the 358° bearing from LeMars Municipal Airport, extending from the 7-mile radius area to 8 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface with 4½ miles east and 9½ miles west of the 358° and 178° bearings from LeMars Municipal Airport, extending from 4½ miles south to 18½ miles north of the airport, excluding the portion which overlies the Sioux City, Iowa, transition area.

(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 February 18, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-3083 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-CE-97]

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

Alteration of Control Zone and Transion Area; Revocation of Transition Areas

On Page 18747 of the FEDERAL REGISTER dated December 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Mason City, Iowa.

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

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following changes:

(1) The longitude coordinate recited in the Mason City, Iowa, Municipal Airport control zone and transition area alteration as "longitude 93°19'55" W." is changed to read "longitude 93°19'54" W.".

(2) Add the following to the last sentence of the transition area description "and the Charles City, Iowa, transition area.".

These amendments become effective 0901 G.m.t., April 29, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, 40 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on February 12, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

MASON CITY, IOWA

Within a 5-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.)

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

MASON CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.); within 5 miles each side of the Mason City VORTAC 002° radial, extending from the 9-mile radius area to 24½ miles north of the VORTAC; and within 4½ miles west and 9½ miles east of the Mason City VORTAC 182° and 002° radials, extending from 5 miles north to 24½ miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 22½-mile radius of Mason City VORTAC; and within 4½ miles east and 9½ miles west of the Mason City VORTAC 002° radial, extending from the 22½-mile radius area to 34½ miles north of the VORTAC, excluding the portion which overlies the Albert Lea, Minn., transition area and the Charles City, Iowa, transition area.

[FR Doc.71-3084 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-CE-101]

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

Alteration of Transition Area

On Pages 18747 and 18748 of the FEDERAL REGISTER dated December 10, 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 Harrisburg, Ill.

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:

Start the first sentence of the transition area description with the phrase: "That airspace extending upward from 700 feet above the surface,".

This amendment ecomes effective 0901 G.m.t., April 29, 1971.

(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 February 12, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

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

HARRISBURG, ILL.

That airspace extending upward from 700 feet above the surface, within a 5½-mile radius of Harrisburg-Raleigh Airport (latitude 37°48'45" N., longitude 88°33'00" W.); and within 3 miles each side of the 049° bearing from Harrisburg-Raleigh Airport, extending from the airport to 8 miles northeast of the airport.

[FR Doc.71-3085 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-CE-104]

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

Alteration of Transition Area

On page 18748 of the FEDERAL REGISTER dated December 10, 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 Kankakee, Ill.

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:

Line 6 of the Kankakee, Illinois, transition area description recited as "VORTAC, extending from the 6½-mile radius" is changed to read "VORTAC 192° radial, extending from the 6½-mile radius".

This amendment shall be effective 0901 G.m.t. April 29, 1971.

(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 February 3, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

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

KANKAKEE, ILL.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Greater Kankakee Airport (latitude 41°04'15" N., longitude 87°50'55" W.); within 2 miles each side of the Peotone, Ill., VORTAC 192° radial extending from the 6½-mile radius area to the VORTAC; within 3 miles each side of the 212° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles southwest of the airport; within 3 miles each side of the 222° bearing from Greater Kankakee Airport extending from the 6½-mile radius area to 8 miles southwest of the airport; and within 3 miles each side of the 052° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles northeast of the airport.

[FR Doc.71-3086 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-CE-105]

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

Alteration of Control Zone and Transition Area; Revocation of Transition Areas

On pages 18748 and 18749 of the FEDERAL REGISTER dated December 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Saginaw, Mich., and revoke the transition area at Bay City and Midland, Mich.

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

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., April 29, 1971.

(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 February 2, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

SAGINAW, MICH.

That airspace within a 5-mile radius of Tri-City Airport (latitude 43°31'55" N., longitude 84°04'50" W.) and within 2½ miles each side of the Saginaw, Mich. VORTAC 030°, 146°, 233°, and 310° radius extending from the 5-mile radius zone to 6½ miles northeast, southeast, southwest, and northwest of the VORTAC.

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

SAGINAW, MICH.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Tri-City Airport (latitude 43°31'55" N., longitude 84°04'50" W.); within 2 miles each side of the Saginaw ILS localizer northeast course, extending from the 8½-mile radius zone to 13 miles northeast of the Saginaw, Mich. VORTAC; within a 5-mile radius of James Clements Municipal Airport (latitude 43°32'45" N., longitude 83°53'40" W.); within a 5-mile radius of Jack Barstow Airport (latitude 43°39'40" N., longitude 84°15'40" W.); and that airspace extending upward from 1200 feet above the surface bounded by a line beginning at latitude 43°16'00" N., longitude 83°30'00" W.; thence west along latitude 43°16'00" N., to and north along longitude 84°25'00" W., to and northwest along a line 10 miles southwest of and parallel to the Saginaw, Mich. VORTAC 317° radial; to and clockwise along the arc of a 31-mile radius circle centered on the Saginaw VORTAC; to and south along a line 5 miles east of and parallel to the Saginaw VORTAC 013° radial; to and clockwise along the arc of a 20-mile radius circle centered on the Saginaw VORTAC; to and east along a line 10 miles north of and parallel to the Saginaw VORTAC 105° radial; to and south along longitude 83°24'00" W.; to and west along the north edge of V-216; to and south along longitude 83°30'00" W.; to the point of beginning; within 10 miles southwest and 7 miles northeast of the Saginaw VORTAC 317° radial, extending from the 31-mile radius area to 37 miles northwest of the VORTAC; and within 9½ miles northwest and 4½ miles southeast of the Saginaw localizer northeast course, extending from the 20-mile radius area to 23½ miles northeast of the VORTAC.

(3) In § 71.181 (35 F.R. 2134), the following transition areas are revoked:

a. Bay City, Mich.
b. Midland, Mich.

[FR Doc.71-3087 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-CE-108]

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

Alteration of Control Zone and Transition Area

On page 18749 of the FEDERAL REGISTER dated December 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Peoria, Ill.

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

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

(1) The Greater Peoria Airport coordinates recited in the Peoria, Ill., control zone and transition area alteration as "latitude 40°39'45" N., longitude 89°41'35" W." are changed to read "latitude 40°39'47" N., longitude 89°41'22" W.".

(2) Line 10 of the transition area description recited as "miles each of the VORTAC; and within 4½" is changed to read "miles east of the VORTAC; and within 4½".

These amendments shall become effective 0901 G.m.t., April 29, 1971.

(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 February 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

PEORIA, ILL.

Within a 5-mile radius of Greater Peoria Airport (latitude 40°39'47" N., longitude 89°41'22" W.); within 5 miles each side of the Peoria ILS localizer northwest course, extending from the airport to 16 miles north of the airport; and within 2 miles each side of the Peoria VORTAC 109° radial extending from the 5-mile radius zone to 12 miles east of the VORTAC.

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

PEORIA, ILL.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Greater Peoria Airport (latitude 40°39'47" N., longitude 89°41'22" W.); within 5 miles each side of the Peoria ILS localizer northwest course, extending from 16 to 18½ miles northwest of the airport; within 5 miles each side of the Peoria VORTAC 109° radial, extending from the 9-mile radius area to 20

miles east of the VORTAC; and within 4½ miles north and 9½ miles south of the Peoria VORTAC 279° radial, extending from the VORTAC to 18½ miles west of the VORTAC.

[FR Doc.71-3088 Filed 3-4-71;8:52 am]

[Airspace Docket No. 70-WE-53]

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

Alteration of Control Zone and Transition Area

On January 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 783) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Durango, Colo., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following changes.

Delete the FEDERAL REGISTER citation for the control zone "* * * § 71.171 (35 F.R. 2054) * * *" and the transition area "* * * § 71.181 (35 F.R. 2134) * * *" and substitute "* * * § 71.171 (36 F.R. 2055) * * *" and "* * * § 71.181 (36 F.R. 2140) * * *" therefor.

Effective date. These amendments shall be effective 0901 G.m.t., April 29, 1971.

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

Issued in Los Angeles, Calif., on February 24, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Durango, Colo. control zone is amended to read as follows:

DURANGO, COLO.

Within a 5-mile radius of La Plata Field (latitude 37°09'12" N., longitude 107°45'04" W.) and within 3 miles each side of the Durango VOR 224° radial, extending from the 5-mile-radius zone to 8 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (36 F.R. 2140) the description of the Durango, Colo. transition area is amended to read as follows:

DURANGO, COLO.

That airspace extending upwards from 700 feet above the surface within a 7-mile radius of the La Plata Airport (latitude 37°09'12" N., longitude 107°45'04" W.), and within 3.5 miles each side of the Durango VOR 224° radial, extending from the 7-mile-radius area to 11.5 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 9.5 miles southeast and 6 miles northwest of the Durango VOR 224° and 044° radials, extending from 8 miles northeast to 25 miles southwest of the VOR.

[FR Doc.71-3089 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-WE-97]

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

Alteration of Control Zone and Transition Area

On January 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 782) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Cortez, Colorado, control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following changes.

Delegate the FEDERAL REGISTER citation for the control zone "* * * § 71.171 (35 F.R. 2054) * * *" and the transition area "* * * § 71.181 (35 F.R. 2134) * * *" and substitute "* * * § 71.171 (36 F.R. 2055) * * *" and "* * * § 71.181 (36 F.R. 2140) * * *" therefor.

Effective date. These amendments shall be effective 0901 G.m.t., April 29, 1971.

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

Issued in Los Angeles, Calif., on February 24, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Cortez, Colo. control zone is amended to read as follows:

CORTEZ, COLO.

Within a 5-mile radius of Cortez-Montezuma County Airport, Cortez, Colo. (latitude 37°18'15" N., longitude 108°37'35" W.) and within 3 miles each side of the Cortez VOR 210° and 004° radials, extending from the 5-mile-radius zone to 8 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (36 F.R. 2140) the description of the Cortez, Colo., transition area is amended to read as follows:

CORTEZ, COLO.

That airspace extending upwards from 700 feet above the surface within a 7-mile radius of Cortez-Montezuma County Airport, Cortez, Colo. (latitude 37°18'15" N., longitude 108°37'35" W.), within 3.5 miles each side of the Cortez VOR 184° and 004° radials extending from the 7-mile-radius area to 11.5 miles north of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9.5 miles west of the Cortez VOR 184° and 004° radials, extending from 8 miles south to 19 miles north of the VOR, and within 5 miles northeast of and parallel to the Dove Creek VORTAC 129° radial, extending from the VORTAC to 21 miles southeast of the VORTAC.

[FR Doc.71-3090 Filed 3-4-71;8:53 am]

[Airspace Docket No. 71-SO-13]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Control Areas, Federal Airway, Jet Route and Reporting Points

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to make editorial changes in the descriptions of several reporting points and additional control areas, Blue Federal airway No. 19, and Jet Route No. 81.

To comply with agency policy to eliminate the duplication of location names within an Air Route Traffic Control Center control area and adjacent ARTCC control areas, the names of several radio beacons will be changed on May 27, 1971, as follows:

Present name	*Future name*
Key West, Fla., RBN	Fish Hook, Fla., RBN
Tallahassee, Fla., RBN	Wakulla, Fla., RBN
Fort Myers, Fla., RBN	Tice, Fla., RBN
Melbourne, Fla., RBN	Satellite, Fla., RBN
Charleston, S.C., RBN	Ashley, S.C., RBN
Palm Beach, Fla., RBN	Rubin, Fla., RBN
Jacksonville, Fla., RBN	Dinsmore, Fla., RBN

These name changes will require amendments to Parts 71 and 75 of the Federal Aviation Regulations. Action is taken herein to make these amendments.

Since these amendments are editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., May 27, 1971, as hereinafter set forth.

1. Section 71.109 (36 F.R. 2008) is amended as follows:

In B-19 the phrase "From Key West, Fla., RBN, INT Key West RBN 037°" is deleted and the phrase "From Fish Hook, Fla., RBN, INT Fish Hook RBN 037°" is substituted therefor.

2. Section 71.163 (35 F.R. 13363, 18039 and 36 F.R. 2048) is amended as follows:

a. In Control 1153 the phrases "Jacksonville, Fla., radio beacon" and "from the radio beacon" are deleted and the phrases "Dinsmore, Fla., RBN" and "from the RBN" are substituted therefor.

b. In Control 1232 the phrase "Palm Beach, Fla., RBN," is deleted and the

phrase "Rubin, Fla., RBN," is substituted therefor.

c. In Control 1488 the phrase "Key West radio beacon 245°" is deleted and the phrase "Fish Hook, Fla., RBN 245°" is substituted therefor.

3. In § 71.203 (36 F.R. 2301) low altitude reporting point "Key West, Fla., RBN" is deleted and "Fish Hook, Fla., RBN" is substituted therefor.

4. Section 71.209 (36 F.R. 2311) is amended as follows:

a. In Azalea INT the phrase "Charleston, S.C., RBN." is deleted and the phrase "Ashley, S.C., RBN." is substituted therefor.

b. In Barracuda INT the phrase "Melbourne, Fla., RBN" is deleted and the phrase "Satellite, Fla., RBN" is substituted therefor.

c. In Carp INT the phrase "Jacksonville, Fla., RBN." is deleted and the phrase "Dinsmore, Fla., RBN" is substituted therefor.

d. In Crab INT the phrase "Tallahassee, Fla., RBN" is deleted and the phrase "Wakulla, Fla., RBN" is substituted therefor.

e. In Gateway INT the phrase "Jacksonville, Fla., RBN" is deleted and the phrase "Dinsmore, Fla., RBN" is substituted therefor.

f. In Halibut INT the phrase "Palm Beach, Fla., RBN" is deleted and the phrase "Rubin, Fla., RBN" is substituted therefor.

g. In Sea Lion INT the phrase "Key West, Fla., RBN" is deleted and the phrase "Fish Hook, Fla., RBN" is substituted therefor.

h. In Smelt INT the phrase "Charleston, S.C., RBN" is deleted and the phrase "Ashley, S.C., RBN" is substituted therefor.

i. In Trout INT the phrase "Jacksonville, Fla., RBN" is deleted and the phrase "Dinsmore, Fla., RBN" is substituted therefor.

5. § 75.100 (36 F.R. 2371) is amended as follows:

In Jet Route No. 81, the phrase "Melbourne, Fla., RR" is deleted and the phrase "Satellite, Fla., RBN" is substituted therefor.

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

Issued in Washington, D.C., on February 26, 1971.

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

[FR Doc.71-3091 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-SO-106]

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

Designation of Transition Area

On January 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 556), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Louisville, Miss., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the final approach bearing for NDB-A instrument approach procedure to Louisville-Winston County Airport was refined to the 357° bearing. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

LOUISVILLE, MISS.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Louisville-Winston County Airport (lat. 33°08'35" N., long. 89°03'45" W.); within 3 miles each side of the 357° bearing from Louisville RBN (lat. 33°08'37" N., long. 89°03'39" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

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

Issued in East Point, Ga., on February 22, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3092 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-SO-107]

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

Designation of Transition Area

On January 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 782), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Lancaster, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

LANCASTER, S.C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lancaster Airport (lat. 34°43'22" N., long. 80°51'18" W.).

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

Issued in East Point, Ga., on February 19, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3093 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-SO-108]

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

Alteration of Transition Area

On January 20, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 932), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Columbus, Miss., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Columbus, Miss., transition area is amended as follows:

"* * * VORTAC to 18.5 miles west * * *." is deleted and "* * * VORTAC to 18.5 miles west; within an 8.5-mile radius of Golden Triangle Regional Airport (lat. 33°26'48" N., long 88°35'30" W.) * * *." is substituted therefor.

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

Issued in East Point, Ga., on February 23, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3094 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-SO-109]

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

Alteration of Transition Area

On January 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 783), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Apalachicola, Fla., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is

amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Apalachicola, Fla., transition area is amended to read:

APALACHICOLA, FLA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Apalachicola Municipal Airport (lat. 29°43'45" N., long. 85°01'45" W.); within 3 miles each side of the 012°, 049°, and 322° bearings from Apalachicola RBN, extending from the 6.5-mile radius area to 8.5 miles north, northeast, and northwest of the RBN.

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

Issued in East Point, Ga., on February 23, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-3095 Filed 3-4-71;8:53 am]

[Airspace Docket No. 70-SO-110]

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

Alteration of Transition Area

On January 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 782), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Marianna, Fla., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 29, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Marianna, Fla., transition area is amended to read:

MARIANNA, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Marianna Municipal Airport (lat. 30°50'08" N., long. 85°11'02" W.); within 3 miles each side of Marianna VOR 127° radial, extending from the 8.5-mile radius area to 8.5 miles southeast of the VOR.

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

Issued in East Point, Ga., on February 23, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-3096 Filed 3-4-71;8:53 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[15th Gen. Rev. of the Export Regs. (Amdt. 15)]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Parts 368, 371, 373, 376, and 386 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.)

Effective date: Part 373—March 19, 1971; Parts 368, 371, 376, and 386—March 5, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

PART 368—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION CERTIFICATE

In § 368.2(a)(8), the footnote in subdivision (i) is amended to read as follows:

§ 368.2 International import certificate.

(a) * * *

(8) *Approval of shipment, transfer, or sale or commodities to a foreign consignee before delivery under International Import Certificate.* (i) * * *

[1] The attention of U.S. purchasers is directed to the Transaction Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 505.01 et seq.). These regulations prohibit persons within the United States and subsidiaries and branches of U.S. firms located abroad from purchasing or selling, or arranging the purchase or sale, without a Treasury Department license, of any merchandise in any foreign country when the transaction involves a shipment from any foreign country to Country Group W, Y, or Z (except Cuba, for which the Cuban Assets Control Regulations mentioned below restrict shipments to Cuba) of merchandise identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (§ 399.1), or of a type prohibited by any of the several regulations referred to in § 370.10. (See Supplement No. 1 to Part 370 for Country Group designations.) A Treasury Department general license (§ 505.31) authorizes transactions prohibited by the Regulations with respect to shipments of merchandise to Eastern Europe from COCOM member countries provided the shipment has been licensed by the exporting country.

The attention of purchasers is also directed to the Foreign Assets Control Regulations and the Cuban Assets Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 500.101 et seq. and 515.101 et seq.). These regulations prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transactions with Communist China, North Korea, North Vietnam, Cuba, or nationals thereof, or in any unlicensed transactions involving property in which Communist China, North Korea, or nationals thereof, have or have had, any interest, direct or indirect, since December 17, 1950; in which North Vietnam or nationals thereof, have or have had any interest, direct or indirect, since May 5, 1964; or in which Cuba or nationals thereof have or have had any interest, direct or indirect, since July 8, 1963. The Foreign Assets Control Regulations also prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transaction with respect to merchandise outside the United States if such merchandise is of mainland Chinese, North Vietnamese, or Cuban origin, or is merchandise specified in the Regulations as presumptively of mainland Chinese origin.

General licenses in the Foreign Assets Control Regulations (31 CFR 500.541 and 500.544) authorize (a) U.S.-owned or controlled foreign firms and U.S. citizens residing abroad to engage in transactions with Communist China and its nationals, provided the transaction does not involve merchandise of U.S. origin (unless licensed by Commerce) or of strategic type, or U.S. dollar accounts; (b) persons in the U.S. to import for noncommercial purposes, merchandise of mainland Chinese origin, or specified in the regulations as presumptively of that origin and to deal abroad in merchandise of the latter type.

A general license in the Cuban Assets Control Regulations exempt certain transactions by U.S.-owned or controlled foreign firms. However, the general license does not authorize U.S. citizens who are officers or directors of such firms to be involved in Cuban transactions.

The Rhodesian Sanctions Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 530.101 et seq.) also contain restrictions of interest to U.S. purchasers. These regulations prohibit, unless licensed, the importation of merchandise of Rhodesian origin, transfers of property which involve merchandise outside the United States that is of Rhodesian origin or which is destined to Southern Rhodesia or to or for the account of business nationals thereof; other transfers of property to or on behalf of or for the benefit of any person in Rhodesia; and the importation of ferrochrome produced in any country from chromium ore or concentrate of Rhodesian origin. U.S.-owned or controlled foreign firms except Rhodesian firms are not subject to the regulations. However, this exemption does not extend to U.S. citizens or residents who are officers or directors of foreign firms.

Any questions concerning the Transaction Control Regulations, the Foreign Assets Control Regulations, the Cuban Assets Control Regulations, or the Rhodesian Sanction Regulations should be submitted to the Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, D.C. 20220.

PART 371—GENERAL LICENSES

In § 371.4(c), subparagraph (1) is amended to read as follows:

§ 371.4 General License GIT; intransit shipments.

* * * * *

(c) *Shipments originating in Canada.* (1) The provisions of General License GIT are applicable, as modified herein, to all shipments from Canada moving in transit through the United States to any foreign destinations, regardless of the origin of the commodities. For each such shipment, the customs officer at the U.S. port of export shall require a copy of Form B–13, Canadian Customs Entry, certified or stamped by the Canadian customs authorities, except where the shipment is made under a validated U.S. export license or applicable U.S. general license other than General License GIT, or is valued at less than $50. Where the commodity description, quantity, ultimate consignee, country of ultimate destination, or any other pertinent detail of such shipment is not the same on the "Transportation Entry and Manifest." Customs Form CF 7512, for shipment as that on the required Form B–13, a corrected Form B–13 authorizing the shipment is required.

* * * * *

PART 373—SPECIAL LICENSING PROCEDURES

In § 373.4, paragraph (b) is amended to read as follows:

§ 373.4 Foreign-based warehouse procedure.

* * * * *

(b) *Exports to the foreign-based warehouse.* A U.S. exporter who qualifies under this procedure may apply for and obtain licenses for exports to an approved destination for the purpose of maintaining a foreign-based stock of any commodity(ies) identified by code letters "A," "B," "C," or "M" following the Export Control Commodity Number on the Commodity Control List, except the following commodities:

Export Control Commodity Number and Commodity Description	
513	Boron (Boron-10 only).
513	Chlorine trifluoride.
514	Hydrides in which lithium is compounded with hydrogen or complexed with other metals, or aluminum hydride.
515	Deuterium and compounds, mixtures, and solutions containing deuterium, including heavy water and heavy paraffin.
683	Bars, rods, angles, shapes, sections, plates, sheets, strips, foil, hollow bars, tubes, pipes, blanks, and fittings, of porous nickel metal with a mean pore size of 25 microns or less and a nickel purity content of 99 percent or more, except single porous nickel metal sheets not greater than 930 cm^2 (144 square inches) in size when intended for use in batteries for civilian application.
683	Other bars, rods, angles, shapes, sections, plates, sheets, strips, foil, hollow bars, tubes, pipes, blanks, and fittings, of porous nickel having a purity of 99 percent or more.
711	Heat exchangers and heat-exchanger type condensers specially designed for nuclear reactors; and specially designed parts and accessories, n.e.c.
711	Parts and accessories, n.e.c., specially designed for nuclear reactors, including mechanical devices designed to control or shutdown a nuclear reactor.
714	Electronic computers
7191	Electrolytic cells for the production of fluorine, with a production capacity greater than 250 grams of fluorine per hour; and specially designed parts, n.e.c.
7191	Process vessels specially designed for chemically processing radioactive material; and parts and accessories, n.e.c.
7191	Equipment specially designed for the production of uranium hexafluoride (UF_6); and specially designed parts and accessories, n.e.c.
7191	Other machines and equipment, specially designed for use in processing of irradiated nuclear materials to isolate or recover fissionable materials; and specially designed parts and accessories, n.e.c.
7191	Heat exchangers made of aluminum, copper, nickel, or alloys containing more than 60 percent nickel, or combinations of these metals as clad tubes, designed to operate at less than 10^{-4} atmospheres per hour under a pressure differential of 1 atmosphere; and specially designed parts, n.e.c.
7191	Equipment specially designed for the production and/or concentration of deuterium oxide; and specially designed parts.
7191	Equipment for the production of liquid fluorine; and specially designed parts.
7192	Vertically shafted centrifugal pumps, glandless, hermetically sealed (canned) type or mechanical pressurized sealed type, having all flow-contact surfaces made of or lined with 10 percent or more nickel and/or chromium and rated at 50 kilowatts or more; and parts and attachments, n.e.c.
7192	Compressors and blowers (turbo, centrifugal, and axial flow types) having a capacity of 60 cfm or more and wholly made of or lined with aluminum, nickel or alloy containing 60 percent or more nickel; and specially designed parts and attachments.
7192	Counter-current solvent extractors specially designed for the extraction of radio-active substances (for example, pulsed columns and mixer-settlers made of stainless steel); and specially designed parts.
7192	Equipment specially designed for the separation of isotopes of uranium and/or lithium; and specially designed parts, n.e.c.
7192	Gas centrifuges capable of the enrichment or separation of isotopes; and specially designed parts, n.e.c.
7192	Centrifuge bowls, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel; and parts, n.e.c.
71980	Electron beam equipment for the deposition of thin film, the coating of thin film, or the working thereof.
71980	Nuclear reactor fuel chopping, disassembling, or dejacketing machines; and specially designed parts and accessories, n.e.c.
7199	Valves, 1 inch or more in diameter; fitted with bellows seal, and wholly made of or lines with aluminum, nickel, or alloy containing 60 percent or more nickel, except those having metal-to-metal seats; and specially designed parts, n.e.c.
726	X-ray machines and parts therefor; and flash discharge type X-ray tubes.
7295	Vibration testing equipment.
7295	Process control instruments specially designed or modified for monitoring or controlling the processing of irradiated fissionable or fertile materials or irradiated lithium.
72970	Neutron generators and specially designed parts therefor; and neutron generator tubes.
862	High speed photographic film and plates, sensitized, unexposed, as follows: (a) Having an intensity dynamic range of 1,000,000:1 or greater, or (b) having a speed of ASA 10,000 (or equivalent) or more.

* * * * *

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

In § 376.4, paragraph (a) is amended to read as follows:

§ 376.4 Nickel commodities.

(a) *90 day validity period.* All licenses to export any of the commodities set forth below in this § 376.4(a) will be valid for 90 days from the date of issuance:

Export Control Commodity Number and Commodity description	
28	Iron and steel scrap containing 1 percent or more nickel by weight, including scrap melted into crude forms.
28	Nickel bearing residues and dross.
28	Nickel or nickel alloy waste and scrap.
513	Nickel oxide.
514	Nickel sulfate.
671	Ferronickel containing 90 percent or less nickel.
683	Nickel based magnetic material, unwrought.
683	Other nickel or nickel alloys, unwrought.
683	Nickel or nickel alloy electroplating anodes.

* * * * *

PART 386—EXPORT CLEARANCE

In § 386.3(i)(3) subdivision (vi) is deleted and subdivisions (vii), (viii), and (ix) are redesignated (vi), (vii), and (viii) respectively and in § 386.3(t)(1), subdivision (i) is amended to read as follows:

§ 386.3 Shipper's export declaration.

* * * * *

(3) * * *

(vi) [Deleted]

* * * * *

(t) * * *
(1) * * *

(i) Commodities shipped by vessel in transit through the United States from one foreign country or area to another, including merchandise destined from one foreign country to another and transshipped in U.S. ports; or

* * * * *

In § 386.9, paragraph (a) is amended to read as follows:

§ 386.9 Authority of customs offices and postmasters in clearing shipments.

(a) *Delegation of authority to customs offices and postmasters.* Customs offices and postmasters, including all customs and post office officials, are authorized and directed to take appropriate action to assure observance of the provisions of the Export Control Regulations and of general and validated licenses issued thereunder. This includes, but is not limited to inspection of commodities and technical data being exported or about to be exported. Customs offices and postmasters, upon specific authorization by the Office of Export Control, may waive presentation of an export license. The functions delegated to customs offices and postmasters by this § 386.9(a) may also be carried out by officials of the Office of Export Control.

* * * * *

[FR Doc.71-3059 Filed 3-4-71;8:50 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER A—POLICY, PRACTICE, AND PROCEDURE

[General Order 41, 3d Rev., Amdt. 3]

PART 201—RULES OF PRACTICE AND PROCEDURE

Former Employees

Notice of rule making with respect to a proposed amendment to the rules of practice and procedure appeared in the FEDERAL REGISTER issue of October 17, 1970 (35 F.R. 16320), in which comments were invited in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553). Comments were received from the Maritime Administrative Bar Association. Comments were directed to the proposed amendment and opposition was expressed to the omission of all reference to partners or associates of former employees. A suggestion was also made that the proposed amendment include a definition of the term "official responsibility."

The proposed amendment is intended to clarify the areas of participation by a former employee in postemployment activities. The suggestion that language be included in the proposed amendment which would place certain prohibitions on partners and associates of a former employee was found to be unsatisfactory and no such language has been included in the proposed amendment. No definition of the term "official responsibility" is included in the proposed amendment since that term is defined in Section 202 of Public Law 87-849 (18 U.S.C. 202(b)).

No other adverse comments were received in respect to the language used in the proposed amendment.

In view of the foregoing, pursuant to the authority under Reorganization Plan No. 7 of 1961, Department (of Commerce) Organization Order 10-8 (formerly Department Order 117-A, 31 F.R. 8087, 35 F.R. 115, and Department Organization Order 25-2A) and section 204 (b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), § 201.26 of Subpart B of this part is hereby revised to read as follows:

Subpart B—Appearance and Practice Before the Administration (Rule 2)

§ 201.26 Former employees.

(a) No former officer or employee of the Administration, after his or her employment with the Administration has ceased, shall act as agent or attorney for anyone other than the United States in connection with any particular matter in which a specific party or parties are involved and in which the United States is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially as an officer or employee of the Maritime Administration through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise while so employed by the Maritime Administration.

(b) No former officer or employee of the Administration shall practice, appear, or represent anyone, directly or indirectly, other than the United States, before the Administration in any matter for a period of 1 year subsequent to the termination of his or her employment with the Administration in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested and which was under his or her official responsibility as an officer or employee of the Administration at any time during the last year of his or her service.

(c) Any person in doubt as to the applicability of paragraphs (a) or (b) of this § 201.26 to a particular case or to the postemployment activities of a former officer or employee of the Administration may address an application to the Administration for the Administration's consent to appear, stating his former connection with the Administration or predecessor agency, identifying the matter in which he or she desires to appear and describe in detail his or her participation in or responsibility for the particular matter and the specific party or parties involved and the extent, if any, in which the former officer or employee had participated while employed by the Administration. The applicant shall be promptly advised as to his or her privilege to appear in the particular matter. Separate consents to appear must be obtained in each particular matter.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (Mar. 5, 1971).

Dated: March 1, 1971.

By order of the Assistant Secretary for Maritime Affairs and the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-3102 Filed 3-4-71;8:54 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 6—Department of State

[Public Notice 108.632]

PART 6-1—GENERAL

Miscellaneous Amendments

Part 6-1, Chapter 6 of Title 41 of the Code of Federal Regulations is amended as set forth below.

1. In Subpart 6-1.1, § 6-1.104 is amended by adding a new subparagraph (d) to read as follows:

§ 6-1.104 Applicability.

* * * * *

(d) At posts where Joint Administrative Offices have been formed, the DOSPR and the FPR are applicable to procurement from Shared Administrative Support funds. The DOSPR and the FPR are applicable for all AID administrative and technical support procurement, except in areas which have been defined by the AID Office of Administrative Services (A/AS).

2. In Subpart 6-1.1, a new Subpart 6-1.10 is added to read as follows:

Subpart 6-1.10—Publicizing Procurement Actions

Sec.
6-1.1001 General policy.
6-1.1002 Availability of invitations for bids and requests for proposals.
6-1.1003 Synopses of proposed procurements.
6-1.1003-1 Department of Commerce Synopsis.
6-1.1003-2 General requirements.

AUTHORITY: The provisions of this Subpart 6-1.10 are issued under sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c), sec. 4, 63 Stat. 111, 22 U.S.C. 2658.

§ 6-1.1001 General policy.

To obtain full competition and provide information to the public FPR 1-1.1001 requires that prospective prime contractors and subcontractors be informed of proposed Government procurements or procurements it has awarded.

§ 6-1.1002 Availability of invitations for bids and requests for proposals.

A copy of all unclassified invitations for bids and requests for proposals issued by the Supply and Transportation

Division will be displayed for prospective contractors and subcontractors.

§ 6–1.1003 Synopses of proposed procurements.

§ 6–1.1003–1 Department of Commerce Synopsis.

As provided in FPR 1–1.1003–2(a)(9) procurements by the Foreign Service posts outside the United States are exempted from the provisions of this section.

§ 6–1.1003–2 General requirements.

(a) Except as provided in FPR 1–1.1003–2(a) all proposed Department procurement actions of $5,000 and above shall be synopsized in the Commerce Business Daily.

(b) Preparation and transmittal of synopses of proposed procurements of the Supply and Transportation Division will be prepared by the Procurement Branch in accordance with the procedures set out in FPR 1–1.1003–7.

(c) Those offices to whom contracting authority has been delegated as enumerated in § 6–1.404–2 of this title are responsible for publicizing proposed procurement actions as required by FRP 1–1.10.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c), sec. 4, 63 Stat. 111, 22 U.S.C. 2658)

Dated: February 12, 1971.

FRANK G. MEYER,
Assistant Secretary for Administration.

[FR Doc.71–3021 Filed 3–4–71;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5024]

[Oregon 6995]

OREGON

Withdrawal for National Forest Research Natural Area

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

1. Subject to valid existing rights and withdrawals, the following described national forest land is hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SISKIYOU NATIONAL FOREST

WILLAMETTE MERIDIAN

Coquille River Falls Research Natural Area

T. 33 S., R. 11 W.,
Sec. 6, that portion of the SW¼ lying west of the centerline of Forest Service Road No. 321 (Coquille River Road);
Sec. 17, that portion of the S½ lying north of the centerline of Forest Service Road No. 321;
Sec. 18, that portion of the SE¼SE¼ lying northeast of the centerline of Forest Service Road No. 321, and that portion of the N½SE¼ east of the junction of Forest Service Road No. 321 and Forest Service Road No. 333 (Agness Road) and lying between the centerlines of said roads and south of the South Fork Coquille River;
Sec. 20, that portion of the N½N½ lying north of the centerline of Forest Service Road No. 321;
Sec. 21, that portion of the N½NW¼ lying north and west of the centerline of Forest Service Road No. 321.

The areas described aggregate approximately 500 acres in Coos County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws, except that the withdrawal is subject to Powersite Classification No. 147 of June 1, 1926, so far as it affects the lands described above in sections 16 and 17, T. 33 S., R. 11 W.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 1, 1971.

[FR Doc.71–3033 Filed 3–4–71;8:48 am]

[Public Land Order 5025]

[New Mexico 10205]

NEW MEXICO

Revocation of Reclamation Withdrawal Hondo River Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

1. The Departmental Orders of January 31, 1903, and February 16, 1904, which withdrew lands for reclamation purposes and the Departmental Order of April 20, 1910, changing the earlier withdrawal from second form to first form, are hereby revoked so far as they affect the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 11 S., R .22 E.,
Sec. 12, SW¼;
Sec. 13, S½;
Sec. 14, SE¼;
Sec. 23, E½, E½W½;
Secs. 24 and 25;
Sec. 26, E½, NW¼, S½SW¼;
Sec. 27, NE¼NE¼, S½NE¼, SE¼SE¼;
Sec. 35, NW¼NE¼, NE¼NW¼, SW¼NW¼.
T. 11 S., R. 23 E.,
Sec. 3, SW¼;
Sec. 6, lots 1, 2, 4, 5, S½NE¼, SE¼NW¼, SE¼;
Sec. 18, lots 3, 4, E½SW¼, SE¼;
Sec. 19, lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, SW¼SE¼;
Sec. 30, lot 1 and NE¼NW¼.

The areas described contain 4,857.87 acres in Chaves County, of which 760.42 acres are privately owned. The following described lands are public lands:

T. 11 S., R. 22 E.,
Sec. 13, S½;
Sec. 14, SE¼;
Sec. 23, E½, E½W½;
Secs. 24 and 25;
Sec. 26, E½, NW¼, S½SW¼;
Sec. 27, NE¼NE¼, S½NE¼, SE¼SE¼;
Sec. 35, NW¼NE¼, NE¼NW¼, SW¼NW¼.
T. 11 S., R. 23 E.,
Sec. 18, lots 3, 4, E½SW¼, SE¼;
Sec. 19, lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, SW¼SE¼;
Sec. 30, lot 1 and NE¼NW¼.

The lands are located approximately 8 air miles southwest of Roswell, N. Mex. The topography ranges from relatively level to moderately rolling. Soils vary from a thin, gravelly-rocky, sandy loam to a moderate depth of silty loam. Vegetal cover consists of three-awn, tobosa, mixed gramas, fluffgrass, snakeweed, cockleburr, Russian thistle, and very scattered cholla and mesquite.

2. At 10 a.m. on April 6, 1971, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 6, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands will be open to location under the United States mining laws at 10 a.m. on April 6, 1971. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 1, 1971.

[FR Doc.71–3034 Filed 3–4–71;8:48 am]

[Public Land Order 5026]

[Sacramento 4011, 4040]

CALIFORNIA

Partial Revocation of National Forest Administrative Site Withdrawal

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

1. The departmental order of November 7, 1908, and Public Land Order No. 725 of June 4, 1951, which withdrew national forest lands for administrative sites, are hereby revoked so far as they affect the following described lands:

MOUNT DIABLO MERIDIAN

(S 4011)

SIERRA NATIONAL FOREST

Chowchilla Administrative Site

T. 5 S., R. 20 E.,
Sec. 28, SW¼SE¼, SE¼SW¼.

(S 4040)

ELDORADO NATIONAL FOREST

Georgetown Administrative Site

T. 12 N., R. 11 E.,
Sec. 6, SW¼NE¼.

The areas described aggregate approximately 120 acres in Mariposa and Eldorado Counties.

2. At 10 a.m. on April 6, 1971, the land shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 1, 1971.

[FR Doc.71-3035 Filed 3-4-71;8:48 am]

[Public Land Order 5027]

[Arizona 035187]

ARIZONA

Correction of Public Land Order No. 4983

The land description in Public Land Order No. 4983 of December 24, 1970, appearing in 36 F.R. 61 of the issue of January 5, 1971, withdrawing certain lands for the Fort Bowie National Historic Site, so far as it refers to section 2 in paragraph 2 of said order, is corrected to read "sec. 3".

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 1, 1971.

[FR Doc.71-3036 Filed 3-4-71;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 145—ANTIBIOTIC DRUGS; DEFINITIONS AND INTERPRETATIVE REGULATIONS

PART 148w—CEPHALOSPORIN

Cephalexin Monohydrate

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commission of Food and Drugs (21 CFR 2.120), Parts 141, 145, and 148w are amended as follows to provide for certification of cephalexin monohydrate capsules and powder for oral suspension:

1. Section 141.3(b) is amended by adding a new subparagraph, as follows:

§ 141.3 Equipment and diluents for use in biological testing.

* * * * *

(b) * * *

(12) Diluent 12 (0.5 percent methylcellulose (4,000 centipoises) in distilled water). Proceed as directed in subparagraph (10) of this paragraph, except use 0.5 gram of methylcellulose (4,000 centipoises).

2. Section 141.5(b) is amended by alphabetically inserting a new item in the table, as follows:

§ 141.5 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in sec. 141.3)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
* * *	* * *	* * *	* * *	* * *
Cephalexin monohydrate	12	10 mg	0.5	Oral.
* * *	* * *	* * *	* * *	* * *

2. Section 141.110 is amended by alphabetically inserting a new item in the table in paragraph (a) and another in the table in paragraph (b), as follows:

§ 141.110 Microbiological agar diffusion assay.

* * * * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 141.103(b)): Base layer	Media to be used (as listed by medium number in § 141.103(b)): Seed layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media to be used in the base and seed layers: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Cephalexin	2	1	21	4	A	0.05	32-35
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

(b) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent	Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Cephalexin	Not dried		1	1 mg	7 days	1	12.8, 16.0, 20.0, 25.0, 31.2 μg.
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

3. Section 141.506(b) is amended by alphabetically inserting a new item in the table in subparagraph (1) and another in the table in subparagraph (2), as follows:

§ 141.506 Iodometric assay.

* * * * * * *

(b) * * *

(1) * * *

Antibiotic	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration in units or milligrams of activity per milliliter of standard solution
* * *	* * *	* * *	* * *
Cephalexin	None	Distilled water	2 milligrams.
* * *	* * *	* * *	* * *

(2) * * *

Antibiotic	Initial solvent	Diluent (solution number as listed in §141.102(a))	Final concentration in units or milligrams of activity per milliliter of sample
* * *	* * *	* * *	* * *
Cephalexin	None	Distilled water	2 milligrams.
* * *	* * *	* * *	* * *

4. Section 145.3 is amended by adding a new subparagraph to paragraph (a) and another to paragraph (b), as follows:

§ 145.3 Definitions of master and working standards.

(a) * * *

(42) *Cephalexin.* The term "cephalexin master standard" means a specific lot of cephalexin that is designated by the Commissioner as the standard of comparison in determining the potency of the cephalexin working standard.

(b) * * *

(42) *Cephalexin.* The term "cephalexin working standard" means a specific lot of a homogeneous preparation of cephalexin.

5. Section 145.4(b) is amended by adding the following new subparagraph:

§ 145.4 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(45) *Cephalexin.* The term "microgram" applied to cephalexin means the cephalexin activity (potency) contained in 1.0707 micrograms of the cephalexin master standard.

6. Part 148w is amended by adding the following three new sections:

§ 148w.6 Nonsterile cephalexin monohydrate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Cephalexin monohydrate is the monohydrate form of 7-(D-2-amino-2-phenylacetamido)-3-methyl-3-cephem-4-carboxylic acid. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms of cephalexin per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 4.0 nor more than 8.0 percent.

(iv) Its pH in an aqueous solution containing 50 milligrams per milliliter is not less than 3.0 nor more than 5.5.

(v) When calculated on an anhydrous basis, its absorptivity at 262 nanometers is not less than 95 percent and not more than 104 percent of that of the cephalexin standard similarly treated and corrected for potency.

(vi) It gives a positive identity test.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(ii) Samples require: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution containing 1.0 milligram per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 20 micrograms of cephalexin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

NOTE: The 10 milliliters of 0.01*N* iodine must be added within 20 seconds after the addition of the 2.0 milliliters of 1.2*N* hydrochloric acid, and the assay should be completed within 1 hour after the sample and standard are first put into solution.

(2) *Safety.* Proceed as directed in § 141.5 of this chapter, except observe the mice for 7 days.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous suspension containing 50 milligrams per milliliter.

(5) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve accurately weighed portions of approximately 50 milligrams each of the sample and standard in 250 milliliters of distilled water. Transfer a 10-milliliter aliquot to a 100-milliliter volumetric flask and dilute to volume with distilled water. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of each solution at 262 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{milligrams standard} \times \text{potency of standard in micrograms per milligram} \times 10}{\text{Absorbance of standard} \times \text{milligrams sample} \times (100-m)},$$

where

m = percent moisture in the sample.

(6) *Identity.* Proceed as directed in § 141.521 of this chapter, using the 0.5 percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

(7) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 148w.7 Cephalexin monohydrate for oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Cephalexin monohydrate for oral suspension is cephalexin monohydrate with one or more suitable and harmless diluents, buffer substances, colorings, and flavorings. When reconstituted as directed in the labeling, each milliliter contains cephalexin monohydrate equivalent to 25 milligrams, 50 milligrams, or 100 milligrams of cephalexin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cephalexin that it is represented to contain. Its moisture content is not more than 2 percent. When reconstituted as directed in the labeling, its pH is not less than 3.0 and not more than 6.0. The cephalexin used conforms to the standards prescribed by § 148w.6(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cephalexin used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The cephalexin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, transfer an appropriate aliquot into a volumetric flask and bring to volume with 1 percent potassium phosphate buffer, pH 6.0 (solution 1). Further dilute an aliquot of this solution with solution 1 to the reference concentration of 20.0 micrograms of cephalexin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, transfer an accurately measured representative portion to a volumetric flask and bring to volume with distilled water. Further dilute an aliquot of this solution with distilled water to the prescribed concentration of cephalexin. NOTE: The 10 milliliters of 0.01*N* iodine must be added within 20 seconds after the addition of the 2.0 milliliters of 1.2*N* hydrochloric acid, and the assay should be completed within 1 hour after the sample and standard are first put into solution.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

§ 148w.8 Cephalexin monohydrate capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cephalexin monohydrate capsules are composed of cephalexin monohydrate and one or more suitable and harmless lubricants and diluents enclosed in a gelatin capsule. Each capsule contains cephalexin monohydrate equivalent to either 125 or 250 milligrams of cephalexin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cephalexin that it is represented to contain. Its moisture content is not more than 10 percent. The cephalexin used conforms to the standards prescribed by § 148w.6(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cephalexin monohydrate used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The cephalexin monohydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend a representative number of capsules in a high-speed glass blender with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute with solution 1 to the reference concentration of 20.0 micrograms of cephalexin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Blend a representative number of capsules in a high-speed glass blender with sufficient distilled water to give a stock solution of convenient concentration. Further dilute with distilled water to the prescribed concentration of cephalexin. NOTE: The 10.0 milliliters of 0.01*N* iodine must be added within 20 seconds after the addition of the 2.0 milliliters of 1.2*N* hydrochloric acid, and the assay should be completed within 1 hour after the sample and standard are first put into solution.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

Data supplied by the manufacturer concerning the subject antibiotic drugs have been evaluated. Since the conditions prerequisite to providing for their certification have been complied with and since not delaying in so providing is in the public interest, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (3–5–71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: February 20, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.

[FR Doc.71-2923 Filed 3-4-71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-25a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Kennebec River, Maine

1. The Maine Central Railroad requested that the special operation regulations for its bridge across the Kennebec River between Bath and Woolwich be revised to permit closure during periods of infrequent use. Advance notice would be required during these periods. A public notice dated January 9, 1970, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, First Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 11, 1970 (35 F.R. 6011).

2. Interested persons were afforded an opportunity to participate in this rule making procedure through the submission of comments. A number of opposing comments were received. Several opposed the proposal but gave no reason for their opposition. Other comments objected on the grounds that such regulations might hamper industrial growth and development upstream of the bridge. Still others objected because of the possible adverse effects upon the fishing-cannery industry. The statistical data submitted by the railroad however, clearly demonstrated that the advance notice periods requested were the periods of infrequent use by vessels.

3. The regulations as proposed would have required that the draw be opened promptly on signal provided that from April 15 through June 15 and October 1 through November 15, from 7 p.m. to 3 a.m. the draw need be opened only by arrangement with the drawtender while he is on duty (3 a.m. to 7 p.m.) and from November 16 through April 14 at least 24 hours' advance notice would have been required.

4. The Main Central Railroad requested that the original proposed regulations be modified to require at least 4 hours' advance notice from February 15 through April 14 and November 16 through December 15, at least 4 hours' advance notice from April 15 through June 15 and from October 1 through November 15 from 7 p.m. to 3 a.m. and at least 24 hours' advance notice from December 16 through February 14. As this modification makes the original proposal less restrictive, the proposed change is accepted.

5. After consideration of all known factors in this case the proposal is accepted. If industrial growth and development takes place upstream of the bridge or if the needs of vessels, particularly fishing vessels, change in the future,

a reexamination of these regulations will be made at that time.

6. Accordingly, Part 117 is amended by revising § 117.8 to read as follows:

§ 117.8 Kennebec River, highway and railroad bridge, between Bath and Woolwich.

(a) The draw shall be opened promptly on signal provided that:

(1) From February 15 through April 14 and November 16 through December 15 at least 4 hours' advance notice has been given.

(2) From April 15 through June 15 and October 1 through November 15 at least 4 hours' advance notice has been given from 7 p.m. to 3 a.m.

(3) From December 16 through February 14 at least 24 hours' advance notice has been given.

(b) Signals:

(1) *Sound signals.* Sound signals shall be used if weather conditions will permit sound signals to be heard by the drawtender or by the vessel operator. A long blast shall be of approximately 3 seconds duration and a short blast shall be of approximately 1 second duration. These blasts may be made by a whistle, horn, or by other similar device producing sound that can be clearly heard, or by a bell. In appropriate circumstances, shouting through a megaphone may be employed instead of sounding these signals.

(i) *Signal to request opening of draw.* One long blast followed by one short blast.

(ii) *Acknowledging signal by the drawtenders.* (*a*) When the draw will be opened immediately. One long blast followed by one short blast.

(*b*) When the draw cannot be opened immediately or is open and must be closed immediately. Four or more short blasts, shall be sounded in rapid succession, repeated at regular intervals until acknowledged by the same signal from the vessel. As soon as the draw can be opened the drawtender shall sound the opening signal and open the draw for any vessels waiting to pass.

(2) *Visual signals.* These signals shall be use if weather conditions may prevent sound signals from being heard or if sound producing devices are not properly functioning. Sound signals may be used in conjunction with visual signals.

(i) *Signal to request opening of draw.* A white flag of sufficient size to be readily visible by day or a white light of sufficient intensity to be readily visible by night, raised and lowered vertically in full sight of the drawtender repeated until acknowledged by the drawtender. Mechanical devices which produce essentially the same signal using fixed and/or flashing lights are permitted.

(ii) *Acknowledging signal by the drawtender.* (*a*) When the draw will be opened immediately. Same as signal to request opening.

(*b*) When the draw cannot be opened immediately or is open and must be closed immediately. A red flag of sufficient size to be readily visible by day or a red light of sufficient intensity to be readily visible by night, swung back and forth horizontally in full sight of the vessel, repeated until acknowledged by the vessel with the same signal. Mechanical devices which produce essentially the same signal using fixed and/or flashing lights are permitted. As soon as the draw can be opened, the drawtender shall give the opening signal and open the draw for any vessels waiting to pass.

(*c*) Unnecessary delays prohibited. Trains, vehicles, or pedestrians shall not stop or be stopped on a drawbridge so as to delay its opening, nor shall vessels be navigated so as to hinder or delay the closure of the draw. All passages across or through a drawbridge shall be prompt to prevent delay to either land or water traffic. Passage through a draw shall be made at no greater speed than that required to maintain reasonable control of a vessel as to minimize damage to the bridge, fenders, and/or vessel in case of collision.

(*d*) Posting of special operation regulations. The owners of or agencies controlling the drawbridge shall keep conspicuously posted both upstream and downstream of the drawbridge, on the bridge or elsewhere, in such a manner that they can easily be read at any time, from an approaching vessel, a brief statement of the special operation regulations pertaining to that bridge. Information as to whom and how notice should be given when passage through the draw is desired shall also be posted.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959), and 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER (3-5-71).

Dated: March 1, 1971.

D. H. LUZIUS,
Captain, U.S. Coast Guard,
Acting Chief, Office of Operations.

[FR Doc.71-3066 Filed 3-4-71;8:51 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Miscellaneous Amendments

1. Section 6.35 is revised to read as follows:

§ 6.35 Establishment of grace period.

For the payment of any premium under a U.S. Government Life Insurance policy, a grace period of 31 days without interest will be allowed, during which time the policy will remain in force; but if the policy shall become a claim within the grace period, the unpaid premium shall be deducted from the amount of insurance payable.

2. Section 6.69 is revised to read as follows:

§ 6.69 Election of payments on matured endowments.

(a) The insured under a U.S. Government Life Insurance policy issued on the endowment plan may, at the date of the maturity as an endowment, elect to receive payment in monthly installments under option 2 in lieu of payment in one sum or as a refund life income option as authorized under paragragh (b) of this section. He shall have the right to designate the beneficiary or beneficiaries to receive any remaining unpaid installments at his death. If the insured dies before receiving all such monthly installments and no designated beneficiary survives, the present value of the remaining unpaid installments shall be paid to the estate of the insured, provided such payment would not escheat. If the designated beneficiary of a matured endowment survives the insured, the present value of any remaining unpaid installments shall be paid to such beneficiary in one sum, unless the insured or such beneficiary has elected to continue the installments under the option selected by the insured for payment of the endowment.

(b) Effective January 1, 1971, under the provisions of 38 U.S.C. 752(b), the insured may elect to receive payment of such matured endowment policy, in lieu of any other mode of payment, as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under the refund life income option authorized by this paragraph shall be calculated on the basis of The Annuity Table for 1949. Installment payments under this paragraph shall be made as provided in § 6.69a.

3. Sections 6.69a and 6.69b are added to read as follows:

§ 6.69a Optional settlement of insurance under the refund life income option authorized by 38 U.S.C. 752(b).

(a) Where the insured under a policy of U.S. Government Life Insurance requests settlement under the refund life income option of the cash surrender value of any such policy or of the proceeds of an endowment policy which matures by reason of completion of the endowment period, payment shall be made as follows:

(1) *Refund Life Income Option Under 38 U.S.C. 752(b).* The amount of the installments noted in this section will be payable monthly throughout the lifetime of the insured, but, if the insured dies before payment of the number of installments certain noted in this section, the

remaining unpaid monthly installments will be payable as provided in §§ 6.69(a) and 6.117a for such period certain as may be required in order that the sum of installments certain (including a last installment of such reduced amount as may be necessary) shall equal the face value of the contract less any indebtedness.

Age of insured at date of entitlement	Male		Female	
	Number of guaranteed installments	Amount of each monthly installment per $1,000	Number of guaranteed installments	Amount of each monthly installment per $1,000
45	227	$4.42	244	$4.11
46	224	4.48	241	4.16
47	220	4.55	237	4.22
48	217	4.62	234	4.28
49	214	4.69	231	4.34
50	210	4.77	228	4.40
51	207	4.85	224	4.47
52	203	4.93	221	4.54
53	200	5.02	217	4.61
54	196	5.11	214	4.69
55	192	5.21	210	4.77
56	189	5.31	206	4.86
57	185	5.41	203	4.95
58	182	5.52	199	5.05
59	178	5.64	195	5.15
60	174	5.76	191	5.26
61	170	5.89	186	5.38
62	166	6.03	182	5.50
63	163	6.17	178	5.62
64	159	6.32	174	5.76
65	155	6.48	170	5.90
66	151	6.65	166	6.05
67	147	6.83	161	6.22
68	143	7.02	157	6.39
69	139	7.22	153	6.57
70	135	7.44	148	6.76
71	131	7.66	144	6.97
72	127	7.90	140	7.19
73	123	8.16	135	7.42
74	120	8.39	131	7.67
75	120	8.56	127	7.93
76	120	8.72	122	8.22
77	120	8.87	120	8.45
78	120	9.01	120	8.64
79	120	9.14	120	8.81
80	120	9.26	120	8.97
81	120	9.36	120	9.12
82	120	9.46	120	9.25
83	120	9.54	120	9.37
84	120	9.60	120	9.48
85	120	9.66	120	9.56
86	120	9.71	120	9.63
87	120	9.74	120	9.69
88	120	9.77	120	9.74
89	120	9.79	120	9.77
90	120	9.81	120	9.79
91	120	9.82	120	9.81
92	120	9.82	120	9.82
93 and over	120	9.83	120	9.83

§ 6.69b Payment to the insured where the monthly installment of insurance, under the provisions of section 752(b) of title 38, United States Code, is less than $10 under the option selected.

(a) Where payment is to be made in 12 or 24 monthly installments the amount of each monthly installment should be paid in accordance with the following table:

Number of monthly installments	*Amount of each monthly installment per $1,000 insurance payable*
12	$84.65
24	43.05

(b) If the option selected by the insured requires payment of monthly installments of less than $10, the amount payable shall be paid under option 2 (§ 6.68) in such maximum number of monthly installments as are a multiple of 12 and will provide a monthly installment of not less than $10.

(c) If the present value of the amount payable at the time the insured initially becomes entitled to payment thereof is not sufficient to pay at least 12 monthly installments of not less than $10 each, such amount shall be payable in one sum.

4. In § 6.78, paragraph (a) is amended to read as follows:

§ 6.78 Provisions for reinstatement.

(a) Subject to the U.S. Government Life Insurance provisions of title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 6.79 (a) or (b), whichever is applicable, and submits satisfactory evidence thereof at the time of application and tender of premiums. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually: *Provided*, That no interest on premiums in arrears will be required if reinstatement is effected within 6 months from the premium in default. The payment or reinstatement of any indebtedness against any policy must be made, with interest, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall, except as provided in § 6.81, be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed U.S. Government Life Insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. U.S. Government Life Insurance on the 5-year level premium term plan may be reinstated upon application by the insured within 5 years after the date of lapse with satisfactory evidence of the insurability of the insured and upon payment of two monthly premiums, one for the month of lapse, the other for the premium month in which reinstatement is effected, subject to the conditions of § 6.170(b) if reinstated after expiration of the 5-year term period. Any indebtedness against the policy must be paid or reinstated with interest. The provisions of the "Reinstatement" clause in U.S. Government Life Insurance policies are hereby amended accordingly.

* * * * *

5. Section 6.117a is added to read as follows:

§ 6.117a Payment of cash value in monthly installments.

Effective January 1, 1971, in lieu of payment of the cash value in one sum under the provisions of §§ 6.115, 6.116, and 6.117, the insured may elect to receive payment in monthly installments under option 2 (§ 6.68) or as a refund life income option in accordance with the provisions of § 6.69a. If the insured dies before the agreed number of monthly installments have been paid, the remaining unpaid monthly installments will be payable as provided in § 6.69. Unless otherwise requested by the insured, a surrender under this section will be deemed completed as of the end of the premium month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the first check released thereunder, whichever is later.

6. In § 6.170, that portion of paragraph (b) preceding subparagraph (1) is amended to read as follows:

§ 6.170 Renewal of U.S. Government Life Insurance on the 5-year level premium term plan.

* * * * *

(b) Effective June 25, 1970, a 5-year level premium term policy which lapsed for nonpayment of the premium due and subsequently expired may be renewed subsequent to the expiration of the old term period provided the insured within 5 years of the date of lapse:

* * * * *

7. In § 8.22, paragraph (a) is amended to read as follows:

§ 8.22 Reinstatement of National Service Life Insurance.

(a) *Reinstatement of National Service Life Insurance except insurance reinstated pursuant to section 781 of title 38, United States Code, or section 725 of title 38, United States Code.* Subject to the National Service Life Insurance provisions of title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 8.23 (a) or (b), whichever is applicable, and submits evidence thereof at the time of application and tender of premiums. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due

date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually: *Provided*, That no interest on premiums in arrears will be required if reinstatement is effected within 6 months from the due date of the premium in default. The payment or reinstatement of any indebtedness against any policy must be made, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed National Service Life Insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. Subject to the terms and conditions of § 8.85, National Service Life Insurance on the level premium term plan may be reinstated within 5 years of the date of lapse upon written application by the insured accompanied by evidence of insurability and tender of two monthly premiums, one for the month of lapse, the other for the month of reinstatement.

* * * * *

8. Section 8.26a is revised to read as follows:

§ 8.26a Special dividends.

(a) Any special National Service Life Insurance dividend declared prior to January 1, 1952, shall be paid in cash. Such special dividends shall not be accepted to accumulate on deposit and, except as provided in § 8.7c, shall not be available to pay premiums.

(b) Effective June 25, 1970, no claim by an insured for payment in cash of a special dividend declared prior to January 1, 1952, shall be processed by the Veterans Administration unless such claim was received within 6 years after such dividend was declared. Whenever any claim for payment of a special dividend, the processing of which is barred by this paragraph, is received in the Veterans Administration, it shall be returned to the claimant with a copy of section 707(b) of title 38, United States Code, and such action shall be a complete response without further communication.

(c) The limitation for filing claim in paragraph (b) of this section shall not preclude payment of any unpaid special dividend to the beneficiary upon maturity of a policy because of the insured's death.

9. Section 8.27a is added to read as follows:

§ 8.27a Payment of the cash value of National Service Life Insurance in monthly installments under section 717(e) of title 38, United States Code.

(a) Effective January 1, 1971, in lieu of payment of the cash surrender value in one sum under the provisions of § 8.27 (a) through (g) the insured may elect to receive payment in monthly installments under option 2 (§§ 8.79, 8.80, 8.80c, and 8.81, as applicable) or as a refund life income option in accordance with the applicable provisions of §§ 8.80, 8.80c, 8.81, and 8.92a. If the insured dies before the agreed number of monthly installments have been paid, the remaining unpaid monthly installments will be payable as provided in § 8.89. Unless otherwise requested by the insured, a surrender under this section will be deemed completed as of the premium month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the first check released thereunder, whichever is later.

(b) If the cash value of the policy is not sufficient to provide monthly installments under the option elected by the insured of at least $10, the amount payable shall be paid under option 2 in such maximum number of monthly installments as are a multiple of 12 and will provide a monthly installment of not less than $10 (see §§ 8.80a, 8.80b, 8.80d, and 8.81a).

(c) If the present value of the amount payable at the time the insured initially becomes entitled to payment thereof is not sufficient to pay at least 12 monthly installments of not less than $10 each, such amount shall be payable in one sum.

10. Section 8.80d is revised to read as follows:

§ 8.80d Payment to a beneficiary where the monthly installment of insurance, issued under the provisions of section 723(b) of title 38, United States Code, is less than $10 under the option selected.

Where payment is to be made in 12 or 24 monthly installments (see § 8.77(a)(5)), the amount of each monthly installment will be paid in accordance with the following table:

Number of monthly installments	*Amount of each monthly installment per $1,000 insurance payable*
12	$84.28
24	42.66

11. In § 8.85, that portion of paragraph (b) preceding subparagraph (1) is amended to read as follows:

§ 8.85 Renewal of National Service Life Insurance on the 5-year level premium term plan and limited convertible 5-year level premium term plan.

* * * * *

(b) Effective June 25, 1970, a 5-year level premium term policy which lapsed for nonpayment of the premium due and subsequently expired may be renewed subsequently to the expiration of the old term period provided the insured within 5 years of the date of lapse:

* * * * *

12. Section 8.92 is revised to read as follows:

§ 8.92 Election of payments on matured endowments.

(a) The insured under a National Service Life Insurance policy issued on the endowment plan may, at the date of the maturity as an endowment, elect to receive payment in monthly installments under option 2 in lieu of payment in one sum or as a refund life income option as authorized under paragraph (b) of this section. He shall have the right to designate the beneficiary or beneficiaries to receive any remaining unpaid installments at his death. If the insured dies before receiving all such monthly installments and no designated beneficiary survives, the present value of the remaining unpaid installments shall be paid to the estate of the insured, provided such payment would not escheat. If the designated beneficiary of a matured endowment survives the insured, the present value of any remaining unpaid installments shall be paid to such beneficiary in one sum, unless the insured or such beneficiary has elected to continue the installments under the option selected by the insured for payment of the endowment.

(b) Effective January 1, 1971, under the provisions of 38 U.S.C. 717(e), the insured may elect to receive payment of such matured endowment policy, in lieu of any other mode of payment, as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under the refund life income option authorized by this paragraph shall be calculated on the basis of The Annuity Table for 1949. Installment payments under this paragraph shall be made as provided in §§ 8.80, 8.80c, 8.81, and 8.92a.

13. Sections 8.92a and 8.92b are added to read as follows:

§ 8.92a Optional settlement under the refund life income option authorized by 38 U.S.C. 717(e) on participating National Service Life Insurance and nonparticipating insurance issued under section 602(c)(2) of the National Service Life Insurance Act, as amended, on which the requirements of good health were waived.

(a) Where the insured requests settlement under the refund life income option of the proceeds of an endowment policy which matures by reason of completion of the endowment period, payment under this section shall be made as follows:

(1) *Refund Life Income Option Under 38 U.S.C. 717(e).* The amount of the installments noted in this section will be

payable monthly throughout the lifetime of the insured, but, if the insured dies before payment of the number of installments certain noted in this section, the remaining unpaid monthly installments will be payable as provided in § 8.92 (a) for such period certain as may be required in order that the sum of installments certain (including a last installment of such reduced amount as may be necessary) shall equal the face value of the contract less any indebtedness.

Age of insured at date of entitlement	Male		Female	
	Number of guaranteed installments	Amount of each monthly installment per $1,000	Number of guaranteed installments	Amount of each monthly installment per $1,000
40	262	$3.83	281	$3.57
41	258	3.88	277	3.62
42	255	3.93	274	3.66
43	251	3.99	270	3.71
44	247	4.05	266	3.76
45	244	4.11	263	3.81
46	240	4.17	260	3.86
47	236	4.24	256	3.91
48	233	4.31	252	3.97
49	229	4.38	249	4.03
50	225	4.45	244	4.10
51	221	4.53	240	4.17
52	217	4.61	236	4.24
53	213	4.70	233	4.31
54	209	4.79	228	4.39
55	205	4.88	224	4.47
56	201	4.98	220	4.56
57	197	5.08	216	4.65
58	193	5.19	211	4.74
59	189	5.31	207	4.84
60	185	5.43	203	4.95
61	181	5.55	198	5.06
62	177	5.68	194	5.18
63	172	5.83	189	5.30
64	168	5.98	184	5.44
65	164	6.13	180	5.58
66	159	6.30	175	5.73
67	155	6.47	171	5.88
68	151	6.65	166	6.05
69	146	6.85	161	6.23
70	142	7.06	156	6.42
71	138	7.28	152	6.62
72	133	7.52	147	6.83
73	129	7.76	142	7.06
74	125	8.02	137	7.30
75	121	8.31	133	7.56
76	120	8.48	128	7.83
77	120	8.63	124	8.13
78	120	8.78	120	8.40
79	120	8.91	120	8.58
80	120	9.03	120	8.74
81	120	9.14	120	8.89
82	120	9.23	120	9.03
83	120	9.31	120	9.15
84	120	9.38	120	9.25
85	120	9.44	120	9.34
86	120	9.48	120	9.41
87	120	9.52	120	9.47
88	120	9.55	120	9.51
89	120	9.57	120	9.55
90	120	9.59	120	9.57
91	120	9.60	120	9.59
92	120	9.60	120	9.60
93 and over	120	9.61	120	9.61

§ 8.92b Payment to the insured where the monthly installment of insurance under the provisions of section 717(e) of title 38, United States Code, is less than $10 under the option selected.

(a) If the option selected by the insured requires payment of monthly installments of less than $10, the amount payable shall be paid under option 2 (§§ 8.79, 8.80, 8.80c, and 8.81, as applicable) in such maximum number of monthly installments as are a multiple of 12 and will provide a monthly installment of not less than $10.

(b) Where payment is to be made in 12 or 24 monthly installments, the amount of each monthly installment shall be paid in accordance with §§ 8.80a, 8.80b, 8.80d, and 8.81a, as applicable.

(c) If the present value of the amount payable at the time the insured initially becomes entitled to payment thereof is not sufficient to pay at least 12 monthly installments of not less than $10 each, such amount shall be payable in one sum.

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: February 26, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-2945 Filed 3-4-71;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1062-A]

PART 1033—CAR SERVICE

Distribution of Gondola Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washingon, D.C., on the 26th day of February 1971.

Upon further consideration of Service Order No. 1062 and good cause appearing therefor:

It is ordered, That: § 1033.1062 *Service Order No. 1062-A* (Distribution of Gondola Cars) be, and it is hereby, vacated and set aside.

(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 this order shall become effective at 12:01 a.m., March 3, 1971; 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 upon the American Short Line Railroad Association; 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,
Secretary.

[FR Doc.71-3061 Filed 3-4-71;8:50 am]

[S.O. 1066]

PART 1033—CAR SERVICE

Distribution of Gondola Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of February 1971.

It appearing, that an acute shortage of plain unequipped general service gondola cars exists on the railroads named in section (a) paragraph (1) herein; that shippers located on the lines of these carriers are being deprived of such cars required for loading, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that certain gondola cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owners; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of certain gondola cars owned by these railroads are ineffective; and that efforts by the Association of American Railroads to promote more equitable distribution of gondola cars have proved ineffective. 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:

§ 1033.1066 Service Order No. 1066.

(a) *Distribution of Gondola 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 car service:

(1) Return to owners empty, except as otherwise authorized in subparagraph (2) of this paragraph, all plain unequipped general service gondola cars which are listed in the Official Railway Equipment Register I.C.C. R.E.R. 378 issued by E. J. McFarland, or reissues thereof, as having mechanical designations "GB" or "GT" owned by the following railroads:

The Baltimore and Ohio Railroad Co. Reporting marks: B&O.
Bessemer and Lake Erie Railroad Co.
Reporting marks: B&LE.
The Central Railroad Co. of New Jersey, Robert D. Timpany, Trustee.
Reporting marks: CNJ.
The Chesapeake and Ohio Railway Co.
Reporting marks: C&O.
Erie Lackawanna Railway Co.
Reporting marks: EL, DL&W, Erie.
Lehigh Valley Railroad Co., John F. Nash and R. C. Haldeman, Trustees.
Reporting marks: LV.
Missouri-Kansas-Texas Railroad Co.
Reporting marks: MKT, BKTY.
Norfolk and Western Railway Co.
Reporting marks: N&W, NKP, P&WV, WAB.
Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees.
Reporting marks: PC, NYC, PRR.
The Pittsburgh and Lake Erie Railroad Co.
Reporting marks: P&LE.
Reading Co.
Reporting marks: RDG.

Union Railroad Co. (Pittsburgh, Pa.).
Reporting marks: Union, URR.
Western Maryland Railway Co.
Reporting marks: WM.

(2) Gondola cars described in subparagraph (1) of this paragraph may be loaded only to destinations on or via the owning road or to a junction with the owner. When empty at a junction with the owner, cars must be delivered empty to the owner at that junction. Cars must not be back-hauled to obtain loading as authorized in this paragraph.

(3) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded gondola car, described in this order, contrary to the provisions of this order.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., March 3, 1971.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(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 order 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 upon the American Short Line Railroad Association; 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,
Secretary.

[FR Doc.71-3062 Filed 3-4-71;8:50 am]

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-381; Order No. 408]

PART 101—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

Accounting Treatment for Expenditures for Research and Development

AUGUST 26, 1970.

F.R. Doc. 70-11626, published at page 13983 in the issue dated Thursday, September 3, 1970, is corrected by:

On page 13986, left column, line 19: Change the words "units of" to "units or."

On page 13986, left column, line 44: Change "24.B" to "27.B."

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3004 Filed 3-4-71;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

MINIMUM TAX FOR TAX PREFERENCES

Notice of Proposed Rule Making; Correction

In F.R. Doc. 70-17544 appearing at page 19757 in the issue for Wednesday, December 30, 1970, the following change should be made:

The year "1971" in the last line of Example (4) of § 1.56-2(e) should be "1972".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.71-3011 Filed 3-4-71;8:46 am]

[26 CFR Part 1]

INCOME TAX

Treatment of Certain Insurance Receipts for Excess Living Expenses

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to provide regulations under section 123 of the Internal Revenue Code of 1954, as amended by section 901 of the Tax Reform Act of 1969 (83 Stat. 709), the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Section 1.123 is amended by revising the section number in the title, the section number in the statutory material, and by revising the historical note. These amended provisions read as follows:

§ 1.124 Statutory provisions; cross references to other acts.

SEC. 124. *Cross references to other acts.* * * *

[Sec. 124 as amended by section 501(t), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 885); sec. 2201(25), Veterans' Benefits Acts of 1957 (71 Stat. 160); sec. 13 (t), Act of Sept. 2, 1958 (Public Law 85-857, 72 Stat. 1266); as renumbered by sec. 206(a), Rev. Act 1964 (78 Stat. 38); as renumbered by sec. 1(a)(2), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 32); as renumbered by sec. 901, Tax Reform Act 1969 (83 Stat. 709)]

PAR. 2. There are inserted immediately following § 1.122-1 the following new sections:

§ 1.123 Statutory provisions; amounts received under insurance contracts for certain living expenses.

SEC. 123. *Amounts received under insurance contracts for certain living expenses*—(a) *General rule.* In the case of an individual whose principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by government authorities because of the occurrence or threat of occurrence of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence.

(b) *Limitation.* Subsection (a) shall apply to amounts received by the taxpayer for living expenses incurred during any period only to the extent the amounts received do not exceed the amount by which—

(1) The actual living expenses incurred during such period for himself and members of his household resulting from the loss of use or occupancy of their residence, exceed

(2) The normal living expenses which would have been incurred for himself and members of his household during such period.

[Sec. 123 as added by sec. 901, Tax Reform Act 1969 (83 Stat. 709)]

§ 1.123-1 Exclusion of insurance proceeds for reimbursement of certain living expenses.

(a) *In general.* (1) Gross income does not include insurance proceeds received by an individual on or after January 1, 1969, pursuant to the terms of an insurance contract for indemnification of the temporary increase in living expenses resulting from the loss of use or occupancy of his principal residence, or a part thereof, due to damage or destruction by fire, storm, or other casualty. The term "other casualty" has the same meaning assigned to such term under section 165(c)(3). The exclusion also applies in the case of an individual who is denied access to his principal residence by governmental authorities because of the occurrence (or threat of occurrence) of such a casualty. The amount excludable under this section is subject to the limitation set forth in paragraph (b) of this section.

(2) This exclusion applies to amounts received as reimbursement or compensation for the reasonable and necessary increase in living expenses incurred by the insured and members of his household to maintain their customary standard of living during the loss period.

(3) This exclusion does not apply to an insurance recovery for the loss of rental income. Nor does the exclusion apply to any insurance recovery which compensates for the loss of, or damage to, real or personal property. See section 165(c)(3) relating to casualty losses; section 1231 relating to gain on an involuntary conversion of a capital asset held for more than six months, and section 1033 relating to recognition of gain on an involuntary conversion. In the case of property used by an insured partially as a principal residence and partially for other purposes, the exclusion does not apply to the amount of insurance proceeds which compensates for the portion of increased expenses attributable to the nonresidential use of temporary replacement property during the loss period. In the case of denial of access to a principal residence by governmental authority, the exclusion provided by this section does not apply to an insurance recovery received by an individual as reimbursement for living expenses incurred by reason of a governmental condemnation or order not related to a casualty or the threat of a casualty.

(4) (i) Subject to the limitation set forth in paragraph (b), the amount excludable is the amount which is identified by the insurer as being paid exclusively for increased living expenses resulting from the loss or use or occupancy of the principal residence and pursuant to the terms of the insurance contract.

(ii) When a lump-sum insurance settlement includes, but does not specifically identify, compensation for property damage, loss of rental income, and increased living expenses, the amount of such settlement allocable to living expenses shall, in the case of uncontested claims, be that portion of the settlement which bears the same ratio to the total recovery as the amount of claimed increased living expense bears to the total amount of claimed losses and expenses,

to the extent not in excess of the coverage limitations specified in the contract for such losses and expenses.

(iii) In the case of a lump-sum settlement involving contested claims, the insured shall establish the amount reasonably allocable to increased living expenses, consistent with the terms of the contract and other facts of the particular case.

(iv) In no event may the amount of a lump-sum settlement which is allocable to increased living expenses exceed the coverage limitation specified in the contract for increased living expenses. Where, however, a coverage limitation is applicable to the total amount payable for increased living expenses and, for example, loss of rental income, the amount of an unitemized settlement which is allocable to increased living expenses may not exceed the portion of the applicable coverage limitation which bears the same ratio to such limitation as the amount of increased living expenses bears to the sum of the amount of such increased living expenses and the amount, if any, of lost rental income.

(5) The portion of any insurance recovery for increased living expenses which exceeds the limitation set forth in paragraph (b) shall be included in gross income under section 61 of the Code.

(b) *Limitation*—(1) *Amount excludable.* The amount excludable under this section is limited to amounts received which are not in excess of the amount by which (i) total actual living expenses incurred by the insured and members of his household which result from the loss of use or occupancy of their residence exceed (ii) the total normal living expenses which would have been incurred during the loss period but are not incurred as a result of the loss of use or occupancy of the principal residence. Generally, the excludable amount represents such excess expenses actually incurred by reason of a casualty, or threat thereof, for renting suitable housing and for extraordinary expenses for transportation, food, utilities, and miscellaneous services during the period of repair or replacement of the damaged principal residence or denial of access by governmental authority.

(2) *Actual living expenses.* For purposes of this section, actual living expenses are the reasonable and necessary expenses incurred as a result of the loss of use or occupancy of the principal residence to maintain the insured and members of his household in accordance with their customary standard of living. Actual living expenses must be of such a nature as to qualify as a reimbursable expense under the terms of the applicable insurance contract without regard to monetary limitations upon coverage. Generally, actual living expenses include the cost during the loss period of temporary housing, utilities furnished at the place of temporary housing, meals obtained at restaurants which customarily would have been prepared in the residence, transportation, and other miscellaneous services. To the extent that the loss of use or occupancy of the principal residence results merely in an increase in the amount expended for items of living expenses normally incurred, such as food and transportation, only the increase in such costs shall be considered as actual living expenses in computing the limitation.

(3) *Normal living expenses not incurred.* Normal living expenses consist of the same categories of expenses comprising actual living expenses which would have been incurred but are not incurred as a result of the casualty or threat thereof. If the loss of use of the residence results in a decrease in the amount normally expended for a living expense item during the loss period, the item of normal living expense is considered not to have been incurred to the extent of the decrease for purposes of computing the limitation.

(4) *Examples.* The application of this paragraph (b) may be illustrated by the following examples:

Example (1). On March 1, 1970, A's principal residence, a dwelling owned by A no part of which was rented to others or used for nonresidential purposes, was extensively damaged by fire. The damaged residence was under repair during the entire month of March making it necessary for A and his spouse to obtain temporary lodging and to take their meals at a restaurant. A and his spouse incur expenses of $200 for lodging at a motel, $180 for meals which customarily would have been prepared in his residence, and $25 for commercial laundry service which customarily would have been done by A's wife. A makes (directly or through mortgage insurance) or remains liable for, the required March payment of $190 on the mortgage note on his residence. The mortgage payment results from a contractual obligation having no casual relationship to the occurrence of the casualty and is not considered as an actual living expense resulting from the loss of use of the residence. A's customary commuting expense of $40 for bus fares to and from work is decreased by $20 for the month because of the motel's closer proximity to his place of employment. Other transportation expenses remain stable. Since there has been a decrease in the amount of A's customary bus fares, normal transportation expenses are considered not to have been incurred to the extent of the decrease. Finally, A does not incur customary expenses of $150 for food obtained for home preparation, $75 for utilities expenses, and $10 for laundry cleansers. The limitation upon the excludable amount of an insurance recovery for excess living expenses is $150, computed as follows:

LIVING EXPENSES

	Actual resulting from casualty	Normal not incurred	Increase (decrease)
Housing	$200.00		$200.00
Utilitites		$75.00	(75.00)
Meals	180.00	150.00	30.00
Transportation		20.00	(20.00)
Laundry	25.00	10.00	15.00
Total	405.00	255.00	150.00

Example (2). Assume the same facts as in example (1) except that the damaged residence is not owned by A but is rented to him for $100 per month and that the risk of loss is upon the lessor. Since A would not have incurred the normal rental of $100 for March, the excludable amount is limited to $50 ($150 as in previous example less $100 normal rent not incurred).

(c) *Principal residence.* Whether or not property is used by the insured taxpayer and members of his household as their principal residence depends upon all the facts and circumstances in each case. For purposes of this section a principal residence may be a dwelling or an apartment leased to the insured as well as a dwelling or apartment owned by the insured.

[FR Doc.71-3104 Filed 3-4-71;8:54 am]

[26 CFR Part 1]

INCOME TAX

Gain From Dispositions of Certain Depreciable Realty

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to reflect section 521 (b), (c), and (e) of the Tax Reform Act of 1969 (83 Stat. 652, 653), the Income Tax Regulations (26 CFR Part 1) under section 1250 of the Internal Revenue Code of 1954 (relating to gain from dispositions of certain depreciable realty) are amended as follows:

PARAGRAPH 1. Section 1.1250-1 is amended by adding new paragraphs (a), (d)(1), and (g) to read as follows:

§ 1.1250-1 Gain from dispositions of certain depreciable realty.

(a) *Dispositions after December 31, 1969*—(1) *Ordinary income.* (i) In general, section 1250(a)(1) provides that, upon a disposition of an item of section 1250 property after December 31, 1969,

the applicable percentage of the lower of—

(a) The additional depreciation (as defined in § 1.1250–2) attributable to periods after December 31, 1969 in respect of the property, or

(b) The excess of the amount realized on a sale, exchange, or involuntary conversion (or the fair market value of the property on any other disposition) over the adjusted basis of the property,

shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 (that is, shall be recognized as ordinary income). The amount of such gain shall be determined separately for each item (see subparagraph (2)(ii) of this paragraph) of section 1250 property. If the amount determined under (b) of this subdivision exceeds the amount determined under (a) of this subdivision, then such excess shall be treated as provided in subdivision (ii) of this subparagraph. For relation of section 1250 to other provisions, see paragraph (c) of this section.

(ii) If the amount determined under subdivision (i)(b) of this subparagraph exceeds the amount determined under subdivision (i)(a) of this subparagraph, then the applicable percentage of the lower of—

(a) The additional depreciation attributable to periods before January 1, 1970, or

(b) Such excess,

shall also be recognized as ordinary income.

(iii) If gain would be recognized upon a disposition of an item of section 1250 property under subdivisions (i) and (ii) of this subparagraph, and if section 1250 (d) applies, then the gain recognized shall be considered as recognized first under subdivision (i) of this subparagraph. (See example (3)(i) of paragraph (c)(4) of § 1.1250–3.)

(2) *Meaning of terms.* (i) For purposes of section 1250, the term "disposition" shall have the same meaning as in paragraph (a)(3) of § 1.1245–1. "Section 1250 property" is, in general, depreciable real property other than section 1245 property. See paragraph (e) of this section. See paragraph (d)(1) of this section for meaning of the term "applicable percentage." If, however, the property is considered to have two or more elements with separate periods (for example, because units thereof are placed in service on different dates, improvements are made to the property, or because of the application of paragraph (h) of § 1.1250–3), see the special rules of § 1.1250–5.

(ii) For purposes of applying section 1250, the facts and circumstances of each disposition shall be considered in determining what is the appropriate item of section 1250 property. In general, a building is an item of section 1250 property, but in an appropriate case more than one building may be treated as a single item. For the manner of determining whether an expenditure shall be treated as an addition to capital account of an item of section 1250 property or as a separate item of section 1250 property, see paragraph (d)(2)(iii) of § 1.1250–5.

(3) *Sale, exchange, or involuntary conversion after December 31, 1969.* (i) In the case of a disposition of section 1250 property by a sale, exchange, or involuntary conversion after December 31, 1969, the gain to which section 1250(a)(1) applies is the applicable percentage for the property (determined under paragraph (d)(1) of this section) multiplied by the lower of (a) the additional depreciation in respect of the property attributable to periods after December 31, 1969, or (b) the excess (referred to as "gain realized") of the amount realized over the adjusted basis of the property.

(ii) In addition to gain recognized under section 1250(a)(1) and subdivision (i) of this subparagraph, gain may also be recognized under section 1250(a)(2) and this subdivision if the gain realized exceeds the additional depreciation attributable to periods after December 31, 1969. In such a case, the amount of gain recognized under section 1250(a)(2) and this subdivision is the applicable percentage for the property (determined under paragraph (d)(2) of this section) multiplied by the lower of (a) the additional depreciation attributable to periods before January 1, 1970, or (b) the excess (referred to as "remaining gain") of the gain realized over the additional depreciation attributable to periods after December 31, 1969.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Section 1250 property which has an adjusted basis of $500,000 is sold for $650,000 after December 31, 1969, and thus the gain realized is $150,000. At the time of the sale the additional depreciation in respect of the property attributable to periods after December 31, 1969, is $190,000 and the applicable percentage is 100 percent (paragraph (d)(1)(i)(e) of this section). Since the gain realized ($150,000), is lower than the additional depreciation ($190,000), the amount of gain recognized as ordinary income under section 1250(a)(1) is $150,000 (that is, 100 percent of $150,000). No gain is recognized under section 1250(a)(2).

Example (2). Section 1250 property which has an adjusted basis of $440,000 is sold for $500,000 on December 31, 1974, and thus the gain realized is $60,000. The property was acquired on March 31, 1965. At the time of the sale, the additional depreciation attributable to periods after December 31, 1969, is $20,000, and the additional depreciation attributable to periods before January 1, 1970, is $60,000. The property qualified as residential rental property for each taxable year ending after December 31, 1969, and the applicable percentage is 95 percent (paragraph (b)(1)(i)(c) of this section). The applicable percentage under paragraph (d)(2) of this section is 15 percent. Since the additional depreciation attributable to periods after December 31, 1969 ($20,000), is lower than the gain realized ($60,000), the amount of gain recognized as ordinary income under section 1250(a)(1) is $19,000 (that is, 95 percent of $20,000). In addition, gain is recognized under section 1250(a)(2) since there is remaining gain of $40,000 (that is, the gain realized ($60,000) minus the additional depreciation attributable to periods after December 31, 1969 ($20,000)). Since the remaining gain of $40,000 is lower than the additional depreciation attributable to periods before January 1, 1970 ($60,000), the amount of gain recognized as ordinary income under section 1250(a)(2) is $6,000 (that is, 15 percent of $40,000). The remaining $35,000 (that is, gain realized $60,000, minus gain recognized under section 1250(a), $25,000) of the gain may be treated as gain from the sale or exchange of property described in section 1231.

(4) *Other dispositions after December 31, 1969.* (i) In the case of a disposition of section 1250 property after December 31, 1969, other than by way of a sale, exchange, or involuntary conversion, the gain to which section 1250(a)(1) applies is the applicable percentage for the property (determined under paragraph (d)(1) of this section) multiplied by the lower of (a) the additional depreciation in respect of the property attributable to periods after December 31, 1969, or (b) the excess (referred to as "potential gain") of the fair market value of the property over its adjusted basis. In addition, if the potential gain exceeds the additional depreciation attributable to periods after December 31, 1969, then the gain to which section 1250(a)(2) applies is the applicable percentage for the property (determined under paragraph (d)(2) of this section) multiplied by the lower of (c) the additional depreciation attributable to periods before January 1, 1970, or (d) the excess (referred to as "remaining potential gain") of the potential gain over the additional depreciation attributable to periods after December 31, 1969. If property is transferred by a corporation to a shareholder for an amount less than its fair market value in a sale or exchange, for purposes of applying section 1250 such transfer shall be treated as a disposition other than by way of a sale, exchange, or involuntary conversion.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Section 1250 property having an adjusted basis of $500,000 and a fair market value of $550,000 is distributed by a corporation to a stockholder in complete liquidation of the corporation after December 31, 1969, and thus the potential gain is $50,000. At the time of the liquidation, the additional depreciation for the property attributable to periods after December 31, 1969, is $80,000 and the applicable percentage is 100 percent (paragraph (d)(1)(i)(e) of this section). Since the potential gain of $50,000 is lower than the additional depreciation attributable to periods after December 31, 1969 ($80,000), the amount of gain recognized as ordinary income under section 1250(a)(1) is $50,000 (that is, 100 percent of $50,000) even though in the absence of section 1250, section 336 would preclude recognition of gain to the corporation.

Example (2). The facts are the same as in example (1) except that the fair market value of the property is $650,000, and thus the potential gain is $150,000. Since the additional depreciation attributable to periods after December 31, 1969 ($80,000), is lower than the potential gain of $150,000, the amount of gain recognized as ordinary income under section (a)(1) is $80,000 (that

is, 100 percent of $80,000). In addition, section 1250(a)(2) applies since there is remaining potential gain of $70,000, that is, potential gain ($150,000) minus additional depreciation attributable to periods after December 31, 1969 ($80,000). The additional depreciation attributable to periods before January 1, 1970, is $90,000 and the applicable percentage under paragraph (d)(2) of this section is 50 percent. Since the remaining potential gain of $70,000 is lower than the additional depreciation attributable to periods before January 1, 1970 ($90,000), the amount of gain recognized as ordinary income under section 1250(a)(2) is $35,000 (that is, 50 percent of $70,000). Thus under section 1250(a), $115,000 (that is, $80,000 under section 1250(a)(1), plus $35,000 under section 1250(a)(2)) is recognized as ordinary income, even though in the absence of section 1250, section 336 would preclude recognition of gain to the corporation.

(5) *Instances of nonapplication.* (i) Section 1250(a)(1) does not apply to losses. Thus, section 1250(a)(1) does not apply if a loss is realized upon a sale, exchange, or involuntary conversion of property, all of which is considered section 1250 property, nor does the section apply to a disposition of such property other than by way of sale, exchange, or involuntary conversion if at the time of the disposition the fair market value of such property is not greater than its adjusted basis.

(ii) In general, in the case of section 1250 property with a holding period under section 1223 of more than 1 year, section 1250(a)(1) does not apply if for periods after December 31, 1969, there are no "depreciation adjustments in excess of straight line" (as computed under section 1250(b) and paragraph (b) of § 1.1250–2).

(6) *Allocation rules.* (i) In the case of a sale, exchange, or involuntary conversion of section 1250 property and nonsection 1250 property in one transaction after December 31, 1969, the total amount realized upon the disposition shall be allocated between the section 1250 property and the other property in proportion to their respective fair market values. Such allocation shall be made in accordance with the principles set forth in paragraph (a)(5) of § 1.1245–1 (relating to allocation between section 1245 property and nonsection 1245 property).

(ii) If an item of section 1250 property has two (or more) applicable percentages because one subdivision of paragraph (d)(1)(i) of this section applies to one portion of the taxpayer's holding period (determined under § 1.1250–4) and another subdivision of such paragraph applies with respect to another such portion, then the gain realized on a sale, exchange, or involuntary conversion, or the potential gain in the case of any other disposition, shall be allocated to each such portion of the taxpayer's holding period after December 31, 1969, in the same proportion as the additional depreciation with respect to such item for such portion bears to the additional depreciation with respect to such item for the entire holding period after December 31, 1969.

* * * * *

(d) *Applicable percentage*—(1) *Definition for purposes of section 1250(a)(1).* (i) For purposes of section 1250(a)(1), the term "applicable percentage" means—

(*a*) In the case of property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held 20 full months;

(*b*) In the case of property constructed, reconstructed, or acquired by the taxpayer before January 1, 1975, with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing is financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B) (relating to approved dispositions of certain Government-assisted housing projects), 100 percent minus 1 percentage point for each full month of the taxpayer's holding period for the property (determined under § 1.1250–4) during which the property qualified under this sentence, beginning after the date on which the property so qualified for 20 full months.

(*c*) In the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by (*a*) and (*b*) of this subdivision, 100 percent minus 1 percentage point for each full month of the taxpayer's holding period for the property (determined under § 1.1250–4) included within a taxable year for which the property qualified as residential rental property, beginning after the date on which the property so qualified for 100 full months.

(*d*) In the case of property with respect to which a deduction was allowed under section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing), 100 percent minus 1 percentage point for each full month of the taxpayer's holding period (determined under § 1.1250–4) beginning 100 full months after the date on which the property was placed in service.

(*e*) In the case of all other property, 100 percent.

The provisions of (*a*), (*b*), and (*c*) of this subdivision shall not apply with respect to additional depreciation described in section 1250(b)(4). If the taxpayer's holding period under § 1.1250–4 includes a period before January 1, 1970, such period shall be taken into account in applying each provision of this subdivision.

(ii) A single item of property may have two (or more) applicable percentages under the provisions of subdivision (i) of this subparagraph. For example, if the provision of subdivision (i) which applies to an item of section 1250 property (or to an element of such property if the property is treated as consisting of more than one element under § 1.1250–5) in the taxable year in which the item (or element) is disposed of did not apply to the item (or element) in a prior taxable year which is included within the taxpayer's holding period under § 1.1250–4 and which ends after December 31, 1969, then each provision of subdivision (i) of this subparagraph shall apply only for the period during which the property qualified under such provision.

(iii) If the taxpayer makes rehabilitation expenditures and elects to compute depreciation under section 167(k) with respect to the property attributable to the rehabilitation expenditures, such property will generally constitute a separate improvement under paragraph (c) of § 1.1250–5 and therefore will constitute an element of section 1250 property. For computation of applicable percentage and gain recognized under section 1250(a) in such a case, see paragraph (a) of § 1.1250–5.

(iv) The principles of this subparagraph may be illustrated by the following examples:

Example (1). Section 1250 property is sold on December 31, 1970, pursuant to a written contract which was binding on the owner of the property on July 24, 1969, and at all times thereafter. The property was acquired on July 31, 1968. The applicable percentage for the property under subdivision (i)(*a*) of this subparagraph is 91 percent, since the property was held 29 full months.

Example (2). Section 1250 property is sold on June 30, 1978. The property was acquired by a calendar year taxpayer on June 30, 1966. Subdivision (i)(*c*) of this subparagraph applies to the property in 1977 and 1978. However, subdivision (i)(*c*) of this subparagraph applied to the property for the taxable years of 1970 through 1976. Thus, the property has two applicable percentages under this subparagraph. The period before January 1, 1970 (42 full months), and the period from 1970 through 1976 (84 full months) are both taken into account in determining the applicable percentage under subdivision (i)(*c*) of this subparagraph. Thus, the applicable percentage is 74 percent (that is, 100 percent minus the excess of the holding period taken into account (126 full months) over 100 full months). The applicable percentage for the years 1977 and 1978 is 100 percent under subdivision (i)(*e*) of this subparagraph.

Example (3). Section 1250 property is sold on December 31, 1968. The property was acquired by a calendar year taxpayer on December 31, 1969. The taxpayer made rehabilitation expenditures in 1973 and properly elected to compute depreciation under section 167(k) on the property attributable to the expenditures for the 60-month period beginning on January 1, 1974, the date such property was placed in service. Subdivision (i)(*c*) applies to the property (other than the property with respect to which a deduction was allowed under section 167(k)) for the taxable years of 1970 through 1978 (108 full months) and the applicable percentage for such property is 92 percent. The applicable percentage for the property with respect to which a deduction under section 167(k) was allowed is 100 percent under subdivision (i)(*d*) of this subparagraph, since the holding period for purposes of such subdivision begins on the date such property is placed in service.

Example (4). Section 1250 property is sold by a calendar year taxpayer on March 31, 1974. The property was transferred to the taxpayer by gift on December 31, 1970, and

under section 1250(e)(2), the taxpayer's holding period for the property for purposes of computing the applicable percentage includes the transferor's holding period of 80 full months. Subdivision (i)(c) of this subparagraph applies to the property in the years 1970 through 1974. The applicable percentage under subdivision (i)(c) of this subparagraph is 81 percent, since the period before January 1, 1970 (68 full months), and that portion of the period after December 31, 1969, during which such subdivision applied (51 full months) are taken into account.

* * * * *

(g) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). Section 1250 property which has an adjusted basis of $350,000 is sold for $630,000 on December 31, 1984. The property was acquired by a calendar year taxpayer on December 31, 1969. For the taxable years from 1970 through 1980, the property qualified as residential rental property and the applicable percentage for those years is 68 percent (paragraph (d)(1)(i)(c) of this section). For taxable years from 1981 through 1984, the property did not qualify as residential rental property and the applicable percentage for those years is 100 percent (paragraph (d)(1)(i)(e) of this section). The additional depreciation for the years from 1970 through 1980 is $120,000. The additional depreciation for the years from 1981 through 1984 is $20,000. The gain realized is $280,000 (that is, amount realized, $630,000, minus adjusted basis $350,000). The gain recognized as ordinary income under section 1250(a)(1) is computed in two steps. First, since the additional depreciation attributable to the years 1970 through 1980 ($120,000) is lower than the gain realized attributable to such years determined under paragraph (a)(6) of this section ($240,000, that is, gain realized, $280,000, multiplied by 12/14), the gain recognized as ordinary income under section 1250(a)(1) in the first step is $81,600, that is, 68 percent of $120,000. Second, since the additional depreciation attributable to the years 1981 through 1984 ($20,000) is lower than the gain realized attributable to those years ($40,000, that is, gain realized, $280,000, multiplied by 2/14), the gain recognized as ordinary income under section 1250(a)(1) for the years from 1981 through 1984 is $20,000 (that is, 100 percent of $20,000). The total gain recognized under section 1250(a)(1) is $101,600 (that is, $81,600 plus $20,000).

Example (2). Section 1250 property which has an adjusted basis of $400,000 is sold for $472,000 on December 31, 1978. The property was acquired on December 31, 1966. The additional depreciation attributable to periods before January 1, 1970, is $40,000 and the applicable percentage under paragraph (d)(2) of this section is zero percent. The property qualifies as residential rental property for the years 1970 through 1976, but fails to qualify for 1977 and 1978. Under paragraph (d)(1) of this section, the applicable percentage for the years 1970 through 1976 is 80 percent (paragraph (d)(1)(i)(c) of this section), and the applicable percentage for the years 1977 and 1978 is 100 percent (paragraph (d)(1)(i)(e) of this section). The additional depreciation attributable to the years 1970 through 1976 is $50,000, and the additional depreciation attributable to the years 1977 and 1978 is $10,000. The gain recognized as ordinary income under section 1250(a)(1) is computed in two steps. First, since the additional depreciation attributable to the years 1970 through 1976 ($50,000) is lower than the gain realized attributable to such years ($60,000, that is, $72,000 multiplied by 5/6), the gain recognized under section 1250(a)(1) in the first step is $40,000 (that is, 80 percent of $50,000). Second, since the additional depreciation attributable to 1977 and 1978 ($10,000) is lower than the gain realized attributable to such years ($12,000, that is, $72,000 multiplied by 1/6), the gain recognized under section 1250(a)(1) in the second step is $12,000 (that is, 100 percent of $12,000). In addition, section 1250(a)(2) applies. However, since the applicable percentage is zero percent, none of the gain is recognized as ordinary income under section 1250(a)(2). Thus, the remaining $20,000 (that is, gain realized, $72,000, minus gain recognized under section 1250(a), $52,000) of the gain may be treated as gain from the sale or exchange of property described in section 1231.

PAR. 2. Section 1250–2 is amended by adding a new paragraph (a)(2), revising paragraph (a)(3), adding new subparagraphs (2) and (4) to paragraph (b), and by adding a new example (3) to paragraph (b)(6). These added and revised provisions read as follows:

§ 1.1250–2 Additional depreciation defined.

(a) *In general.* * * *

(2) *Definition for purposes of section 1250(b)(4).* Except as otherwise provided in paragraph (e) of this section, for purposes of section 1250(b)(4), the term "additional depreciation" means—

(i) In the case of property with respect to which a deduction under section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) was allowed, which at the time of disposition has a holding period under section 1223 of not more than 1 year from the time the rehabilitation expenditures were incurred, the "depreciation adjustments" (as defined in paragraph (d) of this section) in respect of the property, and

(ii) In the case of property with respect to which a deduction under section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) was allowed, which at the time of disposition has a holding period under section 1223 of more than 1 year from the time the rehabilitation expenditures were incurred, the depreciation adjustments in excess of straight line for the property, computed under paragraph (b)(2) of this section.

For purposes of this subparagraph, all rehabilitation expenditures which are incurred in connection with the rehabilitation of an element of section 1250 property shall be considered incurred on the date the last such expenditure is considered incurred under the accrual method of accounting, regardless of the method of accounting used by the taxpayer with regard to other items of income and expense. If the property consists of two or more elements (for example, if the property is placed in service at different times), then each element shall be treated as if it were a separate property and the expenditures attributable to each such element shall be considered incurred on the date the last such expenditure is considered incurred.

(3) *Allocation to certain periods.* With respect to a taxable year beginning in 1963 and ending in 1964, or beginning in 1969 and ending in 1970, the amount of depreciation adjustments or of depreciation adjustments in excess of straight line (as the case may be) shall be ascertained by applying the principles of paragraph (c)(3) of § 1.167(a)–8 (relating to determination of adjusted basis of retired asset), and the amount determined in such manner shall be allocated on a daily basis in order to determine the portion thereof which is attributable to a period after December 31, 1963, or after December 31, 1969, as the case may be.

* * * * *

(b) *Computation of depreciation adjustments in excess of straight line.* * * *

(2) *Depreciation under section 167(k).* For purposes of paragraph (a)(2) of this section, depreciation adjustments in excess of straight line shall be, in the case of any property with respect to which a deduction was allowed under section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing), the excess of (i) the sum of the "depreciation adjustments" (as defined in paragraph (d) of this section) allowed in respect of the property, over (ii) the sum such adjustments would have been if such adjustments had been determined for the entire period the property was held under the straight line method of depreciation permitted by section 167(b)(1).

* * * * *

(4) *Special rule for computing useful life and salvage value (section 167(k)).* For purposes of computing under subparagraph (2)(ii) of this paragraph the sum the depreciation adjustments would have been under the straight line method, the useful life and salvage value permitted under section 167(k) shall not apply, the useful life of the property shall be determined under paragraph (b) of § 1.167(a)–1 (or, if applicable, under the lease-renewal-period provision of paragraph (c) of this section), and the salvage value of the property shall be determined under paragraph (c) of § 1.167(a)–1. Such useful life or salvage value shall be determined by taking into account for each taxable year the same facts and circumstances as would have been taken into account if the taxpayer had used the straight line method permitted under section 167(b)(1) throughout the period the property was held.

* * * * *

(6) *Examples.* * * *

Example (3). On January 1, 1978, a calendar year taxpayer sells section 1250 property. The property, which is attributable to rehabilitation expenditures of $50,000 incurred in 1970, was placed in service on January 1, 1971. The taxpayer elected to compute depreciation for the period of 1971 through 1975 under section 167(k). Under such section salvage value is not taken into account in computing annual allowances, and the useful life of the property is deemed to be 5 years. For purposes of applying subparagraph (4) of this paragraph, if the taxpayer had used the straight line method permitted under section 167(b)(1) for such period,

he would have used a salvage value of $5,000 and a useful life of 15 years. Depreciation under the straight line method would thus have been $3,000 each year, 1/15 of $45,000 (that is, $50,000 minus $5,000). As of January 1, 1978, the additional depreciation for the property is $29,000, as computed in the table below:

Year	Actual depreciation	Straight line	Additional depreciation (deficit)
1971	$10,000	$3,000	$7,000
1972	10,000	3,000	7,000
1973	10,000	3,000	7,000
1974	10,000	3,000	7,000
1975	10,000	3,000	7,000
1976		3,000	(3,000)
1977		3,000	(3,000)
Total	50,000	21,000	29,000

PAR. 3. Section 1.1250–3 is amended by adding a new example (3) to paragraph (c)(4) to read as follows:

§ 1.1250–3 Exceptions and limitations.

* * * * *

(c) *Limitation for certain tax-free transactions.* * * *

(4) *Examples.* * * *

Example (3). (i) Miller transfers section 1250 property after December 31, 1969, to a corporation, which is not exempt from taxation, in exchange for cash of $9,000 and stock in the corporation worth $31,000, in a transaction qualifying under section 351. Thus, the amount realized is $40,000 ($9,000 plus $31,000). The property has an applicable percentage under paragraph (d)(1)(i)(*e*) of this section of 100 percent and an applicable percentage under paragraph (d)(2) of this section of 50 percent. The adjusted basis of the property on the date of the transfer is $24,000, and the gain realized is $16,000 (that is, amount realized, $40,000, minus adjusted basis, $24,000). The additional depreciation attributable to periods after December 31, 1969, is $8,000 and the additional depreciation attributable to periods before January 1, 1970, is $12,000. Since the additional depreciation attributable to periods after December 31, 1969 ($8,000), is lower than the gain realized ($16,000), the amount of gain which would be recognized as ordinary income under section 1250(a)(1) would be $8,000 (100 percent of $8,000) if the limitation provided in section 1250(d)(3) did not apply. In addition, gain is recognized under section 1250(a)(2) since there is a remaining potential gain of $8,000 (that is, gain realized, $16,000, minus additional depreciation attributable to period after December 31, 1969 ($8,000). Since the remaining potential gain ($8,000) is lower than the additional depreciation attributable to periods before January 1, 1970 ($12,000), the amount of gain which would be recognized under section 1250(a)(2) would be $4,000 (50 percent of $8,000) if the limitation in section 1250(d)(3) did not apply. Since under section 351(b) gain in the amount of $9,000 would be recognized to the transferor without regard to section 1250, the limitation in section 1250(d)(3) limits the gain taken into account by the transferor under section 1250(a) to $9,000. Since the section 1250(a)(1) gain is considered as recognized first under paragraph (a)(1)(iii) of § 1.1250–1, of the $9,000 of gain recognized, $8,000 is recognized under section 1250(a)(1) and $1,000 is recognized under section 1250(a)(2).

(ii) The amount of additional depreciation for the property in the hands of the transferee immediately after the transfer is $10,000, the amount of additional depreciation immediately before the transfer ($20,000), minus the sum of (*a*) the amount of additional depreciation necessary to produce an amount equal to the gain recognized under section 1250(a)(1) upon the transfer, $8,000 (that is, gain recognized under section 1250(a)(1), $8,000, divided by 100 percent, the applicable percentage under section 1250(a)(1)), plus (*b*) the amount of additional depreciation necessary to produce an amount equal to the gain recognized under section 1250(a)(2) upon the transfer, $2,000 (that is, gain recognized under section 1250(a)(2), $1,000, divided by 50 percent, the applicable percentage under section 1250(a)(2)). Of this amount, zero (that is, $8,000 minus $8,000) is attributable to periods after December 31, 1969, and $10,000 ($12,000 minus $2,000) is attributable to periods before January 1, 1970.

* * * * *

PAR. 4. Section 1.1250–5 is amended by adding a new paragraph (b), to read as follows:

§ 1.1250–5 Property with two or more elements.

* * * * *

(b) *Dispositions after December 31, 1969*—(1) *Amount treated as ordinary income.* If section 1250 property consisting of two or more elements (described in paragraph (c) of this section) is disposed of after December 31, 1969, the amount of gain taken into account under section 1250(a) shall be the sum, determined in 5 steps under subparagraphs (2), (3), (4), (5), and (6) of this paragraph, of the amount of gain for each element. Steps 3 and 4 are used only if the gain realized exceeds the additional depreciation attributable to periods after December 31, 1969, in respect of the property as a whole.

(2) *Step 1.* The first step is to make the following computations:

(i) In respect of the property as a whole, compute the additional depreciation (as defined in section 1250(b)) attributable to periods after December 31, 1969, and the gain realized. For purposes of this paragraph, in the case of a transaction other than a sale, exchange, or involuntary conversion, the gain realized shall be considered to be the excess of the fair market value of the property over its adjusted basis.

(ii) In respect of each element as if it were a separate property, compute the additional depreciation for the element attributable to periods after December 31, 1969, and the applicable percentage (as defined in section 1250(a)(1)) for the element. For additional depreciation in respect of an element of property acquired in certain transactions, see paragraph (e) of this section. For purposes of determining additional depreciation, the holding period of an element shall be determined under section 1223, applied by treating the element as a separate property. However, for the purpose of determining applicable percentage, the holding period for an element shall, except to the extent provided in paragraphs (c)(5), (e), and (f) of this section, be determined in accordance with the rules prescribed in § 1.1250–4.

(3) *Step 2.* The second step is to determine the amount of gain recognized for each element under section 1250(a)(1) in the following manner:

(i) If the amount of additional depreciation in respect of the property as a whole attributable to periods after December 31, 1969, is equal to the sum of the additional depreciation in respect of each element having such additional depreciation, and if such amount is not more than the gain realized, then the amount of gain to be taken into account for an element under section 1250(a)(1) is the product of the additional depreciation attributable to periods after December 31, 1969, for the element, multiplied by the applicable percentage for the element determined under section 1250(a)(1).

(ii) If subdivision (i) of this subparagraph does not apply, the amount of gain to be taken into account under section 1250(a)(1) for an element is the product of—

(*a*) The additional depreciation attributable to periods after December 31, 1969, for the element multiplied by

(*b*) The applicable percentage for the element determined under section 1250(a)(1) for the element, and multiplied by

(*c*) A ratio, computed by dividing (*1*) the lower of the additional depreciation in respect of the property as a whole which is attributable to periods after December 31, 1969, or the gain realized, by (*2*) the sum of the additional depreciation attributable to periods after December 31, 1969, in respect of each element having such additional depreciation.

(4) *Step (3).* If the gain realized exceeds the additional depreciation in respect of the property as a whole attributable to periods after December 31, 1969,

(i) Compute the additional depreciation attributable to periods before January 1, 1970, and the remaining gain (or remaining potential gain in the case of a transaction other than a sale, exchange, or involuntary conversion), in respect of the property as a whole.

(ii) Compute the additional depreciation attributable to periods before January 1, 1970, and the applicable percentage determined under section 1250(a)(2) in respect of each element as if it were a separate property. For additional depreciation in respect of an element of property acquired in certain transactions, see paragraph (e) of this section. For purposes of determining additional depreciation, the holding period of an element shall be determined under section 1223, applied by treating the element as a separate property. However, for the purpose of determining applicable percentage, the holding period of an element shall, except to the extent provided in paragraphs (c)(5), (e), and (f) of this section, be determined in accordance with the rules prescribed in § 1.1250–4.

(5) *Step (4).* The fourth step is to compute the gain recognized under section 1250(a)(2) for each element (if computation was required under step (3)) in the following manner:

(i) If the amount of additional depreciation in respect of the property as

a whole attributable to periods before January 1, 1970, is equal to the sum of the additional depreciation in respect of each element having such additional depreciation, and if such amount is not more than the remaining gain (or remaining potential gain), then the amount of gain to be taken into account for an element under section 1250(a)(2) is the product of the additional depreciation attributable to periods before January 1, 1970, for the element, multiplied by the applicable percentage determined under section 1250(a)(2) for the element.

(ii) If subdivision (i) of this subparagraph does not apply, the amount of gain to be taken into account for an element under section 1250(a)(2) is the product of—

(a) The additional depreciation attributable to periods before January 1, 1970, for the element, multiplied by,

(b) The applicable percentage for the element determined under section 1250(a)(2), and multiplied by,

(c) A ratio, computed by dividing (1) the lower of the additional depreciation in respect of the property as a whole which is attributable to periods before January 1, 1970,

or the remaining gain (or remaining potential gain), by (2) the sum of the additional depreciation attributable to periods before January 1, 1970, in respect of each element having additional depreciation.

(6) *Step (5).* The fifth step is to compute the sum of the amount of gain for each element, as determined in steps (2) and (4).

(7) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Gain of $60,000 is realized upon a sale, after the December 31, 1969, of section 1250 property which was constructed by the taxpayer after such date. The property consists of four elements (W, X, Y, and Z). Since on the date of sale the amount of additional depreciation attributable to periods after December 31, 1969, in respect of the property as a whole ($32,000), is equal to the sum of the additional depreciation in respect of each element having such additional depreciation and is less than the gain realized, the gain recognized for each element is determined under subparagraph (3)(i) of this paragraph. The amount of gain taken into account under section 1250(a)(1) is $28,500, as determined in the following table in accordance with the additional facts assumed:

Element	Additional depreciation after Dec. 31, 1969	×	Applicable percentage (1250(a)(1))	=	Gain for element
W	$14,000	×	80	=	$11,200
X	6,000	×	90	=	5,400
Y	2,000	×	95	=	1,900
Z	10,000	×	100	=	10,000
Total	32,000				28,500

Example (2). Assume the same facts as in example (1), except that the property was acquired by the taxpayer before January 1, 1970. Since the gain realized ($60,000) exceeds the additional depreciation attributable to periods after December 31, 1969 ($32,000), section 1250(a)(2) applies to the remaining gain of $28,000. Since the additional depreciation in respect of the property as a whole attributable to periods before January 1, 1970 ($21,000), is equal to the sum of the additional depreciation in respect of each element having such additional depreciation and is less than the remaining gain ($28,000), the amount of gain recognized for each element under section 1250(a)(2) is determined under subparagraph (5)(i) of this paragraph. The amount of gain taken into account under section 1250(a)(1) is $28,500 the same as in example (1). The amount of gain taken into account under section 1250(a)(2) is $3,900, as determined in the following table in accordance with the additional facts assumed:

Element	Additional depreciation before Jan. 1, 1970	×	Applicable percentage (1250(a)(2))	=	Gain for element (1250(a)(2))
W	$8,000	×	0	=	$0
X	6,000	×	10	=	600
Y	2,000	×	15	=	300
Z	5,000	×	60	=	3,000
Total	21,000				3,900

Example (3). (i) The facts are the same as in example (2) except that element Y has a deficit in additional depreciation attributable to periods after December 31, 1969, of $6,000 and thus the additional depreciation attributable to periods after December 31, 1969, in respect of the property as a whole is $24,000. The sum of the additional depreciation for each element having additional depreciation is $30,000, or $6,000 more than the additional depreciation in respect of the property as a whole. Thus, the gain recognized for each element under section 1250(a)(1) is determined under subparagraph (3)(ii) of this paragraph. The ratio referred to in subparagraph (3)(ii)(c) of this paragraph is 24:30, that is, the lower of the additional depreciation in respect of the property as a whole attributable to periods after December 31, 1969 ($24,000), or the gain realized ($60,000), divided by the sum of the additional depreciation in respect of each element having such additional depreciation ($30,000). The amount of gain taken into account under section 1250(a)(1) is $21,280, as determined in the following table:

Element	Additional depreciation after Dec. 31, 1969	×	Applicable percentage (1250(a)(1))	×	Ratio	=	Gain for element
W	$14,000	×	80	×	24:30	=	$8,960
X	6,000	×	90	×	24:30	=	4,320
Y	(6,000)	×	95	×	24:30	=	0
Z	10,000	×	100	×	24:30	=	8,000
Total	24,000						21,280

(ii) In addition, gain is recognized under section 1250(a)(2) since there is a remaining potential gain of $36,000, that is, gain realized ($60,000) minus the additional depreciation attributable to periods after December 31, 1969 ($24,000). The gain recognized in respect of each element and the gain recognized under section 1250(a)(2) ($3,900) are the same as in example (2), since the additional depreciation attributable to periods before January 1, 1970 ($21,000) is less than the remaining gain ($36,000).

[FR Doc.71-3105 Filed 3-4-71;8:54 am]

[26 CFR Parts 194, 196, 197, 201, 240, 245]

LIQUOR DEALERS; STILLS; DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS; DISTILLED SPIRITS PLANTS; WINE AND BEER

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to automate the processing of low-volume tax returns at Internal Revenue Service Centers and to effect economies by providing that taxpayers subject to the same class of special (occupational) tax for the same taxable period at two or more locations shall file but one special tax return with the Director of the Service Center serving the Internal Revenue District in which the taxpayer's principal place of business, or principal office in the case of a corporate taxpayer, is located, the regulations in 26 CFR Parts 194, 196, 197, 201, 240, and 245 are amended as follows:

PARAGRAPH A. 26 CFR Part 194 is amended as follows:

1. An undesignated center heading is inserted immediately preceding § 194.104 to read as follows: "Filing Return and Payment of Special Tax".

2. Section 194.104 and its heading are amended with respect to the filing of returns, and paragraph (b) thereof is transferred to new § 194.104a. As amended, § 194.104 and its heading read as follows:

§ 194.104 Time for filing return.

Every person who intends to engage in a business subject to special tax under the provisions of this part shall, on or before the date such business is commenced, render a special tax return, Form 11, with remittance of tax, and every taxpayer who continues into a new fiscal year a business subject to special tax under the provisions of this part shall file a Form 11 and remittance on or before July 1 of the new fiscal year: *Provided*, That a taxpayer subject to the same class of special tax for the same period at two or more locations shall, as provided in § 194.106, file one special tax return Form 11 with remittance of tax to cover all such locations. Where the return and remittance are received in the mail and the U.S. postmark on the cover shows that it was deposited in the mail in the United States within the time prescribed for filing in an envelope or other appropirate wrapper which was properly addressed with postage prepaid, the return shall be considered as timely filed. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used the date of registration shall be accepted as the postmark date.

(68A Stat. 732, 749, 72 Stat. 1346; 26 U.S.C. 6011, 6071, 5142)

3. A new section, § 194.104a, respecting the place for filing returns is added immediately following § 194.104 to read as follows:

§ 194.104a Place for filing return.

Form 11 with remittance of tax shall be filed with the director of the service center serving the internal revenue district in which the business is located: *Provided*, That any taxpayer required by § 194.104 to file a Form 11 and remittance to cover two or more locations shall file Form 11 and remittance with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

4. Section 194.106 and its heading are amended to provide for the filing of a single return on Form 11 to cover special tax liability at two or more places of business. As amended, § 194.106 and its heading read as follows:

§ 194.106 Special tax returns.

(a) *General.* Special tax returns shall be made on Form 11, which may be procured from the director of the service center or from any district director. A separate Form 11 shall be filed for each rate of tax specified in § 194.101. If a taxpayer files Form 11 as provided in paragraph (c) of this section and thereafter in the period covered thereby starts at one or more locations one or more new businesses, he shall make a return on Form 11 with remittance of tax and an attached list showing the name, trade name (if any), and the address of each location covered by the return in the manner prescribed in paragraph (c) of this section: *Provided*, That no one return shall cover more than one class of tax nor periods of liability commencing on different days.

(b) *Special tax return covering a single location.* In the case of a special tax return filed for a single location, the taxpayer shall disclose in the spaces provided on the return—

(1) Where the dealer is an individual or a corporation, the true name of such individual or corporation;

(2) In the case of a partnership, the true name of each and every person comprising the partnership;

(3) Where a trade name is used, the exact trade name under which the business is conducted, in addition to information required in subparagraph (1) or (2) of this paragraph;

(4) The employer identification number (see §§ 194.106a–194.106c);

(5) The exact location of the place of business, by name and number of building or street or, where these do not exist, by some particularization in addition to the post office address;

(6) The kind of liquor business carried on, as classified in §§ 194.23–194.27;

(7) All other information provided for on the form.

(c) *Special tax return covering multiple locations.* In the case of a special tax return filed for multiple locations, the taxpayer shall disclose in the spaces provided on the return—

(1) The name, trade name (if any), and address of his principal place of business, or principal office, in the manner prescribed in paragraph (b) (1), (2), (3), and (5) of this section;

(2) The employer identification number (see §§ 194.106a–194.106c);

(3) The kind of liquor business carried on, as classified in §§ 194.23–194.27;

(4) The number of locations covered by the return; and

(5) All other information provided for on the form.

In addition to the above, the taxpayer shall prepare, in duplicate, a list identified with his name, address, employer identification number, class of tax, and period covered by his return. The list shall show by States, the name, trade name, if any, and address of each location (including taxpayer's principal place of business, or principal office, if subject to special tax) covered by the return. Each address shall be disclosed on such list in the manner prescribed in paragraph (b) (5) of this section. The original of the list shall be attached to the Form 11, as a part of his return, and the copy shall be retained by the taxpayer as part of the records required by this part.

(68A Stat. 732, 846, 75 Stat. 828; 26 U.S.C. 6011, 7011, 6109)

5. Section 194.106d is amended to provide that all hand-carried returns shall be filed with the district director. As amended, § 194.106d reads as follows:

§ 194.106d Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to a single return prepared under the provisions of § 194.106(c), to cover liability at two or more locations, the return shall be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

§ 194.108 [Deleted]

6. Section 194.108 is deleted.

7. Section 194.109 is amended to provide penalties and limitation on such penalties for failure to pay special tax and to delete provisions respecting extension of time for filing a return. As amended, § 194.109 reads as follows:

§ 194.109 Penalty for failure to file return or to pay tax.

(a) *Failure to file return.* Any person required by this part to file a return on Form 11 who fails to file the return on or before the last date prescribed in § 194.104 shall pay, as an addition to the tax, a delinquency penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The delinquency penalty for failure to file the return on or before the last date prescribed shall be 5 percent of the amount required to be shown as tax on the return if the failure is for not more than one month; with an additional 5 percent for each additional month or fraction thereof during which such delinquency continues, but not more that 25 percent in the aggregate.

(b) *Failure to pay tax.* Any person who files a return on Form 11 under the provisions of this part and who fails to pay the amount shown as tax on the return on or before the date prescribed in § 194.104 for payment of such tax, shall pay, as an addition to the tax, a penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The penalty for failure to pay the tax on or before the date prescribed for payment shall be 0.5 percent of the amount shown as tax on the return if the failure is not more than one month; with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not exceeding 25 percent of the aggregate.

(c) *Limitations.* With respect to any return on Form 11, the amount of the addition under paragraph (a) of this section shall be reduced by the amount of the addition under paragraph (b) of this section for any month to which an addition to tax applies under both paragraphs (a) and (b). If the amount of tax required to be shown as tax on the return is less than the amount shown as tax on such return, the penalties prescribed in paragraphs (a) and (b) of this section shall be applied by substituting such lower amount.

(68A Stat. 821, as amended; 26 U.S.C. 6651)

8. Section 194.111 and its heading are amended to include waiver of penalties

for failure to pay tax. As amended, § 194.111 and its heading read as follows:

§ 194.111 Waiver of penalties.

In every case where a special tax return is not filed, or the tax is not paid, at the time prescribed in § 194.104, the delinquency penalties specified in § 194.109 for failure to file a return or for failure to pay the amount shown as tax on the return will be asserted and collected unless a reasonable cause for delay in filing the return or payment of the tax is clearly established. A dealer who believes the circumstances which delayed his filing of the return or payment of the tax are reasonable, and who desires to have the penalties waived, shall submit with his return a written statement under the penalties of perjury, affirmatively showing all of the circumstances alleged as reasonable causes for delay. If such return and statement are submitted to the director of the service center, he shall determine whether the delay in filing or payment was due to reasonable cause; if delivered to an internal revenue officer working under supervision of the assistant regional commissioner, the assistant regional commissioner shall make the determination. Any reason which appeals to a man of ordinary prudence and intelligence as a reasonable cause for the delay and which clearly shows no willful intent to avoid the provisions of the taxing statutes, or gross negligence, will be accepted as reasonable. Mere ignorance of the law will not be considered a reasonable cause.

(68A Stat. 821, as amended; 26 U.S.C. 6651)

9. Section 194.121 is amended to cover the issuance of special tax stamps to taxpayers filing a single return for multiple locations. As amended, § 194.121 reads as follows:

§ 194.121 Issuance of stamps.

Upon filing a return properly executed on Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated stamp. If the Form 11 with remittance covers multiple locations, the taxpayer will be issued one stamp for each location listed in the attachment to Form 11 required by § 194.106(c) but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer). Special tax stamps will not be issued until the tax is fully paid.

(72 Stat. 1348; 26 U.S.C. 5144)

10. A new section, § 194.121a, is added immediately following § 194.121 to provide for the distribution of stamps issued for multiple locations. As added, § 194.121a reads as follows:

§ 194.121a Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 11 and examine them to insure that his name and address are correctly stated thereon. Incorrect stamps shall be returned to the director of the service center as provided in § 194.134. The taxpayer shall designate one stamp for each location listed in his copy of the attachment to Form 11 required by § 194.106 and shall type thereon the trade name, if different from the name in which the stamp was issued, and the address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp. On receipt of the stamp at the designated place of business, it shall be examined to verify that the name and address of the business are correctly stated. If they are not, the stamp shall be returned, with a statement showing the nature of the error and the correct data, to the principal office of the taxpayer who will compare the data on the stamp with his retained copy of the attachment to Form 11. If the error in name and address was made by the taxpayer, he will correct the stamp and return it to the designated place of business. If the error was made in the attachment to Form 11, the taxpayer will file with the director of the service center an amended Form 11 and an amended attachment with a statement explaining the error.

11. Sections 194.124 and 194.126 are amended to provide for the filing of a single return on Form 11 to cover special tax liability for two or more passenger carriers and two or more supply boats or vessels, respectively. As amended, §§ 194.124 and 194.126 read as follows:

§ 194.124 Stamps for passenger trains, aircraft, and vessels.

Special tax stamps may be issued in general terms "In the United States" to persons who will carry on the business of retail dealers in liquors or retail dealers in beer, on trains, aircraft, boats or other vessels, engaged in the business of carrying passengers. If sales of liquors are made at the same time on two or more passenger carriers, a special tax stamp shall be obtained for each such carrier. However, a dealer may transfer any such stamp from one passenger carrier to another on which he conducts his business, without registering the transfer with the Internal Revenue Service, and he may conduct such business throughout the passenger carrying train, aircraft, boat or other vessel, to which the stamp is transferred. A person subject to the same rate of special tax on two or more passenger carriers shall file one Form 11, prepared in the manner prescribed in § 194.106(b), with remittance, to cover all such carriers and shall specify on the Form 11 the number of passenger carriers for which special tax is being paid.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

§ 194.126 Stamps for supply boats or vessels.

Special tax stamps may be issued to persons carrying on the business of a retail dealer in liquor or a retail dealer in beer on supply boats or vessels operated by them, when such persons operate from a fixed address in a port or harbor and supply exclusively boats or other vessels, or persons thereon, at such port or harbor. Any person desiring to obtain a special tax stamp for such business shall file Form 11, prepared in the manner prescribed in § 194.106(b), with remittance, and shall specify on the Form 11, or on an attachment thereto, (a) that the business will consist of supplying exclusively boats, vessels, or persons thereon, (b) the name of the port or harbor at which the business is to be carried on, and (c) the fixed address from which operations are to be conducted: *Provided*, That where such sales are to be made from two or more supply boats or vessels, the dealer shall obtain a special tax stamp for each such boat or vessel, and shall, in addition to the information required by paragraphs (a), (b), and (c) of this section, specify on the Form 11 the number of supply boats or vessels for which special tax is being paid. A dealer may transfer any such stamp from any boat or vessel on which he discontinues such sales to any other boat or vessel on which he proposes to conduct such business, without registering the transfer with the Internal Revenue Service. If the taxpayer operates from two or more fixed addresses, he shall prepare, as required by § 194.106(c), one tax return, Form 11, to cover all such addresses and shall, in addition, show on the attachment to the Form 11 the number of stamps to be procured for supply boats or vessels operating from each address. On receipt of the special tax stamps, the taxpayer shall designate an appropriate number of stamps for each location and shall type thereon the trade name, if different from the name in which the stamp was issued, and the fixed address of the business conducted at the location for which the stamps are designated. He shall then forward the stamps to the place of business designated on the stamps. The taxpayer shall enter on each stamp received for retailing liquors on supply boats or vessels, immediately after the occupational tax classification, the phrase "on supply boats" and in the lower margin the notation, "Covers supplying exclusively of boats or vessels, or persons thereon, at the Port (or Harbor) of" followed by the name of such port or harbor.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

12. Section 194.135 is amended with respect to correction of special tax stamps by internal revenue officers. As amended, § 194.135 reads as follows:

§ 194.135 Errors discovered on inspection.

When an internal revenue officer discovers a material error on a special tax stamp in the name, ownership, or address of the dealer, he will secure from the dealer a new Form 11, designated "Amended Return," showing correctly all of the information required in § 194.106 and, in the body of the form or in an attachment thereto, a statement of the reason for requesting correction of the

stamp. On receipt of the amended return and an acceptable explanation for the error, the officer will make the proper correction on the stamp and return it to the taxpayer. However, if the error found by the internal revenue officer is on a special tax stamp obtained pursuant to a return on Form 11 filed under the provisions of § 194.106(c), he shall instruct the taxpayer to return the stamp, with a statement showing the nature of the error and the correct data, to the dealer's principal office as provided in § 194.121a.

13. Sections 194.151 and 194.169 are amended to add a cross reference to § 194.106(b). As amended, §§ 194.151 and 194.169 read as follows:

§ 194.151 Amended return, Form 11; endorsement on stamp.

(a) *General.* A dealer who, during the taxable period for which special tax was paid, removes his business to a place other than that specified on his original special tax return on Form 11, and stated on his special tax stamp, shall, within 30 days from the date he begins to carry on such business at the new location, register the change with the director of the service center who issued the stamp, by filing a new return on Form 11, designated "Amended Return," setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp to the director of the service center for endorsement of the change in location: *Provided,* That the dealer who filed his original return, Form 11, under the provisions of § 194.106(b) may deliver the amended return and the stamp at any internal revenue office, or to any internal revenue officer inspecting the business, in lieu of submitting them directly to the director of the service center. The director of the service center or the internal revenue officer receiving such return and stamp shall, if the return is submitted to him within the 30-day period, enter the proper endorsement on the stamp and return it to the taxpayer.

* * * * *

§ 194.169 Change of control, persons having right of succession.

Certain persons other than the special-tax payer may, without paying additional special tax, secure the right to carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. Such persons are—

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased dealer;

(b) A husband or wife succeeding to the business of his or her living spouse;

(c) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(d) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure such right, the person or persons continuing the business shall file with the director of the service center who issued the stamp or stamps, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 11, showing the basis of the succession, and shall surrender the unexpired special tax stamp or stamps for endorsement of the change in control: *Provided,* That, if the original return, Form 11, was filed under the provisions of § 194.106(b), the person succeeding to the business may deliver the amended return and stamp at any internal revenue office, or to any internal revenue officer inspecting the business, in lieu of submitting them to the director of the service center. If the applicant has the right of succession and the return and stamp are submitted on time, the director of the service center or other internal revenue officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

PAR. B. 26 CFR Part 196 is amended by revising §§ 196.34 and 196.34d and by adding two new sections, §§ 196.36a and 196.36b, immediately following § 196.36, to read as follows:

§ 196.34 Special tax return.

Special (occupational) taxes imposed on manufacturers of stills or condensers and the special (commodity) taxes on such articles will be paid by the manufacturer pursuant to the filing of a special tax return, Form 11, showing the information required by the headings on the form and the instructions thereon or issued in respect thereto. Special tax returns on Form 11 shall be filed, with remittance, with the director of the service center serving the internal revenue district in which the place of manufacture is located: *Provided,* That a taxpayer subject to special (occupational) tax for the same period at two or more locations shall (a) file one special tax return Form 11, with remittance, to cover all such locations, with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located; and (b) prepare, in duplicate, a list identified with his name, address, employer identification number, class of tax, and period covered by his return. The list shall show, by States, the name (and trade name, if any) and address of each location (including taxpayer's principal place of business or principal office, if subject to special tax) for which special tax is being paid. The original of the list shall be attached to the Form 11, as a part of his return, and the copy shall be retained by the taxpayer for a period of not less than 2 years.

§ 196.34d Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to a single return prepared under the provisions of § 196.34 to cover liability at two or more locations, the return shall be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

§ 196.36a Issuance of stamps.

Upon filing a return properly executed on Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued until the tax is fully paid. If such Form 11 with remittance covers multiple locations, the taxpayer will be issued one special (occupational) tax stamp for each location listed in the attachment to Form 11 required by § 196.34 but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 196.36b Distribution of special (occupational) tax stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 11 required by § 196.34. He shall designate one stamp for each location and shall type thereon the trade name, if different from the name in which the stamp was issued, and address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp.

PAR. C. 26 CFR Part 197 is amended by revising §§ 197.28, 197.29, 197.29d, and 197.40 and by adding a new section, § 197.40a, immediately following § 197.40, to read as follows:

§ 197.28 Filing of return and payment of special tax.

Returns shall be filed on Form 11, with remittance, with the director of the service center serving the internal revenue district in which the place of manufacture is located: *Provided,* That a taxpayer subject to the same rate of special (occupational) tax at two or more locations shall (a) file one special tax return Form 11 (prepared in the manner prescribed in § 197.29), with remittance, to cover all such locations, with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located; and (b) prepare, in duplicate, a list identified with his name, address, employer identification number, class of tax, and period covered by his return. The list shall show, by States, the name (and trade name, if any) and address of each location (including taxpayer's principal place of business, or principal office, if subject to special tax) for which special tax is being paid. The original of the list shall be attached to the Form 11, as a part of his return, and the copy shall be retained by the taxpayer for a period of not less than 2 years.

§ 197.29 General.

Special tax returns, Form 11, may be procured from the director of the service center or from any district director and shall disclose, in the spaces provided, the following:

(a) The true name of the taxpayer, which may be followed by the words "trading as" and any trade name under which the business is conducted.

(b) The employer identification number (see §§ 197.29a–197.29c).

(c) The exact location of the place of business, as by name and number of building or street, and where these do not exist, some particularization in addition to the post office address; except, that in the case of one return for two or more locations, as provided for in § 197.28, the location to be shown on the Form 11 shall be that of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(d) The kind of business carried on.

(e) Except in the case of a corporation, the true names of all persons having a proprietary interest in the business. While it is not necessary that the names of all persons having a proprietary interest in the business appear on the special tax stamp, the names must be disclosed on the return, Form 11.

§ 197.29d Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to a single return prepared under the provisions of § 197.28 to cover liability at two or more locations, the return shall be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

§ 197.40 Issuance of stamps.

Each manufacturer of nonbeverage products, upon filing a properly executed return on Form 11, together with the proper remittance in the full amount due, will be issued a special tax stamp designated "Manufacturer of Nonbeverage Products." Such special tax stamp may not be sold or otherwise transferred to another person. If such Form 11 with remittance covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed in the attachment to Form 11 required by § 197.28 but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 197.40a Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 11 required by § 197.28. He shall designate one stamp for each location and shall type thereon the trade name, if different from the name in which the stamp was issued, and address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp.

PAR. D. 26 CFR Part 201 is amended by revising §§ 201.31, 201.32a, and 201.32f, and by adding two new sections, §§ 201.32g and 201.32h, immediately following § 201.32f, to read as follows:

§ 201.31 Rectifier's special tax.

Every person engaging in business as a rectifier, within the meaning of the term as defined in Subpart B of this part, shall prepare a return on Form 11. The return shall be filed with the director of the service center serving the internal revenue district in which the business is located, and pay special tax at the applicable rate prescribed in section 5081, I.R.C.: *Provided*, That a taxpayer subject to the same class of special (occupational) tax for the same period at two or more locations shall (a) file one special tax return Form 11, prepared in the manner prescribed in § 201.32a, with remittance, to cover all such locations, with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located; and (b) prepare, in duplicate, a list identified with his name, address, employer identification number, class of tax, and period covered by his return. The list shall show, by States, the address of each location (including taxpayer's principal place of business, or principal office, if subject to special tax) for which special tax is being paid. The original of the list shall be attached to the Form 11, as a part of his return, and the copy shall be retained by the taxpayer for a period of not less than 2 years. The tax is imposed as of the first day of July in each year, or on commencing such business. In the former case the tax is reckoned for 1 year and in the latter case it is reckoned proportionately from the first day of the month in which the liability to special tax commenced and to and including the 30th day of June following. Section 5142, I.R.C., provides that no person shall engage in or carry on the business of a rectifier until he has paid the special tax therefor.

(68A Stat. 846, 72 Stat. 1338, 1346, 1347; 26 U.S.C. 7011, 5081, 5082, 5142, 5143)

§ 201.32a Data required on Form 11.

Each return on Form 11 shall be prepared in accordance with the headings on the form and the instructions thereon or issued in respect thereto, and shall include the following:

(a) Where the rectifier is an individual or a corporation, the true name of such individual or corporation;

(b) In the case of a partnership, the true name of each and every person comprising the partnership;

(c) The employer identification number (see §§ 201.32c–201.32e);

(d) The exact location of the place of business, by name and number of building or street or, where these do not exist, by some particularization in addition to the post office address except, that in the case of one return for two or more locations, as provided for in § 201.31, the location to be shown on the Form 11 shall be that of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer);

(e) The kind and class of tax (see § 201.31);

(f) All other information provided for on the form.

(68A Stat. 732, 846, 75 Stat. 838; 26 U.S.C. 6011, 7011, 6109)

§ 201.32f Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to a single return prepared under the provisions of § 201.31 to cover liability at two or more locations, the return shall be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

§ 201.32g Issuance of stamps.

Upon filing a return properly executed on Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued until the tax is fully paid. If such Form 11 with remittance covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed in the attachment to Form 11 required by § 201.31, but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 201.32h Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 11 required by § 201.31. He shall designate one stamp for each location and shall type thereon the address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp.

PAR. E. 26 CFR Part 240 is amended by revising §§ 240.343, 240.344, and 240.345, to read as follows:

§ 240.343 Annual special tax.

The special tax year commences on July 1 and ends on June 30 of the next year. All persons liable for special tax

shall file Form 11 with the director of the service center serving the internal revenue district in which the business is located, and pay the special tax to him on or before July 1 of each year. If the Form 11, with remittance, is not actually delivered on or before July 1, the date of the postmark stamped on the cover in which such return is mailed, if made by a United States post office, shall be deemed to be the date of filing.

(68A Stat. 846, 895, 72 Stat. 1346, 1347; 26 U.S.C. 7011, 7502, 5142, 5143)

§ 240.344 Business commenced after July.

Where business is commenced after July, the tax will be prorated from the first day of the month in which business was commenced to June 30 following. In such case, if the Form 11, with remittance, is not actually delivered to the director of the service center on or before the day on which the business was commenced, the date of the postmark stamped on the cover in which such return is mailed, if made by a United States post office, shall be deemed to be the date of filing.

(72 Stat. 1346, 1347; 26 U.S.C. 5142, 5143)

§ 240.345 Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to a single return prepared under the provisions of Part 194 of this chapter to cover liability at two or more locations, the return shall be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

PAR. F. 26 CFR Part 245 is amended by revising §§ 245.76, 245.76a, and 245.76e, and by adding two new sections, §§ 245.77a and 245.77b, immediately following § 245.77, to read as follows:

§ 245.76 Special tax return.

Every person liable to special tax shall prepare a return on Form 11. The return shall be filed, with remittance, with the director of the service center serving the internal revenue district in which the business is located: *Provided*, That a taxpayer subject to the same class of special (occupational) tax for the same period at two or more locations shall (a) file one special tax return Form 11 (prepared in the manner prescribed in § 245.76a) with remittance to cover all such locations, with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located; and (b) prepare, in duplicate, a list identified with his name, address, employer identification number, class of tax, and period covered by his return. The list shall show, by States, the name and address of each location (including the taxpayer's principal place of business, or principal office, if subject to special tax) for which special tax is being paid. The original of the list shall be attached to the Form 11, as a part of his return, and the copy shall be retained by the taxpayer for a period of not less than 2 years.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 245.76a Data required on Form 11.

Each return on Form 11 shall be prepared in accordance with the headings on the form and the instructions thereon or issued in respect thereto, and shall include the following:

(a) Where the taxpayer is an individual or a corporation, the true name of such individual or corporation;

(b) In the case of a partnership, the true name of each and every person comprising the partnership;

(c) The employer identification number (see §§ 245.76b–245.76d);

(d) The exact location of the place of business, by name and number of building or street or, where these do not exist, by some particularization in addition to the post office address except, that in the case of one return for two or more locations, as provided for in § 245.76, the location to be shown on the Form 11 shall be that of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(e) The class of tax;

(f) All other information provided for on the form.

(68A Stat. 732, 846, 75 Stat. 828; 26 U.S.C. 6011, 7011, 6109)

§ 245.76c Hand-carried returns.

Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are filed by hand carrying shall be filed with the district director of the internal revenue district in which the taxpayer's business is located or, as to returns prepared under the provisions of § 245.76, in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

§ 245.77a Issuance of stamps.

Upon filing a return properly executed on Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued until the tax is fully paid. If such Form 11 with remittance covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed in the attachment to Form 11 required by § 245.76 but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 245.77b Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer will verify that he has one stamp for each location listed in his copy of the attachment to Form 11 required by § 245.76. He shall designate one stamp for each location and shall type thereon the address of the business conducted at the location for which that stamp is designated. He shall then forward each stamp to the place of business designated on the stamp.

[FR Doc.71-3026 Filed 3-4-71;8:47 am]

[26 CFR Part 245]

BEER

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, DC 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to implement the provisions of Public Law 91–673 which amended the Internal Revenue Code by (a) permitting credit or refund of tax if beer is returned to another brewery of the same brewer and permitting offsets or deductions from taxable removals if beer is returned to the same brewery from which it was removed, (b) permitting credit or refund of tax in the case of beer lost by theft or rendered unmerchantable, (c) permitting removals of beer without payment of tax for use in research, development, or testing, (d) permitting the bonding requirements to be met by certifying the continuation of an existing bond in place of the present requirement that a new bond be secured, (e) permitting certain facilities of the brewery to

be near the main facilities, rather than requiring them to adjoin the main facilities, (f) eliminating the requirement for separate facilities for the bottling of beer and cereal beverages, and (g) authorizing the establishment of pilot brewing plants; and to delete obsolete requirements, the regulations in 26 CFR Part 245 are amended as follows:

PARAGRAPH 1. Section 245.1 is amended to include reference to pilot brewing plants. As amended, § 245.1 reads as follows:

§ 245.1 Beer.

The regulations in this part relate to beer and cereal beverages and cover the location, construction, equipment, and operations of breweries and pilot brewing plants and the qualification of such establishments including the ownership, control, and management thereof.

PAR. 2. Section 245.5 is amended by revising the definitions of "Brewery" and "Removed for consumption or sale," adding, in alphabetical order, a definition for "package and packaging," and deleting the statutory citation after the definition of "Bottle and bottling." As amended, § 245.5 reads as follows:

§ 245.5 Meaning of terms.

* * * * *

Bottle and bottling. "Bottle" shall mean a bottle, can, or similar container, and "bottling" shall mean the filling of bottles, cans, and similar containers.

* * * * *

Brewery. "Brewery" shall mean the land and buildings described as such in the brewer's notice on Form 27–C, where beer is to be produced and packaged.

(72 Stat. 1389, as amended; 26 U.S.C. 5402, 5411)

* * * * *

Package and packaging. "Package" shall mean a bottle, can, keg, barrel, or other original consumer container, and "packaging" shall mean the filling of any package.

(72 Stat. 1390, as amended; 26 U.S.C. 5416)

* * * * *

Removed for consumption or sale. "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery.

(72 Stat. 1333, as amended; 26 U.S.C. 5052)

* * * * *

PAR. 3. Section 245.11 is amended to provide for case packing, loading, or storing facilities located within reasonable proximity to the brewery packaging facilities to be approved as a part of the brewery. As amended, § 245.11 reads as follows:

§ 245.11 Continuity of brewery.

The continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions; and if parts of the brewery are so separated they must abut on the dividing medium and be adjacent to each other. Notwithstanding the preceding sentence, facilities under the control of the brewer for case packing, loading, or storing which are located within reasonable proximity to the brewery packaging facilities may be approved by the assistant regional commissioner as a part of the brewery if the revenue will not be jeopardized thereby.

(72 Stat. 1389, as amended; 26 U.S.C. 5402)

PAR. 4. Section 245.12 is amended to expand the authorized purposes for which the brewery may be used and to delete the requirement that all bottling of beer be conducted in the brewery bottling house. As amended, § 245.12 reads as follows:

§ 245.12 Use of brewery.

The brewery shall be used exclusively, except as provided herein, for the purposes of (a) producing, packaging, and storing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and soft drinks and other nonalcoholic beverages; (b) processing spent grain, carbon dioxide, and yeast; and (c) storing packages and supplies necessary or incidental to all such operations. If the brewer desires to use the brewery for other purposes, not involving the production of alcoholic beverages, which (1) require the use of byproducts or wastage from the production of beer, or utilize buildings, rooms, areas, or equipment not fully employed in the production or packaging of beer, (2) are reasonably necessary to realize the maximum benefit from the premises and equipment and to reduce the overhead of the plant, (3) are in the public interest because of emergency conditions, or (4) involve experiments or research projects related to equipment, materials, processes, products, byproducts, or wastage of the brewery, he may submit an application, in triplicate, so to do to the Director, Alcohol and Tobacco Tax Division, through the assistant regional commissioner. The Director, Alcohol and Tobacco Tax Division, will approve such application where he finds that such use will not jeopardize the revenue, will not impede the effective administration of this part, and is not contrary to the specific provisions of law.

(72 Stat. 1389, as amended; 26 U.S.C. 5411)

PAR. 5. Section 245.13 is amended to provide cross reference to § 245.157 concerning storage of taxpaid beer and to delete reference to the brewery bottling house. As amended, § 245.13 reads as follows:

§ 245.13 Storage of beer.

(a) *Taxpaid beer.* Beer on which the tax has been paid or determined shall not be stored in the brewery except as provided in § 245.157.

(b) *Untaxpaid beer.* Packaged beer on which tax has not been paid or determined may be stored in any suitable location in the brewery.

(72 Stat. 1389, as amended; 26 U.S.C. 5411)

PAR. 6. Section 245.19 is amended to delete reference to the brewery bottling house. As amended, § 245.19 reads as follows:

§ 245.19 Pipelines.

All beer and cereal beverage transferred from production or bulk storage tanks for bottling shall pass through authorized pipelines which shall be fixed and of permanent character and be exposed to view throughout the entire length.

(72 Stat. 1395; 26 U.S.C. 5552)

PAR. 7. Section 245.30 is amended to delete reference to beer to be bottled. As amended, § 245.30 reads as follows:

§ 245.30 Metering systems required.

Brewers shall be required to provide at their own expense, approved meters for measuring beer to be packaged.

(72 Stat. 1395; 26 U.S.C. 5552)

PAR. 8. Sections 245.31, 245.32, and 245.33 are amended because of and to conform to the new definition of "package and packaging." As amended, §§ 245.31, 245.32, and 245.33 read as follows:

§ 245.31 Notice of acquisition of meter.

When the brewer receives a meter from the manufacturer or from another source he shall notify the assistant regional commissioner of the region wherein the brewery is located. The notice shall be submitted in duplicate, and shall state the make, model, and serial number of the meter, and the source and date of acquisition. The meter shall not be used for measuring beer to be packaged until it has been tested for accuracy and proper functioning.

(72 Stat. 1395; 26 U.S.C. 5552)

§ 245.32 Location and installation.

Racking and bottling meters shall be located and installed so that all beer to be racked or bottled, as the case may be, shall (except as provided in § 245.36) pass through the respective meters and so that they will be readily accessible for examination by internal revenue officers. The meter installations, including piping, valves, and electrical circuitry (where required) shall be so arranged that the testing equipment and procedures approved by the assistant regional commissioner may be readily accommodated.

(72 Stat. 1395; 26 U.S.C. 5552)

§ 245.33 Meter test approval.

Brewers shall provide such tests, adjustments, and repairs as may be required to maintain meters in such a manner that they accurately and reliably measure and record beer metered for packaging. The frequency of meter tests, and the equipment used and procedures employed in testing meters, shall be subject to approval by the assistant regional

commissioner. The brewer shall submit a letterhead application, in triplicate, which shall describe, in detail, the method by which he proposes to maintain the accuracy and reliability of each metering system to be used for the measurement of beer to be packaged and list the make, model, and serial number of each meter to be used by him for such purpose. The assistant regional commissioner shall, after satisfying himself as to the adequacy of the proposed method, indicate his approval on all copies of the application and return the original to the brewer who shall keep it on file on the brewery premises available for examination by internal revenue officers.

(72 Stat. 1395; 26 U.S.C. 5552)

PAR. 9. Section 245.41 is amended to include reference to continuation certificate, to delete reference to the brewery bottling house and to show the use of bottling lines, and to require a statement of process for products to be marketed under a name other than "beer," "ale," "porter," or "stout." As amended, § 245.41 reads as follows:

§ 245.41 Data for notice.

Form 27–C shall include the following information:

(a) The serial number.

(b) The purpose stated as (1) to give notice of the brewer's intention to engage in the business of brewing; or (2) to give notice of the brewer's intention to continue business under a new bond or a continuation certificate; or (3) to amend or supplement previously furnished information as set forth in items _____, _____, and _____.

(c) Name of brewer.

(d) Business address of brewer.

(e) Address of brewery affected by the notice (if other than the business address).

(f) Character of brewer, i.e., sole proprietorship, partnership, corporation, or other, supported by copies, in triplicate, of articles and amended articles of incorporation (and including the certificate of incorporation), partnership, or association, etc.

(g) Description of brewery, including (1) each tract of land comprising the brewery and (2) brewery buildings, referring to each building by its designated number or letter and giving the approximate ground dimensions and the purposes for which ordinarily used. Description of land shall be by courses and distances, in feet and hundredths thereof or inches, with the particularity required in conveyances of real estate.

(h) A list of (1) mash tubs, brewkettles, fermenting tanks, storage tanks, and similar tanks to be used in the production of beer and (2) tanks and bottling lines to be used in the bottling of beer. The list shall show as to tanks, the quantity (number) of each type, their capacities in barrels, and the designated number or letter of the building in which located; and as to bottling lines, the number of lines and the designated number or letter of the building in which located.

(i) A list of the trade names which the brewer is using or intends to use in doing business or in packaging, and the offices where such names are registered, supported by copies, in triplicate, of any certificates or other documents filed or issued in respect to such names.

(j) A statement of process for any fermented beverage which the brewer intends to produce and market under a name or description other than "beer," "ale," "porter," or "stout." The statement shall show the name or other designation of the product, the kinds and quantities of materials to be used, the method of manufacture, and the approximate alcohol content of the finished product.

(k) The name and address of the owner of the fee and of any mortgagee or other encumbrancer of the land, buildings, or equipment comprising the brewery (except when an encumbrance on equipment is held by, or the equipment is leased from, the manufacturer thereof or his representative or franchised distributor).

(l) A statement setting forth the authorized, the issued, the classifications, and the par value of the capital stock or other evidence of ownership of a corporate brewer, or, in the case of an individual owner or partnership, a statement giving the name of every person interested in the brewery, whether such interest appears in the name of the interested party or in the name of another for him.

(m) A list of the names and addresses of all stockholders and other persons having an interest of not less than 10 percent in the corporation or similar legal entity and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him; also, a list of officers and directors, showing their residence and business addresses.

(n) The date of the notice and name and signature of the brewer. The name of the brewer, if an individual, must be typed or written, preceded by the trade name, if any, and followed either by the signature of the brewer and the words "sole owner" or by the signature of a duly empowered attorney in fact and his title as such. In the case of a partnership, the trade name of the firm shall be typed or written, followed by the word "By" and the signatures of all partners, or of any partner duly authorized to sign in behalf of the firm, or of a duly empowered attorney in fact. If a corporation, the form will be executed in the corporate name immediately followed by the signature and title of the person duly authorized to act in its behalf. If the brewer is any other entity, the notice shall be signed by such person or persons as are duly authorized and empowered so to do.

(72 Stat. 1388, as amended; 26 U.S.C. 5401)

PAR. 10. Section 245.44, the heading of Subpart H, and § 245.45 are amended to include reference to continuation certificates. As amended, § 245.44, the heading of Subpart H, and § 245.45 read as follows:

§ 245.44 Supplemental and superseding notices.

The brewer shall file an amended or supplemental Form 27–C, as provided in Subpart L of this part, where there is any change with respect to items of information recorded on the active Forms 27–C on file. Such amended or supplemental notices may be in skeleton form. The brewer shall file a new and complete notice, superseding those previously filed, once every 4 years, which new notice will become effective on the date of renewal of the brewer's bond or the effective date of the brewer's continuation certificate as provided in § 245.45: *Provided*, That where the information and documents required by § 245.41 (f), (g), (h), (i), (j), (l), and (m) are on file as an attachment to a previously filed and approved Form 27–C and reflect current data, such information and documents may be incorporated by reference in, and be made a part of, the new and complete notice. Where a brewer files a new bond before expiration of the usual 4-year period, as provided in § 245.49, the assistant regional commissioner may require the filing of a new and complete notice, which supersedes those previously filed and which may incorporate information and documents contained in a previously filed and approved Form 27–C and reflecting current data, as provided in this section. The new notice will become effective on the effective date of the new bond, or the assistant regional commissioner may postpone the filing of such new notice until such time as the new bond is renewed or superseded.

Subpart H—Bonds, Continuation Certificates, and Consents of Surety

§ 245.45 General.

Every person intending to commence the business of a brewer shall, in connection with filing his notice, Form 27–C, file a bond, Form 1566, in accordance with the provisions of this subpart. Every brewer intending to continue the business of a brewer shall, once every 4 years (or as provided in § 245.49) execute and file with the assitant regional commissioner a new bond in accordance with the provisions of this subpart, or a continuation certificate as provided in § 245.45a. Such bond or continuation certificate shall be in lieu of any former bond or bonds, or former continuation certificate or certificates, of the brewer in respect to all liabilities accruing after approval of the new bond or continuation certificate. Consents of surety to a change in the terms of any bond filed under this part shall be manifested on Form 1533 by the principal and by the surety on the bond with the same formality and proof of authorization as required for the execution of the bond. No person shall continue or commence the business of a brewer until he receives notice from the assistant regional commissioner of the approval of the bond,

continuation certificate, or consent of surety required by this part.

(72 Stat. 1388, as amended; 26 U.S.C. 5401)

PAR. 11. A new section, § 245.45a, is added immediately following § 245.45 to prescribe the conditions under which a continuation certificate may be submitted. As added, § 245.45a reads as follows:

§ 245.45a Continuation Certificate, Form 1566–A.

If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force between the brewer and surety for a succeeding period of not less than 4 years from the expiration date of such bond or continuation certificate, the brewer may submit, in lieu of a new bond, a continuation certificate on Form 1566–A, executed under the penalties of perjury, by the brewer and the surety attesting to continuation of the bond. Each continuation certificate shall constitute a bond and all provisions of law and regulations applicable to bonds on Form 1566 given pursuant to this part, including the disapproval of bonds, shall be applicable to continuation certificates prescribed by this section.

(72 Stat. 1388, as amended; 26 U.S.C. 5401)

PAR. 12. Section 245.47 is amended to add additional conditions to the brewer's bond with respect to brewers and proprietors of pilot brewing plants, and to change "free of tax" to "without payment of tax". As amended, § 245.47 reads as follows:

§ 245.47 Conditions of bond.

The brewer's bond shall be conditioned that the principal shall pay, or cause to be paid, to the United States according to the laws of the United States and this part, the taxes, including penalties and interest, for which (a) the brewer shall become liable, on all beer, including all beer removed for transfer to the brewery from other breweries owned by the brewer, all beer removed without payment of tax for export or removed for use as supplies on vessels or aircraft, which is not exported or otherwise accounted for, and all beer removed without payment of tax for use in research, development, or testing, and (b) the proprietor of a pilot brewing plant shall become liable, on all beer brewed, produced, or received on the pilot brewing plant; and shall in all respects comply without fraud or evasion with all requirements of law and this part relating to the production and sale of beer.

(72 Stat. 1388, as amended, 84 Stat. 2057; 26 U.S.C. 5401, 5417)

PAR. 13. Section 245.67 is amended to delete reference to the brewery bottling house. As amended, § 245.67 reads as follows:

§ 245.67 Depiction of brewery.

The plat shall show, in a manner reflecting the brewer's description on Form 27–C, the outer boundaries of the brewery. The plat shall also contain an accurate depiction of all brewery buildings and any driveway, public passageway, street, highway, waterway, or carrier right-of-way adjacent thereto or connecting therewith. If the parts of the brewery are separated as provided in § 245.11, the different parts shall be depicted individually. If two or more buildings are used, the designated name or use of each (including its alphabetical or numerical designation, if any) shall be indicated and all connecting pipelines used for the conveyance of beer between the same shall be depicted. All pipelines and other connections for the conveyance of beer between brewery buildings or between the brewery and other premises shall be indicated on the plat and identified as to use. The conduit or pipeline used for the transfer of beer for bottling shall be shown in red, and the location of meters shall also be shown. The direction of flow of beer through pipelines shall be indicated by arrows.

PAR. 14. Sections 245.87 and 245.95 are amended to include reference to continuation certificates. As amended, §§ 245.87 and 245.95 read as follows:

§ 245.87 Fiduciary.

If the brewery is to be operated by an administrator, executor, receiver, trustee, assignee, or other fiduciary, the fiduciary may in lieu of filing a new notice, bond, and plat, file an amended or supplemental notice, furnish a consent of surety extending the terms of his predecessor's bond or continuation certificate, and adopt the plat of such predecessor. The fiduciary shall also furnish certified copies, in triplicate, of the court order or other pertinent documents, showing his qualifications as such fiduciary. The effective date of the qualifying documents filed by a fiduciary shall be the same as the date of the order, or the date specified therein, for him to assume control. If the fiduciary was not appointed by the court the date of his appointment shall coincide with the effective date of the qualifying documents filed by him.

§ 245.95 Change in location.

Where there is a change in the location of the brewery, the brewer shall file an amended Form 27–C and a new plat and bond, except that in lieu of filing a new bond, Form 1566, the brewer may furnish a consent of surety, Form 1533, in accordance with § 245.45 extending the terms of the bond or continuation certificate given for the former location to cover operation of the brewery at the new location. The new location may not be used for the business of brewing until the documents required by this part are approved by the assistant regional commissioner.

(72 Stat. 1388, as amended; 26 U.S.C. 5401)

PAR. 15. Section 245.96 is amended to delete reference to the brewery bottling house. As amended, § 245.96 reads as follows:

§ 245.96 Changes in premises.

Where the brewery is to be extended or curtailed, the brewer shall file with the assistant regional commissioner an amended Form 27–C and amended plat. The additional facilities covered by an extension may not be used for the proposed purposes, and the portion to be excluded by a curtailment may not be used for other than the previously approved purposes, prior to approval of Form 27–C.

(72 Stat. 1388, as amended; 26 U.S.C. 5401)

PAR. 16. Section 245.116 is amended to prescribe the method for determining the amount of tax due on beer removed on any business day. As amended, § 245.116 reads as follows:

§ 245.116 Time of tax determination and payment.

The tax on beer shall be determined at the time of its removal for consumption or sale, and shall be paid by return as provided in this part. In determining the amount of tax due on beer so removed on any business day, the quantity of beer returned to the same brewery from which removed for consumption or sale shall be taken as an offset against or deduction from the total quantity of beer removed for consumption or sale from that brewery on the business day that such beer is returned.

(72 Stat. 1334, 1335, as amended; 26 U.S.C. 5054, 5056, 5061)

§ 245.116a [Deleted]

PAR. 17. Section 245.116a is deleted.

PAR. 18. Section 245.117a is amended with respect to the prepartion and filing of semimonthly returns, Form 2034. As amended, § 245.117a reads as follows:

§ 245.117a Semimonthly return.

(a) *General.* The tax on beer shall (unless prepaid) be paid by semimonthly return on Form 2034, which shall be filed, with remittance, for the full amount of tax due as shown on the return. The quantities of keg and bottled beer removed daily for consumption or sale during the period covered by the return and the aggregate quantity thereof, and the quantities of beer returned daily to the brewery from which removed for consumption or sale and the aggregate quantity thereof, shall be reported in the tax return. Form 2034 shall be filed as a semimonthly return regardless of whether tax has been prepaid as provided in § 245.117c during the return period. The brewer shall include for payment on his return the full amount of tax required to be determined (and which has not been prepaid) on all beer removed for consumption or sale during the period covered by the return. Prepayments made by the brewer during the semimonthly period shall be separately shown on the return. A return, Form 2034, shall be filed covering each return period even though no beer was removed for consumption or sale during the period.

* * * * *

(c) *Time for filing returns and paying tax.* The semimonthly tax return, Form 2034, for each return period, shall be filed, with remittance, not later than the close of the last full calendar day of the

return period next succeeding that period.

(d) *Timely filing.* Where the semimonthly return and remittance are delivered by U.S. mail to the office of the district director, the date of the official postmark of the U.S. Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery of such return and remittance: *Provided,* That where the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the brewer: *Provided further,* That where the return and remittance are sent by registered mail, the date of registry, or where the return and remittance are sent by certified mail, the date of the postmark on the sender's receipt, shall be treated as the postmark date of the return and remittance.

(72 Stat. 1335; 26 U.S.C. 5061)

PAR. 19. Section 245.141 is amended to delete reference to the brewery bottling house. As amended, § 245.141 reads as follows:

§ 245.141 Kinds of containers.

Beer may be transferred without payment of tax from one brewery to another brewery belonging to the same brewer (a) in the brewer's hogsheads or packages or (b) in tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels, subject to such limitations and conditions as may be imposed by the assistant regional commissioner. All such containers shall be marked, branded, or labeled as provided in Subpart O of this part.

(72 Stat. 1389; 26 U.S.C. 5414)

PAR. 20. Subpart S relating to beer returned to the brewery is amended to read as follows:

Subpart S—Beer Returned to Brewery or Voluntarily Destroyed

Sec.
245.155 Beer returned to brewery.
245.156 Beer returned to brewery from which removed.
245.157 Beer returned to a brewery other than that from which removed.
245.158 Beer voluntarily destroyed without return to brewery.

Subpart S—Beer Returned to Brewery or Voluntarily Destroyed

§ 245.155 Beer returned to brewery.

(a) *General.* Beer, produced in the United States, on which the brewer has paid or determined the tax may be returned to any brewery of the brewer. Upon return of the beer the brewer shall determine the actual quantity of beer received, expressed in barrels. The burden of proof of establishing the correct quantity of beer returned is on the brewer and where kegs or cases containing less than the original contents are involved, the actual quantity of beer shall be determined by weight unless the assistant regional commissioner has authorized the use of another method.

(b) *Disposition of returned beer.* Beer returned to the brewery under the provisions of this subpart may be disposed of in any manner prescribed for beer which has never left the brewery. If such returned beer is again removed for consumption or sale, the tax shall be determined and paid without respect to the tax which was paid or determined at the time of prior removal of the beer.

(c) *Records.* The brewer's daily records required by § 245.225 shall show as to beer returned to the brewery under the provisions of this subpart:

(1) The date;

(2) The quantity of beer returned;

(3) If the title to the beer has passed, the name and address of the person returning the beer; and

(4) If the beer was returned to a brewery other than the one from which removed, the name and address of the brewery from which the beer was removed.

The records of returned beer shall be supported by credits against loading slips, credit memorandums, or other commercial papers, and shall differentiate between beer returned to the brewery after removal therefrom and beer returned to the brewery after removal from another brewery owned by the brewer.

(72 Stat. 1334, 1335, as amended, 1390; 26 U.S.C. 5054, 5056, 5415)

§ 245.156 Beer returned to brewery from which removed.

Where beer on which the brewer has paid or determined the tax is returned to the same brewery from which removed, the quantity of beer so returned shall, as provided in § 245.116, be taken as an offset against or deduction from the total quantity of beer removed for consumption or sale from the brewery on the business day of such return.

(72 Stat. 1335, as amended, 1390; 26 U.S.C. 5056, 5415)

§ 245.157 Beer returned to a brewery other than that from which removed.

Where beer on which the brewer has paid or determined the tax is returned to a brewery owned by him but other than the brewery from which removed, refund or credit of the tax on such beer may be claimed by the brewer, or if the tax has not been paid he may be relieved of the liability therefor, in accordance with the provisions of Subpart T. If the brewer is required under the provisions of § 245.161 to file a notice of intention to return beer to the brewery, he may bring such beer onto the brewery premises prior to filing the notice; however, such beer shall be segregated from all other beer, shall be clearly identified as beer returned from another brewery, and shall be retained intact for inspection by internal revenue officers until the notice relating to such beer has been filed and disposition of the beer is authorized.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

§ 245.158 Beer voluntarily destroyed without return to brewery.

Beer on which the brewer has paid or determined the tax may be destroyed at a location other than that of any of his breweries and refund or credit of tax may be claimed by him upon compliance with the provisions of Subpart T.

(72 Stat. 1355, as amended; 26 U.S.C. 5056)

PAR. 21. Subpart T relating to refund and credit of tax or relief from liability is amended to read as follows:

Subpart T—Refund and Credit of Tax or Relief From Liability

Sec.
245.160 Refund or credit of tax on returned beer.
245.161 Notice by brewer.
245.162 Supervision.
245.163 Beer lost by fire, theft, casualty, or act of God.
245.164 Claims for refund of tax.
245.165 Claims for allowance of credit for tax.

Subpart T—Refund and Credit of Tax or Relief From Liability

§ 245.160 Refund or credit of tax on returned beer.

The tax paid by a brewer on beer produced in the United States and returned to any brewery of the brewer may be refunded or credited to him (without interest) or, if the tax has not been paid, he may be relieved of liability therefor: *Provided,* That no such refund, credit, or relief shall be allowed on beer for which an offset against or deduction from removals has been taken as provided in § 245.116. Similar refund, credit, or relief may be allowed the brewer in respect of the tax paid or determined on beer voluntarily destroyed as provided in this subpart.

(72 Stat. 1355, as amended; 26 U.S.C. 5056)

§ 245.161 Notice of brewer.

(a) *Beer to be destroyed.* When a brewer possesses beer on which he has paid or determined the tax and which he desires to destroy elsewhere than in any of his breweries, he shall give written notice of his intention, in triplicate, to the assistant regional commissioner of the region in which the beer is to be destroyed: *Provided,* That such notice may be submitted directly to an inspector at any of his breweries if the place of destruction and the brewery are in the same region. The notice, which shall be serially numbered, shall be executed under penalties of perjury as defined in § 245.5. The notice shall specify the date on which the beer is to be destroyed, which date shall not be less than 12 days from the date of the notice. If, before the date specified in the notice, an internal revenue officer has not supervised destruction of the beer, or the assistant regional commissioner has not advised the brewer to the contrary, the brewer may destroy the beer on the date and in the manner stated in the notice. Where the notice is given to an inspector at the brewery, the inspector may supervise the transaction or transmit the notice to the assistant regional commissioner. The notice shall contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer contained

therein expressed in barrels; or the number of cases, the number and size in ounces of the bottles comprising the cases, and the actual quantity of beer contained therein expressed in barrels. (The burden of proof of establishing the correct quantity of beer is on the brewer and where kegs or cases containing less than the original contents are involved, the actual quantity of beer shall be determined by weight unless the assistant regional commissioner has authorized the use of another method.)

(2) The date on which the beer was received for destruction.

(3) A statement that the tax on the beer has been fully paid or determined.

(4) If the title to the beer has passed, the name and address of the person returning the beer.

(5) The location at which the brewer desires to accomplish destruction and the reason for not returning the beer to the brewery.

(b) *Additional notice requirements.* The assistant regional commisioner may, where he deems it necessary, require a brewer who desires to return beer on which he had paid or determined the tax to any of his breweries other than the brewery from which removed, to give written notice in the same manner as is required by paragraph (a) of this section with respect to beer which is to be destroyed elsewhere than in any of his breweries.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

§ 245.162 Supervision.

On receipt of the brewer's notice, the assistant regional commissioner shall, if he considers it necessary for the protection of the revenue, assign an inspector to verify the statements therein and, to the extent the assistant regional commissioner deems necessary, to witness the destruction of the beer or to verify the quantity of beer returned to the brewery. The assistant regional commissioner may require that the destruction of the beer be delayed, and that returned beer remain segregated, pending arrangement of a convenient time for supervision. If the place of destruction is not readily accessible to an inspector, the assistant regional commissioner may require that the beer be moved to a more convenient location.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

§ 245.163 Beer lost by fire, theft, casualty, or act of God.

(a) *General.* In accordance with the provisions of this part the tax paid by any brewer on beer produced in the United States may be refunded or credited (without interest), or, if the tax has not been paid, the brewer may be relieved of liability therefor if, before transfer of title thereto to any other person, such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. In any case in which beer is rendered unmerchantable by fire, casualty, or act of God, refund or credit, or relief from liability of tax shall not be allowed unless the brewer proves to the satisfaction of the assistant regional commissioner that such beer cannot be salvaged and returned to the market for consumption or sale. In any case in which beer is lost or destroyed, whether by theft or otherwise, the assistant regional commissioner may require the brewer to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the tax shall be collected unless the brewer proves to the satisfaction of the assistant regional commissioner that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(b) *Claims.* A brewer who sustains a loss of beer before transfer of title thereto to another person and desires to file a claim for refund or credit, or for relief from liability of tax, shall, on learning of such loss, immediately notify the assistant regional commissioner of the region in which the loss occurred of the nature, cause, and extent of the loss, and the place where such loss occurred. Statements of witnesses or other supporting documents should be furnished, if available. When such notice, and supporting documents where furnished, are received by the assistant regional commissioner, he will examine the reasons for the described loss and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary for use in connection with the claim when it is submitted. The tax liability on excessive losses of beer from transfers between breweries of the same ownership may be remitted as provided in § 245.143.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

§ 245.164 Claims for refund of tax.

Claims for refund of tax shall be filed on Form 843. Such claims, if for refund of tax on beer returned to a brewery of the brewer or voluntarily destroyed at a location other than the brewery, shall show (a) the name and address of the brewer filing the claim, the address of the brewery from which the beer was removed, and the address of the brewery to which the beer was returned, as applicable, (b) the quantity of beer covered by the claim, (c) the amount of tax for which the claim is filed, (d) the reason for return or voluntary destruction of the beer and the facts relating thereto, (e) whether the brewer is indemnified by insurance or otherwise in respect of the tax, and, if so, the nature of such indemnification, (f) the claimant's reasons for believing that the claim should be allowed, and (g) the date on which the beer was returned to the brewery (where applicable), the name of the person from whom the beer was received, and a statement that the tax has been fully paid or determined. If the claim is for refund of tax on beer lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God, it shall contain the information specified in paragraphs (a), (b), (c), (e), and (f) of this section, and a statement of the circumstances surrounding the loss, and, where applicable, the reason that the beer rendered unmerchantable cannot be salvaged and returned to the market for consumption or sale. The claim shall also show the date of the loss, and, if lost in transit, the name of the carrier. Notices required under §§ 245.161 and 245.163 shall be incorporated, by reference, in claims. Claims covering losses shall be supported, whenever possible, by affidavits of persons having knowledge of the loss, unless such affidavits are contained in the notice given under § 245.163. The assistant regional commissioner may require the submission of additional evidence in support of any claim filed under this section when deemed necessary for proper action on the claim. Any claim on Form 843 shall be filed with the assistant regional commissioner of the region in which the beer was returned, lost, destroyed, or rendered unmerchantable, within 6 months after the date of such return, loss destruction, or rendering unmerchantable. Such claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

§ 245.165 Claims for allowance of credit for tax.

In lieu of filing a claim for refund of tax as provided in § 245.164, a brewer may file with the assistant regional commissioner of the region in which the beer was returned, lost, destroyed, or rendered unmerchantable, a claim on Form 2635 for allowance of credit for the tax paid. Any claim for credit filed on Form 2635 shall include all of the information required under § 245.164 with respect to a claim for refund on Form 843. Notices required under §§ 245.161 and 245.163 shall be incorporated, by reference, in such claims. The brewer shall not anticipate allowance of a credit or make an adjusting entry therefor in a tax return pending consideration and action on the claim by the assistant regional commissioner. When written notification of allowance of the credit or any part thereof is received from the assistant regional commissioner, the brewer may make a proper adjusting entry and explanatory statement in the next subsequent beer tax return (or returns) to the extent necessary to exhaust the credit. The assistant regional commissioner may require the submission of additional evidence in support of any claim filed under this section when deemed necessary for proper action on the claim. A claim for allowance of credit for tax paid on beer must be filed within 6 months after the date the beer was returned, lost, destroyed, or rendered unmerchantable. A claim will not be allowed if filed after the prescribed time or if the brewer was in-

demnified by insurance or otherwise in respect of the tax.

(72 Stat. 1335, as amended; 26 U.S.C. 5056)

PAR. 22. Section 245.211 is amended to delete reference to "bottles" and "bottled" in the first and second sentences. As amended, § 245.211 reads as follows:

§ 245.211 Production and removal of cereal beverage.

Brewers who produce cereal beverage may remove such beverage in packages without payment of tax. The method of production must be such that the alcohol content of the product will not increase while in the original container after being removed from the brewery. Cereal beverage shall be kept separate from beer and when it is to be packaged shall pass through the appropriate beer meters. Beer kegs or barrels may be used for packaging cereal beverage if the sides are durably painted at each end with a white stripe not less than 4 inches in width and the heads are durably painted in a solid color, with conspicuous lettering in a contrasting color reading: "Nontaxable under section 5051 I.R.C." The word "non-taxable" shall be not less than 1 inch high and of proportionate width, the remaining words shall be not less than one-half inch high and of proportionate width. The name or trade name and the address of the brewer must also be legibly marked on the package. Bottle labels shall show the name or trade name and address of the brewer, the distinctive name of the beverage, if any, and the legend "Nontaxable under section 5051 I.R.C." Other information, which is not inconsistent with the requirements of this section, may be shown on such labels. Cases or other shipping containers shall be marked to show the nature of the product contained therein, and the name or trade name and address of the brewer.

(72 Stat. 1389, as amended, 1395; 26 U.S.C. 5411, 5552)

PAR. 23. Subpart Y relating to removals for analysis is amended to read as follows:

Subpart Y—Removals for Analysis, Research, Development, or Testing

Sec.
245.215 Analytical purposes.
245.216 Research, development, or testing purposes.
245.217 Application.
245.218 Consent of surety.
245.219 Containers and marks.

Subpart Y—Removals for Analysis, Research, Development, or Testing

§ 245.215 Analytical purposes.

A brewer may remove beer, without payment of the tax thereon, to a laboratory for analytical purposes to determine the character or quality of the product. The brewer shall make daily entries in his records of all such removals showing the person to whom such beer was delivered, the location where delivered, the means of delivery, and the purpose of the analysis. The total quantity removed each month shall be reported on Form 103.

(72 Stat. 1334, as amended; 26 U.S.C. 5053)

§ 245.216 Research, development, or testing purposes.

The assistant regional commissioner may authorize the brewer to remove beer without payment of tax for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations.

(72 Stat. 1334, as amended; 26 U.S.C. 5053)

§ 245.217 Application.

A brewer who desires to remove beer without payment of tax under the provisions of § 245.216 shall, for each such removal, submit a letter application, in triplicate (in quadruplicate if the consignee is in another region), to the assistant regional commissioner of the region in which the brewery is located. The application shall specify:

(a) The name and address of the brewer;

(b) The name and address of the consignee;

(c) The kind and quantity of beer to be removed;

(d) The type of container in which the beer will be removed;

(e) The nature of the research, development, or testing to be conducted;

(f) The manner of disposing of the beer after completion of the operations.

The brewer shall submit with his application:

(1) A new bond, Form 1566, conditioned as provided in § 245.47, or a consent of surety, Form 1533, as provided in §245.218, extending the terms of his existing bond, Form 1566, unless the bond then in force is so conditioned;

(2) A written statement, executed under the penalties or perjury by the consignee, agreeing that he will maintain records of the receipt, use, and disposition of all beer received by him and that such records will be available during regular business hours for inspection by internal revenue officers.

One copy of the approved application will be returned to the brewer as his authority to remove the beer from his brewery, and one copy will be sent to the consignee as his authority to use the beer for the purposes stated in the approved application. The brewer shall report the total quantity of beer removed under the provisions of § 245.216 on his monthly report, Form 103, appropriately identified as to the purpose of the removal.

(72 Stat. 1334, as amended; 26 U.S.C. 5053)

§ 245.218 Consent of surety.

Each consent of surety on Form 1533 given under the provisions of § 245.217 shall identify the particular bond, Form 1566, to which it applies and shall contain a statement of purpose as follows:

To continue in effect and extend the terms and conditions of said bond, including all extensions or limitations of such terms and conditions previously consented to and approved, to cover the tax, for which the principal shall become liable, on all beer removed by him, from time to time, without payment of tax for use in research, development, or testing of processes, systems, materials, or equipment relating to beer or brewery operations, and which is not so used or otherwise lawfully disposed of or accounted for.

§ 245.219 Containers and marks.

Beer may be removed, as authorized by § 245.216, in packages and, when approved by the assistant regional commissioner, in other containers. Each barrel, keg, case, or shipping container shall be plainly marked with the name and address of the brewer and the consignee; the identification of the product and the quantity thereof; and the words "Not for Consumption or Sale." If beer is to be so removed in a bulk conveyance, the marks shall be placed on the route board of such conveyance.

PAR. 24. Section 245.225 is amended to delete reference to the brewery bottling house and to provide for additional data to be recorded in the brewer's records. As amended, § 245.225 read as follows:

§ 245.225 Records.

The brewer shall maintain, at his brewery, daily records which will accurately and clearly reflect by quantity the following:

(a) Each kind of material received and used in the production of beer and cereal beverage (including, in the case of wort and concentrated wort, the balling thereof and the quantity and kind of each material used in the production thereof).

(b) Beer and cereal beverage produced (including water added after production is ascertained).

(c) Beer and cereal beverage transferred for bottling and racking.

(d) Beer and cereal beverage bottled and racked.

(e) Cereal beverage removed from the brewery.

(f) Beer removed for consumption or sale and beer removed without payment of tax, showing with respect to each removal the date of removal, the identity of the person to whom the beer was shipped or delivered (not required in the case of sales in quantities of one-half barrel or less for delivery at the brewery), and the quantities of beer removed in kegs and bottles: *Provided*, That where the brewer keeps, at the brewery, copies of invoices or other commercial records containing the information required as to each such removal, such copies may be used in lieu of any other record required by this paragraph if they are maintained in such manner that the assistant regional commissioner is satisfied that the information may be readily ascertained therefrom by internal revenue officers.

(g) Beer consumed at the brewery.

(h) Beer returned to the brewery after removal therefrom.

(i) Beer returned to the brewery after removal from another brewery owned by the brewer.

(j) Beer reconditioned, used as material, or destroyed.

(k) Beer received from other breweries or received from pilot brewing plants.

(l) Brewing materials, beer and cereal beverage in process, and finished beer and cereal beverage on hand.

(m) Beer and cereal beverage lost due to breakage, theft, casualty, or other unusual cause.

(n) Brewing materials sold or transferred to pilot brewing plants (including the name and address of the person to whom shipped or delivered) and brewing materials used in the manufacture of wort, wort concentrate, malt sirup, and malt extract for sale or removal.

The brewer shall also maintain a record reflecting shortages and overages of beer and cereal beverage disclosed by physical inventories taken at least once each calendar month: *Provided*, That a physical inventory taken on a Saturday or Sunday next succeeding the last day of any calendar month, or on a legal holiday (of the particular State or of the District of Columbia wherein the brewery is located) falling within the first 7 days of the next calendar month, shall be deemed to be a physical inventory taken during the calendar month immediately preceding such Saturday or Sunday or legal holiday. The brewer shall maintain a record of the ballings of the wort produced, and of the ballings and the alcohol content of beer and cereal beverage transferred (1) for bottling and racking, (2) between breweries in bulk conveyances, and (3) of beer transferred to pilot brewing plants. The records reflecting ballings and alcohol content need not be consolidated and averaged daily unless the brewer so desires. The brewer's records shall include all supplemental and auxiliary records of individual operations and transactions of the brewery needed for compilation purposes and for verification by internal revenue officers. The daily totals of transactions and operations of the brewery shall be recorded on Form 2051 unless alternate records showing the information required thereby are used by the brewer as provided herein. Specimen copies of Form 2051 will be furnished brewers by assistant regional commissioners. Form 2051, if maintained, will be provided by brewers at their own expense. Assistant regional commissioners may authorize brewers to modify Form 2051 to adapt its use to tabulating or other data processing equipment, or to the brewer's special operations, or to provide additional information, where such modifications are not inconsistent with the general requirements of accuracy and clarity. Where a brewer's records show the required information in any other form of record or combination of records, the brewer may use such records in lieu of maintaining Form 2051. The Director, Alcohol and Tobacco Tax Division, may require the maintenance of Form 2051 by any brewer when the interests of the United States so demand. All entries in the records required by this part shall be made not later than the close of the business day next succeeding the day on which the transactions occur: *Provided*, That when the last day for making such entries falls on Saturday, Sunday, or a legal holiday (of the particular State or of the District of Columbia wherein the brewery is located), such entries shall be considered timely if they are made on the next succeeding day which is not a Saturday, Sunday, or a legal holiday (of the particular State or District of Columbia wherein the brewery is located).

(72 Stat. 1390; 1395; 26 U.S.C. 5415, 5555)

PAR. 25. Section 245.230 relating to disposition of unsalable beer is amended to read as follows:

§ 245.230 Disposition of unsalable beer.

A brewer having unsalable beer in packages or tanks in his brewery, may destroy, recondition, or use such beer as material. The brewer shall report the quantity of such beer destroyed, reconditioned, or used as material, in his daily records and on Form 103. If the unsalable beer consists of rejects from the packaging operations, such beer may be destroyed without being included in the packaging production records, and, when so destroyed, shall be so reported in the brewer's daily records and on Form 103. When reject bottled beer is to be consumed at the brewery or sold to brewery employees, or is cased or otherwise accumulated pending other disposition, the quantity thereof must be included in the packaging production and be so reported in the brewer's daily records and on Form 103.

(72 Stat. 1389, as amended, 1390, 1395; 26 U.S.C. 5411, 5415, 5555)

PAR. 26. Section 245.242 is amended to delete reference to the brewery bottling house and racking room. As amended, § 245.242 reads as follows:

§ 245.242 Operations.

The operations incident to the production of concentrate and the reconstitution of beer therefrom shall be conducted in the brewery. Each tank, vat, cask, or other container used or intended for use as a receptacle for concentrate shall meet the requirements of § 245.25. Such receptacles shall be identified as containers of concentrate. Concentrate produced shall be identified and accounted for by the serial number of Form 3019 under which it was produced and shall not be mingled with unconcentrated beer. The brewer shall accurately measure the quantity and determine the balling and alcohol content of all (a) beer entered into the concentration process, (b) concentrate produced, (c) concentrate transferred to other breweries belonging to the same brewer, (d) concentrate removed for export, (e) concentrate received, (f) concentrate used in reconstituting beer, and (g) beer reconstituted. Containers of concentrate transferred to other breweries belonging to the same brewer, and containers of concentrate removed for export shall be marked, branded, and labeled in the same manner as is prescribed for containers of beer in Subpart O of this part and shall be clearly marked as containers of concentrate. Barrels, kegs, and bottles containing reconstituted beer shall show by label or otherwise the statement "Produced From _____ Concentrate"; the blank to be filled in with the appropriate class designation of the beer (beer, lager beer, ale, stout, etc.) from which the concentrate was made. Such statement shall be conspicuous and readily legible and, in the case of bottled beer, shall appear in direct conjunction with, and as a part of, the class designation of the reconstituted beer. All parts of the class designation shall appear in lettering of substantially the same size and kind.

PAR. 27. Subpart CC relating to experimental breweries is amended to read as follows:

Subpart CC—Pilot Brewing Plants

Sec.
245.251 General.
245.252 Application.
245.253 Action on application.
245.254 Bond.
245.255 Special tax.
245.256 Operations and records.
245.257 Transfers from the pilot brewing plant.
245.258 Discontinuance of operations.

Subpart CC—Pilot Brewing Plants

§ 245.251 General.

A pilot brewing plant may be established and operated off the brewery premises for specific and limited periods of time for research, analytical, experimental, or developmental purposes with regard to beer or brewery operations. Such plants shall be established and operated as provided in this subpart. Notwithstanding the implications of any other section of this part, beer may be removed from such plant only for analysis and/or organoleptic examination. Beer may be transferred to the pilot brewing plant from a brewery of the same ownership in accordance with the provisions of Subpart Q of this part. Subject to the provisions of § 245.257, beer may be transferred without payment of tax from the pilot brewing plant to a brewery of the same ownership. The provisions of Subparts A, B, J, K, N, and Z of this part and of § 245.10 shall be applicable to pilot brewing plants established under this subpart. Also, the provisions of § 245.45 relating to consents of surety, §§ 245.45a, 245.48–245.61, 245.86, 245.91, 245.93, 245.94, 245.95, relating to bonds, continuation certificates, and consents of surety, and §§ 245.97–245.100, shall be applicable to bonds, continuation certificates and consents of surety given, and to changes in the proprietorship, location, and premises of pilot brewing plants established under this subpart.

(84 Stat. 2057; 26 U.S.C. 5417)

§ 245.252 Application.

(a) *Original.* Any person who desires to establish a pilot brewing plant under the provisions of this subpart shall file

an application therefor with the assistant regional commissioner. The application shall be in writing, in triplicate, and shall state (1) the name and address of the applicant; (2) a description of the premises and equipment to be used in the operations of such plant; (3) the nature, purpose, and extent of the operations; and (4) that the applicant agrees to comply with all provisions of this part applicable to operations to be conducted. The assistant regional commissioner may authorize the operation of a pilot brewing plant if he determines that such plant will be operated solely for one or more of the purposes specified in § 245.251 and that the operations will be such that the revenue will not be jeopardized. Such authorization will expire on the last day of the period specified therein, but in no case shall such period exceed 4 years. The assistant regional commissioner may at any time before or after approval of an application require the submission of such additional information as he considers necessary for administration of the applicable provisions of this part or for the protection of the revenue. Authorization to operate a pilot brewing plant may be withdrawn whenever in the judgment of the assistant regional commissioner the revenue would be jeopardized by the operations of such plant.

(b) *Renewal of authorization.* Any person who desires to continue the operation of a pilot brewing plant after the expiration of his authorization shall file a new and complete application and a new bond, Form 1566, or continuation certificate, Form 1566–A, as applicable: *Provided,* That in any case where the existing bond or continuation certificate has not expired or has not been terminated, a new bond or continuation certificate will not be required until the expiration of the existing bond or continuation certificate. The new application, which shall supersede those previously filed, shall conform to the requirements of paragraph (a) of this section. Operation of a pilot brewing plant shall not continue until the new application required by this section has been approved by the assistant regional commissioner.

(84 Stat. 2057; 26 U.S.C. 5417)

§ 245.253 Action on application.

If the assistant regional commissioner approves the application, he will so note each copy and forward one copy to the applicant. The applicant shall file his copy of the approved application at his premises, available for inspection by internal revenue officers.

§ 245.254 Bond.

Any person requesting authorization to establish a pilot brewing plant as provided in § 245.252 shall also execute and file bond on Form 1566. Notwithstanding the provisions of § 245.46 relating to penal sum of bonds, the penal sum of the bond covering the premises of a pilot brewing plant shall be in an amount equal to the tax value of the maximum quantity of beer on hand, in transit to the plant, and unaccounted for at any one time, computed by multiplying such quantity expressed in barrels by the rate of tax prescribed by section 5051, I.R.C.: *Provided,* That the penal sum of any such bond (or total penal sum if original and strengthening bonds are filed) shall not exceed $50,000 nor be less than $500. The operation of the pilot brewing plant shall not commence until the applicant receives notice from the assistant regional commissioner of the approval of such bond. Such operation may continue only so long as an approved bond (or continuation certificate) is in effect. The bond shall be conditioned that the operator of the pilot brewing plant shall pay, or cause to be paid, to the United States according to the laws of the United States and the provisions of this part, the taxes, including penalties and interest for which he shall become liable, on all beer brewed, produced, or received on the premises.

§ 245.255 Special tax.

The special tax imposed on a brewer by section 5091, I.R.C., shall be paid in accordance with Subpart K of this part.

§ 245.256 Operations and records.

On receipt of the approved application and bond, operations may commence. Monthly reports of operations need not be filed with the assistant regional commissioner, but records which are, in the opinion of the assistant regional commissioner, appropriate to the type of operation being conducted shall be maintained, available for inspection by internal revenue officers. Such records shall include information sufficient to fully account for the receipt, production, and disposition of all beer received or produced on the premises, and the receipt (and disposition, if removed) of all brewing materials.

§ 245.257 Transfers from the pilot brewing plant.

(a) *Application.* The proprietor of a pilot brewing plant who desires to remove beer, without payment of tax, from his plant for transfer to a brewery of the same ownership shall, for each such removal, make application to and receive the approval of the assistant regional commissioner of the region in which such brewery is located, before any beer is so removed for transfer. The application shall be filed in duplicate and shall specify:

(1) The purpose for which filed;

(2) The name and address of the pilot brewing plant;

(3) The name and address of the brewery to which the beer is to be transferred;

(4) The approximate quantity to be transferred; and

(5) If the product to be transferred is a fermented beverage which the brewer intends to market under a name or designation other than "beer," "ale," "porter," or "stout," the name or other designation of the product, the kinds and quantities of materials used, the method of manufacture, and the approximate alcohol content of the finished product. The assistant regional commissioner may require that samples of the beer or fermented beverage to be removed for transfer be submitted to him for analysis before taking action on any application. If the application is approved, a copy will be returned to the applicant as his authority to remove the beer for transfer.

(b) *Consent required.* Each application to remove beer from the pilot brewing plant for transfer to a brewery of the same ownership shall be accompanied by a Consent of Surety, Form 1533, extending the terms of the bond or continuation certificate of the consignee brewer to cover the transportation and receipt of the beer. The consent of surety shall identify the particular bond, Form 1566, or continuation certificate, Form 1566–A, to which it applies and shall contain a statement of purpose as follows:

To continue in effect and extend the terms and conditions of said bond or continuation certificate, including all extensions or limitations of such terms and conditions previously consented to and approved, to cover the tax, for which the principal shall become liable, on the quantity of beer to be removed for transfer to such brewery from a pilot brewing plant owned by him.

(c) *Applicable procedure.* The provisions of Subpart Q of this part shall be applicable to approved transfers of beer without payment of tax from a pilot brewing plant to a brewery of the same ownership: *Provided,* That, where the provisions of § 245.146 or § 245.147 require that Form 2035 be submitted by the consignor with his Form 103 covering the month during which the beer was shipped, the proprietor of the pilot brewing plant shall forward Form 2035 to his assistant regional commissioner not later than the close of the business day next succeeding the business day during which the beer was transferred.

§ 245.258 Discontinuance of operations.

When operations are to be discontinued, the proprietor shall notify the assistant regional commissioner in writing, in triplicate, stating therein the purpose of the notice and giving the date of the discontinuance. When operations have been completed and all beer on the premises has been disposed of and appropriately accounted for, the assistant regional commissioner will note his approval on the notice and return one copy to the proprietor.

[FR Doc.71–3027 Filed 3–4–71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

INSTALLATION OF AUTOMATIC WARNING DEVICES AND FIRE SUPPRESSION DEVICES ON BELT HAULAGEWAYS

Notice of Proposed Rule Making

In accordance with the provisions of section 311(g) of the Federal Coal Mine

Health and Safety Act of 1969 (Public Law 91-173), and pursuant to the authority vested in the Secretary of the Interior under section 301(d) of the Act, it is proposed that Part 75 of Subchapter O, Chapter I, Title 30, Code of Federal Regulations be amended by adding the following §§ 75.1103-2 through 75.1103-17, as set forth below, which prescribe the requirements for the installation of automatic warning devices on underground belt conveyors and the schedule for the installation of fire suppression devices on belt haulageways.

Interested persons may submit written comments, suggestions or objections to the Director, Bureau of Mines, Washington, D.C. 20240, no later than 45 days following publication of this notice in the FEDERAL REGISTER.

ROGERS C. B. MORTON,
Secretary of the Interior.

FEBRUARY 25, 1971.

Part 75 of Chapter I, Subchapter O, Title 30, Code of Federal Regulations will be amended by adding the following:

§ 75.1103-2 Automatic fire sensors; approved components; installation requirements.

(a) The components of each automatic fire sensor required to be installed in accordance with the provisions of § 75.1103-1 shall be of a type approved by, and installed in accordance with, the recommendations of the Underwriters Laboratories, Inc. or Factory Mutual Research Corp.

(b) Automatic fire sensors shall be installed in accordance with the manufacturer's recommendations, and those set forth in National Fire Protection Association, Code 72A.

§ 75.1103-3 Automatic fire sensor and warning device systems; minimum requirements; general.

(a) Automatic fire sensor and warning device systems installed in the belt haulageways of underground coal mines on and after May 29, 1970, shall be assembled from components which meet the minimum requirements set forth in §§ 75.1103-4 through 75.1103-7.

(b) Any other automatic fire sensor and warning device system, the components of which have been approved by the Secretary, which provides no less effective means of automatically warning of a fire in belt haulageways shall meet the requirements of § 75.1103-2.

§ 75.1103-4 Automatic fire sensor and warning device systems; sectionalization; installation; minimum requirements.

(a) The automatic fire sensor and warning device system required to be installed in accordance with the provisions of § 75.1103-1 shall be sectionalized in increments of no more than 500 feet along the entire length of each belt haulageway in the mine.

(b) (1) One automatic fire sensor which responds to temperature rise shall be installed at the beginning and end of each sectionalized increment which does not exceed 125 feet in length.

(2) Where sectionalized increments exceed 125 feet in length, automatic sensors shall be installed at the beginning and end of the increment, and one additional sensor shall be installed for each additional 125 feet, or any portion thereof, along the entire length of the increment, provided however, that in no case shall the maximum distance between sensors exceed 125 feet. For example, where the distance of the increment is 200 feet, three sensors shall be installed; where the distance is 500 feet, five sensors shall be installed.

(3) Where additional sensors are required to be installed, they shall, where practicable, be equally spaced along each increment.

(4) Where increments are installed contiguously, the end of one increment shall be considered the beginning of the next succeeding increment and the installation of one automatic sensor shall satisfy the requirements for installation of a single sensor at the end of the first increment and at the beginning of the second increment which follows it in a series.

(c) Automatic fire sensor and warning device systems shall be installed so as to minimize the possibility of damage by roof fall, or by the moving belt and its load.

(d) Infrared, ultraviolet and other sensors whose response is affected by contamination shall be protected from dust, dirt, and moisture.

(e) The voltage of automatic fire sensor and warning device systems shall not exceed 120 volts.

(f) Automatic fire sensor and warning device systems shall be provided with a standby power source which will remain operative for a minimum of 4 hours after the primary source of power to the system has failed.

§ 75.1103-5 Automatic fire warning devices; audible and visual signals; manual resetting.

(a) Automatic warning devices required to be installed in accordance with the provisions of §§ 75.1103 and 75.1103-1 shall be constructed to provide both audible and visual fire warning signals at a location where mine personnel are on constant duty.

(b) Automatic fire warning devices shall also be constructed to provide an audible or visual signal to indicate loss of power, open circuits, and the operating condition of the sensor and warning system.

(c) Automatic fire warning devices shall include a manual reset device.

§ 75.1103-6 Automatic fire sensors; actuation of warning devices and belt haulageway fire suppression devices.

(a) The automatic fire sensors required to be installed in accordance with the provisions of § 75.1103-1 shall actuate warning devices, and shall permit identification of the 500-foot section of belt haulageway affected.

(b) The automatic fire sensors shall be interlocked with belt drives so that when actuated they will deenergize both primary and secondary belt drives.

(c) The automatic sensors may also be used to actuate deluge type water systems, foam generator systems, or multipurpose dry powder systems.

§ 75.1103-7 Electrical components; permissibility requirements.

On and after June 30, 1971, the electrical components of each automatic fire sensor and warning device system installed inby the last open crosscut or in return airways shall be permissible and such components shall be maintained in permissible condition.

§ 75.1103-8 Automatic fire sensor and warning device systems; inspection requirements.

(a) Automatic fire sensor and warning device systems shall be examined weekly, and a functional test of the complete system shall be made at least once annually. Responsibility for the inspection and maintenance of such systems shall be assigned to a competent person trained in the operation and maintenance of the system.

(b) Inspections conducted in accordance with paragraph (a) of this section shall be recorded in a book or record maintained by the operator for that purpose.

§ 75.1103-9 Fire suppression devices on belt haulageways.

On and after June 30, 1971, fire suppression devices shall be installed on the belt haulageways of all underground coal mines.

§ 75.1103-10 Fire suppression devices; approved components; installation requirements.

(a) The components of each fire suppression device required to be installed in accordance with the provisions of § 75.1103-9 shall be approved by Underwriters Laboratories, Inc., or Factory Mutual Research Corp.

(b) Fire suppression devices shall be installed in accordance with the manufacturer's specifications, and those set forth in National Fire Protection Association Codes Nos. 11, 13, 13A, 15, and 17.

§ 75.1103-11 Fire suppression devices; minimum requirements; general.

(a) Fire suppression devices installed in underground belt haulageways shall be assembled from components which meet the minimum requirements set forth in §§ 75.1103-12 through 75.1103-16.

(b) Any fire suppression device, the components of which have been approved by the Secretary, which provides no less effective means of suppressing fires on belt haulageways, shall meet the requirements of § 75.1103-10.

§ 75.1103-12 Fire suppression devices; water sprinkler system; installation; minimum requirements.

(a) Water sprinkler systems installed in accordance with the provisions of § 75.1103-9 shall be sectionalized in belt haulageways in increments not to exceed 500 feet in length.

(b) Each increment installed in accordance with paragraph (a) of this section shall contain a branch line connected to a water line and shall be located parallel to the belt conveyor for installation of the sprinklers. Each branch line shall include a manual shutoff valve having a rising stem or other visual indicator, and strainers equipped with flush-out connections.

(c) Sprinklers shall be installed uniformly along the branch line and the maximum distance between sprinkler heads shall not exceed 12 feet.

(d) Water may be discharged by the sprinklers along the branch line over the top surface of the top belt, or it may be directed at both the upper and bottom surfaces of the top belt and the upper surface of the bottom belt.

(e) Regardless of the method or methods of delivery, the rate of water discharge from the branch line system shall be equivalent to not less than 0.18 gallons per minute per square foot of the top surface of the top belt.

(f) The supply of water shall be adequate to maintain a constant flow of water for 10 minutes with all sprinklers in the branch line operating. The water shall be free from excessive sediment and noncorrosive to the system.

§ 75.1103–13 Alternative methods of delivering water to sprinkler systems.

Where appropriate, the following alternative methods of delivering water to water sprinkler systems used to protect belt haulageways may be employed:

(a) Regular dry-pipe systems in which the automatic sprinklers are attached to exposed piping containing compressed air;

(b) Antifreeze wet-pipe systems in which the automatic sprinklers and exposed piping contain an antifreeze solution;

(c) Preaction systems in which the water flow into the sprinklers of the dry-pipe system is controlled by a valve actuated by sensors; and

(d) Deluge systems in which spray nozzles are used in place of sprinklers in the preaction system.

§ 75.1103–14 Installation of multipurpose dry powder systems; minimum requirements.

(a) Self-contained automatic multipurpose dry powder systems installed in accordance with the provisions of § 75.1103–9 may be employed to protect belt haulageways, however, where such systems are employed, they shall be installed and maintained in accordance with the minimum requirements set forth in this section.

(b) Each self-contained automatic multipurpose dry powder system shall be sectionalized in increments of no more than 100 feet along the entire length of each belt haulageway in the mine, and the system shall be actuated by automatic fire sensors which are spaced not more than 25 feet apart.

(c) Each 100-foot system shall contain approximately 16 noozles located so as to discharge the bulk of the multipurpose powder to the top and bottom surfaces of the top belt.

(d) The minimum quantity of multipurpose powder contained in each 100-foot system shall be 125 pounds.

(e) All components of the system shall be adequately sealed to protect them from moisture, dust, and dirt.

(f) A backup water supply shall be provided in an adjacent entry with firehose outlets not more than 300 feet apart. At 1,000-foot intervals, 500 feet of firehose with suitable fittings for connection to firehose outlets shall be provided.

§ 75.1103–15 Installation of high-expansion foam generator systems; minimum requirements.

(a) Premounted automatically operated high-expansion foam systems installed in accordance with the provisions of § 75.1103–9 may be employed to protect belt haulageways, however, where such systems are employed, they shall be installed and maintained in accordance with the minimum requirements set forth in this section.

(b) High-expansion foam devices shall be actuated by automatic fire sensors and shall discharge foam sufficient to fill a 500-foot section of belt haulage entry in 5 minutes.

(c) The water, power, and chemical supply of high-expansion foam devices shall be adequate to maintain a constant foam flow for a minimum of 15 minutes.

(d) High-expansion foam devices shall be equipped with a manual control to actuate the system.

(e) High-expansion foam systems shall be provided with a standby power source to enable the system to remain operative for at least 4 hours after the primary source of power system has failed.

§ 75.1103–16 Fire-suppression systems; inspection and maintenance.

(a) Fire-suppression systems shall be inspected weekly, and each fire-suppression system shall be functionally tested at least once annually. Responsibility for the inspection and maintenance of such systems shall be assigned to a competent person trained in the operation and maintenance of the system.

(b) A record of inspections conducted in accordance with paragraph (a) of this section shall be recorded in a book or record maintained by the operator for that purpose.

[FR Doc.71-3014 Filed 3-4-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority

[17 CFR Part 150]

[Hearing Docket CE–P 16]

CORN AND SOYBEANS

Limits on Position and Daily Trading for Future Delivery; Notice of Hearing

On January 28, 1971, a notice of proposed rulemaking was published in the FEDERAL REGISTER (F.R. Vol. 36, No. 19, 1340) to amend §§ 150,1 and 150.4 of the Orders of the Commodity Exchange Commission under section 4a of the Commodity Exchange Act (7 U.S.C. 6a). These respective orders relate to limits on position and daily trading in corn and soybeans for future delivery. The proposed amendment provides that the limits be established at 3 million bushels in any one future, or in all futures combined in corn or in soybeans.

The notice provided that if any interested person desires an oral hearing with reference to the proposed amendment to the orders on limits on position and daily trading in corn and soybeans and notifies the Administrator of the Commodity Exchange Authority to that effect, a hearing will be held.

A hearing will be held beginning at 10:00 a.m., e.s.t., on March 19, 1971, in Room 4711, South Building, U.S. Department of Agriculture, Washington, D.C., on the matter of proposed amendment of limits on position and daily trading in corn and soybeans for future delivery.

Section 4a of the Commodity Exchange Act provides that such limits shall not apply to transactions which are shown to be bona fide hedging transactions as defined in subsection 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)).

Written statements with reference to the subject matter of this hearing may be submitted by any interested person and may be in addition to or in lieu of testimony at such hearing. Such statements should be prepared in quintuplicate and mailed to the Presiding Officer, Hearing Docket CE–P 16, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, DC 20250 prior to the time of hearing, or delivered to the Presiding Officer at the time of hearing.

All written statements submitted prior to, during, and after the hearing, the transcript of the record, and exhibits will be made available for public inspection in the Office of the Administrator, Commodity Exchange Authority, during regular business hours.

Issued this 2d day of March 1971.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.71-3129; Filed 3-4-71; 8:56 am]

Consumer and Marketing Service

[7 CFR Part 1001]

[Docket No. AO–14–A49]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed

amendments to the tentative marketing agreement and order regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire marketing area.

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

The above notice of filing of the decision and 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 the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Concord, N.H., on October 7–10, 1970, and reconvened at Boston, Mass., on December 15, 1970, pursuant to notice thereof which was issued on September 4, 1970 (35 F.R. 14325); and November 9, 1970 (35 F.R. 17663), respectively.

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

1. Extension and redesignation of the marketing area.
2. Modification of pooling standards for supply plants.
3. Modification of diversion provisions.
4. Modification of assignment provisions.
5. Producer-handler definition and exemption of "own farm" production.
6. Miscellaneous.

FINDINGS AND CONCLUSIONS

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

1. *Extension and redesignation of the Massachusetts-Rhode Island-New Hampshire marketing area.* The Massachusetts-Rhode Island-New Hampshire marketing area should be extended to include 23 additional towns in Massachusetts, 29 additional cities and towns in New Hampshire, and 37 towns in Vermont.

This area of expansion encompasses Franklin County, Massachusetts, except the towns of New Salem, Orange, and Warwick; Sullivan County except the town of Plainfield, and the remaining unregulated area of Cheshire County, all in New Hampshire; three towns in Bennington County, 12 towns in Windsor County, and all of Windham County except for the unorganized territory of Somerset, all in Vermont.

Since, with this extension, the marketing area will now encompass parts of 4 states, it should be redesignated as the Boston Regional marketing area.

The total area of extension as set forth in the proposals contained in the hearing notice included, in addition to the territory herein proposed: The remaining towns in Franklin County, Mass. (i.e., the towns of Orange, Warwick, and New Salem), the towns of Athol, Petersham, Phillipston, and Templeton in Worcester County, Mass.; the town of Plainfield in Sullivan County, the city of Lebanon and 20 additional towns in southern Grafton County, all in New Hampshire; the towns of Barnard, Bethel, Bridgewater, Hartford, Hartland, Norwich, Pomfret, Royalton, Sharon, and Woodstock, in Windsor County, and the towns of Bradford, Corinth, Fairlee, Newbury, Randolph, Strafford, Thetford, Topsham, Tunbridge, and West Fairlee, in Orange County, all in Vermont.

Proponents of area expansion (12 cooperative associations with membership among producers under the existing order) requested the regulation of Franklin County, Mass. (except for the towns of Orange, New Salem, and Warwick) and a corridor of cities and towns in the Connecticut River Valley region running northward to and including the towns of Sharon and Norwich in Vermont, and Hanover, Canaan, Orange, and Alexandria in New Hampshire.

Proposals for additional territory, made individually by three proprietary handlers and conditional on the extension of regulation to encompass the cooperatives' proposal, included the remaining three towns in Franklin County, Mass., four towns in Worcester County, Mass., an additional corridor of Vermont towns west of and contiguous to the area included in the cooperatives' proposal, and additional Vermont and New Hampshire territory extending northward along the Connecticut River to and including the towns of Topsham and Newbury in Vermont and the Haverhill, Piermont, Warren, Ellsworth, Thornton, and Waterville tier of towns in New Hampshire.

Proponent cooperatives' primary concern was extension of Federal regulation into that area of Franklin County, Mass., where there is presently extensive distribution of fluid milk from two unregulated plants (one in Springfield, Vt., and the other in Portsmouth, N.H.) in direct competition with regulated handlers. The regulation of that area was most recently considered at a hearing held at Sturbridge and Boston, Mass., during the period October 21–28, 1969. On the basis of that record the Acting Assistant Secretary recognized that, due to the procurement practices of and the volume of fluid sales by the two dealers, the situation in Franklin County was the least stable of any portion of the area then under consideration. He concluded, however, that regulation of Franklin County appropriately should not be accomplished without a further hearing "in which there would be opportunity to adjust the marketing area boundaries to more closely reflect the primary sales area of the handlers to be regulated."

Proponents' current proposal was advanced to overcome the deficiency of the previous proceeding.

Official notice is taken of that part of the Acting Assistant Secretary's decision of April 3, 1970 (35 F.R. 5695) dealing with the extension of regulation.

Over a period of many years the handling of milk in the New England states has been subject to state and/or Federal regulation. Federal regulation was initially confined to the Boston area but over the years it has been gradually extended to include essentially all of southern New England (including southern New Hampshire), except western Massachusetts. Concurrently, with the institution of Federal regulation in Rhode Island and Connecticut, State regulation there was withdrawn. In the case of New Hampshire, Federal regulation was instituted immediately following the removal of State regulation. The States of Massachusetts, Maine, and Vermont continue to have active milk control agencies.

The extension of Federal regulation in Massachusetts beyond the greater Boston area essentially has been a step-by-step action, as necessitated for the purpose of maintaining orderly marketing. Almost every such action originated with the decision of some dealer(s) serving a particular local market to circumvent effective state regulation through the procurement of milk from out-of-state sources. Originally, separate regulation was instituted in the Fall River, Lowell-Lawrence (Merrimack Valley), Springfield, Worcester, and Southeastern New England markets. The separate regulations were subsequently combined with the Boston regulation into a single order and in recent years most of the intervening and neighboring territory has been gradually added to the marketing area as the situation required.

The preponderance of dairy farmers in New England are producers under this, or the Connecticut, order. In the New England area as a whole more than 80 percent of the milk is under Federal regulation. Almost 90 percent of the Vermont production is Federal order milk. Only those dairy farmers having a Class I outlet with local State-regulated dealers are not associated with Federal regulation. The Federal orders carry essentially the total reserve milk supply for all of New England with the exception of certain remote Maine markets. Only in the State of Maine, where about 40 percent of the milk is priced under the Federal order, is there any significant number of dairy farmers under State regulation. Because prices under the several State orders are closely correlated with Federal order prices, orderly marketing has generally prevailed in the State-controlled areas as long as local dealers purchased essentially only intrastate milk. An unstable market situation develops when dealers circumvent effective regulation by dropping local producers and relying

on an out-of-State supply source, or by supplementing their local milk with out-of-State purchases.

Several of the larger handlers under the present order distribute essentially throughout New England and operate both pool and nonpool plants. Whenever the competition in a local Massachusetts market has turned to the use of out-of-State milk, these handlers in most circumstances have had the flexibility to adjust their distribution patterns as between their regulated and unregulated plants to maintain a competitive position. Other single plant handlers, however, in many circumstances have been seriously disadvantaged because of their higher procurement costs at minimum prices fixed under the terms of the order. The pool has suffered through loss of Class I sales, and in many circumstances has been burdened with the addition of the milk of those dairy farmers who lost their local market.

This was precisely the circumstance which prompted the request for extension of regulation into Franklin County in 1969. A substantial handler operating both pool and nonpool plants and distributing milk through his own dairy stores opened several such stores in Franklin County serving them from his Portsmouth, N.H., unregulated processing plant with milk procured from the State of Maine at prices well below the minimum Federal order Class I price.

By coincidence or as a result of the deteriorating market situation, in June 1969 (between the time of the hearing request and the opening of the hearing) the only remaining substantial State regulated dealer in Franklin County sold his business in Greenfield, Mass., to a Springfield, Vt., partially regulated handler. The Greenfield plant was closed and all processing was concentrated in the Springfield plant. The 27 producers previously supplying the Greenfield operation were left without a market and lacking other alternatives became producers under Order No. 1. The more than 600,000 pounds per month Class I sales made through the Greenfield plant (now a distribution depot) have been largely supplied by purchases of milk from a Portland, Maine, plant and occasionally by purchases from a Bangor, Maine, plant.

On occasion, tankloads of milk so purchased from Maine dealers in excess of the Springfield dealer's immediate needs have been received at the Springfield plant and then reshipped back to Maine. While the record does not disclose the circumstances of such transactions, the procedure effectively circumvents both the Vermont and Maine price regulations, to the advantage of both dealers.

During the period July 1969 through June 1970, this dealer purchased approximately 7 million pounds of nonfederally regulated milk from Maine dealers. This milk cost him f.o.b. his plant in Springfield a little less than the Order 1, 21st zone blend price. Since the simple average of the monthly zone 21 order blend prices for the first half of 1970 was $5.84, his costs were a minimum of 47 cents less than the price which he was required to pay for local Vermont State controlled milk during the same period and about $1.62 below the effective Order 1 Class I price in the 12th zone (Springfield).

It is not possible on the basis of this record to specifically construct the total receipts or sales of this dealer. It is apparent, however, that he, like other local dealers, operates preponderantly only a Class I business. During the period July 1969 through June 1970 his total receipts were in excess of 38 million pounds. Thus, notwithstanding his substantial purchases of Maine milk and of Federal order milk, his predominant source of supply is local dairy farmers.

The quantity of milk which this dealer received from Maine sources during the 3 months immediately preceding the October session of the hearing was substantially below his average monthly receipts from such sources during the previous 12-month period. He testified to receiving only 230,524 pounds of Maine milk during the period July through September 1970, a monthly average of 77,000 pounds, or about 10 percent of his average monthly receipts from such source during the preceding 12 months.

This shift in supply source was of a temporary nature and reflected the fact that the desired volume of milk could not be obtained from Maine dealers during that period of the year. Maine supplies of milk, surplus to the fluid needs of local dealers, diminished sharply during the months of July, August, and September because of the higher volumes of milk needed to serve the heavy vacation trade within the State.

Until October 1970, the Springfield dealer remained outside full regulation. His sales inside the marketing area were partially covered by purchases of packaged milk from pool handlers, partially by bulk purchases of Federal order milk which he packaged in his own plant, and the remainder was subject to compensatory payment. He discontinued his packaged purchases, however, just prior to the October hearing and arranged for a supplemental supply of bulk milk from a proponent cooperative association plant in St. Albans, Vt. His agreement with this cooperative provided that he would pool his entire operation under the order for the months of October and November.

Since July, August, and September are vacation months in Maine and October and November are seasonally short production months, there is a minimum amount of Maine milk surplus to the fluid needs of that area throughout the period July through November. This explains the reduced purchases of Maine milk during the July–September period and also why the dealer sought regulation for the months of October and November.

While the record does not show the dealer's status for the period subsequent to November, it could have been anticipated that he would remove his operation from full regulation when Maine supplies again became available. This is substantiated by the listing of handlers issued by the market administrator for the month of December, official notice of which is taken. The Springfield handler is no longer a pool handler but is again a partially regulated handler.

While the current record does not deal in any substantial way with the operations of the Portsmouth, New Hampshire, unregulated plant previously referred to, it is apparent that this dealer's procurement costs for his Maine milk are very similar to those of the Springfield dealer. In his decision of April 3, 1970, the Acting Assistant Secretary concluded that for the year ending August 1969 the advantage to this dealer in his procurement of milk for Class I use for the Portsmouth plant averaged approximately $1.20 per hundred weight when compared to the order Class I price paid by regulated handlers. The total milk supply for this plant is Maine dairy farmers who are members of one of the proponent cooperatives.

Official notice is taken of the Deputy Assistant Secretary's decision of October 13, 1967 (32 F.R. 14502) on the matter of extension of regulation into southern New Hampshire and the remainder of Essex County, Mass. At the time it was recognized that the Springfield dealer and certain other Vermont dealers were distributing milk in eastern New Hampshire in direct competition with New Hampshire dealers who were being brought under full regulation. The western boundary of the extended area was drawn to include in the marketing area the towns of Dublin, Jaffrey, Harrisville, Nelson, Marlborough, Roxbury, Sullivan, and Keene City in Chesire County and to exclude the remainder of Cheshire and all of Sullivan County.

In his decision on the matter the Deputy Assistant Secretary concluded as follows: "The western boundary of the area of extension herein adopted was proposed and supported by Vermont handlers [dealers]. Recognizing their competition with New Hampshire dealers in distribution in the city of Keene and adjacent towns to the east in Cheshire County, they conceded the need for including such area in the marketing area. They pointed out that this area involved only a small part of their business and this was insufficient to bring them under full regulation. They further contended that with the marketing area boundary as herein proposed, sales by regulated handlers in Sullivan and Cheshire counties would not exceed 5 percent of any such handler's total sales. They estimated that Vermont dealers, on the other hand, did 85 percent of the total business in this area."

Under the terms of the order a distributing plant with more than 700 quarts of route disposition in the marketing area on any day or more than a daily average of 300 quarts during the month, which disposition is not less than 10 percent of the plant's total receipts of fluid milk products, becomes a fully regulated pool plant. Accordingly, at the time of the

1966 hearing on which the October 1967 decision was based, no Vermont dealer had as much as 10 percent of his sales in the area. Their disposition was insufficient to bring them under full regulation.

The situaiton has changed substantially since 1966. The Springfield dealer has significantly expanded his sales in the regulated market. At the time of the current hearing, in addition to his direct distribution in the marketing area he was purchasing approximately 300,000 pounds per month of packaged milk from regulated handlers for delivery directly to his distributing depot in Keene, N.H. The dealer conceded that these purchases were necessary to keep his disposition of plant receipts in the marketing area below the minimum 10 percent which would subject him to full regulation.

The dealer's election of full regulation for the months of October and November was clearly an economic decision. Confronted with the necessity of purchasing additional Federal order milk because of the temporary unavailability of his Maine supply, the advantage of processing all of his fluid requirements in his own plant outweighed the disadvantage of pooling his local dairy farmer receipts. The situation reversed in December when Maine supplies again became available.

The dealer is clearly exploiting both State and Federal regulations. The shifting of his supply sources and of the regulatory status of his plant are disruptive factors in the market which seriously debilitate the integrity of regulation. Continuing orderly marketing can be assured only by extension of the marketing area as herein adopted.

The marketing area boundaries as herein adopted will encompass the primary distribution area of the Springfield handler and of other handlers with whom he competes and who are expected to be fully regulated by this action. At the same time, the boundaries will insure the minimum involvement of other local dealers on the basis of their current distribution patterns.

In view of the past operating practices of the Portsmouth, New Hampshire, handler, it is uncertain whether his Portsmouth plant will become regulated through this area extension. This handler also operates plants at Canton, Mass., and Meriden, Conn., fully regulated under Orders 1 and 15, respectively. He operates his own chain of retail dairy stores, some of which are within and some outside of the currently defined Orders 1 and 15 marketing areas.

The Portsmouth plant has continued in its status as a nonpool plant over an extended period notwithstanding several recent Order 1 amendment actions which resulted in the expansion of the marketing area to include additional territory in which certain of the handler's stores are located. As the area has been extended, the handler has shifted the supplying of those stores which fell within an area of extension from his Portsmouth plant to his Canton or Meriden pool plants.

The additional territory adopted herein will include four of the handlers' stores now supplied by the Portsmouth plant, two in Greenfield, one in Shelburne, and one in Montague, all in Franklin County. The competitive buying advantage which this handler now enjoys through the supplying of these stores with unregulated milk will be removed by the regulation of the area as herein adopted, regardless from which plant he elects to serve them.

A dealer whose plant is located in Brattleboro, Vt., proposed that his area of sales be excluded from the area of extension. This dealer's primary area of distribution is in the southern portion of Windham County, Vt., and the southwestern portion of Cheshire County, N.H. Brattleboro is the principal town in his sales area and by far the largest population center in the entire Vermont area under consideration in this proceeding. Its approximately 12,239 residents (figures are based upon 1970 U.S. Census) is over a third of the total population of Windham County.

The dealer's only competition in his primary sales area comes from the Springfield dealer. Both dealers compete strongly for sales in Brattleboro, the Springfield dealer having an estimated 30 percent of the fluid milk business here. Both dealers also compete for sales in the Vermont towns of Newfane, Putney, Westminster, Dummerston, and Rockingham.

The Brattleboro dealer recognized that his was an "all or nothing situation," requiring that his sales area be included fully in or fully outside the expanded market. He suggested, therefore, that if any of the towns in which he distributes milk is regulated (Brattleboro being the major one) then all his sales territory reasonably should be regulated.

This portion of the market under discussion also is a significant segment of the Springfield handler's sales area and it cannot reasonably be excluded from the marketing area. Regulation of the Brattleboro dealer will in no way place him at a competitive disadvantage in the market since he and the Springfield handler are the only major distributors in this area and both will be subject to the minimum prices established by Order 1 in the procurement of their milk supply.

The northern delineation of the marketing area boundary adopted herein excludes from the marketing area those towns noticed in the northern portion of Windsor County, as well as the proposed towns in Orange County, all in Vermont, and the southern portion of Grafton County, N.H.

There are eight known dealers doing all or a portion of their business in this area and there is a considerable overlapping of their routes. Several of the dealers involved do their principal business beyond the maximum area noticed in the hearing call. It cannot be determined from this record whether such handlers do a sufficient proportion of their business within the noticed towns to bring them under full regulation or what problems might result if they became fully regulated while their principal competition remained outside the scope of regulation. Since there is no apparent disorderly marketing condition existing in the area at this time, there is no necessity of extending regulation beyond the boundaries as herein adopted.

A pool handler located in Laconia, N.H., proposed an extension of the marketing area to include the contiguous Grafton County, N.H., towns of Campton, Thornton, Rumney, Hebron, Waterville, Warren, Wentworth, Ellsworth, Dorchester, Groton, and Lyme.

Proponent handler generally has the preponderance of sales in these towns. In fact, on the basis of this record it appears that he has no competition except in the towns of Campton and Thornton. Nevertheless, his total sales here represent only about 4 percent of his total Class I business. There was no showing of any disorderly marketing conditions in any of these towns. Under the circumstance, there is no basis on this record for extension of regulation here and the request is therefore denied.

A proposal by the Springfield dealer to extend the area of regulation to include also the seven Massachusetts towns of Orange, New Salem, and Warwick in Franklin County, and Athol, Petersham, Phillipston, and Templeton in Worcester County, also should not be adopted.

Consideration was given to the regulation of this seven-town area at the October 1969 hearing and the decision relating thereto has been officially noticed elsewhere in these findings. There is no showing on this record that there have been any changes in the milk procurement practices or milk distribution patterns in the interim period. The local State regulated handlers doing business in this area are purchasing their entire milk supply from local dairy farmers on a classified use basis and at not less than the minimum prescribed State order prices. Under the circumstances there is no necessity for Federal regulation on the basis of this record.

The marketing area boundary herein adopted, as noted earlier in these findings, is drawn so as to encompass insofar as possible the area in which pool handlers and other handlers who are expected to be fully regulated under the order have their principal distribution of fluid milk products, and at the same time to minimize fringe area distribution of partially regulated handlers.

Although some of the route disposition of handlers to be regulated will extend beyond the area herein adopted for regulation, it is neither practical nor reasonable to include in the regulated area all of the area in which regulated handlers have any route disposition. The marketing area as adopted is a practical one in that it will encompass the preponderance of the fluid milk sales of handlers to be regulated. In addition, the boundaries as drawn insure on the basis of current operations, as detailed in the record, that there will be a minimum of overlapping sales as between regulated and unregulated handlers.

The definition in the existing order makes it clear that the designated marketing area means all territory within the specified places set forth therein, and all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by any governmental installation, institution, or other similar establishment. This intent as to the application of the marketing area definition is equally applicable to the marketing area as hereby expanded.

All producer milk received at regulated plants must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order he, in effect, would not be subject to effective price regulation. The absence of effective classification, pricing, and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers on a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

Since the dealers being brought under regulation have been purchasing milk from the same areas and in direct competition with regulated handlers and in the territory being added have competed with regulated handlers for sales, it is concluded that the provisions of the present order are equally appropriate for the extended area for the identical reasons set forth in the decisions under which such provisions were adopted.

2. *Pooling standards for supply plants.* No change should be made in the shipping requirements for pooling supply plants on the basis of this record.

The present shipping percentages were adopted concurrently in this order and in the Connecticut order, effective December 1, 1967, on the basis of a hearing held in Concord, N.H.; Framingham, Mass.; Greenfield, Mass.; and Hartford, Conn., during the period June 20–July 1, 1966.

To acquire pool plant status in the month of July, a plant must ship at least 15 percent, and in any month of August through November at least 25 percent, of its total receipts of milk from dairy farmers' farms as fluid milk products, other than as diverted milk, to pool distributing plants or to plants to which qualifying shipments may be made under the Connecticut order: *Provided*, That the greater shipments are made to qualifying plants under this order. A plant also may be pooled in any month of the July–November period as one of a group of plants under specified conditions, provided the group of plants considered as a unit meets the shipping percentages for such month. However, to qualify for pooling in the month of November as one of a group, the plant individually must have met the prescribed shipping requirements in one of the immediately preceding months of July through October.

To provide additional pooling flexibility, it has been further provided that a supply plant operated by a cooperative which also operates as a handler on farm bulk tank milk pursuant to § 1001.9(d) may be considered as one of a group of plants. In that event, the group's total receipts from dairy farms include the cooperative's receipts in its capacity as a handler pursuant to said § 1001.9(d) and qualifying shipments include shipments from such group of plants as well as receipts at other handlers' pool distributing plants from the cooperative as a handler pursuant to § 1001.9(d).

Automatic pooling status is provided in the months of December through June for any plant which was a pool plant in each of the preceding months of July through November. Otherwise, the monthly shipping requirement for each individual plant is 15 percent for each of such months.

A proposal made on behalf of six cooperatives and considered at the hearing would include the month of July as one of the months of automatic pooling and would revise the period of required shipments to the months of August through December.

In support of the proposal, the cooperatives' spokesman stated that greater flexibility in the pooling standards is needed in order to reduce uneconomic movements of reserve milk which sometimes must be made solely for the purpose of maintaining pooling status. This situation, he suggested, is the result of changing seasonality of receipts and Class I utilization. In this connection he pointed out that certain of the proponent cooperatives have found it increasingly difficult to meet the present standards, particularly during the months of July and August.

The present order provisions provide substantial flexibility in the matter of pooling. In addition, the required shipments are quite nominal. The increase in shipping requirements prescribed by the 1967 amendments resulted from difficulties experienced in the market in getting adequate delivery of country supply plant milk to the central market to meet the market's fluid needs.

Proponents' spokesman contended that the present problem is unrelated to the then existing problem of getting supply plants to ship needed milk. He suggested that the current difficulty is a problem of obtaining sufficient Class I outlets to meet the prescribed shipments. At the same time, however, he was uncertain whether, in fact, his proposal would adequately accommodate the current situation or whether August should be added to the months of automatic pooling.

If continuing orderly marketing is to be assured throughout the New England area, it is essential that coordinated pooling requirements continue to be maintained under the Massachusetts-Rhode Island-New Hampshire Order (No. 1) and the Connecticut Order (No. 15). Since the provisions of the Connecticut order were not an issue at this hearing, no change can be made in the provisions of that order and accordingly no change appropriately should be made in the pooling provisions of Order 1 at this time.

If subsequent experience continues to indicate the need for modification, the matter should be reconsidered under circumstances where there is opportunity to amend the two orders concurrently.

In conjunction with the proposed change in pooling standards, proponents also proposed an alternative qualification feature for all cooperative supply plants under which continuing pool status would be retained by each such plant for any month if at least 10 percent of receipts from dairy farmers associated with such plant had been shipped to pool distributing plants in each of 12 consecutive months ending with the current month. In addition, proponents proposed the adoption of a call provision in conjunction with this latter proposal under which the market administrator, under prescribed procedures, could change the regular shipping percentage for any month as needed to meet the market's needs for fluid milk.

The record establishes no distinction between the existing country manufacturing plants operated by cooperative associations and those operated by proprietary handlers, either in terms of function or purpose. While certain manufacturing plants operated by cooperative associations in the nearby plant area are pooled under special provisions, these particular plants have historically performed a unique balancing function in the market totally unlike that of any other plants. The fact that such plants have been accorded special status cannot be used as a basis for pooling the remaining cooperative manufacturing plants. The proposal for a special pooling standard for cooperative country manufacturing plants, therefore, is denied.

There was no showing that a call provision would better accommodate the market situation than the provisions adopted in conjunction with the 1967 change in shipping requirements for the purpose of assuring the continuing availability of all milk for fluid use. Under these current provisions a plant would lose pool status for any month in which the market administrator determines

that any part of the pool milk supply of such plant is not available for Class I use because of an unconditional contract for such plant to supply fluid milk products for Class II use. While the record does not establish that this provision has ever been invoked, there was no showing that the provision has been ineffective in assuring the availability of all milk for fluid use as needed. Accordingly the request for a call provision is denied.

3. *Diverted Milk.* No change should be made on the basis of this record with respect to the presently prescribed limitations on diversions.

The matter of diversions was most recently considered at the October 1969 hearing held in Sturbridge and Boston, Mass. On the basis of that record the then existing provisions were modified to provide nearly unlimited diversions of milk between pool plants and to limit diversions to nonpool plants in any month to not more than 25 percent of a handler's producer receipts. The changes were adopted to eliminate the detailed recordkeeping necessary under the previous provisions to insure that milk of any individual producer was not overdiverted. Under those provisions an individual producer's milk was eligible for diversion only if milk from his farm had been received at the pool plant (from which it was to be diverted) on a majority of the days during the preceding 12 months, ending with the current month, in which the handler caused milk to be moved from the farm as producer milk.

In modifying the diversion limitations, the Acting Assistant Secretary pointed out in his decision at that time that, in the case of overdiversions between pool plants, milk had pooling rights regardless of whether the diverting or receiving handler was held responsible and the pool obligation as well as the required payment to the producer(s) was, for all practical purposes, the same. Under the circumstances there was no apparent reason why diversions should be significantly limited between pool plants.

He further pointed out that there were adequate manufacturing facilities associated with the pool to generally handle the market's reserve supply. Since diversions to nonpool plants were not substantial, based on past market experience, he concluded it was not necessary to provide for diversions to nonpool plants in any month of more than 25 percent of a handler's producer receipts.

A cooperative association, the primary membership of which is with Massachusetts producers delivering to local handlers in the market (handlers outside the central market), proposed that the diversion limitations to nonpool plants be modified to permit such cooperative greater flexibility during the months of May through August in the use of nonpool plants as outlets for its members' milk not needed by its regulated purchasing handlers. The cooperative's spokesman pointed out that it operated no pool plants and to this extent did not have the flexibility of operation available to some other cooperatives operating pool plants in the nearby area. He contended that greater opportunity for moving milk to nonpool plants was needed in order that the cooperative would have the same privileges with respect to diversion of member-producer milk as the order accords other cooperatives with similar involvement in the marketing area.

Under usual circumstances, milk produced in the nearby area logically should be disposed of for Class I purposes. It is uneconomic and a considerable expense to the pool, and hence to all producers, when nearby milk is disposed of to nonpool plants for Class II use at the same time that country plant milk is being transferred to city distributing plants for Class I use. The order provisions appropriately should be drafted to encourage the most efficient use of pool milk. The fact that certain handlers may wish to retain control of larger reserve supplies to insure maximum flexibility for bidding on contract milk is not a persuasive reason for liberalizing the diversion provisions.

The fact that during the months of June through August 1970 proponent's managerial decisions on the routing of surplus milk were influenced by the need for the pooling of such milk cannot be construed as a demonstration of the inappropriateness of the existing provisions. Unquestionably, each handler in the market makes his daily managerial decisions on the basis of their impact with respect to the application of the several order provisions. Proponent's role in this regard, thus, is not unique.

It is recognized that since proponent's membership includes primarily producers delivering to the small local handlers, the problem of disposing of reserve milk may be somewhat more demanding than that of cooperatives serving the larger handlers. However, the application of the order cannot be construed as being inequitable, as proponent's spokesman suggests, because of this situation. It cannot be concluded on the basis of this record that the existing provisions have impeded the efficient and orderly marketing of all milk. The request for modification of the diversion limitation is denied.

4. *Assignment provisions.* No change should be made in the assignment provisions on the basis of this record.

A proposal made by six cooperatives and a proposal by a multiple plant proprietary handler would each amend the present assignment provisions to provide that up to 20 percent of direct producer receipts (including receipts from cooperatives as handlers on farm bulk tank milk) would be assigned to Class II use before the milk received from the handler's own country supply plants was so assigned. Proponents claimed that the position of one cooperative operating both distributing and supply plants and of the multiple plant handler was unique in that only they, among all handlers in the market, were unable to have country supply plant milk assigned to Class I until all of their direct receipts had been so assigned.

Under the existing assignment provisions, receipts from the handler's plants in the nearby zone, receipts from other handlers' pool plants for which a Class II classification is not requested, and direct receipts from producers and cooperative associations in their capacity as handlers pursuant to § 1001.9(d) are assigned to Class I, in that sequence, before the assignment of receipts from the handler's country plant(s). Under these provisions, a handler purchasing milk from the plants of other handlers, or a multiple-plant handler operating more than one plant in the nearby zone, has more flexibility for assigning country plant receipts to Class I than handlers receiving milk only from their own country plants.

This present assignment sequence, proponents contend, provides other handlers full opportunity to have all, or nearly all, of their Class II requirements delivered to their city plants at producers' expense. One proponent indicated that, to obtain the same advantage, it had been necessary for it to make uneconomic transfers through other plants to circumvent the assignment procedures. Otherwise it would bear the transportation cost on its country plant transfers. In either situation a disadvantageous cost position in relation to other handlers was said to result.

A proposal intended to achieve a result essentially similar to that contemplated by proponents under the current proposals was considered and denied in the 1969 proceeding. In denying such proposal, the Acting Assistant Secretary pointed out that its adoption would provide all handlers the opportunity to move almost unlimited quantities of milk to city plants for Class II use at producers' expense. The appropriate solution to the problem, he said, would be to amend the order in a manner which would relieve the pool (and hence producers) of the burden of transferring excessive quantities of milk to city plants for Class II use.

In support of their current proposal, proponents indicated that certain Class II operations (milk shake base and certain ice cream mixes) were carried on at their city plants because of the need to use equipment utilized principally in their fluid packaging operations. Other Class II uses (shrinkage, eggnog, yogurt, etc.), they said, were adjunct to their Class I business. They further pointed out that it was generally necessary to have available reserves to cover day-to-day variations in Class I sales and that this in conjunction with unavoidable route returns necessarily increased Class II utilization at city plants.

While it is recognized that some Class II utilization at city plants is unavoidable, a handler's need to use certain equipment available at such plants cannot be a compelling reason for modifying the assignment provisions to relieve such handlers of transportation costs on Class II milk. To the extent that reserves must be available at city plants to cover fluctuations in supplies and Class I sales and that route returns are unavoidable, it

may be reasonable that producers bear the cost of transporting minimal quantities of milk to city plants to cover such uses. The record of this hearing, however, lacks precision in identification of the volumes or percentages which might here be involved.

As previously indicated, the problem most appropriately should be approached with the view of amendment of the order in a manner which would relieve the pool of the burden of transporting excessive quantities of milk to city plants for Class II use. More consideration of the problem and possible solutions is needed than was given on this record. Under the circumstances, amendment of the order on the basis of this record is denied.

5. *Producer-handlers.* The definition and application of producer-handler provisions under the order should not be modified on the basis of this record.

The order currently provides, among other conditions, that a producer-handler may receive no fluid milk products other than from his own production and from pool plants under this or the Connecticut order. If his receipts from own farm production and total route sales each exceed 2,150 pounds per day for the month, his receipts from pool plants under either Federal order may not exceed 2 percent of his receipts from own production.

A proposal made on behalf of six cooperatives, and widely supported both by other producers and by handler interests, would discontinue the recognition and treatment now prescribed for producer-handlers under the order in favor of an "own farm milk" exemption not in excess of 1,500 quarts on a daily average for any handler with respect to his own farm production during any month, if such own farm production is received, processed, and packaged at his own plant and distributed therefrom.

The application of producer-handler provisions under the New England Federal orders has been a consideration at numerous past hearings. The matter was most recently considered at the June 20–July 1, 1966, hearing on which record regulation was extended into southern New Hampshire and the then remaining unregulated area of Essex County, Mass. One of the proposals there considered for modifying the producer-handlers provisions (all of which were subsequently denied) was essentially indentical to the proposal here under consideration.

The producer-handler provisions of the present order, adopted on the basis of the record of the merger hearing held in January and February 1963, are substantially those previously contained in the separate Boston, Southeastern New England, Springfield, and Worcester orders. Fundamentally, the exemption of producer-handlers from the pooling and pricing provisions of the order is predicated on the self-sufficiency of the combined production, processing, and distribution operation of such persons.

While the application of producer-handler provisions under this order has been a continuing issue throughout much of the period of regulation, their economic impact in the market has not been substantial. Nevertheless, certain individuals in the role of producer-handler have, at times, attempted to exploit their position to the disadvantage of the market generally. The present order provisions evolved from a series of previous actions taken intermittently throughout the period of regulation to resolve marketing problems generated by the activities of handlers with own farm production, to maintain equity among producers and among handlers, and at the same time to minimize the impact of regulation on individuals who operate in the joint role of both producer and handler solely at their own risk and substantially without reliance on others for either supplies or facilities.

Proponents suggested that the current proposal was being made because, in their view, the Department had erred in not adopting similar previous proposals which they believe provided the most appropriate treatment of individuals engaged in both production and processing. They suggested that the extension of regulation would place local Vermont dealers now being brought under regulation at a serious disadvantage in competition with a large operation holding producer-handler status under the current order.

Proponents offered no information demonstrating any problem involving producer-handlers in the current marketing area. To the contrary between March 1968 and March 1970 the number of producer-handlers under the order declined by 22 percent, from 54 to 42. While all the decline in number of producer-handlers occurred in the group with a daily production of less than 1,500 quarts, the percentage decline in production among the nine producer-handlers with a daily production in excess of 1,500 quarts was essentially identical to that of all producer-handlers, approximately 26 percent. Producer-handler production in March 1970 was 1.2 percent of the total production for the market, whereas 2 years earlier it was 1.8 percent of such total.

On the basis of available information, it cannot be concluded that producer-handlers have in any way improved their position in the market under the current order provisions. Nor is there any indication in the record that they have promoted disorderly marketing conditions in the current area.

The additional territory here being added to the marketing area is an important sales area of one of the largest producer-handlers in the market and his primary competition in this area are the local Vermont dealers now being brought under regulation. In addition, the operations of this individual are somewhat unusual in that the principal current outlet for his milk is through the IGA stores in Massachusetts, New Hampshire, and Vermont.

Proponents point out that the dealers now being brought under regulation have in the past purchased their milk requirements from dairy farmers at prices closely related to the Order 1 blend price applicable in their procurement area. With the extension of regulation, these handlers must now purchase their milk on a classified use basis and at the order class prices. This, they suggest, presents an entirely new situation which requires that the Department revise its regulation with respect to producer-handlers.

While it is conceded that the position of the producer-handler in question is somewhat different from that of the usual producer-handler in that all his sales apparently are contracted sales to stores, nevertheless it cannot be concluded that this situation is totally unique or that it necessarily requires a change in the order provision relating to producer-handlers. Based on general experience under the order, there is less reason now to consider further regulation of producer-handlers than in the past. Accordingly, the request for a change in the regulation of producer-handlers is denied.

6. *Miscellaneous.* There are no incidental or conforming changes necessary to the Massachusetts-Rhode Island-New Hampshire order provisions. It has been concluded elsewhere in these findings that the provisions of the present order are equally appropriate for the extended area for the identical reasons set forth in the decisions under which such provisions were adopted. In this connection, a hearing was held for 62 order markets (including Order No. 1) in Washington, D.C., September 30, 1970, pursuant to notice thereof issued August 21, 1970 (35 F.R. 13657), and a supplemental notice issued September 25, 1970 (35 F.R. 14998). The material issue on the record of the hearing related to whether several general terms, definitions, and other administrative provisions common to all milk orders should be issued in a separate single order which could be applicable to all Federal milk orders.

Any changes which may be made on the basis of the record of this September 1970 proceeding which involve the adoption of certain such general provisions to the Massachusetts-Rhode Island-New Hampshire Order No. 1 and all other orders would be equally applicable and appropriate to the expanded order market as here adopted.

Rulings on Proposed Findings and Conclusions

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

General Findings

The findings and determinations hereinafter set forth are supplementary and

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

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

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which hearings have been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1001.87 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

Section 1001.2 is revised to read as follows:

§ 1001.2 Boston Regional marketing area.

"Boston Regional marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the places set forth below, all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by any governmental installation, institution, or other similar establishment:

MASSACHUSETTS

Counties:
- Barnstable.
- Bristol.
- Dukes.
- Essex.
- Franklin (except the towns of New Salem, Orange, and Warwick).
- Hampden (except the towns of Brimfield, Monson, Palmer, and Wales).
- Hampshire (except the town of Ware).
- Middlesex.
- Norfolk.
- Plymouth.
- Suffolk.
- Worcester (except the towns of Athol, Barre, Douglas, East Brookfield, Hardwick, New Braintree, North Brookfield, Northbridge, Petersham, Phillipston, Royalston, Templeton, Uxbridge, Warren, West Brookfield, and Winchendon).

NEW HAMPSHIRE

Counties:
- Belknap.
- Cheshire.
- Grafton (the towns of Ashland, Bridgewater, Bristol, Holderness, and Plymouth only).
- Hillsborough.
- Merrimack.
- Rockingham.
- Strafford.
- Sullivan (except the town of Plainfield).

RHODE ISLAND

All cities and towns except New Shoreham (Block Island).

VERMONT

Counties:
- Bennington (the towns of Landgrove, Peru, and Winhall only).
- Windham (except Somerset).
- Windsor (the towns of Andover, Baltimore, Cavendish, Chester, Ludlow, Plymouth, Reading, Springfield, Weathersfield, Weston, West Windsor, and Windsor only).

Signed at Washington, D.C., on March 1, 1971.

JOHN C. BLUM,
Deputy Administrator
Regulatory Programs.

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[7 CFR Part 1064]

[Docket No. AO-23-A40]

MILK IN GREATER KANSAS CITY MARKETING AREA

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the greater Kansas City marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th 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 the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Kansas City, Mo., on December 15, 1970, pursuant to notices thereof which were issued on November 17, 1970, (35 F.R. 17859) and November 23, 1970, (35 F.R. 18202).

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

1. Pool plant performance requirements for cooperative supply plants.
2. Supply plant pooling standards.
3. Diversions of producer milk.
4. Mileage limitation on transfers and diversions to nonpool plants.
5. Class II and Class III prices.
6. Emergency action.

FINDINGS AND CONCLUSIONS

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

1. *Pool plant performance requirements for cooperative supply plants.* The performance requirements for a supply plant operated by a cooperative association should be revised to allow such a plant to be pooled on the basis of milk movements to pool distributing plants during either the current month or the 12-month period ending with the current month.

The revised provision would require that, during the applicable period of qualification, 50 percent or more of member producer milk be received at pool distributing plants by transfer from the supply plant or directly from member producers' farms. Milk delivered directly from farms of member producers to pool distributing plants would be considered a receipt at the supply plant of the cooperative for the purpose of determining the qualification of such plant as a pool plant.

To quality a cooperative supply plant presently, 65 percent of member producer milk must be received at pool distributing plants during the months of September through January, either by transfer from the supply plant or directly from member producers' farms. In the remaining months of the year only 50 percent of member producer milk must be so received.

The cooperative association representing a large majority of producers operates a balancing plant in the market. The percentage of its member producer milk received at pool distributing plants has declined significantly, particularly by shipment from such supply plant. In October 1969, 81.5 percent of its member producer milk was received at pool distributing plants by transfer from its Sabetha, Kans., plant and directly from member producer farms. By October 1970, only 68.4 percent of its member producer milk was received at pool distributing plants.

Since the present pooling standard requires receipt of 65 percent of a cooperative's member producer milk at pool distributing plants, the supply plant of such cooperative may not qualify in the future under such standard without incurring additional hauling and handling costs.

The reasons for the decrease in shipments to Kansas City pool distributing plants are varied. In 1968, a handler discontinued his packaging operations and transferred them to a plant in another market. The milk formerly received at the Kansas City plant was diverted to other uses. Another Kansas City handler closed his plant in December 1969. The route sales of that plant were then served from another plant of that handler regulated by the Des Moines, Iowa, order. Here again, producer milk of the cooperative had to be diverted to other uses. Average daily Class I sales by nonpool plants have increased by over 50 percent from November of 1969 to November of 1970, and in each month of 1970 were greater than they were for the corresponding month in 1969.

With the exception of April, the Class I sales of pool distributing plants declined in each month through November 1970 from the corresponding month a year earlier. Such decreases ranged from 1.5 percent in February to 5.2 percent in May, and averaged 2.4 percent monthly through November 1970.

Producer milk pooled on the Kansas City market increased throughout most of 1970. Average daily producer milk pooled on the Kansas City market increased 6.3 percent in May from 1 year ago, in June 5.5 percent, July 9.9 percent, August 5.3 percent, September 10.9 percent, and October 12 percent.

Proponents requested that the pooling requirements be based on receipts of member producer milk at pool plants during the previous 12 months. Pooling on the basis of aggregate performance in the immediately preceding 12-month period should be adopted as an alternative to current month performance. This will reflect that a cooperative has demonstrated the regular association of a balancing plant and producer milk with this market. It also will provide flexibility for a cooperative in adjusting its operations to meet variable marketing conditions.

Proponent's proposal would abandon the current month performance standard for pooling that is contained in the present order. It would not permit a cooperative with a supply plant first becoming associated with this market by meeting the cooperative plant pooling requirement in the current month to be pooled on the same basis as other similar plants. This could be unduly restrictive, however. A cooperative having 50 percent of its member producer milk on the market might have similar balancing problems in supplying other handlers even though it had only been on the market a short time.

The current month performance standard therefore should be continued in the order as the basic pooling provision. However, if a cooperative supply plant demonstrates its association with the market as a balancing plant for a period of 1 year, it should have the opportunity to be pooled on the alternate 12-month aggregate basis.

It is necessary further to establish rules to determine under which order a cooperative supply plant qualifying by either of the above means should be regulated, if it meets the pooling requirements of more than one order.

Proponent suggested that in the event that a cooperative supply plant under this order should meet the pooling qualifications under another order as well, a written request to the market administrator should be sufficient to maintain pool plant status under this order.

Generally, a plant should be pooled under the order for the market where it is most closely associated by delivery performance. Most of the orders in this region provide that a supply plant shall be subject to regulation when it meets the specified shipping requirements of the particular order and delivers a greater percentage of its milk to plants defined as pool distributing plants under such order than is delivered to pool plants under the other order to which it might be subject.

As previously stated, pool status for a cooperative supply plant under this order is based, however, on either direct shipments from member producers' farms or shipments from the supply plant, to pool distributing plants. Qualification on this basis is related to the particular function of the plant as a balancing plant for the Greater Kansas City market.

In view of the limited volume of milk likely to move through a cooperative supply plant in performing its function as a balancing plant, even small shipments of milk to other order plants could result in a shift of regulation of such plant from the Greater Kansas City order. It is concluded therefore that the milk which is delivered directly to pool distributing plants from the farms of member producers should be considered a receipt at the cooperative supply plant for the purpose of qualifying such plant as a pool plant under the Greater Kansas City order. With such a provision, shipments from the plant to other markets should not result in the plant becoming a pool plant under some other order as long as the supply of producer milk of the cooperative continues to be primarily associated with the Greater Kansas City market.

2. *Supply plant pooling standards.* The pooling requirements for a supply plant (other than a cooperative supply plant) should be changed to require that at least 50 percent of the plant's monthly receipts of Grade A milk from dairy farmers either be shipped as fluid milk products to pool distributing plants or otherwise be disposed of in the marketing area as Class I. This would change the present 30 percent shipping requirement to 50 percent for each month of November, December, and January. Pooling requirements for the remaining months of the year would continue to be 50 percent. However, a plant which qualifies as a pool plant during each month of September through January could continue to be qualified without meeting shipment requirements during the following months of February through August, unless nonpool plant status is requested by the handler.

The order was amended on February 1, 1967, to reduce the percentage shipping requirement in November, December, and January from 50 percent of dairy farmer receipts at supply plants to 30 percent. Official notice is taken of the decision issued on January 27, 1967 (32 F.R. 1133). At that time the one supply plant on the market experienced difficulty in meeting the 50 percent shipping requirement because deliveries of producer milk directly from farms to pool distributing plants increased to the extent that shipments from the supply plant were halved. The plant involved now qualifies under the provision for pooling a cooperative supply plant.

There are no present supply plants on the market other than the two operated by the cooperatives. Consequently, no present plant would be affected by this change. Some shipping standard is needed in each month, however, for any other supply plant that may come on the market at a future time. In view of an equal or possibly greater dependence on supply plants during the fall and winter than at other times, the proposed 50 precent shipping requirement is reasonable for these months as well as for other months of the year.

A 50 percent shipping requirement for supply plants to attain pool plant status in the fall and winter period is contained in other nearby orders also. This order had the 50 percent standard for November through January prior to February 1967. Reinstatement of this pooling standard under the Greater Kansas City order will provide similar basis for market pooling under different orders for supply plants that compete for milk in overlapping procurement areas.

Under these revised standards, a plant which meets the minimum pooling requirements during September through January would be required to ship only 21 percent of its milk on an annual basis, since it may continue to have pool plant status for February through August without further shipments.

3. *Diversions of producer milk.* The provisions relating to diversion of producer milk by a handler or a cooperative should be revised to provide the same

basis for diversion of producer milk in September through January as now provided for February through August. This change would permit maximum diversions of producer milk from pool distributing plants to pool supply plants and to nonpool plants in an amount not to exceed that received physically at pool distributing plants during the month instead of the present 35 percent of such receipts.

A cooperative in the market proposed more liberal diversions of producer milk. Specifically, its proposal would allow for each month of the year the diversion of an amount of producer milk equal to the amount of producer milk actually received at pool distributing plants. This cooperative acts as a handler on most of the milk that must be diverted from the market for use in manufactured dairy products. It was necessary to suspend the 35 percent diversion limit for the November 1970–January 1971 period to accommodate the orderly disposition of reserve milk supplies for the market.

The diversion privilege is intended primarily to promote efficient disposition of milk not needed at pool distributing plants for fluid purposes. When milk is not needed at pool distributing plants, it is more efficient to divert it to manufacturing plants located near farms of producers rather than receive it at bottling plants and subsequently move it to manufacturing plants.

In September 1970, the proponent cooperative diverted 21 percent of its member milk from pool distributing plants compared to 11.6 percent in September 1969. In the month of October 1970, the cooperative diverted 32 percent of its member producer milk from pool distributing plants compared to 14.6 percent in the same month a year earlier. For the first 11 months of 1970, 172 million pounds of producer milk, or 18 percent of total producer milk, was diverted. For the same period in 1969, producer milk diversions totaled 126 million pounds, or 14 percent of producer milk on the market. The cooperative handled approximately 90 percent of the total producer milk diverted in both years.

Several recent developments in the market prompt the need for revising the diversion provisions. As pointed out previously, these include the closing of local distributing plants and shifts of their Class I sales to pool plants under other orders, a change in procurement methods of a local handler, the manufacture of cottage cheese at nonpool plants instead of in pool plant facilities, and some increase in local producer supplies in relation to Class I sales.

As Class I sales have declined, the average daily producer milk receipts at pool plants have increased. Some of this increase in producer milk supplies has resulted from the association of an additional cooperative supply plant with the market as a pool plant effective in May 1970. Average daily producer milk deliveries increased in May and June 1970 by 6 percent from May and June 1969, and have continued to increase on a daily basis over the same month a year ago by 10 percent in July, 5 percent in August, 11 percent in September, and 12 percent in October and November 1970.

The effect of these developments during recent months has been to increase the percentage of producer milk in Class II and Class III uses. In 1968 and 1969, the percentage of producer milk in Class II and Class III uses was 33 and 34, respectively. Of the 959 million pounds of producer milk pooled during January through November 1970, 375 million pounds, or 39 percent, were utilized in Class II and Class III uses. About 46 percent of the total producer milk used in the reserve milk classes in these 11 months was diverted milk.

The cooperative diverting most of the producer milk on the market diverted from 19 percent to 43 percent of its member producer milk received at pool distributing plants in each of the first 10 months of 1970. This was a substantial increase from the same months during 1969 when from 12 percent to 29 percent of its member producer milk at pool distributing plants was diverted.

May, June, and July are usually the months when the proportion of producer milk that must be diverted is greatest. However, greater diversions are being made in September through January than in the past. In October 1970, diversions by the cooperative were near the present 35 percent limit.

There is substantial variation in daily fluid milk needs of distributing plants throughout the year. Increasing numbers of distributing plants do not process and package milk on weekends. Holidays also affect the need for milk packaged at distributing plants. The daily sales volume of plants during the week is uneven because consumers tend to buy at stores toward the end of the week. Distributing plant operators typically maintain a sufficient supply of milk to meet requirements on peak bottling days during seasonally low production months. Consequently, there are substantial quantities of milk produced on other days which must be diverted to manufactured dairy product uses.

Accordingly, the order should be revised to allow cooperatives and handlers to divert, in each month of the year, a maximum quantity of producer milk to pool supply plants and nonpool plants equal to that received physically at pool distributing plants.

4. *Mileage limitation on transfers and diversions to nonpool plants.* The order should be amended to remove the mandatory Class I classification of bulk fluid milk products transferred or diverted to nonpool plants located more than 400 miles from the nearer of Kansas City, Mo., or Topeka, Kans. Such transfers or diversions would be classified on the basis of actual use as now proviled for transfers and diversions to nonpool plants located within a 400-mile radius from such basing points. Transfers of packaged milk to nonpool plants would continue to be classified as Class I irrespective of location.

Although this provision has not interfered up to the present time with the movement of milk to nonpool plants, retention could affect the orderly disposition of reserve milk supplies in the future, especially since nonpool manufacturing plants and the farms of some of the producers delivering to the Kansas City market are located in Minnesota. Minnesota lies largely outside the 400-mile line of demarcation. Proponent cooperative operates a pool supply plant under the Kansas City order which is located at Faribault, Minn. The cooperative also operates a plant located at Pine Island, Minn., which is currently regulated under the Southeastern Minnesota-Northern Iowa order. Pine Island is approximately 427 miles from Kansas City. The cooperative has a third plant at Pine Island which was recently converted to the manufacture of cheddar cheese.

Witness for the cooperative stated that effective January 1, 1971, the Pine Island plant, now pooled under the Southeastern Minnesota-Northern Iowa order would probably qualify as a pool plant under the Kansas City order. Milk excess to the fluid milk requirements at Kansas City pool distributing plants then would be moved from the Faribault and Pine Island pool plants to the cheese manufacturing plant at Pine Island for processing.

Another cooperative supported removal of the mileage basis for classifying bulk milk movements. No one opposed it at the hearing.

The present provision of the order requiring Class I classification of milk moved more than 400 miles from the market has been suspended since November 1, 1970. Amended of the order will continue to permit milk moved to the cheese plant at Pine Island to be classified and priced on the basis of its use or disposition at such plant.

In earlier days, it was economically feasible to move milk from the market to outlets beyond the 400 miles only if it were intended for Class I use. Because Class III milk has about the same value at all locations, it was considered uneconomical under usual circumstances to transport it long distances for use in manufactured dairy products. However, under current marketing conditions, milk associated with this market can be handled at manufacturing plants located more than 400 miles from the market without incurring unnecessary transportation and handling costs. The Pine Island cheese manufacturing plant is located near the farms of some producers for this market and it represents a desirable outlet for some milk excess to Class I needs in this market.

In the past, limiting distant movements of milk to Class I classification tended to save administrative cost. The cost involved in verifying utilization at distant plants is greatly lessened now because the Federal order system is extensive throughout much of the continental United States. Arrangements for verifying utilization at distant nonpool plants are feasible through facilities of several market administrators' offices near the nonpool plants representing actual or potential outlets for the market

reserve. Also, the market administrator is required presently to check utilization at plants in the general area, but within 400 miles of Kansas City. It would not represent much greater expense to verify utilization at a plant, such as Pine Island, which is only a few miles more distant than a plant at which utilization is verified currently.

Removal of the automatic Class I classification for milk moved to points 400 miles or more from the market will result in handlers accounting to the producer-settlement fund on the basis of use at the plant to which the milk is transferred or diverted. Handlers, including cooperatives, will be required to claim Class II or Class III utilization in their monthly reports of receipts and utilization and will be required to maintain plant records which must be made available to the market administrator upon request.

5. *Class II and Class III prices.* The Class III price should be the basic formula price for the current month and the Class II price for milk used in cottage cheese should be the basic formula price for the month plus 15 cents. The basic formula price is the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported monthly by the Department, adjusted to a 3.5 percent butterfat test.

Currently, the Class III price is the Minnesota-Wisconsin formula price for the current month, but not to exceed a price based on butter and nonfat dry milk values in a formula recognizing yield factors and manufacturing allowances for these products. The Class II price is the Class III price plus 15 cents per hundredweight, but not less than the the basic formula price (Minnesota-Wisconsin series) for the month.

A cooperative supplying milk to the market proposed that the butter-nonfat dry milk formula, used as a "snubber" in determining the Class III price, be deleted from the order and that the Class II price be the Class III price plus 15 cents.

The proponent cooperative is the primary handler of reserve milk supplies in this market. It maintains that a price determined by butter and nonfat dry milk values is too low and not representative of a competitive pay prices for milk in manufactured product uses in this area.

A cooperative operating a pool supply plant located in Minnesota and a handler witness opposed any increase in reserve milk prices at this time in this market. Both testified that action should await hearing or hearings held on classification and pricing on a number of orders to achieve uniformity among them.

The objective in pricing reserve milk disposed of in manufactured product uses is to price such milk at a level to result in orderly disposition of all excess supplies, but yet maximize returns to producers from the values obtained in manufactured product disposition. Establishment of a price too high to clear the market of milk excess to Class I requirements would interfere with the orderly marketing of milk and encourage the use of other, more distant sources of milk instead of producer supplies. Fixing a price too low would not obtain the highest possible returns for producers and would encourage handlers to associate additional supplies with the market to obtain low cost milk for manufacturing uses.

The Minnesota-Wisconsin price series represents actual prices paid farmers for manufacturing grade milk in Minnesota and Wisconsin. It is announced monthly, on or before the fifth of the month, by the Department. It is based on a large sampling of plants in Minnesota and Wisconsin. Approximately one-half of the manufacturing grade milk sold in the United States is produced in these two states. The most competitive situation existing for manufacturing grade milk in the United States is in Minnesota and Wisconsin. The Minnesota-Wisconsin price series represents an excellent measure of the average value of manufacturing grade milk because the series reflects supply and demand under highly competitive conditions for milk used in maunfactured dairy products. Milk products that are manufactured from excess milk in the Kansas City market compete with manufactured dairy products within a marketing system which is national in scale.

In 1969 the proponent cooperative paid its members who produced manufacturing grade milk a price which averaged 9 cents below the Minnesota-Wisconsin price. During the first 10 months of 1970, however, the price paid members averaged only 2 cents below the Minnesota-Wisconsin price and in 3 months was higher than such price.

The proponent cooperative handles the major volume of the reserve milk. In 1969 this cooperative obtained a price for excess Grade A milk moved to nonpool plants which averaged 3 cents below the Minnesota-Wisconsin price series. For the first 10 months of 1970, the price obtained averaged 2 cents above the Minnesota-Wisconsin price series.

The cooperative is obtaining 20 cents above the Minnesota-Wisconsin price for milk used in evaporated milk, and from 25 to 30 cents above the Minnesota-Wisconsin price for milk used in cheese.

In 1969, the butter-nonfat dry milk formula under the Greater Kansas City order resulted in a price 17 cents below the Minnesota-Wisconsin price. For the first 10 months of 1970, the butter-nonfat dry milk price averaged 12 cents below the Minnesota-Wisconsin price. The cooperative, however, paid its member manufacturing milk shippers prices approaching the Minnesota-Wisconsin level during this period.

The cooperative has a manufacturing plant in this market, and also operates plants in the Nebraska-Western Iowa, the Des Moines, the St. Louis-Ozarks and the Neosho Valley market. The Minnesota-Wisconsin price is the basis for establishing reserve milk prices in such surrounding markets. Obviously, the cooperative has been able to return to its member producers in this market a price competitive with the prices for reserve milk under surrounding orders.

The Class II price should be the basic formula price for the month plus 15 cents. The same cooperative, handling most of the producer milk in the market, proposed that the Class II price be increased to this level. Another cooperative and handlers opposed any increase until all orders in the region are simultaneously amended.

The effective minimum Class II milk price under the current order for each of the months of May through September 1970 was the Minnesota-Wisconsin price plus 15 cents. For the first 10 months of 1970, however, use of the basic formula price plus 15 cents would have resulted in a Class II price averaging 6 cents higher than the order Class II prices during that period. Prices handlers paid for producer milk in cottage cheese uses, including handling charges, were above the proposed level during this 10-month period.

The price for Class II milk should be at a level which will obtain full use value for producers. Thus, some added value should be attached to producer skim milk used in cottage cheese in this market above its value in other manufactured dairy products. The Class II price should not be established, however, at a level substantially higher than the cost of alternative supplies for this use, if producers are to retain this outlet for their milk.

Cottage cheese represents one of the largest outlets for producer skim milk that is excess to fluid uses in the Kansas City market. Approximately 12 percent of the total producer milk supply is so utilized each month. Handlers use producer milk for cottage cheese manufacture in preference to other sources.

The cooperative spokesman testified that four alternative sources of supply, in addition to producer milk, are available for cottage cheese use in the Kansas City market. These include manufacturing grade milk for unregulated supply plants, manufactured dairy products, such as nonfat dry milk, which may be used to produce cottage cheese, cottage cheese made from milk priced under another order, and cottage cheese and cottage cheese curd from nonpool plants.

The prices for non-Grade A milk returned to dairy farmer members of the cooperative averaged $4.61 during the first 10 months of 1970. This was 2 cents per hundredweight less than the Minnesota-Wisconsin price but does not include a handling charge or any additional hauling cost. Handlers in this market have not requested the cooperative to supply non-Grade A milk for their cottage cheese requirements. However, had they done so, the cost to them, including the customary handling charge, would have approximated the proposed Class II price.

Handlers presumably could purchase nonfat dry milk and reconstitute it into liquid skim for use in cottage cheese. The price per pound of nonfat dry milk produced locally was 27.2 cents at the time of the hearing. At such price the cost of nonfat dry milk (skim milk equivalent

basis) used to produce cottage cheese would exceed the proposed Class II price level.

Plants under other Federal orders are a third potential source of milk for cottage cheese. The price for regulated milk used in cottage cheese at plants under the Nebraska-Western Iowa order is the Minnesota-Wisconsin price plus 15 cents. While some other markets price milk for cottage cheese at the basic formula price level, the milk or cottage cheese imported from such markets could be presumed to carry handling or transportation charges from the other market, or both.

A fourth source of cottage cheese to handlers would be cottage cheese or curd from nonpool plants. The proponent cooperative operates such a plant at Eldorado Springs, Mo. Producers of manufacturing grade milk received at this plant were paid $4.64 per hundredweight for their milk in the first 10 months of 1970. This was about 1 cent more than the Minnesota-Wisconsin price for the same period. About two-thirds of the cottage cheese manufactured at this plant is made from Grade A excess milk. Milk diverted from Greater Kansas City pool plants to this nonpool plant is classified as Class II and is so priced under this order. The proponent cooperative also manufactures cottage cheese at a nonpool plant located at Minneapolis, Minn., and regulated under the Minneapolis-St. Paul Federal order. Milk in cottage cheese at that plant is priced at the Minnesota-Wisconsin price level. Considering transportation cost, cottage cheese from this source moved to Kansas City would be as high or higher than cottage cheese made from producer milk at the proposed Class II price. These plants were the only sources of finished cottage cheese or curd referred to in the testimony. No lower-priced sources were indicated.

At no time during recent months has any handler refused producer milk for cottage cheese, nor has any handler sought a supply other than producer milk for cottage cheese use. The proposal for establishing the Class II price at the basic formula price plus 15 cents is reasonable and is adopted.

6. *Emergency action.* Consideration was given at the hearing to the need for emergency action, with respect to the material issues. The witness for the proponent cooperative which originally requested emergency action stated the cooperative was not seeking omission of the recommended decision, but prompt action on the necessary amendments.

The provisions considered for amendment are important and complex. Therefore, the recommended decision with respect to these matters should not be omitted.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

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

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

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1064.12, paragraphs (b) and (c) are revised to read as follows:

§ 1064.12 Pool plant.

* * * * *

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers (including receipts from a handler pursuant to § 1064.7(c), except receipts of milk diverted pursuant to § 1064.15) is disposed of as fluid milk products, except filled milk, in one or both of the following ways: (1) shipped to and received at pool distributing plants, or (2) sold as Class I in the marketing area on routes. A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August, if the required percentage pursuant to this paragraph is not met, unless the plant operator files written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association in any month in which the member producer milk of such cooperative association received at pool distributing plants during the current month, or the immediately preceding 12-month period ending with the current month, either by transfer from such supply plant or directly from member producers' farms, is 50 percent or more of such cooperative's total member producer milk. Such direct deliveries from member producers' farms shall be considered as having been received first at the plant of such cooperative association for the purpose of determining the qualification of such plant as a pool plant pursuant to this paragraph. If two or more cooperative associations desire to qualify a supply plant operated by one of the associations as a pool plant on the basis of their combined deliveries to pool distributing plants and have filed a written request to this effect with the market administrator on or before the first day of the month the agreement is effective, such a supply plant shall be a pool plant during the month if the above specified percentage of the total member producer milk of such cooperative associations was received at pool distributing plants during the current month, or the immediately preceding 12 month period ending with the current month.

2. In § 1064.15, paragraphs (a) and (b) are revised to read as follows:

§ 1064.15 Diverted milk.

* * * * *

(a) A handler pursuant to § 1064.7(b) may divert for its account the milk of any member producer whose milk is received at a pool distributing plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts: (1) The total quantity of its member producer milk received at all pool distributing plants during the current month, or (2) the average daily quantity of its member producer milk received at pool distributing plants during the previous month, multiplied by the number of days in the current month.

(b) A handler operating a pool distributing plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, whose milk is received at his pool distributing plant for at least 1 day's delivery during the month, without limit during the other

days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts: (1) The total quantity of producer milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (a) of this section, or (2) the average daily quantity of producer milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (a) of this section, multiplied by the number of days in the current month.

* * * * *

§ 1064.44 [Amended]

3. In § 1064.44, paragraph (c) is revoked.

4. In § 1064.44, the introductory text of paragraph (d) preceding subparagraph (1) is revised to read as follows:

§ 1064.44 Transfers.

* * * * *

(d) As Class I milk, if thransferred or diverted in bulk to a nonpool plant that is neither an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1064.7(f); 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.

* * * * *

5. In § 1064.51, paragraphs (b) and (c) are revised to read as follows:

§ 1064.51 Class prices.

* * * * *

(b) *Class II milk.* The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

6. In § 1064.62, paragraph (c) is revised and a new paragraph (c–1) is added to read as follows:

§ 1064.62 Plants subject to other Federal orders.

* * * * *

(c) A supply plant meeting the requirements of § 1064.12(b), which also meets the pooling requirements of another Federal order, and which has greater direct marketing area route disposition in the form of fluid milk products, except filled milk, and qualifying shipments to plants regulated under such other order than are made under this order, unless during any month of February through August automatic pool plant status for such plant is retained under this part for such month.

(c–1) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant also qualified as a pool plant pursuant to § 1064.12(c).

* * * * *

Signed at Washington, D.C., on March 1, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71–3025 Filed 3–4–71;8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Ch. II]

PROCEDURES: DETERMINATION OF CONSTRUCTION - DIFFERENTIAL SUBSIDY AND EVALUATION OF NEGOTIATED CONSTRUCTION CONTRACT PRICE

Notice of Proposed Rule Making

The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101, et seq.) has recently been amended by the Merchant Marine Act of 1970 (Public Law 91–469) to permit the negotiation of a price between a shipyard and a proposed ship purchaser for the construction of a ship with the aid of construction-differential subsidy under section 502(a) (46 U.S.C. 1152(a)) of said 1936 Act, and to provide for certain procedures for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed with the aid of construction-differential subsidy under section 502(b) (46 U.S.C. 1152(b)) of said 1936 Act.

Pursuant to section 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114) and in accordance with the provisions of section 3(a)(3), Administrative Procedure Act (5 U.S.C. 552(a)(1)(D)), notice is hereby given that the Maritime Subsidy Board is contemplating the adoption of procedures to be followed in connection with the negotiation of a price between a shipyard and a proposed ship purchaser for the construction of a ship, and in connection with the determination of estimated foreign cost of the vessel types comprising its ship construction program.

While the subsidy program is exempt from the requirements of section 4, Administrative Procedure Act (5 U.S.C. 553), the Board invites interested parties to submit any written data or views on the contemplated procedures for consideration by the Board, in triplicate, to the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C., by close of business on April 5, 1971. Copies of proposed procedures prepared by the Board may be obtained from the Secretary.

Dated: March 1, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71–3103 Filed 3–4–71;8:56 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 37]

AUTOPSIES OF COAL MINERS

Notice of Proposed Rule Making

Section 203(d) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 843(d)) provides that upon the death of any active or inactive underground coal miner, the Secretary of Health, Education, and Welfare is authorized, with proper consent, to pay for an autopsy to be performed on such miners.

Notice is hereby given that the Secretary proposes to amend Part 37 of Title 42, Code of Federal Regulations by adding a new subpart which sets forth the conditions under which the Secretary will pay qualified pathologists for autopsies performed by them on underground miners.

It is proposed to make the regulations effective on the date of their republication in the FEDERAL REGISTER.

Inquiries may be addressed, and comments concerning the proposed regulations may be submitted, to the Bureau of Occupational Safety and Health, Public Health Service, 5600 Fishers Lane, Rockville, MD 20852.

Since failure promptly to adopt the regulations may work to the detriment of the families of deceased miners, the Department finds that it is in the public interest to limit the time for submitting comments to 20 days following the publication of these proposed regulations in the FEDERAL REGISTER.

Part 37 would be amended by adding a new subpart as follows:

Sec.
37.200 Scope.
37.201 Definitions.
37.202 Payment for autopsy.
37.203 Autopsy specifications.
37.204 Procedure for obtaining payment.

AUTHORITY: The provisions of this subpart issued under the authority of sec. 508, 83 Stat. 803; 30 U.S.C. 957.

Subpart—Autopsies

§ 37.200 Scope.

The provisions of this subpart set forth the conditions under which the Secretary will pay pathologists to obtain results of autopsies performed by them on miners.

§ 37.201 Definitions.

As used in this subpart:

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Miner" means any individual who during his life was employed in any underground coal mine.

(c) "Pathologist" means (1) a physician certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology, (2) a physician who possesses qualifications which are considered "Board eligible" by the American Board of

Pathology or American Osteopathic Board of Pathology, or (3) an intern, resident, or other physician in a training program in pathology who performs the autopsy under the supervision of a pathologist as defined in subparagraph (1) or (2) of this paragraph.

(d) "ALFORD" means the Appalachian Laboratory for Occupational Respiratory Diseases, Public Health Service, Department of Health, Education, and Welfare, Post Office Box 4257, Morgantown, WV 26505.

§ 37.202 Payment for autopsy.

(a) The Secretary will pay up to $200 to any pathologist who, after the effective date of the regulations in this part and with legal consent.

(1) Performs an autopsy on a miner and submits the results and other materials to ALFORD in accordance with this subpart; and

(2) Receives no other specific payment, fee, reimbursement or honorarium in connection with the autopsy other than under this section.

(b) The Secretary will pay to any pathologist entitled to payment under paragraph (a) of this section and additional $10 if the pathologist can obtain and submits a good quality copy or original of a chest roentgenogram (posteroanterior view) made of the subject of the autopsy within 5 years prior to his death together with a copy of any interpretation made.

§ 37.203 Autopsy specifications.

(a) Every autopsy for which a claim for payment is submitted pursuant to this part:

(1) Shall be performed consistent with standard autopsy procedures such as those, for example, set forth in the "Autopsy Manual" prepared by the Armed Forces Institute of Pathology, July 1, 1960. (Technical Manual No. 8-300. NAVMED P-5065. Air Force Manual No. 160-19.) Copies of this document may be obtained from ALFORD.

(2) Shall include:

(i) Gross and microscopic examination of the lungs, pulmonary pleura, and tracheobronchial lymph nodes;

(ii) Weights of the heart and each lung;

(iii) Circumference of each cardiac valve when opened;

(iv) Thickness of right and left ventricles;

(v) Size, number, consistency, location, description and other relevant details of all lesions of the lungs;

(vi) Level of the diaphragm;

(vii) From each type of suspected pneumoconiotic lesion, representative microscopic slides stained with hematoxylineosin or other appropriate stain, and one formalin fixed, paraffin-impregnated block of tissue; a minimum of three stained slides and three blocks of tissue shall be submitted. When no such lesion is recognized, similar material shall be submitted from three separate areas of the lungs selected at random; a minimum of three stained slides and three formalin fixed, paraffin-impregnated blocks of tissue shall be submitted.

(b) Needle biopsy techniques shall not be used.

§ 37.204 Procedure for obtaining payment.

Every claim for payment under this subpart shall be submitted to ALFORD and shall include:

(a) An invoice (in duplicate) on the pathologist's letterhead or billhead indicating the date of autopsy, the amount of the claim and a signed statement that the pathologist is not receiving any other specific compensation for the autopsy from the miner's widow, his surviving next-of-kin, the estate of the miner, or any other source.

(b) Completed PHS Consent, Release and History Form (See Fig. 1). This form may be completed with the assistance of the pathologist, attending physician, family physician, or any other responsible person who can provide reliable information.

(c) Report of autopsy:

(1) The information, slides, and blocks of tissue required by this subpart.

(2) Clinical abstract of terminal illness and other data that the pathologist determines is relevant.

(3) Final summary, including final anatomical diagnoses, indicating presence or absence of simple and complicated pneumoconiosis, and correlation with clinical history if indicated.

Dated: February 28, 1971.

ELLIOT L. RICHARDSON,
Secretary.

FIGURE 1

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE—NATIONAL COAL WORKERS' AUTOPSY STUDY

Consent, Release, and History Form Federal Coal Mine Health and Safety Act of 1969

I, _____, _____
(Name) (Relationship)
of _____, do hereby authorize the performance of an autopsy
(Name of deceased miner)
(_____) on said deceased. I understand that the report and certain tissues as necessary will be released to the United States Public Health Service and to _____
(Limitation, if any, on autopsy)
(Name of Physician securing autopsy)
I understand that any claims in regard to the deceased for which I may sign a general release of medical information will result in the release of the information from the Public Health Service. I further understand that I shall not make any payment for the autopsy.

Occupational and Medical History

1. Date of Birth of Deceased _____
(Month, Day, Year)
2. Social Security Number of Deceased ____ ____ ____
3. Date and Place of Death _____,
(Month, Day, Year)
_____
(City, County, State)
4. Place of Last Mining Employment:
Name of Mine _____
Name of Mining Company _____
Mine Address _____
5. Last Job Title at Mine of Last Employment _____
(e.g., Continuous Miner Operator, motorman, foreman, etc.)
6. Job Title of Principal Mining Occupation (that job to which miner devoted the most number of years) _____
(e.g., Same as above)
7. Smoking History of Miner:
(a) Did he ever smoke cigarettes? Yes ____ No ____.
(b) If yes, for how many years? _____ Years.
(c) If yes, how many cigarettes per day did he smoke on the average? _____
(Number of)
Cigarettes per day.
8. Total Years in Surface and Underground Employment in Coal Mining, by State (If known) _____, _____.
(Years) (State)
9. Total Years in *Underground* Coal Mining Employment, by State (If known) _____,
(Years)
_____.
(State)

_____
(Signature)
_____
(Address)
_____
(Date)

Interviewer:
_____

[FR Doc.71-3018 Filed 3-4-71;8:47 am]

[42 CFR Part 55]

GRANTS FOR ADVANCEMENT OF HEALTH IN COAL MINES

Notice of Proposed Rule Making

Notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend Title 42, Code of Federal Regulations, by adding a new Part 55, which sets forth the conditions and procedures for awarding grants for the advancement of health in coal mines under section 501 of the Federal Coal Mine Health and Safety Act (30 U.S.C. 951). This Act authorizes grants to be made for studies, research, experiments, demonstrations, and other activities.

It is proposed that these regulations be effective on the date of their republication in the FEDERAL REGISTER. The Secretary has determined that the purposes of the Act will be achieved in a more effective and expeditious manner if grants under this part are limited to public and private nonprofit agencies and institutions.

Interested persons may submit comments concerning the proposed regulations to the Bureau of Occupational Safety and Health, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received within 30 days after publication of this notice will be considered.

Part 55 would be added as follows:

PART 55—GRANTS FOR ADVANCEMENT OF HEALTH IN COAL MINES

Subpart A—General

Sec.
55.1 Applicability.
55.2 Definitions.
55.3 Nature and purpose.
55.4 Application for grant.
55.5 Compliance with the Civil Rights Act.

Subpart B—Evaluation and Disposition of Applications

Sec.
55.10 Evaluation.
55.11 Disposition.

Subpart C—Grant Awards, Payments, Termination

55.20 Grant awards and payments.
55.21 Supplemental and continuation grants.
55.22 Termination.

Subpart D—Grant Conditions: Obligation of Grantee

55.30 Use of funds, changes.
55.31 Project director.
55.32 Inventions and discoveries.
55.33 Other conditions.

Subpart E—Reports, Records and Inspections

55.40 Reports and records.
55.41 Inspections and audits.

Subpart F—Expenditures

55.50 Allocation of costs.
55.51 Particular direct costs.

Subpart G—Grantee Accountability

55.60 Accounting for grant payments.
55.61 Accounting for equipment, materials, and supplies.
55.62 Interest.
55.63 Project net income.
55.64 Final settlement.

AUTHORITY: The provisions of this Part 55 issued under sec. 508, 83 Stat. 803; 30 U.S.C. 957.

Subpart A—General

§ 55.1 Applicability.

The regulations of this part apply to to project grants for studies, research, experiments, demonstrations, and other activities relating to coal mine health as set forth in § 55.3.

§ 55.2 Definitions.

As used in this part all terms not defined herein shall have the meaning given them in the Act.

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801 et. seq.)

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Bureau" means the Bureau of Occupational Safety and Health.

(d) "Director" means the Director of the Bureau of Occupational Safety and Health or his authorized representative.

(e) "Fiscal year" means the year period beginning July 1 and ending on June 30 following.

(f) "Project Period" means the period of time, not exceeding 5 years, which the Secretary finds is reasonably required to initiate and conduct a project meriting support of one or more project grants within the scope of § 55.3, except that such period may be extended by the Secretary beyond 5 years solely to permit continuation or completion of the same approved project by use of funds previously awarded but remaining unencumbered by the grantee at the end of such 5 years. The approval and support of a project for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated, and approved on the same basis as a new or initial application.

(g) "Applicant" means any public or nonprofit agency or institution which files an application for a grant under section 501 of the Act.

(h) "Project Director" means a single individual designated by the grantee in the grant application and approved by the Secretary, who is responsible for the scientific and technical direction of the project.

(i) "Nonprofit" as applied to institution means a corporation or association no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

§ 55.3 Purpose of project grant.

The Secretary is authorized under section 501 of the Act to make grants for studies, research, experiments, and demonstration (a) to improve working conditions and practices in coal mines affecting health and to prevent occupational diseases originating in the coal mining industry, (b) to develop and revise improved mandatory health standards for the protection of life and the prevention of occupational diseases of miners, (c) to protect life and prevent diseases in persons who, although not miners, work with and around the products of coal mines in areas outside mines and under conditions which may adversely affect the health and well-being of such persons, (d) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal mine, (e) to develop epidemiological information, (f) to develop techniques for the prevention and control of occupational disease of miners, including tests for hypersusceptibility and early detection, (g) to evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease, (h) to develop effective respiratory equipment, (i) to prepare and publish from time to time reports on all significant aspects of occupational diseases of miners, (j) to study the relationship between coal mine environments and occupational diseases of miners, and (k) for such other purposes as the Secretary deems necessary to carry out the purposes of the Act.

§ 55.4 Application for grants.

(a) An application for a grant shall be submitted on such forms and in such manner as the Secretary may prescribe.

(b) The application shall be executed by an individual authorized to act for the institution or other applicant, and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

(c) In addition to any other pertinent information which the Secretary may require, each applicant shall submit as part of the application a description of the project in sufficient detail to indicate the nature, duration, purpose, justification, and proposed method of conduct of the project; the qualifications of the principal staff members to be responsible for the project; the total facilities and resources that will be available, and a justification of the amount of funds requested.

§ 55.5 Compliance with the Civil Rights Act.

The applicant shall comply with the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance (section 601), and to the implementing regulation issued by the Secretary with the approval of the President (45 CFR Part 80).

Subpart B—Evaluation and Disposition of Applications

§ 55.10 Evaluation.

(a) All applications filed in accordance with this part shall be evaluated by the Secretary through such officers and employees and such experts or consultants engaged for this purpose as he determines are specially qualified in the area involved.

(b) The Secretary's evaluation shall take into account, among other pertinent factors, the scientific merit and significance of the project, the competency of the proposed staff in relation to the type and scope of the project involved, the feasibility of the project, the likelihood of its producing meaningful results, the proposed project period, and the adequacy of the applicant's resources available for the project and the amount of grant funds necessary for completion, and where appropriate, the recommendations of the Advisory Council on Coal Mine Health Research.

§ 55.11 Disposition.

On the basis of his evaluation of an application, pursuant to § 55.10, the Secretary shall either (a) approve, (b) defer because of lack of funds or a need for further evaluation, or (c) disapprove support of the proposed project in whole or in part. With respect to approved projects, the Secretary shall determine the project period during which the project may be supported. Applicants shall be advised of the reason an application has been deferred and upon request the reason it has been disapproved. Any deferral or disapproval of an application shall not preclude its reconsideration or a reapplication.

Subpart C—Grant Awards, Payments, Termination

§ 55.20 Grant awards and payments.

(a) Within the limits of funds available for approved projects, the Secretary

shall award a grant to those applicants whose approved projects will in his judgment best promote the purposes of § 55.3. All grant awards shall be in writing and shall set forth the amount of funds granted. All amounts awarded are subject to accountability for the sum total of all amounts paid.

(b) A grant award shall be made by the Secretary for either the project period or for such lesser period as he may prescribe in making the award.

(c) Neither the approval of any project nor a grant award shall commit or obligate the United States in any way to make any additional, supplemental or continuation award with respect to any approved project or portion thereof.

(d) Payments with respect to an approved project shall be made periodically, either in advance or by way of reimbursement, as the Secretary may determine, based on the estimated requirements or actual expenditures, respectively, for such period.

(e) No payment shall be paid for any period so long as the applicant fails to comply substantially as determined by the Secretary with any requirement or condition imposed by or pursuant to these regulations.

§ 55.21 Supplemental and continuation grants.

The Secretary may from time to time within the project period, on the basis of an application therefor, make additional grant awards with respect to any approved project where he finds on the basis of such progress, fiscal or other reports as he may require that (a) the amount of any prior award was less than the amount necessary to carry out the approved project within the period with respect to which the prior award was made (a supplemental grant), or (b) the progress made within the period with respect to which any prior awards were made justifies support for an additional specified portion of the project period (a continuation grant).

§ 55.22 Termination.

(a) Whenever, in the judgment of the Secretary, or the grantee continuation of an approved project would produce results of insufficient value in furthering the purposes of § 55.3, grant support may be terminated.

(b) The Secretary may revoke or terminate any grant award, in whole or in part, at any time after affording the grantee reasonable notice and opportunity to present his views and evidence whenever the Secretary finds that in his judgment the grantee has failed in a substantial respect to comply with the condition of the grant or the regulations of this part.

(1) The views and evidence of the grantee shall be presented in writing unless the Secretary determines that an oral presentation is desirable.

(2) Such views and evidence shall be confined to matters relevant to whether the grantee has failed in a substantial respect to comply with a condition of the grant or the regulation of this part.

(c) Upon termination pursuant to this section, the grantee shall render an accounting and final statement as provided in this part. The Secretary may allow credit for the amount required to settle at minimum costs any noncancellable Federal obligations properly incurred by the grantee prior to receipt of notice of termination if he finds that the grantee had good cause for the failure.

Subpart D—Grant Conditions: Obligations of Grantee

§ 55.30 Use of funds, changes.

(a) Any funds granted pursuant to § 55.20 shall be expended by the grantee solely for carrying out the approved project in accordance with regulations of this part. The grantee may not, in whole or in part, delegate or transfer this responsibility for the use of such funds to any other person.

(b) Changes in project: Permissible changes by the project director in the approved project shall be limited to changes in methodology, approach, or other aspect of the project that would expedite achievement of the project objectives. Whenever the grantee or the project director is uncertain as to whether a change complies with the provisions, the question should be referred to the Secretary for a final determination.

(c) Changes in project period: The project period may be extended by the Secretary, with or without additional funds, for such an additional period as he determines may be required to complete the objectives. The total period as extended must not exceed 7 years.

§ 55.31 Project Director.

The project director shall be responsible for the conduct of the project for the duration of the project period. Should he become unavailable to discharge his responsibility, the grant shall be terminated unless the grantee replaces the project director with another person found by the Secretary to be qualified to direct and conduct the project.

§ 55.32 Inventions and discoveries.

Any grant award pursuant to this part shall be subject to the regulations of the Department of Health, Education, and Welfare as set forth in Title 45 CFR, Parts 6 and 8, as amended, relating to inventions and patents. Such regulations shall apply to any activity for which grant funds are used. Appropriate measures shall be taken by the grantee and the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into, and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data, and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner as he may determine necessary to carry out such Department regulations.

§ 55.33 Other conditions.

The Secretary may impose additional conditions prior to, or at the time of any award when in his judgment such conditions are necessary to assure project advancement, the interest of the public health, or the conservation of grant funds.

Subpart E—Reports, Records and Inspections

§ 55.40 Reports and records.

In addition to such other reports as the Secretary may require, each grantee shall maintain and file with the Secretary the following:

(a) A report of expenditures for each budget period;

(b) Interim progress reports with all applications for continued support;

(c) Terminal progress reports at the end of the project period which shall include a summary statement of progress toward the achievement of the originally stated aims, a list of results, positive and negative, considered significant by the program director, and a list of publications resulting from the grant; and

(d) Immediate and full reporting of all inventions.

§ 55.41 Inspection and audit.

An application for a grant award shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary, of the facilities, equipment, records, and other resources of the applicant and to interviews with principal staff members. The acceptance of the grant award shall constitute the consent of the grantee to inspections and fiscal audit by persons assigned by the Secretary, of the supported activity and of progress and fiscal records relating to the approved project.

Subpart F—Expenditures

§ 55.50 Allocation of costs.

(a) Funds granted for the direct costs of an approved project may be expended for personal services, rental of space, materials and supplies, and other cost items as shown on the award statement to the extent that such services, materials, supplies and other items are required to carry out the approved project.

(b) Indirect costs: The amount of any award for indirect costs shall be calculated by the Secretary on the basis of his estimate of the actual indirect costs reasonably related to the approved project, or on the basis of a percentage of all, or a portion of the estimated direct costs when there are reasonable assurances that the use of such percentages will not exceed the approximate actual indirect costs.

§ 55.51 Particular direct costs.

Funds granted for the direct costs of an approved project may be expended by the grantee as follows:

(a) *Personal services.* The costs of personal services are payable from grant

funds substantially in proportion to the time or effort the individual devotes to carrying out the approved project. Such costs may include all direct costs incident to such services, such as salary during vacations, retirement, workmen's compensation charges, in accordance with the policies and accounting practices consistently applied by the grantee to all its activities.

(b) *Equipment and materials.* The cost of materials or fixed movable equipment not available to the grantee but required for execution of the approved project may be charged to a grant as a direct cost. Such acquisition may be by lease or by outright purchase, subject to accounting as provided in 55.61. Such costs may include those incurred for delivery, installation, and maintenance services.

(c) *Travel costs.* Costs of travel of individuals are payable as a direct cost where required to carry out the project. To the extent that the grantee has not established rules or policies which uniformly apply regardless of source of funds in determining the amounts and types of reimbursable travel expenses, the Standardized Government Travel Regulations shall be applied in determining the amount of grant funds chargeable for travel expenses.

(d) *Alterations and renovations.* The costs of altering and renovating buildings or other structures in which an approved project is to be conducted may be charged to the grant to the extent that such alterations and renovations are essential to the accomplishment of the specific objective of the project. Such costs may not include enlarging or adding to such structures or the erection of new structures.

(e) *Publication costs.* Costs required to assure effective publication or other distribution of the project results may be charged as a direct cost.

§ 55.60 Accounting for grant payments.

A grantee shall render, with respect to each grant awarded to it, a full account at the termination date by presenting or otherwise making available vouchers or any other evidence satisfactory to the Secretary of actual expenditures for the project. No such records shall be disposed of within 5 years after termination of the project period or until the grantee has been notified in writing that a final audit has been completed.

§ 55.61 Accounting for equipment, materials and supplies.

Expenditures for movable or fixed equipment, material or supplies, termed in this section "materials", may be charged to grant funds only to the extent that such materials are required for the conduct of the approved project during the period for which Federal support is provided. Any materials on hand on the termination date of the project period (excluding expendable supplies within such limitations as the Secretary may prescribe) shall be accounted for as one or a combination of the following methods:

(a) Materials may be used by the grantee without adjustments of accounts for purposes within the grantee's program to improve the health and safety of the coal miner, and no other accounting for such materials shall be required: *Provided, however,* (1) That during the period of use, no charge for depreciation, amortization, or for other use of the materials shall be made against any existing or future Federal grant or contract, and (2) that, if within the period of their useful life, the materials are transferred by sale or otherwise for use outside the scope of the grantee's program to improve the health or safety of the coal miner, the proportionate fair market value at the time of transfer shall be payable to the United States.

(b) Materials may be sold by the grantee and the proportion of net proceeds of sale, equal to the proportion of Federal participation in the cost of the material, paid to the United States; or such materials may be used or disposed of in any other manner by the grantee by paying to the United States such proportion of their fair market value on the termination date. To the extent materials purchased from grant funds have been used for credit or "trade-in" on the purchase of new materials, the accounting obligation shall apply to the same extent to such new materials.

(c) Transfer of equipment: To the extent the Secretary so requires or approves, title to such materials will be transferred to the United States for such authorized use or disposition as he may direct.

§ 55.62 Interest.

Any interest earned through any deposit or investment by the grantee of the funds paid pursuant to 55.20 shall be paid to the United States as such interest is received by the grantee.

§ 55.63 Project net income.

The Secretary may impose on any grant award or class of grant awards, conditions that will assure return to the United States of its equitable share of any net income derived by the grantee from the activity supported by the grant.

§ 55.64 Final settlement.

There shall be payable to the United States as final settlement with respect to each approved project, the total sum of any amount not accounted for pursuant to 55.60, and of any amounts payable to the United States as provided in 55.61. Such total sums constitute a debt owed by the grantee to the United States and if not paid to the United States shall be recovered from the grantee or its successors by setoff or other action as provided by law.

Dated: February 28, 1971.

Approved: February 28, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-3019 Filed 3-4-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-CE-3]

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 Platteville, Wis.

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.

A new public use instrument approach procedure has been developed for the Platteville, Wis., Municipal Airport, utilizing a State-owned radio beacon located 825 feet north-northeast of the northeast end of Runway 25 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 Platteville, Wis. IFR traffic will be controlled by the Chicago Air Route Traffic Control Center through the Dubuque VOR which is remoted to the Cedar Rapids Flight Service Station and the Chicago Center Dubuque RCAG.

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 (36 F.R. 2140), the following transition area is added:

PLATTEVILLE, WIS.

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Platteville Municipal Airport

(latitude 42°41'15" N., longitude 90°26'41" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles north and 4½ miles south of the 084° bearing from Platteville Municipal Airport extending from the airport to 18½ miles east of the airport.

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 January 25, 1971.

EDWARD C. MARSH,
Director, Central Region.

[FR Doc.71-3067 Filed 3-4-71;8:51 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-4]

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 Ann Arbor, Mich.

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.

A new instrument approach procedure has been developed for the Ann Arbor Municipal Airport, Ann Arbor, Mich. Accordingly, it is necessary to alter the Ann Arbor transition area to adequately protect aircraft executing the new approach procedure.

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 (36 F.R. 2140), the following transition area is amended to read:

ANN ARBOR, MICH.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Ann Arbor Municipal Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding the portion which overlies the Detroit, Mich., 700-foot floor 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 January 25, 1971.

EDWARD C. MARSH,
Director, Central Region.

[FR Doc.71-3068 Filed 3-4-71;8:51 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-5]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Pellston, Mich.

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 amendments. 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 proposals 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 Pellston, Mich., a new VOR/DME instrument approach procedure has been developed for the Emmet County Airport. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Pellston, Mich., control zone and transition area to adequately protect aircraft executing the new approach procedure and to comply with the new control zone and 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 § 71.171 (36 F.R. 2055), the following control zone is amended to read:

PELLSTON, MICH.

Within a 5-mile radius of Emmet County Airport (latitude 45°34'09" N., longitude 84°-47'45" W.); within 2½ miles each side of the 132° bearing from Emmet County Airport, extending from the 5-mile radius zone to 5½ miles Southeast of the airport; and within 5 miles each side of the Pellston VORTAC 238° radial extending from the airport to 21 miles Southwest of the VORTAC.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PELLSTON, MICH.

That airspace extending upward from 700 feet above the surface within a 11-mile radius of Emmet County Airport (latitude 45°34'09" N., longitude 84°47'45" W.); and within 5 miles each side of the Pellston VORTAC 238° radial, extending from the 11-mile-radius area to 22 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Pellston VORTAC; within 4½ miles northwest and 9½ miles southeast of the Pellston VORTAC 238° radial extending from the 13-mile-radius area to 32½ miles southwest of the VORTAC; within 4½ miles southeast and 9½ miles northwest of the Pellston VORTAC 060° radial, extending from the 13-mile-radius area to 18½ miles northeast of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the Emmet County Airport, extending from the 13-mile-radius area to 18½ miles southeast of the airport, excluding the portion which overlies the Sault Sainte Marie, Mich., transition area.

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

Issued in Kansas City, Mo., on February 3, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-3069 Filed 3-4-71;8:51 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-6]

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 Brookings, S. Dak.

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 Brookings, S. Dak., the instrument approach procedures have been revised for Brookings Municipal Airport. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Brookings transition area to adequately protect aircraft executing the revised approach procedures 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 (36 F.R. 2140), the following transition area is amended to read:

BROOKINGS, S. DAK.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Brookings Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 3 miles each side of the 300° bearing from Brookings Municipal Airport extending from the 6½-mile-radius area to 7½ miles west of the airport; and within 3 miles each side of the 141° bearing from the Brookings Municipal Airport, extending from the 6½-mile-radius area to 7½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles southwest and 4½ miles northeast of the 141° and 321° bearings from the Brookings Municipal Airport extending from 4½ miles northwest of the airport to 18½ miles southeast of the airport.

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 February 3, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.71-3070 Filed 3-4-71;8:51 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-7]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Winona, Minn.

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 amendments. 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 proposals 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 Winona, Minn., the instrument approach procedures for Winona Municipal-Max Conrad Field have been revised. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Winona, Minn., control zone and transition area to adequately protect aircraft executing the revised approach procedures and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to alter Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

WINONA, MINN.

Within a 5-mile radius of the Winona Municipal-Max Conrad Field (latitude 44°-04'37" N., longitude 91°42'22" W.); within 2½ miles each side of the 319° bearing from Winona Municipal-Max Conrad Field, extending from the 5-mile-radius area to 6 miles northwest of the airport and within 3 miles each side of the 107° bearing from the Winona Municipal-Max Conrad Field extending from the 5-mile-radius area to 6½ miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

WINONA, MINN.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Winona Municipal-Max Conrad Field (latitude 44°04'37" N., longitude 91°42'22" W.); excluding that portion which overlies the La-Crosse, Wis. transition area.

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

Issued in Kansas City, Mo., on February 2, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.71-3071 Filed 3-4-71;8:51 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-10]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Clifton, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. 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. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. 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 light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 824, 3400 Whipple Street, East Point, GA.

The Clifton transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hassell Field (lat. 35°23'00" N., long. 87°58'00" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Hassell Field. A prescribed instrument approach procedure to this airport, utilizing the Jacks Creek VOR, is proposed in conjunction with the designation of this 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(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on February 23, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3072 Filed 3-4-71;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 81]

FEDERAL NATIONAL MORTGAGE ASSOCIATION

Stock of Corporation

Notice is hereby given that it is proposed to amend Part 81 by revising § 81.2, *Common stock*. The proposed amendment would reflect the amendment of section 303(b) of the Federal National Mortgage Association Charter Act, by section 902 of the Housing and Urban Development Act of 1970, Public Law 91-609; and would otherwise provide for the sale of common stock.

Prior to adoption of this amendment, consideration will be given to any written comments or suggestions pertaining thereto which interested persons may wish to submit. Communications should identify the subject matter by the above title and should be submitted in triplicate to the Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street SW., Washington DC 20410. All communications received on or before March 19, 1971, will be considered before taking action on the proposal. A copy of each communication will be available for public inspection during business hours, both before and after the closing date set forth above, in the HUD Information Center at the above address.

The proposed amendment, which is issued pursuant to sections 309(h) and 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a (h) and 1723c), reads as follows:

§ 81.2 Common stock.

(a) The corporation is authorized to issue shares of its common stock to each seller or borrower who makes capital contributions authorized by section 303(b) of the Charter Act. The corporation is further authorized to issue and sell additional shares of its common stock to the servicers of its mortgages, in consideration for payments by such servicers into the corporation's capital or capital and surplus for each share of an amount equal to the then current issue price of the common stock authorized to be issued by the first sentence hereof; but no such stock shall be issued to any servicer at any time in excess of its reasonably foreseeable need at such time in connection with the amount of stock required to be held pursuant to section 303(c) of the Charter Act. The authorizations of this paragraph are granted on the condition that the Secretary of Housing and Urban Development be given written notice at least 15 days in advance of any change by the corporation in the issue price of its stock issued pursuant to this paragraph.

(b) For any issue other than stock issued pursuant to paragraph (a) of this section, the corporation is authorized to adopt a shareholder resolution, governing the issuance and sale of shares of its common stock, or other securities convertible into the corporation's common stock, which permits the corporation to provide for or limit or deny to shareholders preemptive rights in the purchase of issues of such stock or securities.

(c) A shareholder resolution, as authorized by paragraph (b) of this section, shall be made in the following manner:

(1) The board of directors of the corporation shall adopt a resolution, setting forth the proposed shareholder resolution and directing that it be submitted to a vote at a meeting of shareholders of the corporation, which may be either an annual or a special meeting.

(2) Written notice setting forth the proposed resolution or a summary of it shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided for notices of meetings of shareholders in the bylaws of the corporation.

(3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed resolution. The proposed resolution shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the shares of the corporation which are outstanding and entitled to vote thereon.

(d) Such a shareholder resolution shall be effective in accordance with its terms until and unless expressly repealed or amended by a subsequent shareholder resolution adopted in accordance with the procedures set forth in paragraph (c) of this section.

(e) For any issue other than stock issued as authorized by paragraph (a) of this section, the approval of the Secretary is required prior to the issuance by the corporation of any stock, obligation, security, or similar instrument.

Issued at Washington, D.C., March 4, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71-3242 Filed 3-4-71;12:01 pm]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[461.161]

SECOND CLEAR WHEAT FLOUR

Tariff Classification

MARCH 4, 1971.

In a ruling published November 2, 1967 (32 F.R. 15186), second clear wheat flour was reclassified from the provision for animal feed obtained as a byproduct of the milling of grain, in item 184.70, Tariff Schedules of the United States (TSUS), to the provision for milled grain products in item 131.40, TSUS, if fit for human consumption, or in item 131.72, TSUS, if unfit for human consumption. A notice published July 23, 1968 (33 F.R. 10463), indicated that the validity of the ash content test theretofore used as one of the tests of the fitness of wheat flour, including second clear, for human consumption was being considered. A further notice published February 28, 1969 (34 F.R. 3635), indicated that it had been concluded that second clear wheat flour is, in the tariff sense, a byproduct, rather than a product, of the milling of grain and proposed to classify second clear wheat flour as a nonenumerated product not provided for elsewhere, in item 799.00, TSUS.

The representations submitted in response to all the notices, including that published on February 28, 1969, have been reviewed and, in the light of all available information, it has been concluded that second clear wheat flour is, in the tariff sense, a product, rather than a byproduct, of the milling of grain. It has been further concluded that the present tariff classification of second clear wheat flour in item 131.40, TSUS, if fit for human consumption, or item 131.72, TSUS, if unfit for human consumption, is correct.

In view of the foregoing, it has been further concluded that the question of the validity of the ash content test as a measure of the fitness of wheat flour, including second clear, for human consumption, the review of which was announced by the notice of July 23, 1968 (33 F.R. 10463), should be revived and resolved.

Accordingly, it has been tentatively concluded that all wheat flour, including second clear, should be regarded as fit for human consumption in the tariff sense unless it is adulterated or contaminated at the time of importation in such a manner that it cannot be consumed by humans without processing to eliminate such contamination or adulteration. Consequently, wheat flour which is so adulterated or contaminated should be considered to be unfit for human consumption and classified in item 131.72, TSUS, with duty at the rate of 2.5 percent ad valorem. All other wheat flour should be considered fit for human consumption and classified in item 131.40, TSUS, with duty at the rate of 52 cents per hundred pounds.

Pursuant to § 16.10a(d), Customs Regulations (19 CFR 16.10a(d)), notice is hereby given that there is under review the existing established and uniform practice of classifying wheat flour as unfit for human consumption because of its ash content.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226. To assure consideration, such communications must be received not later than 30 days from the date of publication of this notice. No material submitted in response to any of the notices cited herein need be resubmitted. No hearing will be held.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-3178 Filed 3-4-71;10:30 am]

Internal Revenue Service

LINDSEY OWEN ALEXIOU

Notice of Granting of Relief

Notice is hereby given that Lindsey Owen Alexiou, 33857 Nokomis, Fraser, MI 48027, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 17, 1958, by the Circuit Court of Macomb County, Mount Clemens, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Lindsey Owen Alexiou because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Lindsey Owen Alexiou to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Lindsey Owen Alexiou's application and:

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

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

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

Signed at Washington, D.C., this 22d day of February 1971.

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

[FR Doc.71-3106 Filed 3-4-71;8:54 am]

GEORGE WASHINGTON ARCHER

Notice of Granting of Relief

Notice is hereby given that George Washington Archer, Titus Star Route, Box No. 12, Wetumpka, AL, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 23, 1936, in the U.S. District Court for the Northern District of Georgia, Gainesville, Ga., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for George W. Archer because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for George W. Archer to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered George W. Archer's application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3107 Filed 3-4-71;8:54 am]

RAYMOND E. FOSTER

Notice of Granting of Relief

Notice is hereby given that Raymond E. Foster, 128 Kelly Road, Wapping, CT 06087 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 7, 1949, in the Windsor Locks Night Court in Windsor Locks, Conn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Raymond E. Foster because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Raymond E. Foster to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Raymond E. Foster's application and:

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

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

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

Signed at Washington, D.C., this 22d day of February 1971.

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

[FR Doc.71-3108 Filed 3-4-71;8:54 am]

LOUIS C. GENNARO

Notice of Granting of Relief

Notice is hereby given that Louis C. Gennaro, 76-17 69th Place, Glendale, NY, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 16, 1959, in the Circuit Court of Accomack County, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Louis C. Gennaro because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Louis C. Gennaro to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Louis C. Gennaro's application and:

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

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

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

Signed at Washington, D.C., this 26th day of February 1971.

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

[FR Doc.71-3109 Filed 3-4-71;8:54 am]

JAMES L. HABERER

Notice of Granting of Relief

Notice is hereby given that James L. Haberer, 301 Main Street, Randolph, IA 51649, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 1, 1956, in the District Court of Yankton, S. Dak., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James L. Haberer because of such conviction, to ship, transport, or receive in interstate or foreign commerce any fire arm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for James L. Haberer to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James L. Haberer's application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3110 Filed 3-4-71;8:54 am]

BOB LEE HAYES

Notice of Granting of Relief

Notice is hereby given that Bob Lee Hayes, 3415 St. Jean Street, Detroit, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 18, 1939, in the Detroit Recorders Court, Detroit, MI, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Bob Lee Hayes because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Bob Lee Hayes to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Bob Lee Hayes' application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3111 Filed 3-4-71;8:54 am]

ARTHUR OTTO HENNING

Notice of Granting of Relief

Notice is hereby given that Arthur Otto Henning, 12028 69th. South, Seattle, WA 98178, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on June 5, 1928, in the King County Superior Court, Seattle, WA, and on February 26, 1937, in the Superior Court of Pierce County, Tacoma, WA, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Arthur Otto Henning because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such convictions, it would be unlawful for Arthur Otto Henning to receive, possess, or transport in commerce or affecting commerce, any firearms.

Notice is hereby given that I have considered Arthur Otto Henning's application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3112 Filed 3-4-71;8:54 am]

LUCIUS LEE MARTIN

Notice of Granting of Relief

Notice is hereby given that Lucius Lee Martin, 8033 East Canfield, Detroit, MI 48214, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on April 5, 1948, and on June 30, 1958, in the Recorder's Court for the city of Detroit, Detroit, MI, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Lucius Lee Martin, because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 United States Code, Appendix) because of such convictions, it would be unlawful for Lucius Lee Martin, to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Lucius Lee Martin's application and:

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

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

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

Signed at Washington, D.C., this 26th day of February 1971.

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

[FR Doc.71-3113 Filed 3-4-71;8:54 am]

BOBBIE RAY MOTLEY

Notice of Granting of Relief

Notice is hereby given that Bobbie Ray Motley, Taho Drive, Bassett Forks, VA 24055, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 12, 1955, in the Circuit Court, Martinsville, VA, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Bobbie Ray Motley because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Bobbie Ray Motley to receive, possess, or transport in

commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Bobbie Ray Motley's application and:

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

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

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

Signed at Washington, D.C., this 24th day of February 1971.

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

[FR Doc.71-3114 Filed 3-4-71;8:55 am]

TERRY CHARLES PATRICK MULHERIN

Notice of Granting of Relief

Notice is hereby given that Terry Charles Patrick Mulherin, 201 Derby Avenue, Derby, CT 06418, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 12, 1968, in the United States District Court for Connecticut, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Terry C. P. Mulherin because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Terry C. P. Mulherin to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Terry C. P. Mulherin's application and:

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

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

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

Signed at Washington, D.C., this 24th day of February 1971.

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

[FR Doc.71-3115 Filed 3-4-71;8:55 am]

RICHARD HATFIELD NICKLES

Notice of Granting of Relief

Notice is hereby given that Richard Hatfield Nickles, 4448 Crest Oak Drive, Salt Lake City, UT 84117, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on June 1, 1966, in the United States District Court for the District of Utah, on August 14, 1950, in the Superior Court of California for the County of Los Angeles and on November 14, 1950, in the Superior Court of California for the County of Los Angeles, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Richard Hatfield Nickles, because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VIII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; U.S.C., Appendix), because of such convictions, it would be unlawful for Richard Hatfield Nickles to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Richard Hatfield Nickles' application and:

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

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

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

Signed at Washington, D.C., this 22d day of February 1971.

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

[FR Doc.71-3116 Filed 3-4-71;8:55 am]

NORRIS RALPH RAMBONE

Notice of Granting of Relief

Notice is hereby given that Norris Ralph Rambone, Campbell Point Road, Star Route, Sackets Harbor, NY 13685, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer shipment, or possession of firearms incurred by reason of his conviction on November 20, 1961, in the Supreme Court for Jefferson County, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Norris Ralph Rambone because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such conviction, it would be unlawful for Norris Ralph Rambone to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Norris Ralph Rambone's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Norris Ralph

Rambone be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3117 Filed 3-4-71;8:55 am]

JAKE RUCKER

Notice of Granting of Relief

Notice is hereby given that Jake Rucker, 3684 Concord Avenue, Detroit, MI 48207, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 8, 1960, in the Detroit, Mich., Recorder's Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jake Rucker because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Jake Rucker to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Jake Rucker's application and:

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

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

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

Signed at Washington, D.C., this 24th day of February 1971.

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

[FR Doc.71-3118 Filed 3-4-71;8:55 am]

ULYSEE SEYMORE

Notice of Granting of Relief

Notice is hereby given that Ulysee Seymore, 12248 Meyers, Detroit, MI 48227, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 20, 1955, in the Recorder's Court Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ulysee Seymore because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ulysee Seymore to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ulysee Seymore's application and:

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

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

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

Signed at Washington, D.C., this 26th day of February 1971.

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

[FR Doc.71-3119 Filed 3-4-71;8:55 am]

JACKSON SMITH

Notice of Granting of Relief

Notice is hereby given that Jackson Smith, RFD No. 1, Box 208, Chase City, VA, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 18, 1957, in the Circuit Court for the County of Mecklenburg, Boydton, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jackson Smith because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Jackson Smith to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Jackson Smith's application and:

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

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

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

Signed at Washington, D.C., this 26th day of February 1971.

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

[FR Doc.71-3120 Filed 3-4-71;8:55 am]

JAMES F. STATON, SR.

Notice of Granting of Relief

Notice is hereby given that James F. Staton, Sr., 407½ West Sixth Street, Jacksonville, FL, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 9, 1956, in the U.S. District Court, Southern District of Florida, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James F. Staton, Sr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In

addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for James F. Staton, Sr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James F. Staton, Sr.'s application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3121 Filed 3-4-71;8:55 am]

SAMUEL BENJAMIN THOMAS

Notice of Granting of Relief

Notice is hereby given that Samuel Benjamin Thomas, 4659 Fremont Avenue, North, Minneapolis, MN 55412, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of fireams incurred by reason of his conviction on June 10, 1948 by a general court-martial at Osaka, Honshu, Japan, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Samuel Benjamin Thomas because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Samuel Benjamin Thomas to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Samuel Benjamin Thomas' application and:

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

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

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

Signed at Washington, D.C., this 24th day of February, 1971.

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

[FR Doc.71-3122 Filed 3-4-71;8:55 am]

MACK WILLIAMS

Notice of Granting of Relief

Notice is hereby given that Mack Williams, 561 Smith Street, Detroit, MI 48202, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 18, 1947, in the Recorders' Court of the city of Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mack Williams because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or amunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mack Williams to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mack Williams' application and:

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

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

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

Signed at Washington, D.C., this 24th day of February 1971.

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

[FR Doc.71-3123 Filed 3-4-71;8:55 am]

CHARLES O. WOMACK

Notice of Granting of Relief

Notice is hereby given that Charles O. Womack, 8867 Yates Avenue, Detroit, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 22, 1957, in The Detroit Recorders Court, Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Charles O. Womack because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Charles O. Womack to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Charles O. Womack's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Charles O.

Womack be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of February 1971.

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

[FR Doc.71-3124 Filed 3-4-71;8:55 am]

RICHARD DUDLEY YOUNG

Notice of Granting of Relief

Notice is hereby given that Richard Dudley Young 359 Filer Avenue, West Twin Falls, ID 83301, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 15,, 1946, in the Denver County District Court, Denver, Colo., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Richard Dudley Young because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control an Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Richard Dudley Young to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Richard Dudley Young's application and:

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

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

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

Signed at Washington, D.C., this 25th day of February 1971.

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

[FR Doc.71-3125 Filed 3-4-71;8:55 am]

POST OFFICE DEPARTMENT

SEXUALLY ORIENTED ADVERTISEMENTS

Interpretive Statement

On pages 1468-1470 of the FEDERAL REGISTER of January 30, 1971, the Department adopted and published the regulations to implement and interpret section 3010 of title 39, United States Code, as enacted by Public Law 91-375, such regulations consisting of a new § 124.9 in Part 124 of Title 39, Code of Federal Regulations.

Section 124.9(d)(2) of those regulations interprets 39 U.S.C. section 3010(c) as prohibiting the use of the Postal Service's list of persons desiring not to receive sexually oriented advertisements through the mails except as stated therein. A question has been raised as to whether 39 U.S.C. 3010(c) as interpreted by § 124.9(d)(2) of the regulations prohibits a subscriber to the list from selling, leasing, renting, lending, exchanging, or licensing another to use a mailing list owned or controlled by the subscriber if such mailing list has been purged of names and addresses of persons who were included on the Postal Service's list.

In order to state the position of the Post Office Department on this question in the manner provided in 5 U.S.C. 553(b)(A) and (d)(1) and (d)(2), the following interpretation of 39 U.S.C. 3010 and §124.9(d)(2) is hereby announced to be effective upon publication in the FEDERAL REGISTER (Mar. 5, 1971).

The Post Office Department takes the position that the limitations in 39 U.S.C. 3010(c) as interpreted by § 124.9(d)(2) of the regulations are applicable only to the list published by it and copies or portions thereof, and that a subscriber is not precluded from using the Postal Service's list to purge his privately owned (or controlled) mailing list and thereafter allowing others to obtain or use his privately owned (or controlled) mailing list.

(5 U.S.C. 301; 39 U.S.C. 501; 39 U.S.C. 3010 (Public Law 91-375; 84 Stat. 749))

DAVID A. NELSON,
General Counsel.

[FR Doc.71-3133 Filed 3-3-71;10:21 am]

DEPARTMENT OF THE INTERIOR

National Park Service

PLATT NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Platt National Park proposes to issue a concession permit to Tribes of the Arbuckle Indian Arts and Crafts Association, Sulphur, Okla., authorizing it to sell genuine Indian handicraft to the public at Platt National Park for a period of nine (9) months from April 1, 1971 through December 31, 1971.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice. Interested parties should contact the Superintendent, Platt National Park, Post Office Box 201, Sulphur, OK 73086, for information as to the requirements of the proposed permit.

Dated: January 29, 1971.

JOHN C. HIGGINS,
Superintendent of Platt National Park.

[FR Doc.71-3006 Filed 3-4-71;8:46 am]

PLATT NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Platt National Park proposes to issue a concession permit to each of the following authorizing them to provide rental of camping equipment for the public at Platt National Park, for a period of five (5) years from January 1, 1971 through December 31, 1975:

Dooly's Laundry, Sulphur, Okla.;
Hicks' Service, Sulphur, Okla.;
Earl Sanders, Sulphur, Okla.

The foregoing concessioners have performed their obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the issuance of new permits. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Superintendent, Platt National Park,

Post Office Box 201, Sulphur, Okla. 73086, for information as to the requirements of the proposed permit.

Dated: January 28, 1971.

JOHN C. HIGGINS,
Superintendent of Platt National Park.

[FR Doc.71-3007 Filed 3-4-71;8:46 am]

Office of the Secretary

PROPOSED TRANS-ALASKA PIPELINE

Notice of Public Hearing: Extension of Time for Submission of Written Comments

On January 20, 1971, the Department of the Interior published in the FEDERAL REGISTER, 36 F.R. 947, an amended notice of hearing, to be held in Washington, D.C., and Anchorage, Alaska, on the environmental impact of granting a right-of-way for a crude oil pipeline across public lands in Alaska.

Notice was given that written comments from those unable to attend the hearings and from those wishing to supplement their oral presentation at the hearings would be accepted by the Department until March 8, 1971.

Notice is hereby given that the Department will accept written comments concerning the Trans-Alaska Pipeline until 5 p.m., e.s.t. on March 22, 1971. Written comments should be addressed to the Director (attention 320), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. All written statements received pursuant to this notice will be included in the hearing record.

ORME LEWIS, Jr.,
Deputy Assistant Secretary of the Interior.

MARCH 2, 1971.

[FR Doc.71-3065 Filed 3-3-71;9:58 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 10]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1971)

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended as follows:

1. The provisions of Section 6 entitled "Credit Eligibility List" and section 7 entitled "Credit Interest Rates" are deleted.

2. Section 9 entitled "Barter Eligibility List" is revised to read as follows:

9. *Barter eligibility list.* CCC-owned upland cotton and tobacco under loan are available for new and existing barter contracts.

3. A section 32 is inserted which reads as follows:

32. *Linseed Oil (Raw) Export Sales.* Available on a competitive bid basis through the Minneapolis ASCS Commodity Office.

4. Section 33 entitled "Linseed Oil (Raw) Unrestricted Use Sales" is amended by the insertion of the following sentence after the first sentence: "For March the price will be $0.1110 per pound."

5. Section 46 entitled "Cotton, Extra Long Staple—Unrestricted Use Sales" is amended by deletion of the last sentence.

Signed at Washington, D.C. on March 1, 1971.

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

[FR Doc.71-3128 Filed 3-4-71;8:56 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

B. F. GOODRICH CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2635) has been filed by the B. F. Goodrich Co., 500 South Main Street, Akron, OH 44318, proposing that § 121.2562 *Rubber articles intended for repeated use* (21 CFR 121.2562) be amended in paragraph (c)(4)(i) to provide for the safe use of polyurethane resins derived from reactions of diphenylmethane diisocyanate with adipic acid and 1,4-butanediol, as elastomers in the manufacture of rubber articles intended for repeated food-contact use.

Dated: February 25, 1971.

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

[FR Doc.71-3005 Filed 3-4-71;8:45 am]

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), formerly part 5, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), is hereby amended with regard to section 3-B, formerly section 5-B, Organization as follows:

Following the paragraph on Office of State Plans (2555) under the heading Health Facilities Planning and Construction Service (2500) insert:

Maternal and Child Health Service (3N00). Carries out the HSMHA national role in the organization and delivery of health services by serving as the focal point for this responsibility for mothers and children. In this context, plans, stimulates, conducts, and coordinates programs designed to improve the health and well being of mothers and children (including handicapped children and youth but excepting those programs administered by the National Center for Family Planning Services), with special attention to locating, diagnosing, and treating handicapped children and to services for reducing infant mortality with particular emphasis to disadvantaged income groups in urban and rural areas. By delegation of authority: (1) Serves as the usual and principal source for developing Health Services and Mental Health Administration (HSMHA) objectives, plans, and policies in the area of maternal and child health; (2) serves as focal point within HSMHA for the development and issuance of standards and guidelines for programs affecting the health of mothers and children; (3) coordinates maternal and child health activities for HSMHA with the Department, with other Federal agencies, and with other interested groups; (4) administers programs of grants and contracts for services, research, and training under Title V of the Social Security Act, coordinating with the National Center for Family Planning Services as appropriate; (5) provides consultation and technical assistance, through regional maternal and child health staff, to States, communities, and voluntary and professional organizations; (6) establishes and maintains communications with national organizations having related health interests for purposes of exchange of pertinent information, and with consumer groups and the general public; and (7) provides leadership on international activities in maternal and child health and carries primary responsibility for the development and operation of international research and training activities in this area, subject to the overall international program policies of HSMHA.

Office of the Director (3N01). In behalf of the Administrator, by selective delegation: (1) Serves as the principal source of HSMHA's national effort in improving and delivering comprehensive health services for mothers and children; (2) provides leadership and/or direction for all Maternal and Child Health Service (MCHS) programs, including legislative planning and program planning, review, and evaluation; (3) develops and establishes program policies and objectives; (4) provides professional and technical guidance and direction to regional personnel on maternal and child health matters; (5) coordinates maternal and child health programs with other programs providing health services; (6) provides liaison with other Federal agencies on matters related to the improvement of health services for mothers and children; and (7) offers technical consultation on and maintains liaison with international activities in maternal and child health. NOTE: The specific delegations may vary in accord with the

need for coordinating comprehensive health care planning and service programs within HSMHA or between agencies.

Office of Information (3N17). (1) Develops and conducts the information program of MCHS; (2) prepares materials related to provision and improvement of health services for mothers and children; (3) provides staff advice on information matters and professional editing and writing services to other elements of MCHS; (4) prepares MCHS materials for publication; and (5) participates in planning and development of MCHS-level policies with special responsibility for their interpretation to the public.

Office of Administrative Management (3N19). (1) Plans, directs, and evaluates the administrative management activities of MCHS; (2) develops and implements management policies, procedures, and systems; (3) provides program guidance and information to the staff of the Administration's Office of Financial Management in the operation of a financial management system for MCHS, including program policy interpretation in budget formulation and execution, in preparation of program planning and budgeting data, and in the financial management of grants; (4) serves as the focal point for liaison with officials of the Office of the Administrator and the Office of the Secretary on financial, personnel, organization, supply, contracts, and other management matters; and (5) assists the Office of the Director in the development of MCHS goals and objectives.

Division of Health Services (3N41). (1) Establishes national policy and administrative guidance for nationwide health programs for mothers and children, including grants to carry out service and training programs designed to meet the health needs of mothers and children, both normal and handicapped, and to promote optimal growth and development of children and reduce infant morbidity; (2) develops policies, guides, and standards for professional services and effective organization and administration of health programs for mothers and children; (3) in cooperation with regional maternal and child health staff provides consultation and technical assistance to State and local agencies; and (4) provides liaison with interested public and voluntary organizations on programs for improving the effectiveness of health services for mothers and children.

Division of Research (3N51). (1) Develops policy and administrative guidelines and in behalf of HSMHA administers a nationwide program of grants for research in maternal and child health and crippled children's services; (2) provides technical assistance and consultation to these and other related research programs; (3) collects and analyzes information on research findings and carries out a research utilization program; (4) reviews and analyzes effectiveness of MCHS programs and recommends action to promote improvement; and (5) collects and analyzes statistical and related information on or related to MCHS programs.

Dated: February 25, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-3017 Filed 3-4-71;8:46 am]

FEDERAL AVIATION ADMINISTRATION

AIR CARRIER DISTRICT OFFICE, NASHVILLE, TENNESSEE

Notice of Establishment

Notice is hereby given that on February 15, 1971, the Air Carrier District Office at Nashville, Tenn., was established. Certificate responsibility for Capitol International Airways has been transferred from the Eastern Region to the Southern Region. Air carrier program functions will cover the States of Tennessee, Alabama, Mississippi, and Kentucky. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Atlanta, Ga., on February 15, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3073 Filed 3-4-71;8:51 am]

PLAN FOR STANDARD INSTRUMENT DEPARTURES AND ARRIVAL PROCEDURES

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, of the Federal Aviation Administration (FAA) program for expansion and continued use of Standard Instrument Departure (SID) and Standard Terminal Arrival Route (STAR) procedures by the Air Traffic Control (ATC).

A. A SID is coded ATC instrument flight rules (IFR) departure routing. A STAR is coded IFR arrival routing. Each is preplanned and preprinted for pilot use in graphic and textual or, if urgently required between charting dates, in textual form only. They are a means of simplifying ATC clearances and considerably reducing the often lengthy communication requirements for relay and delivery of the clearances. Also, use of these preprinted ATC clearance procedures can reduce pilot and controller workload and the error potential present in the transmission, reception, and compliance with otherwise often lengthy and complex verbally described clearances.

B. The FAA has established SIDs and STARs for use at a number of civil airport locations. The military services have established SIDs at military locations. SIDs have been in use since 1954 and STARs since 1968. ATC has by agreement with the scheduled air carrier and the military service operators assigned SIDs and STARs to the air carriers and SIDs to the military operators whenever deemed appropriate. Each has been assigned to any other user when requested. Through coordination with all major airspace user group representatives it has been determined that this same application to all airspace users can produce expanded benefits in the areas described above.

C. Application of the SID and STAR programs by ATC will be to all aircraft operating on an IFR flight plan to and from locations having established effective SIDs/STARs. When use of either procedure is deemed appropriate by ATC it may be issued as a part of or as the total ATC clearance. Additionally, pilots may include a specific SID/STAR in a filed IFR flight plan and, provided the procedure/s is consistent with the existing flow of traffic and other pertinent system requirements it may be included in the issued ATC clearance. In any event, as with any ATC clearance or portion thereof, a pilot, has the prerogative of refusing a clearance and requesting that it be revised in part or in total.

D. SID and STAR procedures are published by the FAA in the National Flight Data Digest for use by charting organizations. Lists of civil SID and STAR locations are published in the Airman's Information Manual (AIM). FAA charting of SID procedures is accomplished by the U.S. Coast and Geodetic Survey in booklet form. Publication of STARs is planned in a similar manner. Additional publication of procedures required on an urgent or emergency basis may be contained in textual only format in part 3 of the Airman's Information Manual until publication is accomplished. Approved effective military SIDs that are intended for use at military locations are published and made available to pilots in accordance with appropriate military directives/regulations. Military publication of STARs for use by military pilots is planned.

E. Use of SID/STAR procedures requires that the pilot must have in his possession at least the textual description of any procedure issued in an ATC clearance. The textual description of each procedure, when issued in an ATC clearance by name and accepted by the pilot, constitutes the ATC clearance or portion thereof. Any pilot who does not have a preprinted procedure in his possession or for any other reason does not wish to use an issued SID/STAR should verbally advise ATC at the time of issuance. A pilot who does not wish to use any published SID/STAR may inform ATC by placing "NO SID/STAR" as appropriate in the remarks section of his filed IFR flight plan. He also may use the less desirable method of notification by verbally stating the same to ATC.

Issued in Washington, D.C., on February 23, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.71-3074 Filed 3-4-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 2–6; Notice 3A]

GENERAL MOTORS ET AL.

Side Door Strength—Passenger Cars; Denial of Petitions for Reconsideration

An amendment to § 571.21 of Title 49, Code of Federal Regulations, adding Motor Vehicles Safety Standard No. 214, Side Door Strength—Passenger Cars, was published in the FEDERAL REGISTER on October 30, 1970 (35 F.R. 16801). Thereafter, pursuant to § 553.35 of the Procedural Rules (49 CFR 553.35), petitions for reconsideration of the new standard were filed by General Motors, Morgan Motor Co., and Checker Motors Corp. Pursuant to §§ 553.35, 553.37, and 553.39 of Title 49, Code of Federal Regulations (35 F.R. 5119, 35 F.R. 19268), notice is hereby given that the petitions for reconsideration are denied.

With respect to General Motors' request to adopt inner panel deflection rather than outer panel deflection as the measure of a door's strength, the National Highway Traffic Safety Administration has previously considered and rejected this request. Requiring significant levels of resistance at a very early point in the impact sequence has several important advantages. It increases the likelihood that a striking vehicle will be deflected and will not interlock with the struck vehicle; it tends to transfer more energy to the striking vehicle and to deform its structure to produce a more broadly distributed impact area; it allows more of the crush distance to be used for energy-absorbing interior cushioning; and it makes possible a more gradual acceleration of the interior of the struck vehicle. For these reasons it was decided to adopt the crush resistance requirements as proposed in the notice of proposed rulemaking, and the information submitted by General Motors is not considered sufficient to alter the decision.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on March 1, 1971.

DOUGLAS W. TOMS,
Acting Administrator, National Highway Traffic Safety Administration.

[FR Doc.71–3058 Filed 3–4–71;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–373, 50–374]

COMMONWEALTH EDISON CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Commonwealth Edison Co., 1 First National Plaza, Chicago, IL 60690, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated November 3, 1970, for authorization to construct and operate two single-cycle, forced circulation, boiling water nuclear reactors at its site, located in Brookfield Township, La Salle County, Ill. The proposed site is located approximately 5 miles south-southwest of Seneca, Ill.

The proposed facilities are designated by the applicant as La Salle County Nuclear Power Station, Units 1 and 2. Each reactor is designed for initial operation at approximately 3,293 megawatts (thermal) with a net electrical output of approximately 1,078 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after March 5, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Office of the Chairman of the Board of Supervisors, La Salle County Courthouse, Ottawa, Ill.

Dated at Bethesda, Md., this 22d day of February 1971.

For the Atomic Energy Commission.

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

[FR Doc.71–2623 Filed 3–4–71;8:45 am]

[Docket No. 50–367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

Northern Indiana Public Service Co., 5265 Hohman Avenue, Hammond, IN 46320, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated August 24, 1970, for authorization to construct and operate a single-cycle, forced circulation, boiling water nuclear reactor at its Bailly Generating Station site, located in Westchester Township, Porter County, Ind. The proposed site is located on the south end of the shore of Lake Michigan, adjacent to the fossil-fueled Units 7 and 8 of the Bailly Generating Station, and is approximately 12 miles east-northeast of Gary, Ind.

The proposed nuclear reactor, designated by the applicant as Bailly Generating Station—Nuclear 1, is designed for initial operation at approximately 1,931 megawatts (thermal) with a net electrical output of approximately 657 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after March 5, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the local office of Northern Indiana Public Service Co., 141 South Calumet Street, Chesterton, IN.

Dated at Bethesda, Md., this 22d day of February 1971.

For the Atomic Energy Commission.

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

[FR Doc.71–2624 Filed 3–4–71;8:45 am]

[Docket No. 50–341]

DETROIT EDISON CO.

Notice of Receipt of Application for Construction Permit and Operating License; Time for Submission of Views on Antitrust Matter

The Detroit Edison Co., 2000 Second Avenue, Detroit, MI 84226, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application, dated April 29, 1969, for a permit to construct and license to operate a boiling water nuclear power reactor, having a gross electrical output of approximately 1,157 megawatts derived from a thermal capacity of approximately 3,293 megawatts.

The proposed reactor, designated by the applicant as the Enrico Fermi Atomic Power Plant, Unit No. 2, is to be located at the applicant's 915-acre site on the western shore of Lake Erie in Frenchtown Township, Monroe County, Mich., about 30 miles southwest of downtown Detroit, Mich. It will be adjacent to the nuclear facility owned and operated by the Power Reactor Development Co. and

designated as the Enrico Fermi Atomic Power Plant, Unit No. 1.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within 60 days after February 19, 1971.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and the office of Delbert J. Hoffman, Supervisor, Frenchtown Township Hall, 2664 Vivian Road, Monroe, MI.

Dated at Bethesda, Md., this 11th day of February 1971.

For the Atomic Energy Commission.

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

[FR Doc.71-2205 Filed 2-18-71;8:45 am]

[Docket No. 50-269]

DUKE POWER CO.

Order Extending Provisional Construction Permit Completion Date

By application dated February 19, 1971, and supplemental letter dated February 23, 1971, Duke Power Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-33. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Oconee Nuclear Station Unit No. 1 at the applicant's site in Oconee County, S.C., approximately 8 miles northeast of Seneca, S.C.

Good cause having been shown for this extension pursuant to Section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations, *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-33 is extended from February 28, 1971, to September 30, 1971.

Dated at Bethesda, Md., this 27th day of February, 1971.

For the Atomic Energy Commission.

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

[FR Doc.71-3029 Filed 3-4-71;8:48 am]

[Docket No. 50-378]

GENERAL ELECTRIC TECHNICAL SERVICES, INC.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that General Electric Technical Services Co., Inc., San Jose, Calif., a wholly owned subsidiary of the General Electric Co., has submitted to the Atomic Energy Commission (Commission) an application dated December 8, 1970, for a license to authorize the export of a 2,436 megawatt thermal, boiling water reactor to the Ente Nazionale per l'Energia Electtrica (ENEL), Rome, Italy.

Subject to confirmation that the proposed reactor export is within the scope of and consistent with the terms of the Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

Unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation will upon such confirmation as noted above cause to be issued to the General Electric Technical Services Co., Inc., a facility export license and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission will issue a notice of hearing or an appropriate order.

A copy of the application, dated December 8, 1970, is on file in the Commission's Public Document Room located at 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 16th day of February 1971.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of
State and Licensee Relations.

[FR Doc.71-3030 Filed 3-4-71;8:48 am]

[Docket No. 50-384]

GULF OIL CORP.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that Gulf Oil Corp., San Diego, Calif., has submitted to the Atomic Energy Commission (Commission) an application dated January 7, 1971, as amended, for a license to authorize the export of certain essential components to be used to increase the steady-state power level of an existing TRIGA Mark II nuclear research reactor from 250 kilowatts thermal to 1 megawatt thermal. The proposed export would be made to the Bandung Institute of Technology, Bandung, Indonesia.

Subject to confirmation that the proposed export of reactor components is within the scope of and consistent with the terms of the Agreement for Cooperation Between the Government of the United States of America and the Government of Indonesia, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor components proposed to be exported are a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

Unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation will, upon such confirmation as noted above, cause to be issued to the Gulf Oil Corp., a facility export license and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission will issue a notice of hearing or an appropriate order.

A copy of the application, dated January 7, 1971, as amended, is on file in the Commission's Public Document Room located at 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 19th day of February 1971.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of
State and Licensee Relations.

[FR Doc.71-3031 Filed 3-4-71;8:48 am]

[Docket No. 50-377]

GULF OIL CORP.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on January 12, 1971 (36 F.R. 384), the Atomic Energy Commission has issued License No. XR-76 to Gulf Oil Corp., authorizing the export of a 250 kilowatt thermal TRIGA Mark I nuclear research reactor to the Medical University, Hannover, West Germany. The license is being issued as proposed except that, Gulf Energy & Environmental Systems, Inc., having been merged into Gulf Oil Corp.

and the application having been accordingly amended, the licensee is Gulf Oil Corp. The export of the reactor to West Germany is within the purview of the present Additional Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community.

Dated at Bethesda, Md., this 18th day of February 1971.

For the Atomic Energy Commission.

JAMES R. MASON,
Acting Director, Division of State and Licensee Relations.

[FR Doc.71-3032 Filed 3-4-71;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22982]

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding, now assigned to be held on March 9, 1971, at 10 a.m., in Room 911, is postponed and reassigned for hearing on March 30, 1971, at 10 a.m., in Room 805, Universal Building, Connecticut and Florida Avenues NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., March 1, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-3097 Filed 3-4-71;8:53 am]

[Docket No. 23089 etc.; Order 71-3-5]

AMERICAN AIRLINES, INC.

Order Dismissing Complaints

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of March 1971.

Effective March 3, 1971, American Airlines, Inc. (American)[1] proposes jointly with Continental Air Lines, Inc. (Continental) and Western Air Lines, Inc. (Western) to establish new group inclusive tour-basing fares between 11 continental U.S. points[2] and Hawaii, for groups of 154 or more passengers. The tariff rules provide that members of the group may travel individually between the point of origin and the assembly point on the West Coast, but that between the West Coast and Hawaii the group must travel together on the same aircraft.[3]

The proposed fares match fares available via Northwest Airlines, Inc. (Northwest) and United Air Lines, Inc. (United), which are constructed by combining the Chicago-Hawaii group fare (for 154 or more persons) of $240 with proportional fares applicable between Chicago and points east. The proportional fares were initially established at the level of Discover America fares (160 percent of coach fares), which have since been canceled in these markets. While the fares match competitive levels, the governing rules differ in one respect. Whereas the fares of Northwest and United permit individual travel (at the proportional fare add-on) only to Chicago, the proposals now before the Board would permit individual travel transcontinentally to the West Coast.

Complaints against the proposal have been filed by Northwest and United requesting suspension and investigation. In summary, it is alleged that the proposal should be rejected because it has not been supported by justification as required by the Board's economic regulations and that it is not motivated by competition; that the relaxation of the travel restrictions proposed is economically destructive and contrary to the objectives of limiting diversion and improving aircraft and facilities utilization; that the proposal would result in passengers traveling overland on the identical basis as an individually ticketed passenger, which is tantamount to a drastic cut in fares for individual transcontinental travel; that the proposal features a consolidation provision more liberal than that rejected by previous Board order; and that the proposed fares are not constructed on the same basis as present fares which permit passengers to join the group only after paying a local fare to the group departure city.

Upon consideration of the tariff filing, the complaints, and other relevant matters, the Board finds that the complaints do not set forth sufficient facts to warrant investigation of the proposed tariff and the requests therefor, and consequently the requests for suspension, will be denied.[4]

The proposal appears essentially to be an effort to become competitive with existing services of Northwest and United. The only material difference between the proposed versus the present fares is the greater amount of individual travel permitted by the former. In the Board's opinion, this difference alone does not warrant suspension of the proposal. With two exceptions, the fares range from about $30 to $60 (or 12 to 22 percent) above present GIT fares applicable when the group travels together throughout the entire trip. Thus, the passenger in most instances would be paying a premium for the somewhat less restrictive travel requirements applicable to the proposed fares.

The complainants allege that their present fares represent merely combinations of existing fares over the segments traveled, i.e., the group discount for group travel west of Chicago and individual excursion fares for travel to and from points east of Chicago, and that the proposed fares have no such basis. While this was true when the fares were initially established, it is no longer so by virtue of the cancellation of Discover America fares in markets below 1,500 miles. Thus, the proposed fares are not unique in this respect as the complainants appear to argue. Finally, the complainants allude to the Board's suspension of consolidation provisions previously proposed by United.[5] While the proposed tariff does have a consolidation provision, it does not raise the questions of discrimination, preference, and prejudice with which the Board was concerned when it suspended that proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. The complaints of Northwest Airlines, Inc., in Dockets 23089 and 23107, and United Air Lines, Inc., in Docket 23106 are hereby dismissed; and

2. A copy of this order be served upon American Airlines, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3098 Filed 3-4-71;8:53 am]

[Dockets Nos. 21884, 21822; Order 71-3-9]

EASTERN AIR LINES, INC.

Order Regarding Application for Permission To Use Certain Airports in Florida

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of March 1971.

Application of Eastern Air Lines, Inc., for permission to serve Vero Beach, Fla., through J. F. Municipal Airport at Melbourne, Fla. Application of Eastern Air Lines, Inc., for permission to use the John R. Alison Municipal Airport at Gainesville, Fla., for serving Ocala, Fla.

Eastern Air Lines, Inc. (Eastern) has filed an application seeking permission to serve Vero Beach, Fla., through J. F. Kennedy Municipal Airport at Melbourne, Fla.[1] Vero Beach has filed an

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[1] American's Tariff CAB No. 246.

[2] Baltimore, Boston, Chicago, Cleveland, Detroit, Hartford, New York, Philadelphia, Pittsburgh, St. Louis, and Washington.

[3] Pan American World Airways, Inc., jointly with other carriers, had proposed similar fares and provisions which were rejected for failure to comply with the notice requirements of the Board's economic regulations.

[4] The complaints requesting suspension and investigation of Pan American's proposal which was rejected are moot and will likewise be dismissed.

[5] Order 69-9-151, Sept. 30, 1969.

[1] On Feb. 12, 1970, Eastern requested that the Board defer action on the application until it completed discussions with the Vero Beach community regarding its air service. Subsequently, Eastern filed a motion to reopen the record to receive a joint tariff agreement concluded between Eastern and Florida Air Lines, Inc., an air taxi operator at Vero Beach. The motion further requested expedited action on its application.

answer in opposition to Eastern's application and motion.[2]

In support of its application, Eastern alleges, inter alia, that traffic volume of less than five passengers a day generated at Vero Beach does not warrant trunkline service at that point;[3] that Vero Beach has adequate surface transportation to and from the Melbourne Airport, located 35 miles from Vero Beach; that Vero Beach passengers have access to nationwide air service provided by Eastern, National, and air taxis at Melbourne Airport; and that grant of the authority requested would enable Eastern to realize a $136,000 annual saving in operating expenses.

In opposition, Vero Beach alleges that Eastern asked the city to improve its airport, at great expense, to accommodate DC-9 aircraft to replace the present Electra service. The city notes that whereas Eastern had previously attempted to assure replacement service by an air taxi operator, no such arrangement has been proposed now. Since the application was filed, Eastern and Vero Beach have had numerous discussions and have failed to reach a satisfactory settlement.

Upon consideration of the pleadings and all the relevant facts, we have concluded that the application should be set aside for hearing to permit a complete consideration of the issues raised. Since the issues raised by Eastern's Vero Beach application are closely connected with those involved in Eastern's application, in Docket 21822, for permission to use the John R. Alison Municipal Airport at Gainesville, Fla., for serving Ocala, Fla.,[4] we have decided to consolidate these dockets for an expedited hearing.[5]

Accordingly, it is ordered, That:

1. The application of Eastern Air Lines, Inc., in Docket 21884 be and it hereby is set for hearing, which hearing will include the issues of whether Eastern's certificate should be altered, amended, or modified to delete Vero Beach or to redesignate Vero Beach and Melbourne as a hyphenated point, to be served through the Melbourne airport;

2. The applications of Eastern Air Lines, Inc., in Dockets 21884 and 21822, be and they hereby are consolidated for hearing and decision on an expedited basis, at a time and place to be designated hereafter;

3. The motion of Eastern to reopen the record to receive additional information be and it hereby is granted; and

4. The motion of Eastern for leave to file an unauthorized pleading be and it hereby is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3099 Filed 3-4-71;8:53 am]

[Docket No. 22508 etc.; Order 71-3-14]

MAINLAND-PONCE SERVICE INVESTIGATION

Order Regarding Motion To Invoke Environmental Policy Act Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of March 1971.

By Order 70-8-102, August 25, 1970, as modified by Order 70-12-49, December 8, 1970, the Board instituted the above-captioned investigation. On February 4, 1971, the Bureau of Operating Rights, participating in this proceeding, filed a motion entitled "Motion to Invoke Environmental Policy Act Procedures."[1]

Upon consideration of the motion and other relevant facts, the Board has determined that this proceeding might result in a major Federal action significantly affecting the quality of the human environment and will therefore invoke the procedures outlined in its Policy Statement implementing the National Environmental Policy Act of 1969 (14 CFR 399.110, 35 F.R. 10582). In accordance with 14 CFR 399.110(d) the Board encourages participation in this proceeding, in accordance with its Rules of Practice, by the appropriate Federal, State, and local agencies and by other interested persons to the end of insuring that a complete record is developed which will permit full consideration of any possible environmetal impact. All parties to this investigation are directed to proceed in conformity with the requirements of 14 CFR 399.110.

Accordingly, it is ordered:

1. That the motion of the Bureau of Operating Rights, docketed February 4, 1971, entitled "Motion to Invoke Environmental Policy Act Procedures," be and it hereby is granted;

2. That this proceeding shall be conducted in accordance with the standards established in 14 CFR 399.110;

3. That a copy of this order shall be served upon all persons served with Orders 70-8-102 and 70-12-49, and, in addition, a copy of this order and Orders 70-8-102 and 70-12-49 shall be served upon the Environmental Protection Agency, the Council on Environmental Quality, and the Governor of the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3100 Filed 3-4-71;8:53 am]

[Docket No. 19787; Order 71-2-123]

RIO AIRWAYS, INC.

Order To Show Cause

Issued under delegated authority February 26, 1971.

A final service mail rate for the transportation of mail by aircraft, established by Order E-26979, issued June 25, 1968, in this docket, is currently in effect for Hood Airlines, Inc., an air taxi, operating under 14 CFR Part 298. This rate is based on six round trips per week between Temple and Dallas, via Waco, Tex.

The Postmaster General filed a petition on February 5, 1971, stating that the volume of mail involved does not justify weekend trips on this route and he has been authorized by the carrier to petition for a new rate of 49.8 cents per great circle aircraft mile, based on five round trips per week. The carrier and the Post Office Department have agreed that the proposed rate is a fair and reasonable rate for these services.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after February 5, 1971, to Rio Airways, Inc., 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 49.8 cents per great circle aircraft mile between Temple and Dallas, via Waco, Tex.

2. This final rate, to be paid entirely by the Postmaster General, is 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. Rio Airways, Inc., the Postmaster General, Texas International 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

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[2] Eastern filed a motion for permission to file a reply to the answer of Vero Beach. Since the information contained in Eastern's reply is pertinent to the matter at hand, the carrier's request to file the reply will be granted.

[3] Eastern's present service includes one Electra round trip daily between Jacksonville, Gainesville, Ocala, Vero Beach, and Miami.

[4] Eastern presently serves Ocala and Vero Beach on the same Electra flight, and these are the only points on Eastern's system which are regularly served with Electras.

[5] By Order 70-12-96, dated Dec. 16, 1970, the Board set for hearing Eastern's application in Docket 21822.

[1] Under date of Feb. 10, 1971, counsel for the Commonwealth of Puerto Rico submitted an answer expressing concurrence in the motion.

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

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 Rio Airways, Inc.;

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 Rio Airways, Inc., the Postmaster General, and Texas International Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3101 Filed 3-4-71;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1087) has been filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing the establishment of a tolerance (21 CFR Part 420) for total residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog *O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodity alfalfa at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas-liquid chromatographic procedure using a flame photometric detector equipped with a phosphorus filter (526 nanometers).

Dated: March 2, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticide Office.

[FR Doc.71-3015 Filed 3-4-71;8:46 am]

WYANDOTTE CHEMICALS CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1080) has been filed by Wyandotte Chemicals Corp., Wyandotte, Mich. 48192, proposing an exemption from the requirement of a tolerance (21 CFR Part 420) for residues when used as an inert ingredient in pesticide formulations of the surfactant which is the monophosphate ester of the block copolymer alpha - hydro - omega - hydroxypoly (oxyethylene) - poly(oxypropylene)-poly (oxyethylene); the poly(oxypropylene) content averages 37–41 moles and the molecular weight averages 8,000.

The analytical method proposed in the petition for determining residues of the surfactant is a procedure in which the polyoxyproplene - polyoxyethylene condensates are precipitated as complexes with iodobismuthate barium reagent. The excess bismuth remaining in solution is then determined using the ultraviolet absorption band of bismuth iodide at 337 nanometers. The excess is subtracted from the total bismuth to determine bismuth consumed.

Dated: March 2, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticide Office.

[FR Doc.71-3016 Filed 3-4-71;8:46 am]

FEDERAL HOME LOAN BANK BOARD

[H. C. No. 91]

H. F. AHMANSON & CO. AND AHMANCO, INC.

Notice of Receipt of Application for Approval of Acquisition of Control of San Mateo County Building and Loan Association

MARCH 2, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the H. F. Ahmanson & Co., Los Angeles, Calif., a unitary savings and loan holding company which is controlled by Ahmanco, Inc., Los Angeles, Calif., for approval of acquisition of control of the San Mateo County Building and Loan Association, Redwood City, Calif., an uninsured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effective by the purchase for cash by Home Savings and Loan Association, an insured subsidiary of H. F. Ahmanson & Co., of the assets of said San Mateo County Building and Loan Association. Home Savings and Loan Association will also assume the obligations and liabilities of San Mateo County Building and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 71-3057 Filed 3-4-71;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. R-380]

ACCOUNTING AND RATE TREATMENT OF ADVANCE PAYMENTS TO SUPPLIERS FOR GAS AND AMENDING F.P.C. FORM NO. 2

Order Denying Rehearing

FEBRUARY 26, 1971.

On January 8, 1971, we issued Order No. 410–A (36 F.R. 366, January 12, 1971) amending our regulations under the Natural Gas Act to prescribe for accounting and rate treatment of advance payments made by pipeline companies to their suppliers of natural gas. Order No. 410–A issued as a result of our order of November 27, 1970, granting rehearing for purposes of further consideration (35 F.R. 18640, December 8, 1970) of original Order No. 410 in Docket No. R–380. Order No. 410–A issued as an interim order of clarification until rulemaking procedures in Docket No. R–411 are concluded.

A petition for rehearing of Order No. 410–A was filed by the Public Service Commission of the State of New York (New York) on January 28, 1971.

This petition contends the order predetermines by rulemaking the propriety and reasonableness of specific advance payments. We find this contention without merit as Order No. 410 states "the Commission plans to consider those amounts recorded in Account 166, Advance Payment for Gas, as rate base items where found reasonable and appropriate." Order No. 410 is still in effect and has not been modified by Order No. 410–A in this regard.

It is alleged that Order No. 410–A has substantive changes from Order No. 410 which were not properly noticed as provided by § 1.34(d) of the rules of practice and procedure. New York claims that inadequate notice was given because the Commission did not advise the parties as to the areas of the previous order it was contemplating revising. We find this argument without merit. The order

granting rehearing issued on November 27, 1970. "For the purpose of allowing us an opportunity to give full and adequate consideration to the matters set forth in the * * * petitions for rehearing * * *." This order gave full opportunity for Petitioner to respond in accordance with § 1.34(d) of the Commission's rules of practice and procedure which permits responses to the issues upon which rehearing is granted. The procedures followed therein were in full conformance with both § 1.34(d), as cited above, and section 553 of the Administrative Procedures Act (5 U.S.C. section 553). Substantive change are said to include the allowance in Account 166 of advance payments to affiliate producers obtaining a working interest in production activity. We find this allegation without foundation. This was fully treated on page 2 of Order No. 410–A.

Other changes alleged include revision of the treatment of advance payments by pipelines to independent producers where the pipeline receives a working interest in the producers' activities. We find this allegation also without merit as in both Order 410–A and Order 410, such advance payments receive treatment in production accounts which are not rate base accounts.

New York also charges that Order 410–A changes the time within which a pipeline must completely reduce the advance payments balance in Account 166 from 5 years to any period authorized by the Commission. We find this claim to be without basis as Order 410 also provided that "Unless otherwise authorized by the Commission outstanding advance payments should be fully reduced within a reasonable period of time." The 5-year period referred to in Order 410 illustrated what the Commission believes a reasonable period of time should be, but this does not detract from the reservation of authority to fix such periods as circumstances indicate.

New York contends that a request for modification to permit a pipeline to amortize beyond the 5-year period may be granted without notice to the pipeline's customers or opportunity for hearing. Our rules of practice and procedure, § 3.5 (25) (b), provide that the Chief Accountant has certain delegated authority with respect to accounting interpretations and acceptance for filing of certain proposed journal entries. Such communications do not violate the ex parte rule (rules of practice and procedure § (1.4(d)). Moreover, Account 166 in Order No. 410–A explicitly states that "A sufficient portion of all gas taken should be credited to outstanding advance payments so as to eliminate the advance within a 5-year period or as otherwise authorized by the Commission upon request by the pipeline company." There is no delegation of authority stated or implied of the Commission's responsibility for granting such requests.

New York further alleges that new paragraph F of Account 166 in Order No. 410–A would allow pipeline companies to contend that a particular interest was not granted as a result of the advance payment but as consideration for some other portion of the total deal. We reject this allegation as a basis for rehearing because, absent evidence to the contrary, the good faith and adherence to the intent of the Commission's rules, regulations, and orders must be presumed.

The 7-percent credit detailed in paragraph F of Order No. 410–A is challenged by the petitioner as unequal to the return and tax benefit arising from rate base treatment of Account 166. We find the argument that this defeats the intent of the Commission in so providing to be without merit. The 7-percent credit was not designed to be equated with the rate of return and tax benefit affecting advance payments, but instead was a figure deemed appropriate for the interim period during which Order 410–A is effective.

An application for rehearing and reconsideration of Order No. 410–A was also filed by Mobil Oil Corp. on February 8, 1971.

Mobil's contentions that Order No. 410–A is discriminatory against independent producers are, in large part, similar to issues before the Commission in connection with Order No. 410. Mobil states on page 6 of its application that "The manner of such discrimination was detailed in the applications for rehearing of Order No. 410." Mobil's application, in this regard, must therefore be construed as an application for rehearing of the principles enunciated in Order No. 410. The Commission stated in Order No. 410–A, that "In order to afford all parties an opportunity to be heard on all issues, we issue concurrently a notice of proposed rulemaking in Docket No. R–411." Mobil's comments will, however, be considered along with such others as Mobil shall file in Docket No. R–411.

Mobil urges that Order No. 410–A was issued without adequate notice of its content prior to its promulgation. We find no substance in this claim for the same reason as given above in our response to a similar claim by the New York Public Service Commission.

Mobil alleges that Order No. 410–A poses a procedural dilemma in that "it would appear to be discriminatory as between those making advance payments before and after the date * * * orders are issued in Docket No. R–411." If such order in R–411 does not differ from Order No. 410–A, Mobil contends that the Commission will have prejudged the issues. We find this dilemma nonexistent and the contentions without merit. Orders issuing from Docket No. R–411 may change Order Nos. 410–A and 410 and be in full conformance with the authority vested in the Commission under section 16 of the Natural Gas Act.

The Commission finds: The assignments of error and grounds for rehearing set forth in New York Public Service Commission's petition and Mobil Oil Corp.'s application present no new facts or principles of law which were not considered by the Commission in its order issued January 8, 1971, in Docket No. R–380, or which having now been considered, warrant any change or modification of that order.

The Commission orders: The petition for rehearing filed herein by New York Public Service Commission on January 28, 1971, and the application for rehearing filed by Mobil Oil Corp. on February 8, 1971, are herby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71–3051 Filed 3–4–71;8:49 am]

[Docket Nos. E–7571, E–7572]

UNION ELECTRIC CO. AND MISSOURI POWER & LIGHT CO.

Order Suspending Proposed Rate Increases, Granting Interventions, Waiving 60-Day Notice Requirement, Consolidating Proceedings, and Providing for Hearing

FEBRUARY 26, 1971.

This order suspends for 5 months proposed rate schedule changes, provides for hearing, consolidates proceedings for purposes of hearing and decision, waives 60-day notice provision of our regulations, and grants petitions for intervention.

Union Electric Co. (Union), a public utility subject to the jurisdiction of this Commission, on October 29, 1970, tendered for filing in Docket No. E–7571 a rate increase proposal to its affiliate, Missouri Power & Light Co. (MP&L), which is designated as Supplement No. 18 to Union's Rate Schedule FPC No. 49.[1] Union's tender, however, was deficient under our regulations and was not completed until January 27, 1971. By its tender, Union proposes to increase its revenues by approximately $1,018,000 annually and requested its increase be made effective December 27, 1970.

In support of its filing, Union states that, since December 15, 1955, when the present rate schedule went into effect, practically all of its operational costs have increased continually especially its costs of capital, construction, and fuel. Further, Union asserts that those increased costs have made it impossible to maintain its earnings under the present rate structure despite Union's endeavor to combat those costs. Union alleges that the proposed increase is necessary to enable it to attract the capital needed for its construction program at an economical cost.

As part of its filing in compliance with our regulations, Union submitted cost of service data based on a 1969 test year. Its submittal in this proceeding used similar cost procedures contained in Union's case-in-chief filed in justification of its proposed increase to its W–2 customers, which is the subject matter of the proceeding in Docket No. E–7525.

[1] MP&L, in lieu of a certificate of concurrence, filed the identical agreement, which is designated as Supplement No. 14 to MP&L's Rate Schedule FPC No. 26.

Our staff and certain interveners have taken exception to certain cost procedures used by Union in that proceeding. Hearings have been held, briefs have been filed, and the case in Docket No. E–7525 is pending before the Presiding Examiner. Since some of Union's cost procedures used to justify its submittal here are under attack in another proceeding, the proposed increase here may be unjust and unreasonable and, consequently, unlawful under the Federal Power Act. Accordingly, we will suspend the subject increase and will not order any hearing procedures pending a determination in Docket No. E–7525. Since the filing was first submitted on October 29, 1970, but was not completed until January 27, 1971, we believe that the 60-day notice provision contained in section 35.13(b)(4) of the Commission's regulations should be waived to permit the filing to be effective (subject to the provisions of this order) on February 27, 1971, 30 days after completion of the filing.[2]

On October 29, 1970, MP&L, a public utility subject to our jurisdiction, tendered for filing in Docket No. E–7572 a proposed increase in its rates and charges to Missouri Edison Co. (Edison), another affiliate of Union, which proposal is designated as Supplement No. 8 to MP&L's Rate Schedule FPC No. 25. That filing was also deficient under our regulations and was not completed until January 28, 1971. By its tender, MP&L seeks an increase in revenues of approximately $376,000 annually and requested the increase be made effective December 27, 1970.

In support of its filing, MP&L refers to Union's filing in Docket No. E–7571 and states that this filing would flow through MP&L's increased costs from Union to its customer, Edison. Thus, the increase proposals filed in Dockets Nos. E–7571 and E–7572 contain common questions of law and fact that can best be resolved in a consolidated hearing. Accordingly, we will consolidate those proceedings for purposes of hearing and decision, permit the filing in Docket No. E–7572 to be made effective 30 days after completion in accordance with the provisions of this order, and have the suspension period end concurrently with the filing in Docket No. E–7571.

Notice of both filings was given by publication in the FEDERAL REGISTER on December 8, 1970 (35 F.R. 18643, 18644), stating that any person desiring to be heard or to make any protest with reference to said filings should on or before December 31, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure. The Missouri Public Service Commission, on December 24, 1970, filed its petition to intervene in both dockets and, on December 30, 1970, the city of Jefferson, Mo., filed petitions to intervene in both proceedings.[3] The city of Jefferson states that it is a community served by MP&L and, consequently, it and its citizens will be affected by the proposed rate increases.

The Commission further finds:

(1) The tendered rate schedule filings submitted by Union and MP&L on October 29, 1970, and heretofore designated in this order may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) Good cause exists for waiver of the 60-day notice provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act and for consolidating the proceedings in Dockets Nos. E–7571 and E–7572 for purposes of hearing and decision.

(3) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the tendered rate increase filings and that those filings be suspended and the use thereof be deferred as hereinafter provided.

(4) Participation by the Missouri Public Service Commission and the city of Jefferson, Mo., in these proceedings may be in the public interest.

The Commission orders:

(A) The 60-day notice provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act is hereby waived to permit the filings in Dockets Nos. E–7571 and E–7572 to be effective as of February 27, 1971, and February 28, 1971, respectively, subject to the provisions of this Order.

(B) The proceedings in Dockets Nos. E–7571 and E–7572 are hereby consolidated for purposes of hearing and decision.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened at the offices of the Federal Power Commission in Washington, D.C., at a time and date to be set by further order of the Commission, concerning the lawfulness of the rate increase proposals tendered by Union and MP&L on October 29, 1970, which are the subjects of Dockets Nos. E–7571 and E–7572.

(D) Pending such hearing and decision thereon, Supplement No. 18 to Union's Rate Schedule FPC No. 49, Supplement No. 14 to MP&L's Rate Schedule FPC No. 26, and Supplement No. 8 to MP&L's Rate Schedule FPC No. 25 are hereby suspended and the use thereof deferred until July 27, 1971. On that day, those supplements shall take effect in the manner prescribed by the Federal Power Act; and Union and MP&L, subject to further orders of the Commission, shall charge and collect the new rates and charges set forth in those supplements for all power sold and delivered thereunder.

(E) Union and MP&L shall refund at such times and in such manner as may be required by final order of the Commission the portion of the increased rates and charges found by the Commission in these proceedings not justified, together with interest at the prime rate in St. Louis, Mo., on July 27, 1971, from the date of payment until refunded; shall bear all costs of such refunding; shall keep accurate accounts in detail of all the amounts received by reason of the increased rates and charges effective as of July 27, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the subject rate schedules, and the revenues resulting therefrom as computed under the rates in effect immediately prior to July 27, 1971, and under the rates and charges made effective by this order, together with the differences in the revenues so computed.

(F) The city of Jefferson, Mo., and the Missouri Public Service Commission are hereby permitted to intervene in Dockets Nos. E–7571 and E–7572 subject to the Rules and Regulations of the Commission: *Provided, however,* That participation of each intervenor shall be limited to the 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 orders entered in these proceedings.

(G) Unless otherwise ordered by the Commission, neither Union nor MP&L shall change the terms or provisions of the subject rate schedules or of its presently effective rate schedules until these proceedings have been terminated or until the period of suspension has expired.

(H) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20425, on or before March 19, 1971, in accordance with the Commission's rules of practice and procedures (18 CFR 1.8 or 1.37).

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–3052 Filed 3–4–71;8:49 am]

[2] By letter dated Dec. 15, 1970, Union protested the withholding of a filing date on its submittal and stated that that constituted a harsh penalty for a relatively minor omission in its filing data. However, in our view, the data required by section 35.13 of our regulations are necessary to the orderly processing of rate increase filings. The omission of any data required by our regulations disrupts our orderly processing of those filings and requires corrective action on our part to counter that disruptive procedure. Our action taken in this proceeding, in our opinion, is justified by the circumstances.

[3] The petitions erroneously referred only to Docket No. E–7572 in their title, but the city of Jefferson, Mo., has obviously sought intervention in each of the subject proceedings involved here.

[Docket No. RP71-89]

NORTHERN NATURAL GAS CO.

Order Providing for Hearing, Suspending Proposed Tariff Sheets, Prescribing Procedures, Denying Motions, Deferring Decision on Abandonment Issue, and Permitting Intervention

FEBRUARY 26, 1971.

Northern Natural Gas Co. (Northern), on January 18, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, consisting of First Revised Sheet No. 60 Superseding Original Sheet No. 60 and Original Sheet No. 60a, to become effective on February 27, 1971. The proposed tariff revisions would amend paragraph 9 of the General Terms and Conditions to permit Northern to curtail deliveries of gas to its customers down to 85 percent of their contract demands in the months of April and October and down to 70 percent of their contract demands during the months of May through September in order to assure Northern of the availability of sufficient volumes of gas and pipeline capacity to replenish its Redfield underground storage field.

Northern avers that it has not been able to contract for sufficient additional gas reserves to support an expansion of its transmission system and that the combination of normal load growth and its facilities have resulted in a situation whereby pipeline capacity is inadequate by 14 million Mcf annually to deliver its customers' full contract demand requirements and provide the injection volumes required to replenish its storage facility unless it is permitted to curtail contract demand deliveries as proposed in the revised tariff sheets described above.

Petitions requesting leave to intervene in this proceeding were timely filed by the following petitioners:

The Cleveland-Cliffs Iron Co.
Erie Mining Co.
Farmland Industries, Inc.
Inter-City Gas Limited.
Iowa Electric Light and Power Co.
Iowa-Illinois Gas and Electric Co.
Iowa Power and Light Co.
Iowa Public Service Co.
Iowa Southern Utilities Co.
Kansas-Nebraska Natural Gas Co., Inc.
Lake Superior District Power Co.
Madison Gas and Electric Co.
Metropolitan Utilities District of Omaha.
Michigan Gas Utilities Co.
Michigan Power Co.
Michigan Wisconsin Pipe Line Co.
Minneapolis Gas Co.
Minnesota Natural Gas Co.
North Central Public Service Co.
Northern Illinois Gas Co.
Northern Municipal Defense Group, consisting of Brooklyn, Cascade, Coon Rapids, Emmetsburg, Gilmore City, Graettinger, Harlan, Hawarden, Manilla, Manning, Osage, Preston, Remsen, Rolfe, Sac City, Sanborn, Sioux Center, West Bend, Whittemore, and Woodbine, Iowa; Circle Pines and Hutchinson, Minn.; and Pender and Ponca, Nebr.
Northern States Power Co. (Minnesota).
Northern States Power Co. (Wisconsin).
Reserve Mining Co.
St. Croix Valley Natural Gas Co., Inc.
Superior Water, Light and Power Co.
Terra Chemicals International, Inc.
United States Steel Corp.
Wisconsin Fuel and Light Co.
Wisconsin Gas Co.
Wisconsin Power and Light Co.
Wisconsin Public Service Corp.
Wisconsin Southern Gas Co., Inc.

Notices of intervention were timely filed by the Public Service Commission of Wisconsin and the Michigan Public Service Commission. The Michigan Commission requested that its intervention be recorded as in opposition to the approval of Northern's tariff revisions.

Petitions requesting leave to intervene were not timely filed by the following petitioners:

American Dehydrators Association.
City Gas Co.
Eveleth Taconite Co.
Hanna Mining Co., The
Interstate Power Co.
Northwestern Public Service Co.
Wisconsin Michigan Power Co.
Wisconsin Natural Gas Co.

Protests opposing the approval of Northern's proposed revised tariff sheets were timely filed by the following protestants:

Allied Chemical Corp., Agricultural Division.
Carleton D. Beh Co.
Coon Rapids, Iowa, Municipal Utilities.
Emmetsburg, Iowa, Municipal Utilities.
Gilmore City, Iowa, Municipal Gas Works.
Hawarden, Iowa, Office of Public Works.
Hutchinson, Minn., Utilities Commission.
Inter-City Gas Utilities Ltd.
Manilla, Iowa, Municipal Gas Department.
Manning, Iowa, Natural Gas Department.
Morrison and Quirk, Inc.
Natural Gas, Inc.
Pender, Nebr., Village of.
Remsen, Iowa, Municipal Gas Department.
Sioux Center, Iowa, Municipal Gas Department.
Woodbine, Iowa, Municipal Natural Gas System.

The above-named protestants generally opposed Northern's curtailment of deliveries on the grounds that reduced gas deliveries would create economic hardships and would amount to an unjust increase in rates because of Northern's intention to reduce their contract demand entitlements without any compensating decrease in demand charges.

Fourteen[1] of the parties filing petitions to intervene either supported Northern's curtailment plan or did not object to it sufficiently to request a formal hearing. They generally agreed that Northern would have to adopt some type of curtailment program in order to obtain the gas and pipeline capacity required to replenish Redfield and they concluded that Northern's curtailment plan was as acceptable to them as any alternative they had considered.

All of the remaining petitions to intervene object to Northern's proposed tariff revisions if approval would result in curtailment of any gas the petitioners might wish to purchase under their contracts with Northern. Nine[2] petitioners unequivocally oppose Northern's curtailments and request that the proposed revised tariff sheets be suspended for the full 5-month period and that an expedited hearing be conducted so that the Commission may reach a determination as to the justness, reasonableness, and propriety of the proposal before it is allowed to go into effect at the end of the suspension period.

Northern Illinois Gas Co. (NI-Gas), filed on February 3, 1971, a motion to dismiss Northern's tariff filing or, absent such relief, a request for hearing and suspension of the proposed tariff sheets for the full statutory period pending the outcome of the hearing. As grounds for its motion to dismiss NI-Gas claims that Northern was certificated to serve its contract demand customers on the basis of their service agreements and that Northern cannot reduce deliveries of gas below the certificated volumes without filing for permission to abandon under section 7(b) of the Act. Among other arguments, NI-Gas contends that a proceeding under section 7(b) would require the Commission to reach a decision as to the lawfulness of Northern's proposed reduction in contract demand service prior to the inception of reduced deliveries. On the other hand, NI-Gas contends that if Northern is permitted to proceed exclusively under section 4 it might be able to institute its curtailment of contract demand service, even if the proposal is suspended for the full statutory period, before the Commission has reached a decision on the lawfulness of the proposal. Under such circumstances, NI-Gas claims that it could be irreparably injured by reductions in its contract demand entitlements while a Commission ruling on the lawfulness of the proposal is still pending.[3]

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[1] Interstate Power Co., Iowa Electric Light and Power Co., Iowa-Illinois Gas and Electric Co., Iowa Power and Light Co., Iowa Public Service Co., Iowa Southern Utilities Co., Metropolitan Utilities District of Omaha, Minneapolis Gas Co., Minnesota Natural Gas Co. (its approval would be subject to insertion of a provision requiring payment of penalties if customers continued to take gas when Northern's curtailments were in effect), North Central Public Service Co., Northern States Power Cos. of Minnesota and Wisconsin, Northwestern Public Service Co., and Wisconsin Southern Gas Co., Inc.

[2] Farmland Industries, Inc., Inter-City Gas Limited, Kansas-Nebraska Natural Gas Co., Inc. (would support proposal if all customers were curtailed in proportion to annual purchases and if curtailed volumes could alternatively be received at delivery points in producing areas), Michigan Power Co., Michigan Wisconsin Pipe Line Co., Northern Illinois Gas Co., Northern Municipal Defense Group, Terra Chemicals International, Inc., and Wisconsin Gas Co.

[3] Similar contentions are made in the motion to reject filed by Michigan Power and the petitions to intervene filed by Michigan Wisconsin, Farmland Industries, Terra Chemicals, and Wisconsin Gas.

The Commission deferred action on a similar motion in its order issued September 25, 1970, in Natural Gas Pipeline Co. of America, Docket No. RP70–42, 44 FPC ——, where it was noted that the chances of irreparable injury were slight because it was not contemplated that the proposed allocations in that case would become effective for a period of about 7 months so that the Commission had adequate time within which to consider the proposals on their merits before they would become effective. However, in the instant proceeding Northern claims that it must commence injecting gas into Redfield very shortly after the winter heating season has passed and asks that the tariff sheets be permitted to become effective no later than April 27, 1971.

In determining the length of the suspension period to be fixed in this case, the Commission has been concerned about the petitioners' allegations of the irreparable injury which might result if the curtailments were allowed to become effective prior to a Commission decision on the merits of Northern's proposed curtailment plan. However, despite the seriousness of the petitioners' irreparable injury arguments, the Commission is faced with the possibility of an even greater irreparable injury if Northern is unable to curtail deliveries sufficiently to increase the gas inventory in Redfield to the level required to provide its customers with gas throughout the 1971–72 heating season. Except for NI–Gas and Michigan Wisconsin, who contend that they rely upon purchases from Northern to refill their own storage fields, the irreparable injury alleged by the petitioners relates to economic detriments. On the other hand, failure to replenish Redfield may produce a gas shortage for space-heating customers and that could result in social consequences which would far exceed any irreparable injury which is associated with economic considerations.

While NI–Gas and Michigan Wisconsin allege that they rely upon Northern's gas for replenishing their own storage facilities, they have provided no details to support the extent of such reliance. Also the Commission is aware that some of Michigan Wisconsin's gas is sold for resale for consumption in electric generating stations. In Michigan Wisconsin Pipe Line Co., 32 FPC 737, 746, for example, Michigan Wisconsin's evidence showed that it expected to supply 6,800,000 Mcf annually to Wisconsin Public Service Corporation for use as boiler fuel in the latter's Western electric generating station. Weston's gas consumption is 2,800,000 Mcf greater than the total potential reduction in deliveries which Michigan Wisconsin alleges it would experience if Northern's curtailment program were to be approved.

After a careful review of the pleadings, the Commission finds that Northern's need for gas to refill its storage field is such an essential gas requirement that the effectiveness of the proposed tariff sheets should not be suspended beyond April 27, 1971. Consequently, it is necessary to deny both NI-Gas' motion to dismiss and its alternative request for a 5-month suspension period.

Northern filed on February 17, 1971, a response to the motions submitted in this proceeding arguing that it is unnecessary for it to file an abandonment application under section 7(b) of the Act because all of its customers were certificated for service under the terms of service agreements, rate schedules, and the General Terms and Conditions of its tariff which provide for curtailment of service when there is a shortage of gas. While the Commission believes there is merit to Northern's contention, it is deferring a decision on the question of whether a filing under section 7(b) is required so that the parties may, if they wish, develop any additional facts they may deem essential for urging that contention in briefs before the Examiner and the Commission.

Many of the petitioners also claim that the rate aspects of Northern's filing should be considered only under section 5(a) of the Act in order to assure that the Commission's determinations will be effective prospectively, but the Commission believes that the rate issues [4] in this case can be determined as appropriately under section 4 as they can be decided under section 5 of the Act.

Michigan Power Co. filed on February 8, 1971, a motion to reject Northern's filing on the ground that it is a unilateral attempt by Northern to vary the volumes of gas which its customers are entitled to purchase and which Northern is obligated to deliver under the terms of their service agreements (United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and United Gas Pipe Line Co. v. Memphis Light, Gas and Water Division, 358 U.S. 103 (1958)). The primary argument made in support of Michigan Power's motion is that no provisions of the General Terms and Conditions of Northern's tariff, its rate schedules, or its service agreements permit it to file any type of change except changes in rates. Since Northern's proposal does not constitute a change in rates. It is said to be a prohibited unilateral filing under the Mobile case supra, and must be rejected.

The Commission believes that Michigan Power's interpretation of Northern's tariff, rate schedules, and service agreements is unduly restrictive.[5] The service agreements provide that service is subject to the general terms and conditions in Northern's tariff and that contract demand volumes may be increased or decreased in accordance with Northern's CD rate schedules as those rate schedules and Terms and Conditions are amended and made effective from time to time. Thus, Northern has clearly provided, under the principles of the Memphis case supra, that it may file unilateral changes to its tariff and rate schedules subject to its customers' rights to protest and object to such changes in proceedings before the Commission. The right to change the General Terms and Conditions is made specific, apart from the right to file rate changes, despite the fact that both rights are reserved in a section of the service agreements bearing the caption "Section 5. Price." Therefore, the Commission concludes that Northern was entitled under the provisions in its service agreements, rate schedules, and the general terms and conditions of its tariff to file the proposed revised tariff sheets and Michigan Power's motion to reject the filing should be denied.

Issues have been raised in this proceeding which require development in evidentiary proceedings. The proposed changes in the general terms and conditions of the tariff have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes in the general terms and conditions of Northern's FPC Gas Tariff and that the proposed tariff sheets listed above be suspended, and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

(3) The participation of the above-named petitioners may be in the public interest.

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[4] Many petitioners claim that the proposed tariff sheets are unjust because Northern contemplates making no reduction in its demand charges despite its intention to reduce contract demand deliveries by as much as 30 percent. Others contend that the filing is unduly discriminatory because those customers who buy at high load factors will be penalized by being curtailed to a greater degree than those who purchase at low load factors. Other complaints are that the proposed curtailments are much greater than the 14,000,000 Mcf deficiency alleged by Northern; that sufficient heat energy units could be obtained to satisfy the alleged deficiency by reduction of deliveries to Northern's Bushton extraction plant; and that Northern's tariff already provides for curtailment of large volume industrial customers and that discontinuance of deliveries to one or two large generating plants would provide the necessary gas required to replenish Redfield.

[5] Michigan Power also argues that a proposal to reduce deliveries without decreasing demand charges constitutes a change in rates, but it contends that if Northern's filing is interpreted as a permissible filing to change rates, it still ought to be rejected for failure to comply with section 154.63 of the Commission's regulations.

[6] The Commission has made similar determinations in United Gas Pipe Line Company, Docket No. RP70–13, order issued May 15, 1970, 43 FPC 747, Alabama-Tennessee Natural Gas Company, Docket No. RP71–7, order issued Oct. 13, 1970, 44 FPC ——, and East Tennessee Natural Gas Company, Docket No. RP71–15, order issued Nov. 13, 1970, 44 FPC ——.

(4) Good cause has not been shown to grant NI-Gas' and Michigan Power's motions to dismiss or reject Northern's filing.

(5) Good cause exists to permit the late filing of the aforementioned petitions to intervene listed on page 3 supra.

The Commission orders:

(A) The motion to dismiss filed February 3, 1971, by Northern Illinois Gas Co. and the motion to reject filed February 8, 1971, by Michigan Power Co. are denied.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing March 23, 1971, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the proposed changes in the general terms and conditions of Northern's FPC Gas Tariff, Third Revised Volume No. 1. After compliance with the provisions of paragraph (D) below, the hearing shall go forward with cross-examination of Northern's witnesses.

(C) Pending such hearing and decision thereon, Northern's proposed First Revised Sheet No. 60 Superseding Original Sheet No. 60 and Original Sheet No. 60a are hereby suspended and the use thereof is deferred until April 27, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) At the hearing on March 23, 1971, Northern's entire rate filing as submitted and served on January 18, 1971, shall be admitted in the record as Northern's complete case-in-chief, subject to appropriate motions, if any, by parties to the proceeding.

(E) The above-named petitioners are hereby permitted to become interveners in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(F) Any parties planning to present testimony in opposition to Northern's curtailment procedures shall, on or before March 15, 1971, file and serve on the Presiding Examiner, the Commission's staff, and all parties prepared written testimony in support of their positions.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided; and shall control the proceeding in accordance with the policies expressed in Section 2.59 of the Commission's rules of practice and procedure.

(H) Northern shall serve copies of its filing in Docket No. RP71-89, including the supporting testimony and exhibits, upon all parties to the proceeding unless it has already done so.

(I) Decision on the partial abandonment issue raised by several petitioners is deferred pending submission of briefs by any parties espousing that contention and answering briefs in reply thereto.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3053 Filed 3-4-71;8:50 am]

BRIGHT AND SCHIFF

Notice Accepting Agreements and Undertakings in Lieu of Surety Bonds

FEBRUARY 25, 1971.

Bright and Schiff Dockets Nos. RI64-678, RI69-756, RI65-155, RI70-98, RI71-8, RI71-287, RI64-180, RI64-344, RI69-280, RI63-314, RI68-404.

On January 26, 1971, Bright and Schiff submitted financial data relating to the above-designated proceedings and requested that the agreements and undertakings filed previously in these proceedings be accepted for filing as the appropriate refund assurance in lieu of the surety bonds heretofore filed.

Good cause exists for accepting the agreements and undertakings filed in the above-designated proceedings in lieu of the surety bonds heretofore filed.

Take notice that:

The agreements and undertakings filed in the above-designated proceedings are accepted for filing in lieu of the surety bonds heretofore filed. The surety bonds filed in the above-designated proceedings are hereby discharged.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3000 Filed 3-4-71;8:45 am]

[Docket No. CP71-73]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Extension of Time and Continuance

FEBRUARY 25, 1971.

On February 17, 1971, Panhandle Eastern Pipe Line Co. (Panhandle Eastern) filed a request for an extension of time of 30 days within which to serve its testimony and related exhibits in accordance with paragraph (B) of the order issued on January 29, 1971, in the above-designated matter. Panhandle Eastern also requests that the hearing scheduled to commence on March 8, 1971, be continued 30 days.

Upon consideration, notice is hereby given that the time is extended to and including March 22, 1971, within which Panhandle Eastern shall serve its testimony and related exhibits on all parties, and that the hearing is continued until April 12, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3001 Filed 3-4-71;8:45 am]

[Docket No. CP70-67]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

FEBRUARY 25, 1971.

Take notice that on February 12, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (petitioner), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP70-67 a petition to amend the Commission's order issued on November 17, 1969, pursuant to section 7(c) of the Natural Gas Act in said docket by extending until November 1, 1971, the time in which Petitioner shall commence the transportation of natural gas for Consolidated Gas Supply Corp. (Consolidated), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The Commission's order in the subject docket authorized, inter alia, Petitioner to render a transportation service for Consolidated as provided by the terms of a transportation agreement executed by Petitioner and Consolidated on February 12, 1970. This agreement is on file with the Commission as Rate Schedule T-14 in the Fifth Revised Volume 2 of Petitioner's FPC Gas Rate Tariff.

Petitioner states that on October 15, 1970, it entered into an agreement with Consolidated to amend the transportation agreement to permit Consolidated to suspend Petitioner's obligation to redeliver equivalent volumes of natural gas until November 1, 1971. Accordingly, petitioner requests that the Commission's order in the subject docket issued on November 17, 1969, be amended to authorize the transportation of natural gas by Petitioner under the terms of the transportation agreement dated February 12, 1970, between petitioner and Consolidated, as amended by agreement dated October 15, 1970.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party

in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3002 Filed 3-4-71;8:45 am]

[Docket No. CB71-201]

UNITED GAS PIPE LINE CO.

Notice of Application

FEBRUARY 25, 1971.

Take notice that on February 16, 1971, United Gas Pipe Line Co. (applicant), 1525 Fairfield Avenue, Shreveport, LA 71102, filed in Docket No. CP71-201 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities for the transportation and exchange of natural gas with Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a 5 year gas exchange agreement with Natural providing for the exchange of up to 20,000 Mcf of gas per day. Applicant will deliver exchange quantities of gas to Natural at an existing delivery point from the Chevron Oil Co.'s Sabine Pass Plant, West Cameron, Block 19 Field, Cameron Parish, La. Natural in turn will deliver equivalent volumes of gas to Transcontinental Gas Pipe Line Corp. (Transco) for the account of applicant at an existing delivery point to Transco's pipeline facilities from Mobil Oil Corp.'s Cameron Plant, Mud Lake, Cameron Parish, La. There are no new facilities proposed herein and applicant states that there will be no monetary compensation for the exchanged volumes.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3003 Filed 3-4-71;8:45 am]

[Dockets Nos. RP70-5, RP70-16, RP70-38, RP71-4]

SOUTHERN NATURAL GAS CO.

Notice of Filing of Supplement No. 1 to Stipulation and Agreement

MARCH 2, 1971.

Take notice that on February 12, 1971, Southern Natural Gas Co. (Southern) submitted for approval a supplement to the stipulation and agreement filed December 4, 1970, in these proceedings to provide for rate changes to reflect advance payments for gas.

The supplemental agreement provides, inter alia, that Southern may from time to time increase its jurisdictional rates to give effect to inclusion in rate base of advance payments made by Southern; that any such rate increase shall become effective without suspension but shall be subject to refund, if objection to such rate increase is made prior to the effective date, as to that portion of such increase found by the Commission to be unjustified; and provides for rate adjustments in the event all or any portion of an advance payment is repaid, in money or in gas.

Copies of this Supplement No. 1 were served on all parties to these proceedings, all of Southern's jurisdictional customers and all interested State commissions.

Answers or comments relating to the proposed Supplement No. 1 may be filed with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on or before March 11, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3042 Filed 3-4-71;8:45 am]

[Docket No. CP70-65]

FLORIDA GAS TRANSMISSION CO.

Notice of Petition To Amend

MARCH 1, 1971.

Take notice that on February 22, 1971, Florida Gas Transmission Co., (petitioner), Post Office Box 44, Winter Park, FA 32789, filed in Docket No. CP70-65 a petition to amend the Commission's order issued on December 3, 1969 (42 FPC 1060), issuing a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, in said docket by authorizing the construction and operation of certain compressor facilities, for the receipt of natural gas from the Superior Oil Co., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The aforementioned order authorized the construction and operation of a 300-horsepower skid-mounted compressor unit on petitioner's 4-inch supply lateral in Galveston County, Tex. Petitioner states that it has made a reappraisal of the deliverability and future potential of the gas supply involved and concluded that the installation of a unit with lower rated horsepower would adequately meet all current compression requirements and at the same time effect a saving in the amount of investment required.

Accordingly, petitioner requests that the aforementioned authorization for the installation of a 300-horsepower skid-mounted compressor unit be amended by substituting authorization for the installation and operation of a 100-horsepower skid-mounted compressor unit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3043 Filed 3-4-71;8:49 am]

[Docket No. CP71-207]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

MARCH 1, 1971.

Take notice that on February 22, 1971, Florida Gas Transmission Co. (applicant), Post Office Box 44, Winter Park, FL 32789, filed in Docket No. CP71-207 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period beginning July 1, 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million with no single onshore project costing in excess of $1 million and no single offshore project costing in excess of $1,750,000. Applicant states that these costs will be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3044 Filed 3-4-71;8:49 am]

[Docket No. CP71-208]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Application

MARCH 1, 1971.

Take notice that on February 23, 1971, Iowa-Illinois Gas and Electric Co. (applicant), 206 East Second Street, Davenport, IA 52808, filed in Docket No. CP71-208 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 9.3 miles of pipeline within the city limits of Davenport, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate 9.3 miles of 16-inch pipeline as a partial loop of a 10-inch pipeline heretofore authorized by the Commission in Docket No. G-1899. The proposed line will start at applicant's existing Locust Street Town Border Station and terminate at its Kimberly Town Border Station, and will lie completely within the city limits of Davenport, Scott County, Iowa. Applicant states that the proposed facilities will provide additional capacity and greater service reliability for its customers within the greater Davenport area. The estimated cost of the proposed line is $736,265 which cost applicant states will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3045 Filed 3-4-71;8:49 am]

[Docket No. CP71-206]

NORTHERN NATURAL GAS CO.

Notice of Application

MARCH 1, 1971.

Take notice that on February 18, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP71-206 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 2.6 miles of 14-inch pipeline and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 2.6 miles of 12-inch pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to the authority granted in Docket No. G-280, applicant is presently operating the aforementioned 14-inch pipeline, located in Lincoln and Minnehaha Counties, S. Dak., for delivery of natural gas to the community of Sioux Falls, S. Dak. Applicant states that because of population encroachment, it is necessary to replace this 1931 vintage pipeline. Applicant proposes to replace the aforementioned 14-inch line with an equal length of 12-inch line, which applicant states can be utilized without jeopardizing delivery capacity, at an approximate cost of $199,590.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience

and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3046 Filed 3-4-71;8:49 am]

[Dockets Nos. RP70-7 etc.]

SOUTH GEORGIA NATURAL GAS CO.

Notice of Filing of Stipulation and Agreement

MARCH 2, 1971.

Take notice that on February 22, 1971, South Georgia Natural Gas Co. (South Georgia), submitted for approval a stipulation and agreement in the above-captioned dockets which would resolve all issues in these proceedings.

The stipulation and agreement, inter alia, provides for a reduction in South Georgia's jurisdictional rates below those which are presently in effect subject to refund in the captioned proceedings and set forth proposed rates for specified periods of time; requires refunds by South Georgia for the excess which has been collected above the rates set forth in the stipulation and agreement; allows South Georgia to adjust its rates to track increases and decreases in the rates of its supplier, Southern Natural Gas Co. (Southern); requires South Georgia to flow-through refunds with interest received from Southern which are applicable to purchases from Southern during the term of the stipulation and agreement; allows South Georgia to adjust its rates to track increases and decreases in the event of changes in Federal and State income tax rates; reflects a change in the general terms and conditions of South Georgia's existing FPC Gas Tariff related to the availability of service under rate schedules G-1 and G-2; and provides that South Georgia will not make effective an increase in its jurisdictional rates prior to January 1, 1973, except as provided in the stipulation and agreement.

Copies of the stipulation and agreement, together with a motion of South Georgia for approval of the agreement were seved on all parties to the above-captioned proceedings, all of South Georgia's jurisdictional customers; and all interested State commissions.

Answers or comments relating to the stipulation and agreement may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before March 11, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3047 Filed 3-4-71;8:49 am]

[Docket No. CP71-209]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Application

MARCH 2, 1971.

Take notice that on February 23, 1971, South Texas Natural Gas Gathering Co. (Applicant), Post Office Drawer 521, Corpus Christi, TX, 78403, filed in Docket No. CP71-209 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period beginning April 1, 1971, and operation of certain natural gas facilities to enable Applicant to take into its pipeline system natural gas which will be purchased from producers in the general area of Applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $1 million with no single project costing in excess of $250,000. Applicant states that these costs will be financed from cash on hand and funds generated internally through normal operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3048 Filed 3-4-71;8:49 am]

[Docket No. AR64-2 etc.]

TEXAS GULF COAST AREA RATE PROCEEDING ET AL.

Notice of Extension of Time

MARCH 1, 1971.

Texas Gulf Coast Area Rate Proceeding, Docket No. AR64-2; Mobil Oil Corp., Docket No. RI70-1666; Petroleum Corporation of Texas, Docket No. RI71-477; J. S. Abercrombie Mineral Co., Inc., Docket No. RI71-479; Atlantic Richfield Co., Docket No. RI71-480; Pan American Petroleum Corp., Docket No. RI71-515; Sun Oil Co., Docket No. RI71-530; Mobil Oil Corp., Docket No. RI71-555; John W. Pace (Operator), Docket No. RI71-556; Coastal States Gas Producing Co., Docket No. RI71-611.

On February 25, 1971, Humble Oil and Refining Co. et al., filed a motion requesting an extension of time to and including March 21, 1971, within which to answer the motion filed on February 18, 1971, by the Philadelphia Gas Works Division by UGI, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including March 22, 1971, within which answers may be filed to the motion filed by the Philadelphia Gas Works Division of UGI on February 18, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3049 Filed 3-4-71;8:49 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations Temporary Regulation F-90]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a natural gas rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Service Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Alabama Public Service Commission in a proceeding involving increased rates of the Alabama Gas Corp.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT L. KUNZIG,
Administrator of General Services.

FEBRUARY 26, 1971.

[FR Doc.71-3055 Filed 3-4-71;8:50 am]

[Federal Property Management Regulations Temporary Regulation F-89]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Washington Utilities and Transportation Commission in a proceeding (Docket No. U-71-5) involving intrastate rates for telecommunications services provided by the Pacific Northwest Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT L. KUNZIG,
Administrator of General Services.

FEBRUARY 26, 1971.

[FR Doc.71-3056 Filed 3-4-71;8:50 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

KENTUCKY CARBON CORP.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) has been accepted for consideration as follows:

(1) ICP Docket No. 10271, Kentucky Carbon Corp., Kencar No. 1 Mine, USBM ID No. 15 02107 0, Phelps, Pike County, Ky. Section ID No. 002 (East 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, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 1, 1971.

[FR Doc.71-3020 Filed 3-4-71;8:47 am]

OFFICE OF EMERGENCY PREPAREDNESS

MISSISSIPPI

Notice of Major Disaster and Relafed Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on February 22, 1971, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Mississippi, adversely affected by storms and tornadoes beginning on or about February 21, 1971, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Mississippi. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606) I hereby appoint Mr. William H. Hollaway, Regional Director, OEP Region 3, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Mississippi to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 22, 1971:

The counties of:

Benton.	Pontotoc.
Carroll.	Sharkey.
Grenada.	Sunflower.
Holmes.	Tallahatchie.
Humphreys.	Tippah.
Issaquena.	Warren.
Lafayette.	Washington.
Leflore.	Yalobusha.
Marshall.	Yazoo.

Dated: February 26, 1971.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.71-3008 Filed 3-4-71;8:46 am]

NEBRASKA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on February 23, 1971, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Nebraska, adversely affected by severe storms and flooding beginning on or about February 18, 1971, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Nebraska. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606) I hereby appoint Mr. Donald G. Eddy, Regional Director, OEP Region 6 to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Nebraska to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 23, 1971:

The counties of:

Burt.	Madison.
Cedar.	Pierce.
Colfax.	Platte.
Cuming.	Stanton.
Dakota.	Thurston.
Dixon.	Washington.
Dodge.	Wayne.
Knox.	

Dated: February 26, 1971.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.71-3009 Filed 3-4-71;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

MARCH 1, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10-cents par value of Continental Vending Machine Corporation, and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 2, 1971, through March 11, 1971.

By the Commission.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-3040 Filed 3-4-71;8:49 am]

[70-4986]

GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Cash Capital Contributions to Subsidiary Companies

MARCH 1, 1971.

Notice is hereby given that General Public Utility Corp. (GPU), 80 Pine Street, New York, NY 10005, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes to make cash capital contributions, from time to time during the 9-month period ending December 31, 1971, to certain of its subsidiary companies of up to the following respective aggregate amounts:

New Jersey Power & Light Co. (NJP&L)	$4,900,000
Metropolitan Edison Co. (Met-Ed)	34,800,000
Pennsylvania Electric Co. (Penelec)	16,000,000
Waterford Electric Co. (Waterford)	100,000
Total	55,800,000

The proposed capital contributions will be utilized by NJP&L, Met-Ed, Penelec, and Waterford for the purpose of financing their respective businesses as public utilities, including the construction of additional facilities and the increase of their working capital. Such cash capital contributions will be credited by the recipients to their respective capital surplus accounts and, in the case of NJP&L, will promptly thereafter be transferred to stated capital applicable to its common stock.

The filing states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. GPU estimates that the fees and expenses in connection with the proposed transactions will be approximately $3,000.

Notice is further given that any interested person may, not later than March 26, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-3041 Filed 3-4-71;8:49 am]

SMALL BUSINESS ADMINISTRATION

GOLD COAST CAPITAL CORP.

Notice of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107) for transfer of control of Gold Coast Capital Corp. (Gold Coast), 1451 North Bayshore Drive, Miami, FL 33132, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.), License No. 05/05-0010.

Gold Coast was licensed on December 22, 1959, and has paid-in capital and paid-in surplus from private sources amounting to $218,595.04. Mr. Peter Schenck, 745 Coronado Avenue, Coral Gables, FL 33134, intends to sell his 50 percent equity interest in Gold Coast to Messrs. Morris Bayroff, 465 Ocean Drive, Miami Beach, FL 33139, Samuel J. Burger, 150 Lefferts Avenue, Brooklyn, NY 11235, and Bernard Madovoy, 820 Shore Boulevard, Brooklyn, NY 11235. The proposed transfer of control is subject to and contingent upon the approval of SBA.

The officers and directors after the transfer of control will be:

William I. Gold, 6905 Leonardo, Coral Gables, FL 33134, President and Director.
Morris Bayroff, 465 Ocean Drive, Miami Beach, FL 33139, Secretary and Director.

Messrs. Burger and Madovoy are the sole owners and officers and directors of Preferred Capital for Small Business, Inc. (Preferred Capital), 16 Court Street, Brooklyn, NY 11201, License No. 02/02-0241. Mr. Bruce Bayroff, 2650 Ocean Parkway, Brooklyn, NY 11235, the son of Mr. Morris Bayroff, is the general manager of Preferred Capital. The acquisition of Mr. Schenck's equity interest by the transferees is proposed with the intention of ultimate merger of Gold Coast and Preferred Capital in mind.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed transferees, and probability of successful operations of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such communication should be addressed to: Associate Administrator for Investment, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed transferees in a

newspaper of general circulation in Miami, Fla.

For SBA (pursuant to delegated authority).

A. H. SINGER,
Associate Administrator for Investment.

FEBRUARY 18, 1971.

[FR Doc.71-3010 Filed 3-4-71;8:46 am]

[Declaration of Disaster Loan Area 809]

NEBRASKA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1971 because of the effects of certain disasters damage resulted to residences and business property located in the State of Nebraska;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property situated in all areas of northeastern Nebraska suffered damage or destruction resulting from floods commencing on February 19, 1971, and continuing thereafter.

OFFICES

Small Business Administration District Office, 215 North 17th Street, Omaha, NE 68102.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 25, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-3037 Filed 3-4-71;8:48 am]

[Declaration of Disaster Loan Area 808]

NORTH CAROLINA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1971 because of the effects of certain disasters, damage resulted to residences and business property located in Cumberland County, N.C.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the aforesaid County and adjacent areas suffered damage or destruction resulting from tornado occurring on February 22, 1971.

OFFICE

Small Business Administration District Office, 222 South Church Street, Charlotte, NC 28202.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to August 31, 1971.

Dated: February 24, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-3038 Filed 3-4-71;8:48 am]

[Declaration of Disaster Loan Area 807]

MISSISSIPPI AND TENNESSEE

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1971, because of the effects of certain disasters, damage resulted to residences and business property located in the States of Mississippi and Tennessee;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in all areas affected in the State of Mississippi, and McNairy County, Tenn., and areas adjacent thereto, suffered damage or destruction resulting from tornadoes occurring on February 21 and February 22, 1971.

OFFICES

Small Business Administration District Office, 245 East Capitol Street, Jackson, MS 39205.

Small Business Administration District Office, 500 Union Street, Nashville, TN 37219.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 24, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-3039 Filed 3-4-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 254]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 1, 1971.

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 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 3252 (Sub-No. 71 TA), filed February 24, 1971. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04103. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, MA 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill rolls*, between Jay, Maine, and Kalamazoo, Mich., and Appleton, Wis., for 180 days. Supporting shipper: International Paper Co., 220 East 42d Street, New York, NY 10017. Send protests to: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167 PSS, Portland, ME 04112.

No. MC 60271 (Sub-No. 1 TA), filed February 23, 1971. Applicant: HARPER TRUCK LINE, INC., Post Office Box 288, Monroe, LA 71201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood sawdust, chips and shavings*, from points in Arkansas, to Lillie and

West Monroe, La., for 180 days. Supporting shipper: Olinkraft, Post Office Box 488, West Monroe, LA 71291. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, Little Rock, AR 72201.

No. MC 69492 (Sub-No. 39 TA), filed February 22, 1971. Applicant: HENRY EDWARDS, doing business as HENRY EDWARDS TRUCKING COMPANY, Post Office Box 97, Clinton, KY 42301. Applicant's representative: Walter Harwood, Suite 1822, Parkway Towers, 404 James Robertson Parkway, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Peoria, Ill., to Jackson, Tenn., and (2) *Feed and feed ingredients*, except in bulk, from Decatur, Ill., to Clinton, Ky., for 180 days. Supporting shippers: Central Soya of Clinton, Inc., Post Office Box 68, Clinton, KY 42031; Baxter Smith Co., 237 West LaFayette, Jackson, TN 38301. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Building, 167 North Main Street, Memphis, TN 38103.

No. MC 75317 (Sub-No. 14 TA), filed February 23, 1971. Applicant: CENTRAL DISPATCH, INC., New Market Avenue, South Plainfield, NJ 07080. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe fittings, couplings and accessories, materials, supplies, and equipment* used in manufacture, production, distribution, or sale of the aforementioned commodities (except in bulk), between South Plainfield, N.J., Easton, Pa., New Village, N.J., and Providence, R.I. Restriction: The proposed service to be under contract with Victaulic Company of America, Inc., for 180 days. Supporting shipper: Victaulic Company of America, 3100 Hamilton Boulevard, South Plainfield, NJ 07080. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 103993 (Sub-No. 610 TA), filed February 24, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: R. H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobile in initial movements, from Selmer, Tenn., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Town House Inc., Selmer, Tenn. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 104654 (Sub-No. 146 TA), filed February 23, 1971. Applicant: COMMERCIAL TRANSPORT, INC., Post Office Box 469, Belleville, IL 62222. Applicant's representative: D. R. McClane (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the site of the Phillips Pipe Line terminal at or near Hickman, Ky., to points in Missouri, on and south of I44 and U.S. Highway 66 and on and east of U.S. Highway 63; for 150 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak, Kansas City, MO. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 107882 (Sub-No. 20 TA), filed February 24, 1971. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, NJ 08638. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Culpeper, Va., on the one hand, and, on the other, Boston, Mass., New York and Buffalo, N.Y., Philadelphia, Pa., Cleveland and Cincinnati, Ohio, Pittsburgh, Pa., Richmond, Va., Baltimore, Md., Charlotte, N.C., Atlanta, Ga., Birmingham, Ala., Jacksonville, Fla., Nashville, Tenn., New Orleans, La., Chicago, Ill., Detroit, Mich., St. Louis, Mo., Little Rock, Ark., Louisville, Ky., Memphis, Tenn., Minneapolis, Minn., Helena, Mont., Kansas City, Kans., Denver, Colo., Oklahoma City, Okla., Omaha, Nebr., Dallas, El Paso, Houston, and San Antonio, Tex., San Francisco and Los Angeles, Calif., Portland, Oreg., Salt Lake City, Utah, Seattle, Wash., Miami, Fla., and Washington, D.C., for 180 days. Supporting shipper: General Services Administration, Transportation and Communications Service, Washington, D.C. 20405. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 111545 (Sub-No. 156 TA), filed February 24, 1971. Applicant: HOME TRANSPORTATION CO., INC., 1425 Franklin Road SE., Post Office Box 6426, Station A, Marietta, GA 30060. Applicant's representative: Robert E. Born (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles: (1) from Jefferson, Douglas, Pavo, Pelham, Bainbridge, Cordele, Abbeville, and Woodbury, Ga., to points in Alabama, Florida, Mississippi, Louisiana, Arkansas, Texas, Missouri, Tennessee, North Carolina, South Carolina, Kentucky, Virginia, West Virginia, Delaware, Pennsylvania, and the District of Columbia; and (2) from Albertville, Ala., to points in Georgia, Florida, Mississippi, Louisiana, Arkansas, Texas, Missouri, Tennessee, North Carolina, South Carolina, Kentucky, Virginia, West Virginia, Delaware, Pennsylvania, and the District of Columbia for 180 days. Supporting shippers: Young American Homes, Division of Mid-American Housing, Post Office Box 724, Albertville, AL; Fleetwood Enterprises, Post Office Box 7638, Riverside, CA; Celebrity Homes Corp., Jefferson, Ga.; Champion Home Builders Co., Titan Division, Post Office Box 251, Woodbury, GA; Harmony Homes, Inc., Post Office Box 708, Douglas, GA; Homes of America, Inc., Post Office Box 235, Pavo, GA; All Seasons Industries, Inc., Abbeville, Ga.; Cavalier Homes, Cordele, Ga.; Derose Industries, Inc., Bainbridge, Ga.; and TBR Homes, Inc., Pelham, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 113666 (Sub-No. 52 TA), filed February 24, 1971. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from Baltimore, Jennings, and Leslie, Md.; East Palestine, Windham, Portsmouth, Ohio; New Galilee, Somerset, Slippery Rock, Township, and Butler County, Pa.; Ludington, Mich.; Hammond, Ind.; and Cape May, N.J.; to ports of entry on the international boundary between the United States and Canada on the States of New York, Michigan, Vermont, New Hampshire, and Maine; for 180 days. Supporting shippers: Harbison Walker Refractories Co., Division of Dresser Industries, Inc., 2 Gateway Center, Pittsburgh, PA 15222; Pittsburgh Refractories Inc., 10th Floor Benedum-Trees Building, Pittsburgh, PA 15222; RPI, Inc. (Regal Products for Industry), Post Office Box 1584, Butler, PA 16001. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, Pittsburgh, PA 15222.

No. MC 126063 (Sub-No. 7 TA), filed February 19, 1971. Applicant: BIRD TRUCKING, INC., 1370 Swanner Road, Salt Lake City, UT 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, poultry feed, and animal feed;* (1) from points in Utah to points in California, Oregon, and Idaho; and (2) from points in Idaho to points in California, Oregon, and Utah, under a continuing contract with Utah By-Products Co., for 180 days. Supporting shipper: Utah By-Products Co., 463 South Third West Street, Salt Lake City, UT 84101 (Eric F. Teutsch, Manager). Send protests to:

John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 134978 (Sub-No. 4 TA), filed February 19, 1971. Applicant: C. P. BELUE, doing business as BELUE'S TRUCKING, Route 2, Chesnee, SC 29323. Applicant's representative: Mitchell King, Jr., Post Office Box 1628, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from Augusta, Ga., to points in Tennessee, Virginia, South Carolina, and North Carolina (except points in Jackson, Macon, Swain, and Graham Counties, N.C.), for 180 days. Supporting shipper: International Minerals & Chemical Corp., Rainbow Division, Post Office Box 5398, Spartanburg, SC 29301. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-3064 Filed 3-4-71;8:50 am]

[Notice 655]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 2, 1971.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-72731. By application filed February 24, 1971, M & M COACHES & CHARTER, INC., 459 First Street, Menominee, MI 49858, seeks temporary authority to lease the operating rights of WILLIAM SMEESTER, doing business as IRON MOUNTAIN-KINGSFORD COACHES, 516 South Avenue, Kingsford, MI 49801, under section 210a(b). The transfer to M & M COACHES & CHARTER, INC., of the operating rights of WILLIAM SMEESTER, doing business as IRON MOUNTAIN-KINGSFORD COACHES, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-3063 Filed 3-4-71;8:50 am]

RAILROAD OPERATING REGULATIONS FOR FREIGHT CAR MOVEMENT

Order Denying Petition

At a session of the Interstate Commerce Commission, Division 3, acting as an appellate division, held at its office in Washington, D.C., on the 26th day of February 1971.

Upon consideration of the petition filed by the Automobile Manufacturers Association, Inc., requesting certain modifications of Service Order No. 1063.

It appearing, that Service Order No. 1063 was issued by the Railroad Service Board in accordance with applicable law and upon its determination that an emergency exists because of an acute shortage of freight cars in all sections of the country; that similar provisions in similar service orders were three times postponed during the period October 2, 1970, to December 31, 1970; that the petitioners have had ample opportunity to review their operations to avoid the excessive detention of empty freight cars held for the exclusive use of shippers of automobile parts; that numerous empty cars assigned to the exclusive use of certain shippers are held idle for excessive periods awaiting orders for placement for loading; and that the petition states no errors of fact or law warranting the relief sought, and for good cause appearing;

It is ordered, That the petition be, and it is hereby denied.

By the Commission, Division 3, acting as an appellate division.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-3060 Filed 3-4-71;8:50 am]

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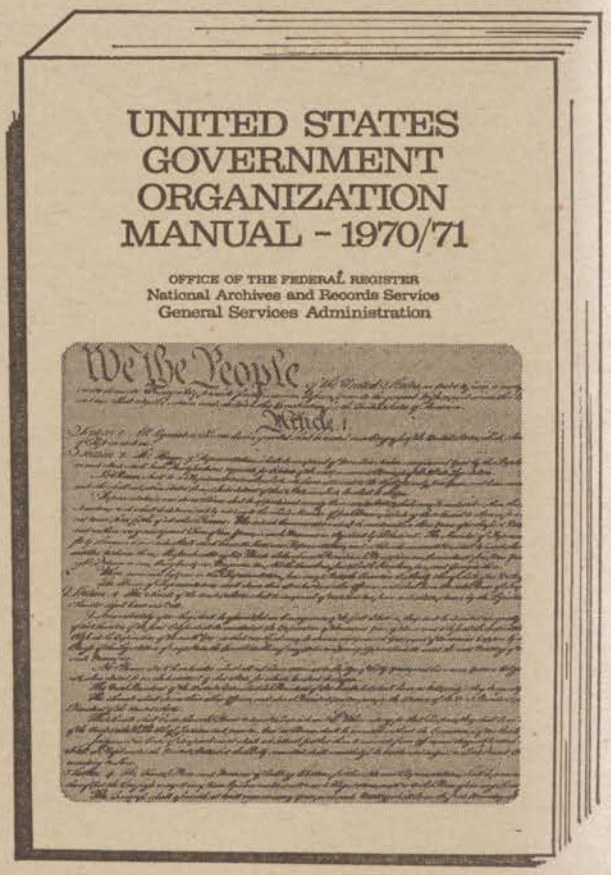

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