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(Continued inside)

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

10713 (amended by EO 11618) 18365
11010 (see EO 11618) 18365
11263 (see EO 11618) 18365
11395 (see EO 11618) 18365
11618 18365

7 CFR

301 18367
905 (2 documents) 18371, 18372
981 18372

PROPOSED RULES:

722 (2 documents) 18412
929 18413
1007 18413

12 CFR

265 18373

PROPOSED RULES:

222 18427

14 CFR

39 18373

PROPOSED RULES:

135 18425

18 CFR

2 18373

19 CFR

PROPOSED RULES:

19 18410

21 CFR

1 18377
3 18377
121 18377
130 18378
132 18378
133 18378
135 18378
144 18394
146 18395
146a 18395

32 CFR

1451 18395
1452 18395
1453 18395
1459 18395
1460 18395
1461 18396
1466 18396
1472 18396
1474 18396
1475 18396
1476 18397
1477 18397
1498 18397

41 CFR

1–1 18397
50–250 18398

49 CFR

Ch. III 18400
393 18400
395 18400
571 18402
601 18402
1033 18403

PROPOSED RULES:

391 18426
393 18426

50 CFR

32 (2 documents) 18404

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11618

Further Amending Executive Order No. 10713, Providing for Administration of the Ryukyu Islands

By virtue of the authority vested in me by the Constitution, and as President of the United States and Commander in Chief of the Armed Forces of the United States, Executive Order No. 10713 [1] of June 5, 1957, as amended by Executive Order No. 11010 of March 19, 1962, Executive Order No. 11263 of December 20, 1965, and Executive Order No. 11395 of January 31, 1968, is hereby further amended as follows:

1. Section 6(a) of that Order is revised to read as follows:

"(a) The legislative power of the Government of the Ryukyu Islands, except as otherwise provided in this order, shall be vested in a legislative body consisting of a single house. Members of the legislative body shall be directly elected by the people of the islands in 1962, and triennially thereafter, for terms of three years, provided that the terms of office for incumbent members of the legislative body, as of the effective date of this amendment, shall extend until the date of entry into force of the Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands."

2. Section 8(b)(1) of that Order is revised to read as follows:

"(b)(1) The Chief Executive shall be elected by the people of the Ryukyu Islands. The person having the greatest number of votes shall be the Chief Executive, provided that he shall have received at least one-fourth of the total number of votes cast. The Chief Executive shall be elected on the same day as are the members of the legislative body and shall serve a term concurrent with the term of the members of the legislative body and thereafter until his successor takes office; provided that the term of office of the incumbent Chief Executive, as of the effective date of this amendment, shall extend until the entry into force of the Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands. The first such election of the Chief Executive shall be on the same day as the legislative elections in November 1968. The legislative body shall by law establish

[1] 3 CFR, 1954–1958 Comp., p. 368.

procedures for the election of the Chief Executive, determine the qualifications for the office of Chief Executive and provide for special elections when necessary to fill a vacancy."

Richard Nixon

THE WHITE HOUSE,
September 10, 1971.

[FR Doc.71-13592 Filed 9-10-71;4:47 pm]

NOTE: For the text of a Presidential amendment issued in connection with E.O. 11618, above, see Weekly Comp. of Pres. Docs., Vol. 7, No. 37, issue of Sept. 13, 1971.

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

REGULATED AREAS

Under the authority of § 301.81–2 of the Imported Fire Ant Quarantine regulations, 7 CFR 301.81–2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.81–2a, is hereby revised to read as follows:

§ 301.81–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as imported fire ant regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

ALABAMA

(1) *Generally infested areas.*

Autauga County. The entire county.
Baldwin County. The entire county.
Barbour County. The entire county.
Bibb County. The entire county.
Blount County. That portion of the county lying south of the north line of T. 12 S.; and those portions of Tps. 10 and 11 S., Rs. 1 and 2 W. lying in the county.
Bullock County. The entire county.
Butler County. The entire county.
Calhoun County. The entire county.
Chambers County. The entire county.
Chilton County. The entire county.
Choctaw County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Coffee County. The entire county.
Conecuh County. The entire county.
Coosa County. The entire county.
Covington County. The entire county.
Crenshaw County. The entire county.
Dale County. The entire county.
Dallas County. The entire county.
Elmore County. The entire county.
Escambia County. The entire county.
Fayette County. The entire county.
Geneva County. The entire county.
Greene County. The entire county.
Hale County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Jefferson County. The entire county.
Lamar County. The entire county.
Lee County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Marengo County. The entire county.
Marion County. The entire county.
Mobile County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Perry County. The entire county.
Pickens County. The entire county.
Pike County. The entire county.
Russell County. The entire county.
St. Clair County. The entire county.
Shelby County. The entire county.
Sumter County. The entire county.
Talladega County. The entire county.
Tallapoosa County. The entire county.
Tuscaloosa County. The entire county.
Walker County. The entire county.
Washington County. The entire county.
Wilcox County. The entire county.

(2) *Suppressive areas.*

Cleburne County. That portion of the county lying south of the north line of T. 15 S., and west of the east line of R. 11 E.
Cullman County. The entire county.
Etowah County. S½, T. 11 S., R. 5 E.; T. 12 S., R. 5 E.; that portion of T. 13 S., R. 5 E., lying in the county; and that portion of the county lying east of the west line of R. 6 E.
Limestone County. S½, T. 3 S., R. 4 W.; T. 4 S., R. 4 W.; all of T. 5 S., R. 4 W., lying north of the Tennessee River; SE¼, T. 3 S., R. 5 W.; and that part of the E½, T. 4 S., R. 5 W., lying north of the Tennessee River.
Morgan County. N½, T. 6 S., Rs. 4 and 5 W.; and those portions of T. 5 S., Rs. 4 and 5 W., and T. 4 S., R. 5 W., lying south of the Tennessee River.
Randolph County. That portion of the county lying west of the east line of R. 11 E., and the remainder of the county south of the north line of T. 20 S.

ARKANSAS

(1) *Generally infested areas.*

Ashley County. Secs. 16, 17, 18, 19, 20, and 21, T. 18 S., R. 5 W.; Tps. 17, 18, and 19 S., Rs. 6 and 7 W.; secs. 35 and 36, T. 16 S., R. 8 W.; and Tps. 17, 18, and 19 S., Rs. 8, 9, and 10 W.
Bradley County. That portion of the county lying south of the south line of T. 15 S.
Lafayette County. Secs. 4, 5, 8, and 9, T. 20 S., R. 23 W.; secs. 2, 3, 10, and 11, T. 20 S., R. 25 W.
Union County. The entire county.

(2) *Suppressive areas.* None.

FLORIDA

(1) *Generally infested areas.*

Alachua County. That portion of the following lying within the county: Tps. 6 and 7 S., Rs. 17, 18, 19, 20, and 21 E., omitting the city of High Springs; Tps. 8 and 9 S., Rs. 20, 21, and 22 E.; and Tps. 10 and 11 S., R. 20 E.
Baker County. The entire county.
Bay County. The entire county.
Bradford County. The entire county.
Brevard County. That portion of the county lying west of Indian River and north of the south line of T. 27 S., except the cities of Eau Gallie, Melbourne, and Melbourne Village; and that part of Merritt Island lying between Haulover Canal and the NASA Parkway.
Calhoun County. The entire county.
Charlotte County. That portion of the county lying west of the west line of R. 25 E.
Citrus County. The entire county.
Clay County. The entire county.
Collier County. Sec. 12, T. 49 S., R. 25 E.
Columbia County. That portion of the county lying between the south line of T. 1 S. and the north line of T. 5 S.
De Soto County. The entire county.
Duval County. The entire county.
Escambia County. The entire county.
Flagler County. That portion of the county lying east of U.S. Highway 1 south to its intersection with the north line of T. 12 S., thence east along the north line of T. 12 S. to the east line of R. 30 E., thence south to the north line of T. 13 S., thence east along said line to the Volusia County line.
Franklin County. The entire county.
Gadsden County. The entire county.
Gulf County. The entire county.
Hamilton County. That portion of the county lying west of the east line of R. 15 E., except the city of White Springs.
Hardee County. The entire county.
Hernando County. The entire county.
Highlands County. Tps. 33, 34, and 35, and N½, T. 36 S., R. 28 E., and Tps. 33 and 34 S., R. 29 E.
Hillsborough County. The entire county.
Holmes County. The entire county.
Jackson County. The entire county.
Jefferson County. The entire county.
Lake County. That portion of the county lying south of the south line of T. 16 S.
Leon County. The entire county.
Liberty County. The entire county.
Madison County. That portion of the county lying west of the east boundary line of R. 8 E.
Manatee County. The entire county.
Marion County. That portion of the county lying within Tps. 12, 13, and 14 S., Rs. 20, 21, and 22 E.; T. 15 S., Rs. 20 and 21 E.; and T. 17 S., Rs. 19 and 20 E.
Nassau County. The entire county.
Okaloosa County. The entire county.
Orange County. The entire county.
Osceola County. T. 25 S., Rs. 27, 28, 29, and 30 E.; and that portion of the county lying within Tps. 26 and 27 S., Rs. 28, 29, and 30 E.; T. 28 S., Rs. 29, 30, and 31 E.; and T. 29 S., Rs. 29, 30, 31, and 32 E.
Pasco County. The entire county.
Pinellas County. The entire county.
Polk County. The entire county.
St. Johns County. The entire county except that portion lying within Tps. 8, 9, and 10 S., R. 28 E.
Santa Rosa County. The entire county.
Sarasota County. The entire county.
Seminole County. The entire county.
Sumter County. The entire county.
Suwannee County. Those portions of Tps. 1 and 2 S., Rs. 13, 14 and 15 E., lying in the county, and secs. 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, T. 3 S., R. 15 E.
Taylor County. That portion of the county bounded by a line beginning at a point where the west boundary line of R. 5 E. intersects the Aucilla River thence extending northeastward along said river to the Madison-Taylor County line, thence east along the Madison-Taylor County line to State Highway 55, thence south along said highway to the northern boundary of the city limits of Perry, thence west and south along said city limits to State Highway 30, thence southwestward and northwestward along State Highway 30 to the west boundary line of R. 5 E., thence north along the west boundary line of R. 5 E. to the point of beginning; and T. 6 S., R. 9 E.
Union County. The entire county.
Volusia County. S½, T. 16 S., R. 30 E.; T. 16 S., Rs. 31 and 32 E.; and that portion of the county lying west of Interstate 95 and south of the south line of T. 16 S.
Wakulla County. The entire county.
Walton County. The entire county.
Washington County. The entire county.

(2) *Suppressive areas.* None.

GEORGIA

(1) *Generally infested areas.*

Baker County. The entire county.

Berrien County. The entire county.
Brooks County. The entire county.
Butts County. That portion of the county lying within Butrill Georgia Militia District 615, Jackson Georgia Militia District 612, Towaliga Georgia Militia District 610, and Goodys Georgia Militia District 613.
Calhoun County. The entire county.
Camden County. The entire county.
Charlton County. The entire county.
Chattahoochee County. The entire county.
Clay County. The entire county.
Clayton County. The entire county.
Colquitt County. The entire county.
Cook County. The entire county.
Coweta County. That portion of the county lying within Georgia Militia Districts 1711, 693, 1139, 806, 1358, 1393, and 691.
Crisp County. The entire county.
Decatur County. The entire county.
De Kalb County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Early County. The entire county.
Fayette County. The entire county, except Georgia Militia District 624.
Fulton County. That portion of the county lying in the corporate limits of Hapeville, College Park, East Point, and Atlanta; that portion of the county lying north of the corporate limits of Atlanta to the Chattahoochee River; and that portion of the county lying within Georgia Militia Districts 1204, 1725, 499, 479, and 1762.
Glynn County. The entire county.
Grady County. The entire county.
Gwinnett County. That portion of the county lying south and west of Georgia Highway 120 and Georgia Highway 124, including all of the area in the corporate limits of Snellville, Lawrenceville, and Duluth.
Harris County. The entire county.
Heard County. That portion of the county lying within Georgia Militia Districts 761, 939, 702, 788, 938, 693, and 792.
Henry County. The entire county.
Lanier County. That portion of the county lying west of State Highway 135, including the town of Lakeland.
Lee County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Marion County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.
Muscogee County. The entire county.
Pike County. The entire county.
Quitman County. The entire county.
Randolph County. The entire county.
Rockdale County. The entire county, except Georgia Militia District 475.
Schley County. The entire county.
Seminole County. The entire county.
Spalding County. The entire county, except Georgia Militia District 490.
Stewart County. The entire county.
Sumter County. The entire county.
Talbot County. The entire county.
Taylor County. The entire county.
Terrell County. The entire county.
Thomas County. The entire county.
Tift County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Upson County. The entire county.
Webster County. The entire county.
Worth County. The entire county.
(2) *Suppressive areas.*
Appling County. The entire county.
Atkinson County. The entire county.
Bacon County. That portion of the county lying west of Georgia Militia District 1781 and Ten Mile Creek.
Baldwin County. The entire county.
Ben Hill County. The entire county.
Bibb County. The entire county.
Bleckley County. The entire county.
Brantley County. The entire county.
Bryan County. The entire county.
Bullock County. The entire county.
Chatham County. The entire county.
Clinch County. That portion of the county lying within Georgia Militia Districts 1389, 1141, and 1061.
Coffee County. The entire county.
Columbia County. That portion of the county lying within Georgia Militia District 129, and that portion of Georgia Militia District 125 lying north and northwest of Georgia Highway 28.
Crawford County. The entire county.
Dodge County. The entire county.
Effingham County. The entire county.
Evans County. That portion of the county lying within Daisy Georgia Militia District 401, and that portion of Georgia Militia District 1607 lying south of Bull Creek.
Houston County. The entire county.
Irwin County. The entire county.
Jasper County. That portion of the county lying within Georgia Militia District 364.
Jeff Davis County. The entire county.
Johnson County. That portion of the county lying within Georgia Militia Districts 1301, 1202, 1405, 1266, and 1746.
Jones County. The entire county.
Lemar County. The entire county.
Laurens County. The entire county.
Liberty County. The entire county.
Long County. The entire county.
McIntosh County. That portion of the county lying within Georgia Militia Districts 1480, 1514, 1771, 271, and 1515.
Monroe County. The entire county.
Montgomery County. The entire county.
Newton County. That portion of the county lying west of Georgia Highways 81 and 36, including the town of Covington.
Peach County. The entire county.
Pierce County. The entire county.
Pulaski County. The entire county.
Putnam County. That portion of the county lying within Georgia Militia Districts 311, 314, and 312.
Richmond County. That portion of the county lying north of Spirit Creek, Browns Road, Georgia Secondary Road S-2169, and Fort Gordon Military Reservation.
Screven County. That portion of the county lying within Georgia Militia Districts 1653, 35, 259, and 1676.
Tattnall County. That portion of the county lying within Georgia Militia Districts 1710, 1700, 1432, and 1376.
Telfair County. The entire county.
Toombs County. That portion of the county lying within Georgia Militia Districts 51, 1823, and 43.
Truetlen County. The entire county, except Georgia Militia Districts 1763 and 1764.
Twiggs County. The entire county.
Walton County. That portion of the county lying within Georgia Militia District 419.
Ware County. The entire county, except that portion of Georgia Militia District 1082 lying within the Okeefenokee Wildlife Refuge.
Washington County. That portion of the county lying within Georgia Militia Districts 1399 and 89.
Wayne County. The entire county.
Wheeler County. The entire county.
Wilcox County. The entire country.
Wilkinson County. The entire county.

LOUISIANA

(1) *Generally infested areas.*
Acadia Parish. The entire parish.
Allen Parish. The entire parish.
Ascension Parish. The entire parish.
Assumption Parish. The entire parish.
Avoyelles Parish. The entire parish.
Beauregard Parish. The entire parish
Calcasieu Parish. The entire parish.
Caldwell Parish. The entire parish.
Cameron Parish. The entire parish.
Catahoula Parish. The entire parish.
Concordia Parish. The entire parish.
East Baton Rouge Parish. The entire parish.
East Carroll Parish. The entire parish.
East Feliciana Parish. The entire parish.
Evangeline Parish. The entire parish.
Franklin Parish. The entire parish.
Grant Parish. The entire parish.
Iberia Parish. The entire parish.
Iberville Parish. The entire parish.
Jackson Parish. The entire parish.
Jefferson Parish. The entire parish.
Jefferson Davis Parish. The entire parish.
Lafayette Parish. The entire parish.
Lafourche Parish. The entire parish.
La Salle Parish. The entire parish.
Lincoln Parish. The entire parish.
Livingston Parish. The entire parish.
Madison Parish. The entire parish.
Morehouse Parish. The entire parish.
Orleans Parish. The entire parish.
Ouachita Parish. The entire parish.
Plaquemines Parish. The entire parish.
Pointe Coupee Parish. The entire parish.
Rapides Parish. The entire parish.
Richland Parish. The entire parish.
Sabine Parish. The entire parish.
St. Bernard Parish. The entire parish.
St. Charles Parish. The entire parish.
St. Helena Parish. The entire parish.
St. James Parish. The entire parish.
St. John the Baptist Parish. The entire parish.
St. Landry Parish. The entire parish.
St. Martin Parish. The entire parish.
St. Mary Parish. The entire parish.
St. Tammany Parish. The entire parish.
Tangipahoa Parish. The entire parish.
Tensas Parish. The entire parish.
Terrebonne Parish. The entire parish.
Union Parish. The entire parish.
Vermilion Parish. The entire parish.
Vernon Parish. The entire parish.
Washington Parish. The entire parish.
West Baton Rouge Parish. The entire parish.
West Carroll Parish. The entire parish.
West Feliciana Parish. The entire parish.
Winn Parish. The entire parish.
(2) *Suppressive areas.*
Bienville Parish. All of the parish lying south of the south line of T. 18 N.
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
De Soto Parish. The entire parish.
Natchitoches Parish. That portion of the parish lying south of the south line of T. 8 N.; that portion of the parish lying within T. 8 N., Rs. 5 and 6 W.; that portion of the parish lying within T. 9 N., R. 6 W.; and that portion of the parish lying north of the north line of T. 9 N.
Red River Parish. The entire parish.
Webster Parish. The entire parish.

MISSISSIPPI

(1) *Generally infested areas.*
Adams County. The entire county.
Amite County. The entire county.
Attala County. The entire county.
Calhoun County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Claiborne County. The entire county.
Clarke County. The entire county.
Clay County. That portion of the county lying north of the north line of T. 17 S.
Copiah County. The entire county.
Covington County. The entire county.
Forrest County. The entire county.
Franklin County. The entire county.
George County. The entire county.
Greene County. The entire county.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. The entire county.

Issaquena County. The entire county.
Itawamba County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. The entire county.
Lee County. The entire county.
Lincoln County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Neshoba County. The entire county.
Newton County. The entire county.
Nozubee County. The entire county.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Pontotoc County. The entire county.
Rankin County. The entire county.
Scott County. The entire county.
Sharkey County. The entire county.
Simpson County. The entire county.
Smith County. The entire county.
Stone County. The entire county.
Walthall County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wilkinson County. The entire county.
Winston County. The entire county.
Yazoo County. The entire county.

(2) *Suppressive areas.*

Bolivar County. T. 20 N., Rs 6 and 7 W.

Clay County. That portion of the county lying south of the north line of T. 17 S.

Grenada County. That portion of the county lying east of the west line of R. 5 E.

Holmes County. That portion of T. 12 N., lying in Holmes County; and those portions of Tps. 13 N. and 14 N., lying east of the west line of R. 4 E., lying in Holmes County.

Lowndes County. The entire county.

Oktibbeha County. The entire county.

Prentiss County. All of R. 9 E. lying within the county.

Union County. N½, T. 8 S., R. 3 E.; T. 7 S., and N⅗, T. 8 S., R. 4 E.; SE¼, T. 6 S., R. 5 E., lying in the county; and those portions of Tps. 7 and 8 S., R. 5 E., lying in the county.

Yalobusha County. All of Tps. 23, 24, and 25 N., Rs. 6 and 7 E., lying in the county.

NORTH CAROLINA

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Brunswick County. That portion of the county bounded by a line beginning at a point where North Carolina State Highway 130 intersects the Brunswick-Columbus County line, thence southeast along said highway to its junction with U.S. Highway 17, thence southwest along said highway to its junction with State Secondary Road 1153, thence south along said road to its junction with State Secondary Road 1184, thence south along said road to its junction with North Carolina State Highway 904, thence south along said highway to the Atlantic Ocean, thence west along said ocean to the North Carolina-South Carolina State line, thence northwest along said State line to the Brunswick-Columbus County line, thence northeast along said county line to the point of beginning.

Carteret County. The entire county.

Columbus County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1006 junctions with North Carolina State Highway 130, thence southeast along said highway to its intersection with the Columbus-Brunswick County line, thence southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to its intersection with North Carolina State Highway 904, thence east along said highway to its junction with State Secondary Road 1006, thence east and northeast along said road to the point of beginning.

Craven County. That portion of the county bounded by a line beginning at the junction of State Secondary Road 1107 with the Neuse River, thence east along said river to the Craven-Carteret County line, thence southeast and west along said county line to its junction with the Craven-Jones County line, thence west and north along said county line to its junction with State Secondary Road 1100, thence east along said road to its junction with U.S. Highway 70, thence southeast along said highway to its junction with State Secondary Road 1107, thence northeast along said road to the point of beginning.

Jones County. That area bounded by a line beginning at the junction of North Carolina Highway 58 and State Secondary Road 1105, thence east along said road to the Jones-Craven County line, thence south and east along said county line to the Jones-Carteret County line, thence south and west along said county line to the White Oak River, thence northwest along said river to its junction with Black Swamp Creek, thence northeast along said creek to its intersection with North Carolina Highway 58, thence northwest along said highway to the point of beginning.

Onslow County. That area bounded by a line beginning at the intersection of U.S. Highway 17 and the White Oak River, thence southeast along said river to Bogue Inlet, thence south along said inlet to the Atlantic Ocean, thence southwest along said ocean to its junction with New River Inlet, thence northwest along said inlet to its junction with New River, thence northwest along said river to its junction with North Carolina Highway 172, thence southwest and west along said highway to its junction with U.S. Highway 17, thence north and northeast along said highway to the point of beginning.

SOUTH CAROLINA

(1) *Generally infested areas.*

Aiken County. That portion of the county bounded by a line beginning at a point where State Primary Highway 19 intersects the Aiken-Edgefield County line, thence south along said highway to its intersection with U.S. Highway 78, thence east and southeast along said highway to its intersection with the Aiken-Barnwell County line, thence southwest along said county line to its intersection with U.S. Highway 278, thence west along said highway to its junction with State Primary Highway 28, thence westerly along said highway to its intersection with the Savannah River, thence northwest along said river to its junction with the Aiken-Edgefield County line, thence northeast along said county line to the point of beginning.

Bamberg County. The entire county.

Calhoun County. The entire county.

Edgefield County. That portion of the county bounded by a line beginning at a point where State Secondary Highway 53 intersects the Edgefield-McCormick County line, thence easterly along said highway to its junction with State Secondary Highway 34, thence southeast along said highway to its intersection with the Edgefield-Aiken County line, thence southwest along said county line to its junction with the Savannah River, thence northwest along said river to its junction with the Edgefield-McCormick County line, thence northeast along said county line to the point of beginning.

Horry County. The entire county.

Kershaw County. That portion of the county bounded by a line beginning at a point where State Primary Highway 34 intersects the Kershaw-Fairfield County line, thence in an easterly direction along said line to its intersection with the Wateree River, thence in a southerly direction along said river to its junction with the Kershaw-Richland County line, thence westerly, northwesterly, and northeasterly along said county line to the point of beginning.

Lexington County. That portion of the county lying east of State Primary Highway 6.

Orangeburg County. That portion of the county lying east of U.S. Highway 321.

Richland County. That portion of the county bounded by a line beginning at a point where State Secondary Highway 1041 intersects the Richland-Kershaw County line, thence southeast and east along said county line to its intersection with the Wateree River, thence south along said river to its junction with the Congaree River, thence northwesterly along said river to its junction with the Saluda River, thence northwesterly along said river to its junction with the Richland-Lexington County line, thence northwest along said county line to its intersection with State Primary Highway 6, thence north along said highway to its junction with U.S. Highway 76, thence east along said highway to its junction with State Secondary Highway 58, thence northeast along said highway to its junction with the Broad River, thence southeast along said river to its junction with State Secondary Highway 38, thence easterly along said highway to its junction with U.S. Highway 321, thence south along said highway to its junction with State Secondary Highway 61, thence east along said highway to its junction with U.S. Highway 21, thence north along said highway to its junction with State Secondary Highway 52, thence east along said highway to its intersection with State Secondary Highway 83, thence north along said highway to its intersection with State Secondary Highway 1041, thence east along said highway to the point of beginning.

Sumter County. That portion of the county bounded by a line beginning at a point where State Primary Highway 261 intersects the Sumter-Kershaw County line, thence in a southerly direction along said highway to its intersection with a dirt road, said intersection being 0.2 mile south of its junction with State Secondary Highway 63 and State Primary Highway 261, thence easterly along said dirt road to its junction with State Primary Highway 120, thence south along said highway to its junction with State Secondary Highway 77, thence east along said highway to its intersection with the Seaboard Coast Line Railroad, thence southwest along said railroad to its intersection with the Santee River, thence northwesterly along said river to its junction with the Wateree River, thence northerly along said river to its junction with the Sumter-Kershaw County line, thence northeasterly and easterly along said county line to the point of beginning.

(2) *Suppressive areas.*

Beaufort County. That portion of the county bounded by a line beginning at a point where U.S. Highway 17 intersects the Beaufort-Jasper County line, thence north along said county line to its junction with the Beaufort-Jasper-Hampton County lines, thence northeast along the Beaufort-Hampton County line to its junction with the Combahee River, thence southeasterly along said river to its junction with the Coosaw River, thence west along said river to its junction with Brickyard Creek, thence south

along said creek to its junction with Albergotti Creek, thence southwest along said creek to its intersection with U.S. Highway 21, thence east along said highway to its junction with South Carolina Primary Highway 170 thence southwest along said highway to its intersection with Broad River, thence in a southeasterly and southwesterly direction along said river to its intersection with the Beaufort-Jasper County line, thence in a northerly direction along said county line to the point of beginning.

Berkeley County. The entire county.

Charleston County. The entire county.

Clarendon County. That portion of the county lying west of a line beginning at a point where Lake Marion Dam intersects the Berkeley-Clarendon County line, thence north along said dam to its junction with State Primary Highway 260, thence north along said highway to its junction with State Secondary Highway 63, thence north along said highway to its junction with State Secondary Highway 126, thence north along said highway to its intersection with Interstate Highway 95, thence northeast along said highway to its intersection with State Secondary Highway 50, thence north along said highway and ending at a point where said highway intersects with the Clarendon-Sumter County line.

Colleton County. The entire county.

Dorchester County. The entire county.

Florence County. That portion of the county bounded by a line beginning at a point where State Secondary Highway 594 intersects the Darlington-Florence County line and extending easterly and southerly along the Florence County line to its intersection with U.S. Highway 301, thence west along said highway to its intersection with State Primary Highway 327, thence southeast along said highway to its junction with State Secondary Highway 57, thence northwest along said highway to its junction with State Secondary Highway 551, thence southwesterly along said highway to its intersection with State Secondary Highway 552, thence northwesterly along said highway to its junction with a dirt road, thence northwest along said road to its junction with U.S. Highway 301, thence northwest along said highway to its junction with State Primary Highway 100, thence southwest along said highway to its junction with State Primary Highway 136, thence northwest along said highway to its intersection with State Secondary Highway 35, thence southwest along said highway to its junction with State Secondary Highway 848, thence northwest along said highway to its junction with State Secondary Highway 45, thence north along said highway to its junction with State Secondary Highway 594, thence northwest along said highway to the point of beginning.

Georgetown County. That portion of the county bounded by a line beginning at a point where U.S. Highway 521 intersects the Georgetown-Williamsburg County line, thence southeast along said highway to its junction with U.S. Highway 17A, thence southwest along said highway to its junction with State Secondary Highway 24, thence southerly and southeasterly along said highway to its junction with U.S. Highway 17, thence in a southwesterly direction along said highway to its intersection with the South Santee River, thence in a northwesterly direction along said river to its junction with the Santee River, thence in a northwesterly direction along said river to its junction with the Georgetown-Williamsburg County line, thence in a northeasterly direction along said county line to the point of beginning, excluding the area within the corporate limits of the town of Andrews.

Hampton County. That portion of the county bounded by a line beginning at a point where the Savannah River junctions with the Hampton-Allendale County line, thence extending east and northeast along said county line to its intersection with State Secondary Highway 20, thence southeast along said highway to its junction with State Secondary Highway 48, thence east along said highway to its junction with State Secondary Highway 25, thence east along said highway to its junction with State Primary Highway 333, thence east along said highway to its junction with U.S. Highway 601, thence south along said highway to its intersection with the Hampton-Jasper County line, thence southwest along said county line to its junction with the Savannah River, thence northwest and north along said river to the point of beginning.

Jasper County. The entire county.

Marlboro County. That portion of the county bounded by a line beginning at a point where State Primary Highway 34 intersects the Great Pee Dee River, thence northeast along said highway to its junction with State Primary Highway 38, thence southeast along said highway to its intersection with the Marlboro-Dillon County line, thence southwest along said county line to its junction with the Great Pee Dee River, thence northwest along said river to the point of beginning.

Williamsburg County. That portion of the county bounded by a line beginning at a point where the Seaboard Coast Line Railroad intersects the Santee River, thence northeast along said railroad to its intersection with State Primary Highway 375, thence southeast along said highway to its junction with State Secondary Highway 45, thence in a southeasterly direction along said highway to its junction with State Secondary Highway 358, thence in a northeasterly direction along said highway to its junction with State Secondary Highway 50, thence north along said highway to its junction with State Secondary Highway 222, thence northeast along said highway to its junction with State Secondary Highway 122, thence south along said highway to its junction with State Secondary Highway 223, thence southeast and east along said highway to its junction with the Williamsburg-Georgetown County line, thence in a southwesterly direction along said county line to its junction with the Santee River, thence in a northwesterly direction along said river to the point of beginning.

TEXAS

(1) *Generally infested areas.*

Angelina County. The entire county.

Austin County. The entire county.

Bexar County. The entire county.

Brazoria County. The entire county.

Chambers County. The entire county.

Collin County. That portion of the county bounded by a line beginning at a point where Texas State Highway 24 intersects the Collin-Denton County line and extending east along said road to its intersection with U.S. Highway 75, thence southerly along said highway to its intersection with the Collin-Dallas County line, thence west along said county line to its junction with the Collin-Denton County line, thence north along said county line to the point of beginning, including the entire cities of McKinney, Plano, and Renner but excluding the city of Allen.

Colorado County. The entire county.

Dallas County. The entire county.

Denton County. The entire county.

Fort Bend County. The entire county.

Galveston County. The entire county.

Gregg County. The entire county.

Grimes County. The entire county.

Hardin County. The entire county.

Harris County. The entire county.

Harrison County. That portion of the county bounded by a line beginning at a point where Texas State Highway 43 intersects the Harrison-Marion County line, thence easterly along said county line to its junction with the Texas-Louisiana State line, thence south along said State line to its junction with the Panola-Harrison County line, thence westerly along said county line to its intersection with U.S. Highway 59, thence northerly along said highway to its intersection with Texas State Highway 43, thence northeasterly and northerly along said highway to the point of beginning, excluding all of the city of Marshall.

Jasper County. The entire county.

Jefferson County. The entire county.

Liberty County. The entire county.

Montgomery County. The entire county.

Nacogdoches County. The entire county.

Newton County. The entire county.

Orange County. The entire county.

Panola County. That portion of the county lying east of the Sabine River.

Polk County. The entire county.

Rusk County. That portion of the county lying south of U.S. Highway 84, including the town of Mount Enterprise.

Sabine County. The entire county.

San Augustine County. The entire county.

San Jacinto County. The entire county.

Shelby County. The entire county.

Tarrant County. That portion of the county bounded by a line beginning at a point where Texas State Highway 114 intersects the Denton-Tarrant County line and extending east along said county line to the Tarrant-Dallas County line, thence south along said county line to its intersection with Harwood-Dallas County line road, thence westerly along said road to its junction with Arlington-Webb-Britton Road, thence south along said road to its junction with Poly-Webb Road, thence westerly along said road to its junction with Texas Farm Road 157, thence northerly and easterly along said road to its intersection with Texas State Highway 114, thence northwesterly along said highway to the point of beginning, including the entire cities of Grand Prairie, Arlington, and Grapevine, but excluding the cities of Euless, Bedford, Colleyville, Southlake, and Westlake.

Tyler County. The entire county.

Waller County. The entire county.

Wharton County. The entire county.

(2) *Suppressive areas.* None.

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

This revision shall become effective upon publication in the FEDERAL REGISTER (9-14-71), when it shall supersede 7 CFR 301.81-2a which became effective October 9, 1970.

The Director of the Plant Protection Division has determined that infestations of the imported fire ant exist or are likely to exist in the civil divisions and parts of civil divisions listed above, or that it is necessary to regulate such areas because of their proximity to imported fire ant infestations or their inseparability for quarantine enforcement purposes from imported fire ant infested localities. The Director has further determined that each of the quarantined States is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on

interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the imported fire ant. Accordingly, such civil divisions and parts of civil divisions listed above are designated as imported fire ant regulated areas.

This revision adds to the regulated area all or parts of the following previously nonregulated counties: Bradley and Lafayette in Arkansas; Collier in Florida; Washington in Georgia; Bolivar in Mississippi; Aiken, Edgefield, Georgetown, Kershaw, Marlboro, Sumter, and Williamsburg in South Carolina; and Collin, Harrison, Panola, Rusk, and Shelby in Texas. It also extends the regulated area in some previously regulated counties. Certain counties in the States of Arkansas, Georgia, Louisiana, South Carolina, and Texas were changed from suppressive areas to generally infested areas. Dixie County in Florida has been released from Federal regulation after 3 years of negative surveys.

To the extent that this revision relieves certain restrictions presently imposed, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that this revision imposes restrictions that are necessary in order to prevent the dissemination of the imported fire ant, it should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this revision 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 Hyattsville, Md., this 8th day of September 1971.

JOSEPH F. SPEARS,
Acting Director,
Plant Protection Division.

[FR Doc.71-13488 Filed 9-13-71;8:48 am]

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

[Orange Reg. 68]

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

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The grade and size limitations, as hereinafter set forth, for the specified varieties of oranges during the period September 13, 1971, through September 19, 1971, are necessary to continue in effect the current quality and size requirements for such fruit consistent with the available supply and the demand for such fruit. The higher grade and size limitations, hereinafter set forth, for the period September 20, 1971, through October 17, 1971, reflects the quality and size of the available supply of oranges during such period.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, except Temple and Murcott Honey oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the periods specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 9, 1971, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective times hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective times has been disseminated among handlers of such oranges; it is necessary to make this section effective on September 13, 1971, to preclude the shipment of immature oranges, as hereinafter set forth, and to otherwise effectuate the declared policy of the act; compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.531 Orange Regulation 68.

(a) *Order.* During the period September 13, 1971, through September 19, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet; or

(2) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2$^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{1}/_{16}$ inches in diameter or smaller.

(b) During the period September 20, 1971, through October 17, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similiar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2$^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{1}/_{16}$ inches in diameter or smaller;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden; or

(4) Any Navel oranges, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos.

(c) Terms used in the amended marketing agreement and order shall when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and

order; and terms relating to grade and diameter, as used herein, shall have the applicable meaning given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (7 CFR 51.1140–51.1178).

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

Dated: September 10, 1971.

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

[FR Doc.71-13585 Filed 9-13-71;8:51 am]

[Grapefruit Reg. 70]

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

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The grade and size limitations, as hereinafter set forth, for grapefruit during the period September 13, 1971, through September 19, 1971, are necessary to continue in effect the current quality and size requirements for such fruit consistent with the available supply and the demand for such fruit. The higher grade and size limitations, hereinafter set forth, for the period September 20, 1971, through October 17, 1971, reflects the quality and size of the available supply of grapefruit during such period.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the periods specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 9, 1971, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective times hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective times has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the periods hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.530 Grapefruit Regulation 70.

(a) *Order.* During the period beginning September 13, 1971, through September 19, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(2) Any seeded grapefruit grown in the production area, which are smaller than $3\frac{12}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit;

(3) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least U.S. No. 2 Russet;

(4) Any seedless grapefruit, grown in Regulation Area II, which do not grade at least U.S. No. 2 Russet; or

(5) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{7}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit.

(b) During the period beginning September 20, 1971, through October 17, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are smaller than $3\frac{15}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit;

(3) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least Improved No. 2; or

(4) Any seedless grapefruit, grown in Regulation Area II, which do not grade at least Improved No. 2; and

(5) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{9}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Grapefruit (7 CFR 51.750–51.783).

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

Dated: September 10, 1971.

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

[FR Doc.71-13584 Filed 9-13-71;8:50 am]

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Salable, Reserve, and Export Percentages for the 1971–72 Crop Year

Notice was published in the August 25, 1971, issue of the FEDERAL REGISTER (36 F.R. 16677) regarding a proposal to establish salable, reserve, and export percentages applicable to California almonds for the 1971–72 crop year beginning July 1, 1971. The percentages are based on the unanimous recommendation of the Almond Control Board and other available information in accordance with the applicable provisions of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

The salable, reserve, and export percentages are being established pursuant to §§ 981.47 and 981.66 of Order No. 981, as amended. These percentages are based on an estimated 1971 almond production of 142 million pounds, kernel weight. Domestic trade demand is estimated at 71.5 million pounds, and when estimated imports of 500,000 pounds are subtracted,

71 million pounds of domestic production will be needed for domestic needs. A 36.5-million-pound desirable carryout for the end of the crop year has been recommended for domestic needs. Carrying from the prior crop year was 29.4 million pounds.

Reserve requirements are estimated at 60 million pounds for export and at 5.6 million pounds for reserve carryout on July 31, 1972. As the reserve carryin on July 1, 1971, was 1.7 million pounds, 1971–72 reserve requirement from 1971 almond production should be 63.9 million pounds.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is found that to establish salable, reserve, and export percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable, reserve, and export percentages for almonds received by handlers for their own accounts during the 1971–72 crop year are established as follows:

§ 981.221 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1971.

The salable, reserve, and export percentages during the crop year beginning July 1, 1971, shall be 55, 45, and 100 percent, respectively.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that salable, reserve, and export percentages designated for a particular crop year shall be applicable to all almonds received by handlers for their own accounts during such year; and (2) the current crop year began on July 1, 1971, and the percentages established herein will automatically apply to all such almonds beginning with such date.

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

Dated: September 8, 1971.

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

[FR Doc.71-13481 Filed 9-13-71;8:48 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Delegation of Specific Function

In order to expedite and facilitate the handling of certain of its functions, the Board has amended its Rules Regarding Delegation of Authority pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)) to delegate to the Director of the Division of Supervision and Regulation authority to approve, upon application, a repayment schedule with respect to the deficiency on stock option loans as defined in § 207.4(a)(2)(ii) of this chapter (Regulation G), in lesser amounts and over longer periods of time than those prescribed therein.

The delegation is reflected in the following amendment to § 265.2(c) of the Board's Rules Regarding Delegation of Authority:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks

* * * * *

(c) The Director of the Division of Supervision and Regulation (or, in his absence, the Acting Director) is authorized:

* * * * *

(18) Under the provisions of § 207.4(a)(2)(ii) of this chapter (Regulation G) to approve repayments of the "deficiency" on stock option loans in lower amounts and over longer periods of time than those specified in the regulation.

* * * * *

Effective date: September 2, 1971.

By order of the Board of Governors, September 2, 1971.

TYNAN SMITH,
Secretary.

[FR Doc.71-13455 Filed 9-13-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-12-AD; Amdt. 39-1289]

PART 39—AIRWORTHINESS DIRECTIVES

Continental Models IO-346-A, -B, IO-520-B, -C, and TSIO-520-B, -E, and -J Engine Oil Filter Adapter

Amendment 39-1256 (36 F.R. 14127), amending AD 71-11-4, effective August 3, 1971, required within the next 200 hours after May 25, 1971, replacement of Continental P/N 631645 oil filter adapter on Continental Models IO-346-A, -B, IO-520-B, -C, and TSIO-520-B, -E, and -J engines with strengthened Teledyne Continental P/N 631645 or AC P/N 5579663 (Package No. 6437861) oil filter adapter and replacement of the original base plate with an improved one. In addition, this amendment established requirements for inspection of the oil filter adapter and installation procedures for the oil filter housing assembly until such time as the replacement adapter has been installed.

Subsequent to the issuance of this amendment, reports had been received that some strengthened adapters have failed near the attaching stud located at the 7 o'clock position. While the cause of these failures is unknown, the majority occurred during or shortly after installation. Service history indicates that the probability of failure rapidly diminishes as time is accumulated on the new part. Also, since all parts are identical in the seven o'clock stud area, no benefit is gained by replacing the new adapter with the original part. In addition, continued installation of strengthened adapters may result in failures similar to those reported. Accordingly, until such time as the cause is definitely established and action taken to preclude these failures is completed, paragraph A of AD 71-11-4, requiring the installation of strengthened adapters, is being deleted. In addition, paragraph D is being modified to remove reference to paragraph A.

Since this amendment relieves a restriction, and imposes no additional burdens on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1256 (36 F.R. 14127) amending 39-1215 (36 F.R. 9241, 9242), AD 71-11-4, is amended as follows:

1. Paragraph A and the explanatory note following it are hereby deleted.

2. Paragraph D is modified to read as follows:

"The requirements of paragraph C are no longer applicable when a strengthened adapter is installed."

This amendment becomes effective September 14, 1971.

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

Issued in Kansas City, Mo., on September 2, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-13483 Filed 9-13-71;8:47 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Dockets Nos. R-389, R-389A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Initial Rates for Future Sales of Natural Gas for All Areas

SEPTEMBER 7, 1971.

Order on applications for rehearing and amending order.

On July 15, 1971, the Commission issued its Order No. 435 comprising an opinion and order establishing initial

rates in the Rocky Mountain Area (36 F.R. 13585), wherein it prescribed the initial rates at which sales of natural gas in said area are to be certificated, without refund obligation, for sales made under contracts dated after June 17, 1970. On August 13, 1971, applications for rehearing were filed by Continental Oil Co. (Continental) and by the Consumer Federation of America (Federation) and the American Public Gas Association (APGA).[1]

Continental contends that the Commission erred in not establishing an initial rate of at least 30 cents per Mcf in the Rocky Mountain Area. However, as we indicated in Order No. 435, although there was a range of new gas costs of 20.65 cents per Mcf to 31.63 cents per Mcf, we established a credible range of 20.65 to 25.68 cents per Mcf. Additionally, Continental has not specified in any manner or for any particular rate component, either why or how we so erred. We therefore reject Continental's contention.

APGA and Continental contend the Commission is precluded from establishing initial rates without a full adjudicatory hearing, including cross-examination. We reject these arguments, for nothing in either the Natural Gas Act or the Administrative Procedure Act requires a hearing prior to establishing initial rates, pursuant to our rulemaking authority. The APA specifically states that rates with "general or particular applicability and future effect", 5 U.S.C. section 551 (4) (5) (1967), which is what the initial rates set in Order No. 435 are, come within the meaning of rulemaking under that Act. "Hunt Oil Co. v. F.P.C.", 424 F. 2d 982, 985 (CA5, 1970). "Cf. Siegel v. A.E.C.", 400 F. 2d 778, 785–6 (CADC, 1968). As rule making, section 4 of the APA, 5 U.S.C. section 553(b)(c) requires notice and the opportunity for interested parties to submit their comments. Not only was notice given and evidence received, but the Commission held public hearings in 8 major cities throughout the country. The Commission decision, based on this evidence, need not, as APGA urges, contain specific detailed findings and conclusions. "Automotive Parts & Accessories Association v. Boyd", 407 F. 2d 330, 335–8 (CADC, 1968). "Logansport Broadcasting Corp. v. U.S.", 210 F. 2d 24, 27–8 (CADC, 1954).

APGA specifically argues that section 4 and 5 of the Natural Gas Act require a full hearing, with cross-examination, because those sections have been so construed for 33 years. We find such contentions untenable where in Order No. 435 we prescribed initial rates at which permanent certificates would issue, pursuant to section 7 of the Natural Gas Act.[2]

Section 7(c) of the APA, 5 U.S.C. section 556(d) (1967), provides that in rule making, when a party would not be prejudiced, procedures may be adopted for the submission of evidence in written form. APGA urges a hearing is required under this provision of the APA, although they concede "it is hardly necessary to document the important revelations disclosed by cross-examination". However, as we indicated in Order No. 435 (pp. 6–7), no party specifically indicated what evidence would be introduced or facts disclosed if cross-examination was granted.[3] We cannot blandly overlook APGA's failure to make its objections known within the procedural safeguards we established to assure due process in this rule making proceeding.

APGA contends that the Commission improperly relied on "untested AGA data", referring to note 7 of our Order No. 435. This latter reference, which APGA adverts to as an admission of the unreliability of AGA data, is analogous to a similar difference in the Southern Louisiana area.[4] However, contrary to APGA's innuendos, this difference—between AGA and Form 15 data—in the San Juan and Uinta-Green River subareas has no effect upon new gas costs nor the initial rates prescribed in our order.[5] We likewise reject the assertion that AGA data is "untested", where the Commission has substantially relied upon such data in previous area rate proceedings. Moreover, in our recent Southern Louisiana decision, Opinion No. 598, to which APGA was a party, the AGA reserve data was extensively examined and cross-examined. After exhaustive study of the AGA data, the Commission found it was "reasonably reliable for the purposes used herein." Opinion No. 598 at paragraph 59. We therefore reject APGA's contentions.

APGA makes a serious and unsubstantiated allegation that the decline in developmental drilling indicates a "stockpiling" by the producers of probable reserves which will be shifted to proved reserves at the producers' decision. At the outset, we are unable to determine how the selection of proved and probable reserves is solely within the province of a natural gas producer. Nor are we able to see why a natural gas producer is obligated to continue historical drilling trends when there are either more attractive investment opportunities or the capital requirements of the industry have increased faster than the cash flow generated for exploration and development. However, more importantly, APGA has no evidence with which to make such an assertion. In fact, the available evidence indicates the contrary. In 1969, of the total exploratory and gas wells drilled, 83 percent were developmental. In 1960, 83 percent were developmental. Of the total exploratory and developmental gas well footage in 1969, 77 percent was developmental, whereas in 1960, 80 percent was developmental. Thus, APGA's accusations are contrary to the evidence and must be rejected.

APGA objects to a 15-percent rate of return, but does not state what its objections are. As we indicated in Order No. 435, there was a range of evidence on this one rate component of 13–16.2 percent. APGA would apparently recommend (APGA chose not to introduce any evidence on this point) something less than 15 percent. However, we need not place much credence in this contention, inasmuch as the record before us in this proceeding, and the record before us in the "Texas Gulf Coast Area Rate Proceeding," Docket No. AR64–2 and the "Southern Louisiana Area Rate Proceeding," Dockets Nos. AR61–2, et al. and AR69–1, all confirm our findings as to a 15-percent rate of return.

APGA contends that the cost evidence which is summarized on page 19A of our order is insufficient. We need only reiterate that our findings as to the initial rates, namely 22.5–24 cents per Mcf, lie well within the range of credible costs (20.65–25.68 cents per Mcf).

One matter remains. We have been advised that for purposes of official publication the form of Ordering Paragraphs (A) and (B) of our Order No. 435 must be altered. No matter of substance is to be altered or changed. The revision is to be for the convenience of publication and indexing only. Such a matter could be handled by an errata notice to the order, but so that the change in format will not cause confusion, we prefer to amend the order. Therefore, an amendatory paragraph will be added to this order.

The Commission finds:

The applications for rehearing filed by Continental and by APGA on August 13, 1971, set forth no further facts or principles of law which were not fully considered in Order No. 435, issued July 15, 1971, or which, having now been considered, warrant any modification of that order.

The Commission orders:

A. Continental's and APGA's applications for rehearing of Order No. 435, issued July 15, 1971, are each denied.

[1] A joint application for rehearing was filed by the Federation and APGA, hereinafter referred to as APGA.

[2] The Commission has established guideline producer rates for more than 10 years without hearing. Statement of General Policy No. 61–1, 24 F.P.C. 818 (1960). "State of Wisconsin v. F.P.C.", 303 F. 2d 380, 387 (CADC, 1961), certiorari denied 373 U.S. 294 (1963). See also § 1.19 of the Commission's rules of practice and procedure, 18 CFR Subchapter A, Part I.

[3] "Cf. Long Island Railroad Co. v. U.S.", 318 F. Supp. 490, 489–9, (E.D.N.Y., 1970).

[4] See Opinion No. 598, July 16, 1971, at paragraphs 49, 50, 54, and n. 77.

[5] Accord. "Southern Louisiana Area Rate Proceeding," Opinion No. 598, July 16, 1971, pending on rehearing before the Commission, at pp. 21–27 (mimeo.).

B. Ordering Paragraphs (A) and (B) of Order No. 435 are revised to read:

(A) Effective upon the issuance of this order, paragraph (a) of § 2.56, Part 2—General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, is amended by adding the following paragraph and table 1a thereto:

§ 2.56 Area price levels for natural gas sales by independent producers.

(a) * * *

The initial rates at which sales of natural gas in the Rocky Mountain Area are to be certificated, without refund obligation, for sales made under contracts dated after June 17, 1970, are set forth in Table No. 1a and, subject to the additional requirements, restrictions, and authorizations provided in the orders issuing such certificates represent the area rate levels for the areas involved until such time as the Commission shall promulgate just and reasonable rates in said area.

TABLE NO. 1

* * * * *

TABLE NO. 1A

	Initial rates in cents per Mcf at 15.025 p.s.i.a. for contracts dated after June 17, 1970 [a]
Rocky Mountain Area:	
Aneth Field	22.50
San Juan	24.00
Unita-Green River	23.75
Colorado-Julesburg Basin	23.50
Montana-Wyoming	22.75
Montana-Dakota	23.50

[a] The rates reflect the result of approximate and average severance and production tax adjustments.

C. The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-13495 Filed 9-13-71;8:48 am]

Title 21—FOOD AND DRUGS

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

NEW ANIMAL DRUGS; DEFINITIONS AND PROCEDURAL REGULATIONS

In the FEDERAL REGISTER of May 15, 1970 (35 F.R. 7569) the Commissioner of Food and Drugs, pursuant to the Animal Drug Amendments of 1968, proposed the establishment of definitions and procedural regulations regarding new animal drugs. In response to the proposal, 33 comments were received.

A. Certain of the comments and the Commissioner's conclusions are summarized individually below as they relate to each section in the proposal:

1. Comments and conclusions concerning § 135.1 *Definitions and interpretation* are as follows:

a. The definitions should provide for "not new animal drugs". New animal drug is defined in the Federal Food, Drug, and Cosmetic Act. The Agency is developing a policy statement on new-drug status to describe the kind of evidence that must be available in the open literature to support a decision that a product is not a new drug. Therefore, the Commissioner concludes that no definition of "not new animal drug" should be included at this time.

b. The definitions as constituted should more closely follow the language of the act. The Commissioner concurs and the section has been revised to incorporate the statutory language.

c. Certifiable antibiotic drugs should be exempt from the requirements of the submission of new animal-drug applications. The Commissioner concludes that this exemption should not be made because the statute makes no such exception for certifiable antibiotic drugs.

d. The definitions in § 121.200 should be incorporated into this section. The Commissioner concludes that, since those definitions apply mainly to animal feeds, they will be recodified into § 135e.1 in a future document.

e. The combination of two or more drugs which are considered not new animal drugs should not necessarily be regarded as a new animal drug. At present a new combination of established drug ingredients is ordinarily regarded as a new animal drug. The Commissioner concludes that, if there is appropriate evidence available in the open literature which would indicate to appropriately qualified experts that there is no incompatibility in the components and that the combination is so well established that it would be regarded as generally recognized as safe and effective for the uses prescribed, recommended, or suggested in its labeling, the new combination may qualify as a not new animal drug. However, the Food and Drug Administration should be consulted before any decision is reached to market a new combination without new animal drug approval.

f. Experimental animals as defined should not exclude domestic pets or livestock. The Commissioner concurs and the definition has been revised.

g. The designated journals should include those listed in § 130.38. The Commissioner concurs and reference to these journals has been included.

2. Comments and conclusions concerning § 135.3 *New animal drugs for investigational use; exemptions from section 512(a) of the act* are as follows:

a. Provision should be made to provide for the manufacture of medicated feeds for investigational use. The Commissioner concurs and these provisions have been made.

b. Provision should be made for post-test evaluation of animals used for investigational purposes with a view toward permitting their use for food. The Commissioner concludes that revision should not be made since such a practice would lend itself to abuse of the preclearance requirements for marketing treated animals for food following an investigational program.

3. Comments and conclusions concerning § 135.4a *New animal drug applications* are as follows:

a. The requirement for the submission of advertising for prior approval should be deleted. The Commissioner concludes that this section should be revised so that submission of advertising for review is permitted but is not required.

b. Any person (other than the applicant) who will engage in any part of the production of the new animal drug should not be required to give a written commitment that no changes will be made without prior approval by FDA. The Commissioner concludes that assurance that no changes will be made without appropriate clearance is necessary, therefore, this commitment has been retained.

c. The language which requires consideration of the need of an expiration date should be deleted or revised. The Commissioner concludes that the language should be revised to provide that such expiration date need be proposed only where the data show that one is needed.

d. Reference to procedures designed to prevent contamination and otherwise assure proper control of the product following shipment should be deleted since the manufacturer has no control over the product once it leaves his plant. The Commissioner concludes that the language should be retained, because it is intended to assure that appropriate measures are taken to prevent misuse of the drug.

e. Data should not be required regarding the presence of drug residues in poultry litter unless the litter is to be used in feed. The Commissioner concludes that the language of the proposal should be retained since such data must be submitted only when drug residues are suspected or known to be present in litter from treated animals.

f. Procedures and requirements for the presentation of tissue residue data are too rigid. The Commissioner concludes that this subsection should be revised to indicate that the information described may be submitted but is not required in every new animal drug application.

g. The requirement that "all" methods reasonably applicable to show whether or not the new animal drug is safe and effective should be deleted. The Commissioner concludes that the word "all" should be retained since submission of all such information is the intention of the act as evidenced by section 512(d)(1)(A).

h. The phrase "suggested in the proposed labeling" should be deleted from the discussion of information required to establish safety and efficacy, since the Commissioner does not have the authority to determine what the labeling purports to represent. The Commissioner concludes that this language should be retained since it is contained in section 512(d)(1)(A) of the act.

i. Objection has been taken to the content of the information required to establish substantial evidence of safety and

efficacy and to the requirement that this information be included as part of a new animal drug application. This requirement has been upheld by the courts and therefore is retained in substance. However the text is removed from this section and placed in § 135.12(a)(5).

j. The requirement of an applicant's commitment that he will make no changes in the representations for his drug beyond those provided in the application should be either revised or deleted. This subsection is revised to provide that, under certain conditions, changes may be made without prior approval, in accordance with § 135.13a.

k. The requirement of a commitment that premixes will only be shipped to holders of approved Forms FD–1800 as provided in § 135.6 should be deleted. The requirement is retained; however, § 135.6 is revised to provide exemptions from its provisions for drugs to be exported and to provide that certain feeds may be exempted from the requirement of Forms FD–1800.

4. Comments and conclusions concerning § 135.4b *Applications for animal feeds bearing or containing new animal drugs* are as follows:

The provisions of this section should not apply to premixes, and the requirements for methods, facilities, and controls should not be included since they are covered by regulations in Part 133. This section is revised to relate only to animal feed and to require only the kind of information included on a Form FD–1800.

5. Comments and conclusions concerning § 135.5 *Certification of new animal drugs containing any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or derivative thereof* are as follows:

a. The new animal drug amendments were not intended to place additional restrictions or burdens on previous clearance procedures. The Commissioner concludes that the amendments contain the same clearance requirements for all new animal drugs except that the antibiotics specified in section 512(n) of the act are also required to be certified unless specifically exempted therefrom.

b. All certifiable antibiotic drugs in feed should be exempt from certification and Form FD–1800 should not be required for such drugs in feeds, since such requirement would place an unreasonable workload on both industry and the Administration. The Commissioner concludes that antibiotic-containing medicated feeds should be exempt from certification and may not require a Form FD–1800, when so exempted by regulations to be published in Part 135e (21 CFR 135e).

c. Antibiotics exempt from certification should be considered as "not new drugs". The Commissioner concludes that the exemption from certification does not of itself establish an antibiotic as "not a new animal drug".

6. Comments and conclusions concerning § 135.6 *Consignees of new animal drugs for use in the manufacture of animal feed* are as follows:

a. The section should be deleted since it is included in the act. The Commissioner concludes that this section should be retained since it gives visibility to a significant requirement of the act.

b. Exemption should be provided for export of premixes containing new animal drugs. The Commissioner concurs and this section is revised to include an exemption from its requirements for premixes intended for export.

c. Growers should not be required to hold a Form FD–1800 for on-farm mixing. The Commissioner concludes that the section should be revised so that its provisions do not apply to finished feeds which are exempted from requirements of 512(m) of the act by regulations in Part 135e (21 CFR 135e).

7. Comments and conclusions concerning § 135.7 *Filing of applications; refusal to file application* are as follows:

Where an application is determined not to be acceptable for filing, the firm should be so notified within a specified period of time. The Commissioner concurs and the section is revised to provide a 30-day time limit within which the applicant will be notified if his submission is not acceptable for filing.

8. Comments and conclusions concerning § 135.8 *Evaluation and comment on applications* are as follows:

a. Tissue residue validation studies should be initiated when a new animal drug is under investigation prior to submission of a new animal drug application; or a request for tissue samples should be made early in the evaluation of a new animal drug application. The Commissioner concludes that the subsection should be revised to provide that a request for tissue samples will be made as early in the 180-day period of evaluation as is possible to assure timely completion. The subsection is also revised to provide 90 days for the receipt of requested samples; at the end of the 90-day period, if the samples have not been received, the application will be deemed withdrawn without prejudice.

b. The issuance of a letter which finds an application incomplete should not provide a basis for considering said application as withdrawn without prejudice, since to do so is without statutory authority. The Commissioner concludes that, in accordance with the act, the section allows an applicant to avail himself of an opportunity for a hearing in lieu of having his application construed as withdrawn without prejudice.

9. Comments and conclusions concerning § 135.9 *Amended applications* are as follows:

The term "substantive amendment" should be defined. The Commissioner has decided to replace the phrase "substantive amendment" with a more detailed definition of an amendment to an application.

10. Comments and conclusions concerning § 135.12 *Refusal to approve applications* are as follows:

a. The section should not hold a manufacturer responsible for misuse of a drug or for a presumption that the conditions of use can reasonably be certain to be followed. The Commissioner concludes that the language should be retained since it is recognized in the act under section 512(d)(1)(H) and (2)(D).

b. The section should not require "adequate and well-controlled investigations" in every case to establish the effectiveness of the drug. The Commissioner concludes that this requirement should remain; the section does provide a procedure for obtaining a waiver from this requirement.

c. The requirement that an application contain a proposed tolerance for drug residues does not follow the language of the statute. The Commissioner concludes that this subsection should be revised in accordance with the language contained in section 512(b)(8) of the act.

11. Comments and conclusions concerning § 135.28 *Withdrawal of approval of an application* are as follows:

The language of the proposal departs from the statutory language. The Commissioner concludes that the text should be revised to incorporate the language of the act.

12. Comments and conclusions concerning § 135.31 *Untrue statements in application* are as follows:

The requirements of paragraph (b) should apply only to the "application" and should not relate to records and reports or supplements which are not a part of the original application. Since any information required to be submitted becomes a part of the application, the Commissioner concludes that the text should be retained and modified to state that this proviso also applies to supplemental applications. To follow the language of the statute the word "material" has been inserted before the word "fact".

13. Comments and conclusions concerning § 135.36 *Export of new animal drug* are as follows:

It has been suggested that this section be deleted since it merely repeats information carried in section 801(d) of the act. The Commissioner concludes that the section should be retained since it gives visibility to a significant requirement of the act.

B. On the basis of other comments and information before him, the Commissioner concludes that the following additional changes are necessary:

1. The following changes have been made in § 135.13 *Supplemental applications:*

a. This section has been divided into two sections: § 135.13a *Supplemental new animal drug applications*, and § 135.13b *Supplemental applications for animal feeds bearing or containing new animal drugs.*

b. The text dealing with the submission of supplements for mailing or promotional material is revised to apply only to prescription drugs.

c. The text dealing with the changes which may be made without prior approval of a supplemental application is revised to indicate that these are the "kinds of" changes which may be made.

d. The text allowing a change, without prior approval of a supplemental application, from printing on paper labels to direct printing on glass containers has

been revised to allow for printing on "glass or other kinds of immediate containers."

e. Provisions which limited this section to new animal drugs not subject to certification have been deleted since the act makes no such distinction.

2. The following changes have been made in § 135.14 *Records and reports concerning experience with new animal drugs for which an approval is in effect:*

a. This section has been divided into two sections: § 135.14a *Records and reports concerning experience with new animal drugs for which an approved application is in effect,* and § 135.14b *Records and reports concerning experience with animal feeds bearing or containing new animal drugs for which an approved application is in effect.*

b. The requirements have been revised to incorporate the language of the act regarding the unnecessary disclosure of financial or pricing data.

3. The following change has been made in § 135.35 *Records and reports on new animal drugs and antibiotics for use in animals for which applications or certification Forms 5 and 6 become effective or were approved prior to June 20, 1963.*

This section has been revised to delete the requirement of periodic or annual reporting on pre-1963 drugs. The section requires that manufacturers and marketers of drugs deemed approved as a new animal drug, under an antibiotic Form 5 or 6, or under the exempting provisions of §§ 144.24 through 144.26 (21 CFR 144.24–144.26), submit information regarding current marketing of said drug. The Administration should be notified of any such drug which was formerly marketed under the conditions of such approval that is no longer marketed and should be given the reasons for its discontinuance.

4. The following change has been made in § 135.37 *Designated veterinary-journals:*

The section is revised to provide that the journals listed are in addition to those listed in § 130.38 (21 CFR 130.38). The publication "Animal Nutrition and Health" is added.

C. The Commissioner also concludes that certain editorial changes are necessary in Parts 1, 3, 121, 130, 132, 133, 144, 146, and 146a of title 21 in order to insure consistency within the regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 1, 3, 121, 130, 132, 133, 135, 144, 146, and 146a are amended as follows:

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. Part 1 is amended:

a. In § 1.5(b) (1) and (2) and in paragraph (c) by revising the references to "section 404 or 505 of the act" to read "section 404, 505, or 512 of the act".

b. In the first sentence of § 1.105(e) (4) (i) (*a*) by adding the new phrase "or section 512 of the act after August 1, 1969" following the phrase "after October 10, 1962".

c. In the first sentence of § 1.105(e) (4) (i) (*b*) (3) by adding the new phrase "or a 'new animal drug' as defined in section 201(w) of the act as amended" following the phrase "section 201(p) of the act as amended".

d. In the first sentence of § 1.105(e) (4) (ii) by revising the phrase "under section 507 of the act" to read "under section 507 or 512 of the act".

e. In the first sentence of § 1.105(e) (6) (xvii) by revising the phrase "section 505 or 507 of the act" to read "section 505, 507, or 512 of the act".

f. In the first sentence of § 1.106(c) (3) (ii) by revising the phrase "section 505 or 507 of the act" to read "section 512 of the act" and by revising the phrase "approved new-drug application" to read "approved new animal drug application".

g. In § 1.106(c) (4) (i) by revising the two references to "section 505 or 507" to read "section 512" and by substituting "new animal drug" for "food additive".

h. In § 1.106(g) by revising the paragraph heading to read "(g) *Exemption for new drugs or new animal drugs.*"

i. In § 1.106(g) (1) by revising the phrase "section 505" to read "section 505 or 512".

j. In § 1.106(g) (2) by adding the phrase "or 512 of the act" after the phrase "section 505(i)".

k. In § 1.106(l) (1) by inserting the new phrase "or new animal drug application" after the phrase "new-drug application".

l. In § 1.106(l) (2) by inserting the phrase "or new animal drug" after the phrase "new drug" in the three instances where it occurs and by revising "§ 130.3" to read "§ 130.3 or § 135.3".

m. In § 1.107(e) by inserting the new phrase "or, in the case of a new animal drug, is exempt from certification under section 512(n) of the act" after the phrase "section 512(l) of the act".

n. In § 1.107(f) by inserting the new phrase "or, in the case of a new animal drug, is exempt from certification under section 512(n) of the act" after the phrase "section 512(l) of the act".

PART 3—STATEMENTS OF GENERAL POLICY OF INTERPRETATION

2. Part 3 is amended.

a. By deleting the following sections which are being concurrently recodified into Part 135, Subpart B:

§ 3.18 Drugs for use in milk-producing animals; labeling.

§ 3.54 Epinephrine injection 1:1000 in 10-milliliter containers for emergency treatment of anaphylactoid shock in cattle, horses, sheep, and swine.

Subpart A—Definitions and Procedural and Interpretative Regulations

§ 3.58 Animal feeds contaminated with Salmonella microorganisms.

§ 3.59 Use of poultry litter as animal feed.

§ 3.511 Injectable iron preparations for veterinary use.

b. In § 3.515 by deleting paragraph (c) which is being concurrently recodified into Part 135, Subpart B.

c. In § 3.52 by revising paragraph (d) to read as follows:

§ 3.52 Dimethylsulfoxide (DMSO) preparations; clinical testing and investigational use.

* * * * *

(d) Dimethylsulfoxide (DMSO) preparations may be shipped within the jurisdiction of the act.

(1) For tests in vitro and in laboratory research animals, in accord with § 135.3 (a) of this chapter,

(2) For clinical investigations in animals in accord with § 135.3(b) of this chapter,

(3) In accordance with § 135a.2 of this chapter.

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

3. Part 121 is amended:

a. By deleting the following sections which are no longer applicable:

§ 121.7 Food additives or pesticide chemicals for which new-drug applications are requested.

§ 121.9 Food additives for which certification is required.

b. By revising § 121.75 to read as follows:

§ 121.75 Exemption for investigational use and procedure for obtaining authorization to market edible products from experimental animals.

A food additive or food containing a food additive intended for investigational use by qualified experts shall be exempt from the requirements of section 409 of the act under the following conditions:

(a) If intended for investigational use in vitro or in laboratory research animals, it bears a label which states prominently, in addition to the other information required by the act, the warning:

Caution. Contains a new food additive for investigational use only in laboratory research animals or for tests in vitro. Not for use in humans.

(b) If intended for use in animals other than laboratory research animals and if the edible products of the animals are to be marketed as food, permission for the marketing of the edible products as food has been requested by the sponsor, and authorization has been granted by the Food and Drug Administration in accordance with § 135.3 of this chapter or by the Department of Agriculture in accordance with § 309.20 of Title 9 (9 CFR 309.20), and it bears a label

which states prominently, in addition to the other information required by the act, the warning:

Caution. Contains a new food additive for use only in investigational animals. Not for use in humans.

Edible products of investigational animals are not to be used for food unless authorization has been granted by the U.S. Food and Drug Administration or by the U.S. Department of Agriculture.

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

4. Part 130 is amended:

a. In § 130.2 by deleting paragraph (b) which is being concurrently recodified into Part 135, Subpart A.

b. By deleting paragraphs (b) and (d) from § 130.3a.

c. In § 130.4(c) by deleting both the second sentence in the introductory text and subparagraphs (1) and (3).

d. In § 130.5(a)(7) by placing a period at the end of the first parenthetical phrase and deleting the remainder of the subparagraph.

e. In § 130.13(b)(4) by deleting subdivision (ii).

f. In § 130.33 by deleting the phrase "or for a veterinary drug that has not previously been the subject of a food additive regulation in Part 121 of this chapter".

PART 132—REGISTRATION OF PRODUCERS AND CERTAIN WHOLESALERS OF DRUGS

5. Part 132 is amended:

a. In § 132.2 by revising the third sentence to read as follows: "Owners or operators of establishments who are submitting new-drug applications, new animal drug applications, Forms FD–1800, or antibiotic Forms 5 and 6 preparatory to engaging in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs are required to register before the new-drug application, new animal drug application, Form FD–1800, or antibiotic Form 5 or 6 are approved.

b. In § 132.3(a) the second sentence is revised to read as follows: "If the owner or operator of the establishment defined in § 132.1(c) has not previously entered into such operation, registration must follow within 5 days after the submission of a new-drug application, new animal drug application, Form FD–1800 or antibiotic Form 5 or 6."

PART 133—DRUGS; CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURE, PROCESSING, PACKAGING, OR HOLDING

6. Part 133 is amended:

a. In § 133.106(f)(1) and (2) by deleting the words "new-drug application or antibiotic Form 10" and substituting the words "Form FD–1800".

b. In § 133.106(f)(3) (iii), (iv), and (v) by deleting the references to "Part 121" and inserting in its place "Part 135e".

c. In § 133.110 by deleting in the third sentence the reference to "§ 130.13" and inserting in its place "§ 135.14b".

PART 135—NEW ANIMAL DRUGS

7. Part 135 is amended:

a. By adding a new Subpart A, as follows:

Subpart A—Definitions and Procedural Regulations

Sec.

AUTHORITY: The provisions of this Subpart A issued under secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a).

Subpart A—Definitions and Procedural Regulations

§ 135.1 Definitions and interpretations.

As used in this part:

(a) The term "act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201–902, 52 Stat. 1040 et seq., as amended; 21 U.S.C. 321–392).

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "Commissioner" means the Commissioner of Food and Drugs.

(e) "Person" means individuals, partnerships, corporations, and associations.

(f) The definitions and interpretations of terms contained in section 201 of the act shall be applicable to such terms when used in the regulations in this part.

(g) The term "new animal drug" means any drug intended for use for animals other than man, including any drug intended for use in animal feed but not including such animal feed:

(1) The composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of animal drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; except that such a drug not so recognized shall not be deemed to be a "new animal drug" if at any time prior to June 25, 1938, it was subject to the Food and Drug Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or

(2) The composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions; or

(3) Which drug is composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof, except when there is in effect a published order of the Secretary declaring such drug not to be a new animal drug on the grounds that:

(i) The requirement of certification of batches of such drug, as provided for in section 512(n) of the act, is not necessary to insure that the objectives specified in

paragraph (3) thereof are achieved; and

(ii) That neither subparagraph (1) nor (2) of this paragraph applies to such drug.

(h) The term "animal feed" means an article which is intended for use for food for animals other than man and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal.

(i) The newness of an anmial drug, including a new animal drug intended for use in or on animal feed, may arise by reason of: (1) The newness for its intended drug use of any substance of which the drug is comprised, in whole or in part, whether it be an active substance or a menstruum, excipient, carrier, coating, or other component; (2) the newness for its intended drug use of a combination of two or more substances, none of which is itself a new animal drug; (3) the newness for its intended drug use of the proportion of a substance in a combination, even though such combination containing such substance in other proportion is not a new animal drug; (4) the newness for its intended drug use in a different species of animal; (5) the newness of its intended drug use in diagnosing, curing, mitigating, treating, or preventing a disease, or to affect a structure or function of the animal body, even though such drug is not a new animal drug when used in another disease or to affect another structure or function of the body; or (6) the newness of a dosage, or method or duration of administration or application, or any other condition of use prescribed, recommended, or suggested in the labeling of such drug, even though such drug or animal feed containing such drug when used in another dosage, or another method or duration of administration or application, or different condition, is not a new animal drug.

(j) "Animals used only for laboratory research" and "laboratory research animals" mean individual animals or groups of animals intended for use and used solely for laboratory research purposes, regardless of species, and does not include animals intended to be used for any food purposes or animals intended to be kept as livestock.

(k) The term "sponsor" means the person responsible for an investigation of a new animal drug, including responsibility for compliance with applicable provisions of the act and regulations. The "sponsor" may be an individual, partnership, corporation, or Government agency or may be a manufacturer, scientific institution, or an investigator regularly and lawfully engaged in the investigation of new animal drugs.

(l) "Designated journal(s)" means journals listed in § 130.38 and § 135.37 of this chapter.

§ 135.2 Biologics; products subject to license control.

An animal drug produced and distributed in full conformance with the animal virus, serum, and toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.) and any regulations issued thereunder shall not be deemed to be subject to section 512 of the Federal Food, Drug, and Cosmetic Act.

§ 135.3 New animal drugs for investigational use; exemptions from section 512(a) of the act.

(a) *New animal drugs for tests in vitro and in laboratory research animals.* (1) A shipment or other delivery of a new animal drug or animal feed bearing or containing a new animal drug intended solely for tests in vitro or in animals used only for laboratory research purposes shall be exempt from sections 512 (a) and (m) of the act if it is labeled as follows:

Caution. Contains a new animal drug for investigational use only in laboratory research animals or for tests in vitro. Not for use in humans.

(2) The person distributing or causing the distribution of new animal drugs for tests in vitro or in animals used only for laboratory research purposes under this exemption shall use due diligence to assure that the consignee is regularly engaged in conducting such tests and that the shipment of the new animal drug will actually be used for tests in vitro or in animals used only for laboratory research.

(3) The person who introduced such shipment or who delivered the new animal drug for introduction into interstate commerce shall maintain adequate records showing the name and post office address of the expert or expert organization to whom the new animal drug is shipped and the date, quantity, and batch or code mark of each shipment and delivery for a period of 2 years after such shipment and delivery. Upon the request of a properly authorized employee of the Department at reasonable times, he shall make such records available for inspection and copying.

(4) The exemption allowed in this paragraph shall not apply to any new animal drug intended for in vitro use in the regular course of diagnosing or treating disease, including antibacterial sensitivity discs impregnated with any new animal drug or drugs, which discs are intended for use in determining susceptibility of micro-organisms to the new animal drug or drugs.

(b) *New animal drugs for clinical investigation in animals.* A shipment or other delivery of a new animal drug or an animal feed containing a new animal drug intended for clinical investigational use in animals shall be exempt from sections 512 (a) and (m) of the act if all the following conditions are met:

(1) The label shall bear the statements:

Caution. Contains a new animal drug for use only in investigational animals in clinical trials. Not for use in humans. Edible products of investigational animals are not to be used for food unless authorization has been granted by the U.S. Food and Drug Administration or by the U.S. Department of Agriculture.

In the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear the caution statements required by paragraphs (a) or (b) of this section, the statements may be included on the carton label and other labeling on or within the package from which the new animal drug is to be dispensed.

(2) The person or firm distributing or causing the distribution of the new animal drug or animal feed containing a new animal drug shall use due diligence to assure that the new animal drug or animal feed containing a new animal drug will actually be used for tests in animals and is not used in humans.

(3) The person who introduced such shipment or who delivered the new animal drug or animal feed containing a new animal drug for introduction into interstate commerce shall maintain adequate records showing the name and post office address of the investigator to whom the new animal drug or animal feed containing a new animal drug is shipped and the date, quantity, and batch or code mark of each shipment and delivery for a period of 2 years after such shipment and delivery. Upon the request of a properly authorized employee of the Department at reasonable times, such records shall be made available for inspection and copying.

(4) Prior to shipment of the new animal drug for clinical tests in animals, the sponsor of the investigation shall submit in triplicate to the Food and Drug Administration a "Notice of Claimed Investigational Exemption for a New Animal Drug" including a signed statement containing the following information:

(i) The identity of the new animal drug.

(ii) All labeling and other pertinent information to be supplied to the investigators.

(iii) The name and address of each clinical investigator.

(iv) The approximate number of animals to be treated (or if not available, the amount of new animal drug to be shipped).

(v) If the new animal drug is given to food-producing animals, the statement shall contain the following additional information:

(*a*) A commitment that the edible products from such animals shall not be used for food without prior authorization in accordance with the provisions prescribed in this section.

(*b*) Approximate dates of the beginning and end of the experiment or series of experiments.

(*c*) The maximum daily dose(s) to be administered to a given species, the size of animal, maximum duration of administration, method(s) of administration, and proposed withdrawal time, if any.

(5) Authorization for use of edible products derived from a treated food-producing animal may be granted under the provisions of this section and when the following specified conditions are met, except that in the case of an animal administered any unlicensed experimental veterinary biological product regulated under the viruses, serums, toxins statute (21 U.S.C., Chapter V, sec. 151 et seq.) the product shall be exempt from the requirements of this section when

U.S. Department of Agriculture approval has been obtained as provided in §103.2 of Title 9, Code of Federal Regulations. Conditional authorization may be granted in advance of identification of the name(s) and address(es) of the clinical investigator(s) as required by subparagraph (4)(iii) of this paragraph. Information required for authorization shall include, in addition to all other requirements of this section, the following:

(i) Data to show that consumption of food derived from animals treated at the maximum levels with the minimum withdrawal periods, if any, specified in accordance with subparagraph (4)(v)(c) of this paragraph, will not be inconsistent with the public health; or

(ii) Data to show that food derived from animals treated at the maximum levels and with the minimum withdrawal periods, if any, specified in accordance with subparagraph (4)(v)(c) of this paragraph, does not contain drug residues or metabolites.

(iii) The name and location of the packing plant where the animals will be processed, except that this requirement may be waived, on request, by the terms of the authorization.

Authorizations granted under this subparagraph do not exempt investigational animals and their products from compliance with other applicable inspection requirements.

(6) On written request of the Food and Drug Administration, the sponsor shall submit any additional information reported to or otherwise received by him with respect to the investigation deemed necessary to facilitate a determination whether there are grounds in the interest of public health for terminating the exemption.

(7) The sponsor shall assure himself that the new animal drug is shipped only to investigators who:

(i) Are qualified by scientific training and/or experience to evaluate the safety and/or effectiveness of the new animal drug.

(ii) Shall maintain complete records of the investigations, including complete records of the receipt and disposition of each shipment or delivery of the new animal drug under investigation. Copies of all records of the investigation shall be retained by the investigator for 2 years after the termination of the investigation or approval of a new animal drug application.

(iii) Shall furnish adequate and timely reports of the investigation to the sponsor.

(8) The sponsor:

(i) Shall retain all reports received from investigators for 2 years after the termination of the investigation or approval of a new animal drug application and make such reports available to a duly authorized employee of the Department for inspection at all reasonable times.

(ii) Shall provide for current monitoring of the investigation by a person qualified by scientific training and experience to evaluate information obtained from the investigation, and shall promptly investigate and report to the Food and Drug Administration and to all investigators any findings associated with use of the new animal drug that may suggest significant hazards pertinent to the safety of the new animal drug.

(iii) Shall not unduly prolong distribution of the new animal drug for investigational use.

(iv) Shall not, nor shall any person acting for or on behalf of the sponsor, represent that the new animal drug is safe or effective for the purposes for which it is under investigation. This requirement is not intended to restrict the full exchange of scientific information.

(v) Shall not commercially distribute nor test-market the new animal drug until a new animal drug application is approved pursuant to section 512(c) of the act.

(9) If the shipment or other delivery of the new animal drug is imported or offered for importation into the United States for clinical investigational use in animals, it shall also meet the following conditions:

(i) The importer of all such shipments or deliveries is an agent of the foreign exporter residing in the United States or the ultimate consignee, which person has, prior to such shipments and deliveries, informed the Food and Drug Administration of his intention to import the new animal drug as sponsor in compliance with the conditions prescribed in this subdivision; or

(ii) The new animal drug is shipped directly to a scientific institution with adequate facilities and qualified personnel to conduct laboratory or clinical investigations and is intended solely for use in such institutions and which institution has submitted a statement as sponsor of the investigation.

(c) *Withdrawal of eligibility to receive investigational-use new animal drugs.* (1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations or has submitted false information either to the sponsor of the investigation or in any required report, the Director of the Bureau of Veterinary Medicine will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Veterinary Medicine, the Commissioner will provide the investigator an opportunity for an informal hearing on the question of whether the investigator is entitled to receive investigational-use new animal drugs, if the hearing is requested within 10 days after receipt of notification that the explanation is not acceptable.

(2) If, after evaluating all available information including any explanation and assurance presented by the investigator, the Commissioner determines that the investigator has repeatedly or deliberately failed to comply with the conditions of the exempting regulations in this section or has repeatedly or deliberately submitted false information to the sponsor of an investigation and has failed to furnish adequate assurance that the conditions of the exemption will be met, the Commissioner will notify the investigator and the sponsor of any investigation in which he has been named as a participant that the investigator is not entitled to receive investigational-use new animal drugs with a statement of the basis for such determination.

(3) Each "Notice of Claimed Investigational Exemption for a New Animal Drug" and each approved new animal drug application containing data reported by an investigator who has been determined to be ineligible to receive investigational-use new animal drugs will be examined to determine whether he has submitted unreliable data that are essential to the continuation of the investigation or essential to the approval of any new animal drug application.

(4) If the Commissioner determines after the unreliable data submitted by the investigator are eliminated from consideration that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he will notify the sponsor and provide him with an opportunity for a conference in accordance with paragraph (d) of this section. If an imminent hazard to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the Commissioner, on request, will afford the sponsor an opportunity for an informal hearing on the question of whether the exemption should be reinstated.

(5) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are such that a new animal drug application would not have been approved, he will proceed to withdraw approval of the application in accordance with section 512(e) of the act.

(6) An investigator who has been determined to be ineligible may be reinstated as eligible to receive investigational-use new animal drugs when the Commissioner determines that he has presented adequate assurance that he will employ such new animal drugs solely in compliance with the exempting regulations in this section for investigational-use new animal drugs.

(d) *Termination of exemption.* If the Commissioner finds that:

(1) The sponsor of the investigation has failed to comply with any of the conditions for the exemption established under this section, or

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is being or has been used for purposes other than bona fide scientific investigation, he shall notify the sponsor and invite his immediate correction. A conference will will be arranged if requested. If the conditions of the exemption are not immediately met, the Commissioner shall notify the sponsor of the termination of the exemption and the sponsor shall

recall or have destroyed the unused supplies of the new animal drug.

(e) *Statements and requests.* "Notice(s) of Claimed Investigational Exemption for a New Animal Drug" and requests for authorization to use investigational animals and their products for food should be addressed to the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, Md. 20852.

§ 135.4a New animal drug applications.

(a) Applications to be filed under section 512(b) of the act shall be submitted in the form described in paragraph (b) of this section. If any part of the application is in a foreign language, an accurate and complete English translation shall be appended to such part. Translations of literature printed in a foreign language shall be accompanied by copies of the original publication. The application must be signed by the applicant or by an authorized attorney, agent, or official. If the applicant or such authorized representative does not reside or have a place of business within the United States, the application must also furnish the name and post office address of, and must be countersigned by, an authorized attorney, agent, or official residing or maintaining a place of business within the United States. Pertinent information may be incorporated in, and will be considered as part of, an application on the basis of specific reference to such information, including information submitted under the provisions of § 135.3, in the files of the Food and Drug Administration; however, the reference must be specific in identifying the information. Any reference to information furnished by a person other than the applicant may not be considered unless its use is authorized in a written statement signed by the person who submitted it.

(b) Applications for new animal drugs shall be submitted in triplicate and assembled in the manner prescribed by subparagraph (13) of this paragraph, and shall include the following information:

(1) *Identification.* Whether the submission is an original or supplemental application; the name and the address of the applicant; the date of the application; the trade name(s) (if one has been proposed) and chemical name(s) of the new animal drug. Upon receipt, the application will be assigned a number NADA _____, which shall be used for all correspondence with respect to the application.

(2) *Table of contents and summary.* The application shall be organized in a cohesive fashion, shall contain a table of contents which identifies the data and other material submitted, and shall contain a well-organized summary and evaluation of the data in the following form:

(i) Chemistry:

(*a*) Chemical structural formula or description for any new animal drug substance.

(*b*) Relationship to other chemically or pharmacologically related drugs.

(*c*) Description of dosage form and quantitative composition.

(ii) Scientific rationale and purpose the new animal drug is to serve:

(*a*) Clinical purpose.

(*b*) Highlights of laboratory studies: The reasons why certain types of studies were done or omitted as related to the proposed conditions of use and to information already known about this class of compounds. Emphasize any unusual or particularly significant pharmacological effects or toxicological findings.

(*c*) Highlights of clinical studies: The rationale of the clinical study plan showing why types of studies were done, amended, or omitted as related to laboratory studies and prior clinical experience.

(*d*) Conclusions: A short statement of conclusions combining the major points of effectiveness and safety as they relate to the use of the new animal drug.

(3) *Labeling.* Three copies of each piece of all labeling to be used for the article (total of 9).

(i) All labeling should be identified to show its position on, or the manner in which it is to accompany the market package.

(ii) Labeling for nonprescription new animal drugs should include adequate directions for use by the layman under all conditions of use for which the new animal drug is intended, recommended, or suggested in any of the labeling or advertising sponsored by the applicant.

(iii) Labeling for prescription veterinary drugs should bear adequate information for use under which veterinarians can use the new animal drug safely and for the purposes for which it is intended, including those purposes for which it is to be advertised or represented, in accord with § 1.106(c) of this chapter.

(iv) All labeling for prescription or nonprescription new animal drugs shall be submitted with any necessary use restrictions prominently and conspicuously displayed.

(v) Labeling for new animal drugs intended for use in the manufacture of medicated feeds shall include:

(*a*) Specimens of labeling to be used for such new animal drug with adequate directions for the manufacture and use of finished feeds for all conditions for which the new animal drug is intended, recommended, or suggested in any of the labeling, including advertising, sponsored by the applicant.

(*b*) Specimens of all labeling representative of those proposed to be used for finished feeds manufactured from the new animal drug.

(vi) Draft labeling may be submitted for preliminary consideration of an application. Final printed labeling will ordinarily be required prior to approval of an application. Proposed advertising for veterinary prescription drugs may be submitted for comment or approval.

(4) *Components and composition.* A complete list of all articles used for production of the new animal drug including a full list of the composition of each article:

(i) A full list of the articles used as components of the new animal drug. This list should include all substances used in the synthesis, extraction, or other method of preparation of any new animal drug and in the preparation of the finished dosage form, regardless of whether they undergo chemical change or are removed in the process. Each component should be identified by its established name, if any, or complete chemical name, using structural formulas when necessary for specific identification. If any proprietary name is used, it should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed component may be specified.

(ii) A full statement of the composition of the new animal drug. The statement shall set forth the name and amount of each ingredient, whether active or not, contained in a stated quantity of the new animal drug in the form in which it is to be distributed (for example, amount per tablet or milliliter) and a batch formula representative of that to be employed for the manfacture of the finished dosage form. All components should be included in the batch formula regardless of whether they appear in the finished product. Any calculated excess of an ingredient over the label declaration should be designated as such and percent excess shown. Reasonable variation may be specified.

(iii) If it is a new animal drug produced by fermentation:

(*a*) Source and type of microorganism used to produce the new animal drug.

(*b*) Composition of media used to produce the new animal drug.

(*c*) Type of precursor used, if any, to guide or enhance production of the antibiotic during fermentation.

(*d*) Name and composition of preservation, if any, used in the broth.

(*e*) A complete description of the extraction and purification processes including the names and compositions of the solvents, precipitants, ion exchange resins, emulsifiers, and all other agents used.

(*f*) If the new animal drug is produced by a catalytic hydrogenation process (such as tetracycline from chlortetracycline), a complete description of each chemical reaction with graphic formulas used to produce the new animal drug, including the names of the catalyst used, how it is removed, and how the new animal drug is extracted and purified.

(5) *Manufacturing methods, facilities, and controls.* A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the new animal drug. This description should include full information with respect to any new animal drug in sufficient detail to permit evaluation of the adequacy of the described methods of manufacture, processing, and packing, and the described facilities and controls to determine and preserve the identity, strength, quality, and purity of the new animal drug, and the following:

(i) If the applicant does not himself perform all the manufacturing, processing, packaging, labeling, and control

operations for any new animal drug, he shall: Identify each person who will perform any part of such operations and designate the part; and provide a signed statement from each such person fully describing, directly or by reference, the methods, facilities, and controls he will use in his part of the operation. The statement shall include a commitment that no changes will be made without prior approval by the Food and Drug Administration, unless permitted under § 135.13a.

(ii) A description of the qualifications, including educational background and experience, of the technical and professional personnel who are responsible for assuring that the new animal drug has the identity, strength, quality, and purity it purports or is represented to possess, and a statement of their responsibilities.

(iii) A description of the physical facilities including building and equipment used in manufacturing, processing, packaging, labeling, storage, and control operations.

(iv) The methods used in the synthesis, extraction, isolation, or purification of any new animal drug. When the specifications and controls applied to such new animal drugs are inadequate in themselves to determine its identity, strength, quality, and purity, the methods should be described in sufficient detail, including quantities used, times, temperature, pH, solvents, etc., to determine these characteristics. Alternative methods or variations in methods within reasonable limits that do not affect such characteristics of the new animal drug may be specified. A flow sheet and indicated equations should be submitted when needed to explain the process.

(v) Precautions to insure proper identity, strength, quality, and purity of the raw materials, whether active or not, including:

(*a*) The specifications for acceptance and methods of testing for each lot of raw material.

(*b*) A statement as to whether or not each lot of raw materials is given a serial number to identify it, and the use made of such numbers in subsequent plant operations.

(vi) The instructions used in the manufacturing, processing, packaging, and labeling of each dosage form of the new animal drug, including:

(*a*) The method of preparation of the master formula records and individual batch records and the manner in which these records are used.

(*b*) The number of individuals checking weight or volume of each individual ingredient entering into each batch of the new animal drug.

(*c*) A statement as to whether or not the total weight or volume of each batch is determined at any stage of the manufacturing process subsequent to making up a batch according to the formula card and, if so, at what stage and by whom it is done.

(*d*) The precautions used in checking the actual package yield produced from a batch of the new animal drug with the theoretical yield. This should include a description of the accounting for such items as discards, breakage, etc., and the criteria used in accepting or rejecting batches of drugs in the event of an unexplained discrepancy.

(*e*) The precautions used to assure that each lot of the new animal drug is packaged with the proper label and labeling, including provisions for labeling storage and inventory control.

(*f*) Any special precautions used in the operations.

(vii) The analytical controls used during the various stages of the manufacturing, processing, packaging, and labeling of the new animal drug, including a detailed description of the collection of samples and the analytical procedures to which they are subjected. The analytical procedures should be capable of determining the active components within a reasonable degree of accuracy and of assuring the identity of such components.

(*a*) A description of practicable methods of analysis of adequate sensitivity to determine the amount of the new animal drug in its final dosage form including finished feeds and in drinking water should also be included. Methods should be included for any premix or other intermediate mix for such drugs. Where two or more active ingredients are included, methods should be quantitative and specific for each active ingredient.

(*b*) If the article is one that is represented to be sterile, the same information with regard to the manufacturing, processing, packaging, and the collection of samples of the drug should be given for sterility controls. Include the standards used for acceptance of each lot of the finished drug.

(viii) An explanation of the exact significance of any batch control numbers used in the manufacturing, processing, packaging, and labeling of the new animal drug, including such control numbers that may appear on the label of the finished article. State whether these numbers enable determination of the complete manufacturing history of the product. Describe any methods used to permit determination of the distribution of any batch if its recall is required.

(ix) Adequate information with respect to the characteristics of and the test methods employed for the container, closure, or other component parts of the drug package to assure their suitability for the intended use.

(x) A complete description of, and data derived from, studies of the stability of the new animal drug, including information showing the suitability of the analytical methods used. Describe any additional stability studies underway or planned. Stability data should be submitted for any new animal drug, for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple-dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the data indicate that an expiration date is needed to preserve the identity, strength, quality, and purity of the new animal drug until it is used, the applicant shall propose such expiration date. If no expiration date is proposed the applicant must justify its absence.

(xi) Additional procedures employed which are designed to prevent contamination and otherwise assure proper control of the product. An application may be refused unless it includes adequate information showing that the methods used in, and the facilities and controls used for, the manufacturing, processing, and packaging of the new animal drug are adequate to preserve its identity, strength, quality, and purity in conformity with good manufacturing practice and identifies each establishment, showing the location of the plant conducting these operations.

(6) *Samples.* Samples of the new animal drug and articles used as components and information concerning them may be requested by the Bureau of Veterinary Medicine as follows:

(i) Each sample shall consist of four identical, separately packaged subdivisions, each containing at least three times the amount required to perform the laboratory test procedures described in the application to determine compliance with its control specifications for identity and assays. Each of the samples submitted shall be appropriately packaged and labeled to preserve its characteristics, to identify the material and the quantity in each subdivision of the sample, and to identify each subdivision with the name of the applicant and the new animal drug application to which it relates. Included are:

(*a*) A sample or samples of any reference standard and blank used in the procedures described in the application for assaying each new animal drug and other assayed components of the finished new animal drug.

(*b*) A representative sample or samples of each strength of the finished dosage form proposed in the application and employed in the clinical investigations and a representative sample or samples of each new animal drug from the batch(es) employed in the production of such dosage form.

(*c*) A representative sample or samples of finished market packages of each strength of the dosage form of the new animal drug prepared for initial marketing and, if any such sample is not from a representative commercial-scale production batch, such a sample from a representative commercial-scale production batch, and a representative sample or samples of each new animal drug from the batch(es) employed in the production of such dosage form, provided that in the case of new animal drugs marketed in large packages the sample should contain only three times a sufficient quantity of the new animal drug to allow for performing the control tests for drug identity and assays.

(ii) The following information shall be included for the samples when requested:

(*a*) For each sample submitted, full information regarding its identity and the origin of any new animal drug contained therein (including a statement whether

it was produced on a laboratory, pilot-plant, or full-production scale) and detailed results of all laboratory tests made to determine the identity, strength, quality, and purity of the batch represented by the sample, including assays.

(b) For any reference standard submitted, a complete description of its preparation and the results of all laboratory tests on it. If the test methods used differed from those described in the application, full details of the methods employed in obtaining the reporting results.

(7) *Analytical methods for residues.* Applications for new animal drugs shall include a description of practicable methods for determining the quantity, if any, of such drug in or on food, and any substance formed in or on food because of its use, and the proposed tolerance or withdrawal period or other use restrictions for such drug if any tolerance or withdrawal period or other use restrictions are required in order to assure that the proposed use of such drug will be safe. When data or other adequate information establish that it is not reasonable to expect the new animal drug to become a component of food, assay methodology is not required.

(i) The kind of information required by this subdivision may include: Complete experimental protocols for determining drug residue levels in the edible products, and the length of time required for residues to be eliminated from such products following the drug's use; residue studies conducted under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration to show levels, if any, of the drug and/or its metabolites in test animals during and upon cessation of treatment and at intervals thereafter in order to establish a disappearance curve; if the drug is to be used in combination with other drugs, possible effects of interaction demonstrated by the appropriate disappearance curve or depletion patterns after drug withdrawal under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration; if the drug is given in the feed or water, appropriate consumption records of the medicated feed or water and appropriate performance data in the treated animal; if the drug is to be used in more than one species, drug residue studies or appropriate metabolic studies conducted for each species that is food-producing. To provide these data, a sufficient number of birds or animals should be used at each sample interval. Appropriate use of labeled compounds (e.g. radioactive tracers), may be utilized to establish metabolism and depletion curves. Drug residue levels ordinarily should be determined in muscle, liver, kidney, and fat and where applicable, in skin, milk, and eggs (yolk and egg white). As a part of the metabolic studies, levels of the drug or metabolite should be determined in blood where feasible. Samples may be combined where necessary. Where residues are suspected or known to be present in litter from treated animals, it may be necessary to include data with respect to such residues becoming components of other agricultural commodities because of use of litter from treated animals.

(ii) If such new animal drug is one which has been shown to induce cancer when ingested by man or animal or after other tests which are appropriate for the evaluation of the safety of such drug and the Secretary is requested to find that, under the conditions of use specified in the proposed labeling and reasonably certain to be followed in practice, such drug will not adversely affect the animals for which it is intended and that no residue of such drug will be found in any edible portion of such animals after slaughter or in any food yielded by or derived from the animal, methods of analysis shall be submitted in such form as to be suitable for publication in the FEDERAL REGISTER.

(8) *Evidence to establish safety and effectiveness.* (i) An application may be refused unless it contains full reports of adequate tests by all methods reasonably applicable to show whether or not the new animal drug is safe and effective for use as suggested in the proposed labeling.

(ii) An application may be refused unless it includes substantial evidence, consisting of adequate and well-controlled investigations, including field investigation, by experts qualified by scientific training and experience to evaluate the effectiveness of the new animal drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

(iii) An application may be refused unless it contains detailed reports of the investigations, including studies made on laboratory animals, in which the purpose, methods, and results obtained are clearly set forth of acute, subacute, and chronic toxicity, and unless it contains appropriate clinical laboratory results related to safety and efficacy. Such information should include identification of the person who conducted each investigation, a statement of where the investigations were conducted, and where the raw data are available in the application.

(iv) All information pertinent to an evaluation of the safety and effectiveness of the new animal drug received or otherwise obtained by the applicant from any source, including information derived from other investigations or commercial marketing (for example, outside the United States), or reports in the scientific literature, both favorable and unfavorable, involving the new animal drug that is the subject of the application and related new animal drugs shall be submitted. An adequate summary may be acceptable in lieu of a reprint of a published report that only supports other data submitted. Include any evaluation of the safety or effectiveness of the new animal drug that has been made by the applicant's veterinary or medical department, expert committee, or consultants.

(v) If the new animal drug is a combination of previously investigated or marketed new animal drugs, an adequate summary of preexisting information from preclinical and clinical investigation and experience with its components, including all reports received or otherwise obtained by the applicant suggesting side effects, contraindications, and ineffectiveness in use of such components, shall be submitted. Such summary should include an adequate bibliography of publications about the components and may incorporate by reference information concerning such components previously submitted to the Food and Drug Administration by the applicant; with written authorization, information may also be incorporated from the material that another applicant has on file with the Food and Drug Administration. Each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness.

(vi) An application shall include a complete list of the names and post office addresses of all investigators who received the new animal drug. This may be incorporated in whole or in part by reference to information submitted under the provisions of § 135.3.

(vii) Explain any omission of reports from any investigator to whom the investigational new animal drug has been made available. The unexplained omission of any reports of investigations made with the new animal drug by the applicant or submitted to him by an investigator or the unexplained omission of any pertinent reports of investigations or clinical experience received or otherwise obtained by the applicant from published literature or other sources that would bias an evaluation of the safety of the new animal drug or its effectiveness in use, constitutes grounds for the refusal or withdrawal of the approval of an application.

(9) *New animal drugs subject to section 512(n) of the act.* If the application is for a new animal drug subject to the certification provisions of section 512(n) of the act and the drug is included in regulations promulgated under section 507 of the act, the applicant may be exempted from the submission of some of the information required by subparagraph (8) of this paragraph if the application includes data adequate to prove that the new animal drug is comparable to the new animal drug for which certification has been previously provided.

(10) *Supplemental applications.* If it is a supplemental application, full information shall be submitted on each proposed change concerning any statement made in the approved application.

(11) *Applicant's commitment.* It is understood that the labeling and advertising for the new animal drug will prescribe, recommend, or suggest its use only under the conditions stated in the

labeling which is part of this application and if the article is a prescription new animal drug, it is understood that any labeling which furnishes or purports to furnish information for use or which prescribes, recommends, or suggests a dosage for use of the new animal drug will also contain, in the same language and emphasis, information for its use including indications, effects, dosages, routes, methods, and frequency and duration of administration, any relevant hazards, contraindications, side effects, and precautions contained in the labeling which is part of this application. It is understood that all representations in this application apply to the drug produced until changes are made in conformity with § 135.13a.

(12) *Additional commitments.* (i) New animal drugs as defined in § 135.1, intended for use in the manufacture of animal feeds in any State will be shipped only to persons who may receive such drugs in accordance with § 135.6.

(ii) The methods, facilities, and controls described under item 5 of this application conform to the current good manufacturing practice regulations in Part 133 (21 CFR Part 133).

(13) *Assembling and binding the application.* Assemble and bind three copies of the original application as follows:

(i) Obtain folders from the Food and Drug Administration, Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, Md. 20852, for binding triplicate copies of the new animal drug application. Approximately 2 inches of material may be bound in each folder.

(ii) Bind the original or ribbon copy of the application in a blue folder. This will be copy No. 1 and should be a complete copy.

(iii) Bind an identical copy in a red folder, copy No. 2, and an identical copy in a yellow folder, copy No. 3.

(iv) Identify each front cover with the name of the applicant and the name of the new animal drug.

(v) Use separate pages or sets of pages for each numbered heading consistent with subparagraphs (1) through (12) of paragraph (b) of this section. Number the pages of the new animal drug application. Each copy should bear the same page numbering.

(vi) The labeling should be distributed in the three copies of the application as follows: One set of labeling in copy No. 1, one set in copy No. 2, and one set in copy No. 3.

(vii) Submit separate applications for each different dosage form of the drug proposed. Repeating in each application basic information pertinent to all dosage forms is unnecessary if reference is made to the application containing such information. Include in each application information applicable to the specific dosage form, such as labeling, composition, stability data, and method of manufacture.

(viii) Forward amendments, supplements, reports, and other correspondence submitted after the original application in these folders and this format if they contain sufficient material. The front cover of these submissions should be identified with the name of the applicant, the name of the new animal drug, and the new animal drug application number, if known.

(c) When a new animal drug application is submitted for a new animal drug which has a stimulant, depressant, or hallucinogenic effect on the central nervous system, if it appears that the drug has a potential for abuse, the Commissioner shall forward that information to the Attorney General of the United States.

§ 135.4b Applications for animal feeds bearing or containing new animal drugs.

Applications for animal feeds bearing or containing new animal drugs shall be submitted in triplicate on the Form FD–1800 6–68. Applications will be completed following the instructions printed on this form and will contain:

(a) A full statement of the composition of the animal feed. This requirement may be fulfilled by the declaration of the composition on the labeling submitted with the application.

(b) A statement that the proposed use of the animal feed described conforms to the applicable regulation published in accordance with section 512(i) of the act.

(c) A fully completed application Form FD–1800 signed by an authorized representative of the firm.

(d) One copy of the final printed labeling attached to each copy of the FD–1800.

§ 135.5 Certification of new animal drugs containing any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or derivative thereof.

(a) *New animal drugs subject to the provisions of section 512(n) of the act.* New animal drugs that contain or purport to contain any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or derivative thereof shall conform to:

(1) The specifications included in applicable monographs published pursuant to section 512(n) of the act, and

(2) The conditions of use specified in regulations published pursuant to section 512(i) of the act.

(b) *New animal drugs subject to the provisions of section 512(n) of the act and intended for use as components of animal feed.* Penicillin, streptomycin, chlortetracycline, bacitracin, feed grade bacitracin, feed grade manganese bacitracin, feed grade zinc bacitracin, and bacitracin methylene disalicylate intended for use solely in the manufacture of one or more of the medicated animal feeds described in Part 135e of this chapter, and conspicuously so labeled, shall be exempt from the certification requirements of section 512(n) of the act if its manufacturer, packer, or distributor:

(1) Holds an approval for such a drug as published in accordance with section 512(i) of the act; and

(2) Holds an effective permit from the Commissioner issued under the provisions of § 144.7 of this chapter authorizing shipment for manufacturing use to such establishment.

(c) *Animal feeds subject to the provisions of section 512(m) of the act and bearing or containing a new animal drug subject to the provisions of section 512(n).* An animal feed that bears or contains or purports to bear or contain penicillin, streptomycin, chlortetracycline, or bacitracin, or any derivative thereof, shall be exempted from the requirements of section 512(m) of the act in accordance with the conditions specified in applicable regulations published in Part 135e of this chapter.

§ 135.6 Consignees of new animal drugs for use in the manufacture of animal feed.

(a) A new animal drug intended for use in the manufacture of animal feed shall be deemed to be unsafe unless at the time of its removal from the establishment of a manufacturer, packer, or distributor of such drug, such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or a notice from the Secretary, to the effect that with respect to the use of such drug in animal feed the consignee:

(1) Is the holder of an approved application under § 135.4b; or

(2) Will, if the consignee is not a user of the drug, ship such drug only to a holder of an approved application under § 135.4b.

(b) The requirements of paragraph (a) of this section do not apply:

(1) Where such drugs are intended for export and/or

(2) When the use of such drug in the manufacture of a finished feed has been exempted from the requirements of section 512(m) of the act under the conditions specified by regulations published in Part 135e.

§ 135.7 Filing of applications; refusal to file applications.

(a) The date of receipt of an application for a new animal drug shall be the date on which the application shall be deemed to be filed.

(b) An application for a new animal drug shall not be considered acceptable for filing for any of the following reasons:

(1) It does not contain complete and accurate English translations of any pertinent part in a foreign language.

(2) Fewer than three copies are submitted.

(3) It is incomplete on its face in that it is not properly organized and indexed.

(4) On its face the information concerning required matter is so inadequate that the application is clearly not approvable.

(5) The new animal drug is to be manufactured, prepared, propagated, compounded, or processed in whole or in part in any State in an establishment that has not been registered or exempted from registration under the provisions of section 510 of the act.

(6) The sponsor does not reside or maintain a place of business within the United States and the application has not been countersigned by an attorney, agent, or other representative of the applicant, which representative resides in

the United States and has been duly authorized to act on behalf of the applicant and to receive communications on all matters pertaining to the application.

(7) The new animal drug is a drug subject to licensing under the animal virus, serum, and toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.). Such applications will be referred to the U.S. Department of Agriculture for action.

(c) If an application is determined not to be acceptable for filing, the applicant shall be notified within 30 days of receipt of the application and shall be given the reasons therefore.

(d) If the applicant disputes the findings that his application is not acceptable for filing, he may make written request that the application be filed over protest, in which case it will be filed as of the day originally received.

§ 135.8 Evaluation and comment on applications.

(a) After the filed application has been evaluated, the applicant will be furnished written comment on any apparent deficiencies in the application.

(b) When the description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug appears adequate on its face, but it is not feasible to reach a conclusion as to the safety and effectiveness of the new animal drug solely from consideration of this description, the applicant may be notified that an establishment inspection is required to verify their adequacy.

(c) A request for samples of a new animal drug or any edible tissues and byproducts of animals treated with such a drug, shall specify the quantity deemed adequate to permit tests of analytical methods to determine their adequacy for regulatory purposes. The request should be made as early in the 180-day period as possible to assure timely completion. The date used for computing the 180-day limit for the purposes of section 512(c) of the act shall be moved forward 1 day for each day after the mailing date of the request until all of the requested samples are received. If the samples are not received within 90 days after the request, the application will be considered withdrawn without prejudice.

(d) The information contained in an application may be insufficient to determine whether a new animal drug is safe or effective in use if it fails to include (among other things) a statement showing whether such drug is to be limited to prescription sale and exempt under section 502(f) of the act from the requirement that its labeling bear adequate directions for lay use. If such drug is to be exempt, the information may also be insufficient if:

(1) The specimen labeling proposed fails to bear adequate information for professional use including indications, effects, dosages, routes, methods, and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer such drug can use the drug for the purposes for which it is intended, including all purposes for which it is to be advertised, or represented, in accordance with § 1.106(c) of this chapter, and information concerning hazards, contraindications, side effects, and precautions relevant with respect to any uses for which such drug is to be prescribed.

(2) The application fails to show that the labeling and advertising of such drug will offer the drug for use only under those conditions for which it is offered in the labeling that is part of the application.

(3) The application fails to show that all labeling that furnishes or purports to furnish information for professional use of such drug will contain, in the same language and emphasis, the information for use including indications, effects, dosages, routes, methods, and frequency and duration of administration and any relevant warnings, hazards, contraindications, side effects, and precautions, which is contained in the labeling that is part of the application in accordance with § 1.106(c) of this chapter.

(e) The information contained in an application will be considered insufficient to determine whether a new animal drug is safe and effective for use when there is a refusal or failure upon written notice to furnish inspectors authorized by the Food and Drug Administration an adequate opportunity to inspect the facilities, controls, and records pertinent to the application.

(f) On the basis of preliminary consideration of an application or supplemental application containing typewritten or other draft labeling in lieu of final printed labeling, an applicant may be informed that such application is approvable when satisfactory final printed labeling identical in content to such draft copy is submitted.

(g) When an application has been found incomplete on the basis of a need for the kind of information described in § 135.9, such application shall be considered withdrawn without prejudice to future filing on the date of issuance of the letter citing the inadequacies contained in the application, unless within 30 days the sponsor chooses to avail himself of the opportunity for hearing as prescribed by § 135.12.

§ 135.9 Amended applications.

The applicant may submit an amendment to an application that is pending, including changes that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the drug or the adequacy of the manufacturing methods, facilities, and controls to preserve them, in which case the unamended application may be considered as withdrawn and the amended application may be considered resubmitted on the date on which the amendment is received by the Food and Drug Administration. The applicant will be notified of such date.

§ 135.10 Withdrawal of applications without prejudice.

The sponsor may withdraw his pending application from consideration as a new animal drug application upon written notification to the Food and Drug Administration. Such withdrawal may be made without prejudice to a future filing. Upon resubmission, the time limitation will begin to run from the date the resubmission is received by the Food and Drug Administration. The original application will be retained by the Food and Drug Administration although it is considered withdrawn. The applicant shall be furnished a copy at cost on request.

§ 135.11 Approval of applications.

(a) Within 180 days after an application has been filed pursuant to § 135.4a, if the Commissioner determines that none of the grounds for denying approval specified in section 512(d) of the act applies:

(1) He shall forward for publication in the FEDERAL REGISTER a regulation prescribing the conditions under which the new animal drug may be used, including the name and address of the applicant; the conditions and indications for use covered by the application; any tolerance, withdrawal period, or other use restrictions; any tolerance required for the new animal drug substance or its metabolites in edible products of food-producing animals; and, if such new animal drug is intended for use in animal feed, appropriate purposes and conditions of use (including special labeling requirements) applicable to any animal feed; and such other information the Commissioner deems necessary to assure safe and effective use.

(2) He shall notify the applicant by sending him a copy of the proposed publication as described in subparagraph (1) of this paragraph.

(b) Within 90 days after an application filed pursuant to § 135.4b if the Commissioner determines that none of the grounds for denying approval specified in section 512(m)(3) of the act applies, he shall notify the applicant that it is approvable by signing and mailing to the sponsor the original copy of the FD-1800.

§ 135.12 Refusal to approve an application.

(a) The Commissioner shall, within 180 days after the filing of the application, inform the applicant in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application, if the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to a new animal drug, that:

(1) The reports of investigations required to be submitted pursuant to section 512(b) of the act do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; or

(2) The results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; or

(3) The methods used in and the facilities and controls used for, the manufacture, processing, and packing of such drugs are inadequate to preserve its identity, strength, quality, and purity; or

(4) There is insufficient information to determine whether such drug is safe for use under such conditions. In making this determination the Commissioner shall consider, among other relevant factors:

(i) The probable consumption of such drug and of any substances formed in or on food because of the use of such drug;

(ii) The accumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substances;

(iii) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data; and

(iv) Whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice; or

(5) There is a lack of substantial evidence based upon adequate and well-controlled investigations that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof. An adequate and well-controlled investigation must satisfy the following criteria:

(i) A clear statement of the objective of the study is provided.

(ii) The method of selection of the animals to be studied and those to serve as controls provides for:

(*a*) Adequate confirmation of the disease or clinical state present, including criteria of diagnosis and any appropriate confirmatory laboratory tests.

(*b*) Assignment of the animals and control groups to test under conditions which exclude or minimize bias.

(iii) An outline and explanation of the methods of quantitation and observation of the parameters studied in the subjects.

(iv) A description of the steps taken to document comparability of variables such as species, age, sex, duration, and severity of disease, management practices, and use of drugs other than those being studied.

(v) A description of the methods of recording and analyzing the animal response variables studied and the means of excluding bias or minimizing bias in the observations.

(vi) A precise statement of the nature of the control group against which the effects of the new treatment modality can be compared. Three types of controlled comparisons are possible:

(*a*) Placebo control: The new animal drug entity may be compared quantitatively with an inactive placebo control. The level of blinding may affect the validity of the observation and comparisons.

(*b*) Active drug control: The new animal drug entity may be compared quantitatively with another drug or modality known to be effective.

(*c*) Historical control: In some circumstances involving diseases with high and predictable mortality or with signs and symptoms of predictable duration or severity, the results of use of a new animal drug entity may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease in comparable animals with no treatment or with treatment with an established effective therapeutic regimen.

(vii) A summary of statistical methods used in analysis of the data derived from the subjects.

Provided, however, That any of the above criteria in this subparagraph (5) may be waived in whole or in part, either prior to the investigation or in the evaluation of a completed study, by the Director of the Bureau of Veterinary Medicine with respect to a specific clinical investigation. A petition for such a waiver may be filed by any person who would be adversely affected by application of the criteria to a particular clinical investigation. The petition should show that some or all of the criteria are not reasonably applicable to the investigation and that alternative procedures can be or have been followed, the results of which will or have yielded data that can and should be accepted as substantial evidence of the drug's effectiveness. A petition for a waiver shall set forth clearly and concisely the specific provision or provisions in the criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular clinical investigation, what alternative procedures, if any, are to be or have been employed, what results have been obtained, and the basis on which it can be or has been concluded that the clinical investigation will or has yielded substantial evidence of effectiveness, notwithstanding nonconformance with the criteria for which waiver is requested.

(viii) Standardized test drug: For such an investigation to be considered adequate for consideration for approval of a new animal drug, the test drug must be standardized as to identity, strength, quality, purity, and dosage form to give significance to the results of the investigation.

Uncontrolled studies or partially controlled studies are not acceptable as the sole basis for the approval of claims of effectiveness. Such studies, carefully conducted and documented, may provide corroborative support of well-controlled studies regarding efficacy and may yield valuable data regarding safety of the test drug. Such studies will be considered on their merits in the light of the principles listed here, with the exception of the requirement for the comparison of the treated subjects with controls. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered.

(6) Failure to include an appropriate proposed tolerance for residues in edible products derived from animals or a withdrawal period or other restrictions for use of such drug if any tolerance or withdrawal period or other restrictions for use are required in order to assure that the edible products derived from animals treated with such drug will be safe.

(7) Based on a fair evaluation of all material facts, the labeling is false or misleading in any particular; or

(8) Such drug induces cancer when ingested by man or animal or, after appropriate tests for evaluation of the safety of such drug, induces cancer in man or animal, except that this subparagraph shall not apply with respect to such drug if the Commissioner finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice:

(i) Such drug will not adversely affect the animal for which it is intended; and

(ii) No residue of such drug will be found (by methods of examination prescribed or approved by the Commissioner by regulations) in any edible portion of such animal after slaughter or in any food yielded by, or derived from the living animals.

(b) The Commissioner shall within 90 days after the filing of the application inform the applicant in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application, if the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to an animal feed bearing or containing a new animal drug, that:

(1) There is not in effect a regulation established pursuant to section 512(i) of the act (identified in such application) on the basis of which such application may be approved; or

(2) Such animal feed (including the proposed use of any new animal drug therein or thereon) does not conform to an applicable regulation published pursuant to section 512(i) of the act (identified in such application), or that the purposes or conditions or indications of use prescribed, recommended, or suggested in the labeling of such feed do not conform to the applicable purposes and conditions or indications for use (including warnings) published pursuant to section 512(i) of the act or such labeling omits or fails to conform to other applicable information published pursuant to such section; or

(3) The methods used in and the facilities and controls used for the manufacturing, processing, and packaging of such animal feed are not adequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

(4) Based on a fair evaluation of all the material facts, such labeling is false or misleading in any particular.

(c) The Commissioner, as provided in § 135.15 of this chapter, shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable, unless by the 30th day following the date

of issuance of the letter informing the applicant of the intention to issue a notice of opportunity for a hearing the applicant:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing.

§ 135.13a Supplemental new animal drug applications.

(a) (1) After a new animal drug application is approved, a supplemental new animal drug application may propose changes. A supplemental application may omit statements made in the approved application concerning which no change is proposed. Each supplemental application shall include up-to-date reports of any of the kinds of information required by § 135.14a(a) that has not previously been submitted.

(2) A supplemental new animal drug application shall be submitted for any change beyond the variations provided for in the application, including changes in the scale of production such as from pilot-plant to production batch, that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the new animal drug, or the adequacy of the manufacturing methods, facilities, or controls to preserve them.

(3) If it is a prescription drug, any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application, unless:

(i) The parts of the labeling furnishing directions, warnings, and information for use of the drug are the same in language and emphasis as labeling approved or permitted; and

(ii) Any other parts of the labeling are consistent with and not contrary to such approved or permitted labeling.

(4) The supplemental application shall be submitted as follows—A communication proposing a change in a new animal drug application should provide for any one of the following kinds of changes:

(i) Revision in labeling, such as updating information pertaining to effects, dosages, and side effects and contraindications, which includes information headed "side effects," "warnings," precautions," and "contraindications."

(ii) Addition of claim.

(iii) Revision in manufacturing or control procedures; for example, changes in components, composition, method of manufacture, analytical control procedures, package or tablet size, etc.

(iv) Change in manufacturing facilities.

(v) Provision for outside firm to participate in the preparation, distribution, or packaging of a new animal drug (new distributor, packer, supplier, manufacturer, etc.); one firm per submission.

Any number of changes may be submitted at any one time; but if they fall into different categories as listed in subdivisions (i) through (v) of this subparagraph, the proposed changes should be covered by separate communications. Where, however, a change necessitates an overlap in categories, it should be submitted in a single communication. For example, a change in tablet potency would require other changes such as in components, composition, and labeling and should be submitted in a single communication.

(5) The following kinds of changes may be placed into effect without the approval of a supplemental application, if such change is fully described in the next periodic report required under § 135.14a(b)(4) or, when such a report is not required, in a written communication to the Food and Drug Administration within 60 days of the effective date of the change (this does not apply to a change proposed because of any mixup or any bacteriological or significant chemical, physical, or other change or deterioration in the drug or any failure of one or more distributed batches of the drug to meet its specifications):

(i) A different container size for solid oral dosage forms where container and closure are of the same materials as those provided for in the approved application.

(ii) Change in personnel not involving new facilities.

(iii) Change in equipment that does not alter the method of manufacture of a new animal drug.

(iv) Change from one commercial batch size to another without any change in manufacturing procedure.

(v) Change to more stringent specification without altering the method described in the approved application.

(vi) Inclusion of additional specifications and methods without deletion of those described in the approved application.

(vii) Alteration of specifications or methods for inactive ingredients to bring them into compliance with new or revised specifications or methods in an official compendium.

(viii) Initiation of a product identification coding system.

(ix) Addition to labeling of a reasonable expiration date where none was previously used, with related conditions of drug storage when appropriate, except when evidence shows that a significant deterioration of the drug under marketing conditions has occurred which necessitates the immediate submission of a report under § 135.14a(b)(1). The report or written communication describing such change in labeling should include stability data justifying the expiration date and recommended conditions of storage.

(x) Change from paper labels to direct printing on glass or other kinds of immediate containers without a change in text.

(6) Approval of a supplemental new animal drug application, will not be required to provide for an additional distributor to distribute a drug which is the subject of an approved new animal drug application if the conditions described below are met prior to putting such a change into effect. An order may issue refusing approval if any condition is not met or if any of the reasons for refusing or withdrawing approval, as stated in section 512 (d) and (e) of the act or § 135.7 applies. For the purposes of maintaining records and making reports under the requirements of § 135.14a, a distributor provided for under this section shall be considered an "applicant" within the meaning of § 135.14a(b). Said conditions are:

(i) A supplemental application is furnished to the Food and Drug Administration to provide for a designated distributor.

(ii) There are no changes from the conditions of the approved application except for a different and suitable proprietary name of the new animal drug (if one is used) and the name and address of the distributor as used on the label and labeling. The name of the distributor shall be accompanied by an appropriate qualifying phrase such as "manufactured for" or "distributed by."

(iii) A distributor's statement is furnished to the Food and Drug Administration identifying the category of his operations (for example, wholesaler, retailer) and stating: That he will distribute the new animal drug only under the labeling provided for in the new animal drug application; that any other labeling or advertising for the drug will prescribe, recommend, or suggest its use only under the conditions stated in the labeling provided for in the application; and, if the drug is a prescription article, that he is regularly and lawfully engaged in the distribution or dispensing of presciption drugs.

(iv) Nine copies of the printed labels and other labeling to be used by the distributor are submitted, identified with the new animal drug application number.

(b) When necessary for the safety or effectiveness of the drug, a supplemental new animal drug application shall specify a period of time within which the proposed change will be made.

(c) If a material change is made in the components' composition, manufacturing methods, facilities, or controls, or in the labeling or advertising, from the representations in an approved application for a new animal drug (except changes conforming to the conditions set forth in paragraph (a) (5) and (6) and/or paragraphs (d), (e), (f), and (g) of this section), and the drug is marketed before a supplement is approved for such change, approval of the application may be suspended or withdrawn as provided in section 512(e) of the act.

(d) Changes of the following kinds proposed in supplemental new animal drug applications should be placed into effect at the earliest possible time:

(1) The addition to package labeling, promotional labeling, and prescription drug advertising of additional warning, contraindication, side effect, and precaution information.

(2) The deletion from package labeling, promotional labeling, and drug advertising of false, misleading, or unsupported indications for use or claims for effectiveness.

(3) Changes in the methods, facilities, or controls used for the manufacture, processing, packing, or holding of the new animal drug (other than utilization of establishments not covered by the approval that is in effect) that give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity which it purports or is represented to possess.

(e) The Food and Drug Administration will take no action against a new animal drug or applicant solely because changes of the kinds described in paragraph (d) of this section are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application if all the following conditions are met:

(1) The supplemental new animal drug application providing a full explanation of the basis for the changes has been submitted, plainly marked on the mailing cover and on the supplement, "Special new animal drug application supplement—changes being effected."

(2) The applicant specifically informs the Food and Drug Administration of the date on which such changes are being effected and submits to the Administration nine printed copies of any revised labeling to be placed in use, identified with the new animal drug application number.

(3) All promotional labeling and all drug advertising are promptly revised consistent with the changes made in the labeling on or within the new animal drug package.

(f) When a supplemental new animal drug application proposes changes only of the kinds described in paragraph (d) of this section, and the applicant informs the Food and Drug Administration that the changes are being put into effect, such notification will be regarded as an agreement by the applicant to an extension of the time for formal action on the application.

(g) In addition to changes as permitted by paragraphs (d) and (e) of this section, an applicant may place into effect changes proposed in a supplement to a new animal drug application that became effective prior to October 10, 1962, upon written notification from the Food and Drug Administration that such action is permitted, without approval of the supplemental application, pending the completion of the review of the effectiveness of such drug by the National Academy of Sciences-National Research Council and a determination as to whether there are grounds for refusing approval under section 512(d) of the act or for invoking section 512(e) of the act. The Food and Drug Administration will take no action against a new animal drug or an applicant solely because changes that have been permitted in a written communication are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application.

(h) Except as provided in paragraphs (e) and (g) of this section, no provision of this section shall limit the authority of the Secretary or of the Commissioner to suspend or withdraw approval of a new animal drug application in accord with the provisions of section 512(e) of the act or to initiate any other regulatory proceedings with respect to a drug or applicant under provisions of the act.

(i) Changes from the conditions of an approved new animal drug application in accord with the provisions of paragraphs (d), (e), and (g) of this section are permitted on the basis of a temporary deferral of final action on the supplemental application under the provisions of section 512 (c), (d), or (e) of the act.

(j) When an applicant receives written notification from the Food and Drug Administration, under the provisions of paragraph (g) of this section, that he may place into effect changes proposed in a supplemental application without approval of the supplemental application, he may within 30 days submit a written request that the Food and Drug Administration process the supplemental application. In such case, the change shall not be put into effect until approved. Within 180 days of the receipt of such written request, the Food and Drug Administration will approve the supplemental application or furnish notice of an opportunity for a hearing under the provisions of section 512(d) or (e), or both, of the act on a proposal to refuse approval of the supplemental application or to withdraw approval of the application and supplements thereto.

(k) A supplement to an application that became effective prior to October 10, 1962, may include a written statement to the effect that a temporary deferral of final action under the provisions of paragraphs (d), (e), or (g) of this section is unacceptable to the applicant and that the applicant requests action as provided in section 512(c) of the act. Final action on such supplemental applications will be expedited in accord with applicable provisions of section 512 of the act and regulations in this Part 135. In such cases, if the applicant places into effect any of the proposed changes prior to his receipt of a written notice of approval of the supplemental new animal drug application, such action may be regarded by the Food and Drug Administration as a basis for invoking the provisions of section 512(e)(1)(D) of the act; that is, the applicant may be furnished notice of an opportunity for a hearing on a proposal to withdraw approval of the application on the ground that the application contains an untrue statement of a material fact related to the changes from the conditions approved in the application.

§ 135.13b Supplemental applications for animal feeds bearing or containing new animal drugs.

(a) After an application for an animal feed bearing or containing a new animal drug has been approved, a supplemental application may propose changes.

(b) A supplemental application shall be submitted for any change which deviates from the conditions under which the application was originally approved.

(c) Each supplemental application shall be accompanied by a fully completed Form FD 1800 in triplicate including an explanation of the changes proposed.

§ 135.14a Records and reports concerning experience with new animal drugs for which an approved application is in effect.

(a) On receiving notification that an application submitted pursuant to § 135.4a for a new animal drug is approved, the applicant shall establish and maintain such records and make such reports as are specified in this section to facilitate a determination as to whether there may be grounds for suspending or withdrawing approval of the application or whether any applicable regulation should be amended or repealed. The applicant shall maintain adequately organized and indexed files containing full reports of information pertinent to the safety or effectiveness of the new animal drug that have not previously been submitted as part of his application for the drug and which are received or otherwise obtained by him from any source, as follows:

(1) Unpublished reports of clinical or other animal experience, studies, investigations, and tests conducted by the applicant or reported to him by any person involving the new animal drug that is the subject of the application or any related drugs. An adequate summary and bibliography of reports in the scientific literature would ordinarily suffice. (The application must identify at the time of each report submission, each drug he considers related to the subject drug.)

(2) Experience, investigations, studies, or tests involving the chemical or physical properties or any other properties of the new animal drug, such as its behavior or properties in relation to microoganisms, including both the effects of the drug on micro-organisms and the effect of micro-organisms on the drug.

(3) For information required by this section, adequate identification of its source, when known, including the name and post office address of the person who furnishes such information.

(4) Copies of all mailing pieces and other labeling, and, if it is a prescription new animal drug, all advertising other than that contained in the application used in promoting the drug, and copies of the currently used package labeling that gives full information for use of the drug whether or not such labeling is contained in the application.

(5) Information concerning the quantity of the new animal drug distributed in a manner and from that facilitates estimates of the incidence of any adverse effects reported to be associated with the use of the drug. This does not require disclosure of financial, pricing, or sales data.

(6) Information concerning any previously unreported changes from the conditions described in an application conforming to the conditions of § 135.13 a(a)(5).

(b) The applicant shall submit to the Food and Drug Administration copies of

the records and reports described in paragraph (a) of this section (except routine assay and control records), appropriately identified with the new animal drug application(s) to which they relate, as follows:

(1) Immediately upon receipt by the applicant, complete records or reports covering information of the following kinds:

(i) Information concerning a mixup in the new animal drug or its labeling with another article.

(ii) Information concerning any bacteriological or significant physical or other change or deterioration in the new animal drug, or any failure of one or more distributed batches of the drug to meet the specifications established for it in the new animal drug application.

(2) As soon as possible, and in any event within 15 working days of its receipt by the applicant, complete records of reports concerning any information of the following kinds:

(i) Information concerning any unexpected side effects, injury, toxicity, or sensitivity reaction or any unexpected incidence or severity thereof associated with clinical use, studies, investigations, or tests, whether or not determined to be attributable to the new animal drug, except that this requirement shall not apply to the submission of information described in a written communication to the applicant from the Food and Drug Administration as types of information that may be submitted at other designated intervals. "Unexpected" as used in this subdivision refers to conditions or developments not previously submitted as part of the new animal drug application, or conditions and developments occurring at a rate higher than that shown by information previously submitted as part of the application.

(ii) Information concerning any unusual failure of the new animal drug to exhibit its expected pharmacological activities.

(3) When mailing pieces, any other labeling, and advertising are devised for promotion of the new animal drug, specimens shall be submitted at the time of initial dissemination of such labeling and at the time of initial publication of any advertisement for a prescription drug. Mailing pieces and labeling designed to contain samples of a drug shall be complete except for the omission of the drug.

(4) All the kinds of information described in paragraph (a) of this section, other than that submitted under the provisions of subparagraphs (1), (2), and (3) of this paragraph, shall be submitted as follows unless otherwise ordered in a written communication from the Commissioner:

(i) At intervals within 6 months beginning with the date of approval of the new animal drug application during the first year following such date, and at yearly intervals thereafter.

(ii) Whenever an applicant is required to submit reports under the provisions of subdivision (i) of this subparagraph with respect to more than one approved application for preparations containing the same new animal drug so that the same item(s) of information is (are) required to be reported for more than one application, he may elect to submit as a part of the report for one such application all the information common to such applications in lieu of reporting separately and repetitively on each. The applicant shall state when this is done and identify all the new animal drug applications for which the reports are submitted.

(iii) The submitted copies of records and reports shall include all the required information that was received or otherwise obtained by the applicant during the designated intervals.

(5) On written order of the Commissioner, within the time stated in such order or agreed to by the applicant and the Commissioner, any designated records or reports, containing the kinds of information described in this section shall be submitted.

(c) The applicant shall, upon request of any properly authorized officer or employee of the Department at reasonable times, permit such officers to have access to any copy and verify any records and reports established and maintained under the provisions of this section.

(d) If the Food and Drug Administration finds that the applicant has failed to establish a system for maintaining required records or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with the provisions of this section, or that the applicant has refused to permit access to or copying of, or verification of such records or reports, the Commissioner shall give the applicant notice and opportunity for a hearing on the question of whether to withdraw the approval of the application, as provided in § 135.15.

(e) Upon written request of the applicant stating reasonable grounds therefor, the Commissioner will make available any information in possession of the Food and Drug Administration of the kinds the applicant is required to maintain under the provisions of this section, except information readily available to the applicant from other sources or information which the Commissioner concludes is confidential.

(f) The "applicant" required to establish and maintain records and make reports required by this section includes any person whose name appears on the labeling of the drug as its manufacturer, packer, or distributor under an approval or who is engaged in the manufacturing, processing, packing, or labeling of the drug under an approval of the new animal drug application or any supplement to it; however, to avoid unnecessary duplication in the submission of reports, any such applicant's obligation to submit a report may be met by its submission on his behalf, designated as such, by another person responsible for reporting.

§ 135.14b Records and reports concerning experience with animal feeds bearing or containing new animal drugs for which an approved application is in effect.

Records and reports of clinical and other experience with the new animal drug will be maintained and reported (appropriately identified with the new animal drug application(s) to which they relate) to the Bureau of Veterinary Medicine in duplicate in accordance with the following:

(a) Immediately upon receipt by the applicant, complete records or reports covering information of the following kinds:

(1) Information concerning any mixup in the new animal drug or its labeling with another article.

(2) Information concerning any bacteriological, or any significant chemical, physical, or other change or deterioration in the drug, or any failure of one or more distributed batches of the drug to meet the specifications established for it in the new animal drug application.

(b) As soon as possible, and in any event within 15 working days of its receipt by the applicant, complete records or reports concerning any information of the following kinds:

(1) Information concerning any unexpected side effect, injury, toxicity, or sensitivity reaction or any unexpected incidence or severity thereof associated with clinical uses, studies, investigations, or tests, whether or not determined to be attributable to the new animal drug, except that this requirement shall not apply to the submission of information described in a written communication to the applicant from the Food and Drug Administration as types of information that may be submitted at other designated intervals. "Unexpected" as used in this subparagraph refers to conditions or developments not previously submitted as part of the new animal drug application or not encountered during clinical trials of the drug, or conditions or developments occurring at a rate higher than shown by information previously submitted as part of the new animal drug application or at a rate higher than encountered during such clinical trials.

(2) Information concerning any unusual failure of the new animal drug to exhibit its expected pharmacological activity.

§ 135.15 Contents of notice of opportunity for a hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner to refuse to approve an application or to withdraw the approval of an application will specify the grounds upon which he proposes to issue his order. On request of the applicant, the Commissioner will explain the reasons for his action. The notice of opportunity for a hearing will be published in the FEDERAL REGISTER and will specify that the applicant has 30 days after issuance of the notice within which he is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant elects to avail himself of the opportunity for a hearing, he is required to file a written appearance requesting the hearing within 30 days after the publication of the notice,

giving the reason why the application should not be refused or should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the withdrawal of approval of the application (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner will enter an order on this data, stating his findings and conclusions. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. In the case of denial of approval, such time shall be not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree; and, in the case of withdrawal of approval, such time shall be as soon as practicable.

(c) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in his appearance.

§ 135.16 Failure to file an appearance.

If the applicant fails to file a written appearance in answer to the notice of opportunity for a hearing, his failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner without further notice may enter a final order.

§ 135.17 Appearance of applicant.

If the applicant elects to avail himself of the opportunity for the hearing, he may appear in person or by counsel. If the applicant desires to be heard through counsel, the counsel will file with the hearing examiner a written appearance.

§ 135.18 Hearing examiner.

The hearing will be conducted by a hearing examiner appointed as provided in 5 U.S.C., § 3105, and designated for conducting the hearing. Any such designation may be made or revoked by the Commissioner at any time. Hearings will be conducted in an informal but orderly manner in accordance with these regulations and the requirements of the administrative procedure provisions of 5 U.S.C. The hearing examiner will have the power to administer oaths and affirmations, to rule upon offers of proof and the admissibility of evidence, to receive relevant evidence, to examine witnesses, to regulate the course of the hearing, to hold conferences for the simplification of the issues, and to dispose of procedural requests, but will not have the power to decide any motion that involves final determination of the merits of the proceeding.

§ 135.19 Prehearing and other conferences.

The hearing examiner, on his own motion or on the motion of the applicant or the Food and Drug Administration, may direct all parties or their representatives to appear at a specified time and place for a conference to consider:

(a) The simplification of the issues.

(b) The possibility of obtaining stipulations, admissions of facts, and documents.

(c) The limitation of the number of expert witnesses.

(d) The scheduling of witnesses to be called.

(e) The advance submission of all documentary evidence.

(f) Such other matters as may aid in the disposition of the proceeding.

The hearing examiner shall make an order: Reciting the action taken at the conference, the agreements made by the parties or their representatives, and the schedule of witnesses for the hearing; and limiting the issues for the hearing to those not disposed of by admissions or agreements. Such order will control the subsequent course of the proceeding unless modified for good cause by subsequent order. The hearing examiner may also direct all parties and their representatives to appear at conferences at any time during the hearing with a view to simplifying, clarifying, or shortening the hearing.

§ 135.20 Submission of documentary evidence in advance.

(a) All documentary evidence to be offered at the hearing shall be submitted to the hearing examiner and to the parties sufficiently in advance of the offer of such documentary evidence for introduction into the record to permit study and preparation of cross-examination and rebuttal evidence.

(b) The hearing examiner after consultation with the parties at a conference called in accordance with § 135.19 shall make an order specifying the time at which documentary evidence shall be submitted. He shall also specify in his order the time within which objections to the authenticity of such documents must be made to comply with paragraph (d) of this section.

(c) Documentary evidence not submitted in advance in accordance with the requirements of paragraphs (a) and (b) of this section shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner.

(d) The authenticity of all documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the hearing examiner upon notice to the other parties within the time specified by the hearing examiner in accordance with paragraph (b) of this section, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 135.21 Excerpts from documentary evidence.

When only portions of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts so prepared and submitted shall be received in the record; however, the whole of the original document shall be made available for examination and for use by opposing counsel for purposes of cross-examination.

§ 135.22 Submission and receipt of evidence.

(a) Each witness, before proceeding to testify, shall be sworn or make affirmation.

(b) When necessary in order to prevent undue prolongation of the hearing, the hearing examiner may limit the number of times any witness may testify, the repetitious examination and cross-examination of witnesses, or the amount of corroborative or cumulative evidence.

(c) The hearing examiner shall admit only evidence that is relevant, material, and not unduly repetitious.

(d) Opinion evidence shall be admitted when the hearing examiner is satisfied that the witness is properly qualified.

(e) If any person objects to the admission or rejection of any evidence, or other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the hearing examiner. A ruling on any such objection, together with such offer of proof as has been made, shall be a part of the transcript.

§ 135.23 Transcript of testimony.

Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the hearing examiner of their authenticity, relevancy, and materiality, shall be received in evidence subject to the provisions of 5 U.S.C., § 556(d). Exhibits shall, if practicable, be submitted in quintuplicate. In case the required number of copies are not made available, the hearing examiner shall exercise his discretion as to whether said exhibit shall be read in evidence or

whether additional copies shall be required to be submitted within a time to be specified by the hearing examiner. Where the testimony of a witness refers to a statute, report, or document, the hearing examiner shall, after inquiry relating to the identification of such statute, report, or document, determine whether the same shall be produced at the hearing and physically be made a part of the evidence or shall be incorporated in the record by reference. Where relevant and material matter offered in evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the hearing examiner.

§ 135.24 Oral and written arguments.

(a) Unless the hearing examiner shall issue an announcement at the hearing authorizing oral argument before him, it shall not be permitted.

(b) The hearing examiner shall announce at the hearing a reasonable period within which the parties or their representatives may file written arguments based solely upon the evidence received at the hearing, citing the pages of the transcript of the testimony or of properly identified exhibits where such evidence occurs.

§ 135.25 Tentative order.

The hearing examiner within a reasonable time shall prepare tentative findings of fact and a tentative order, which shall be served upon the applicant and the Food and Drug Administration or sent to them by certified mail. If no exceptions are taken to the tentative order within 20 days or such other time specified in such order, that order shall become final in accordance with § 135.27.

§ 135.26 Exceptions to the tentative order.

Within 20 days or such other time specified in the tentative order, the applicant or the Food and Drug Administration may transmit exceptions to the hearing examiner, together with any briefs or argument in support thereof. If exception is taken to any tentative findings of fact, reference must be made to the pages or parts of the record relied upon, and a corrected finding of fact must be submitted. The applicant, if he files exceptions, shall state in writing whether he desires to make an oral argument.

§ 135.27 Issuance of final order.

Within a reasonable time after the filing of exceptions (if any), or after oral argument (if such argument is requested), the Commissioner shall issue the final order in the proceeding. The order will include the findings of fact upon which it is based.

§ 135.28 Withdrawal of approval of applications.

(a) The Secretary may suspend approval of an application approved pursuant to section 512(c) or section 512(m)(2) of the act and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing on a finding that there is an imminent hazard to the health of man or of the animals for which such new animal drug or animal feed is intended.

(b) The Commissioner shall notify in writing the person holding an application approved pursuant to section 512(c) or section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to withdraw approval of such application if he finds:

(1) That the application contains any untrue statement of a material fact; or

(2) That the applicant has made any changes from the standpoint of safety or effectiveness beyond the variations provided for in the application unless he has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application, or such changes are those for which written authorization or approval is not required as provided for in § 135.13a. The supplemental application shall be treated in the same manner as the original application.

(3) That in the case of an application for use of a new animal drug approved or deemed approved pursuant to section 512(c) of the act:

(i) Experience or scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the application was approved; or

(ii) New evidence not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved or that section 512(d)(1)(H) of the act applies to such drug; or

(iii) On the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

(c) The Commissioner may notify in writing the person holding an application approved pursuant to section 512(c) or section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to withdraw approval of such application if he finds:

(1) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under section 512(l)(1) or section 512(m)(5)(A) of the act, or the applicant has refused to permit access to, or copying, or verification of, such records as required by section 512(l)(2) or section 512(m)(5)(B) of the act; or

(2) That on the basis of new information before him evaluated together with the evidence before him when the application was approved, the methods used in, or the facilities and controls used for the manufacture, processing, and packing of such drug or animal feed are inadequate to assure and preserve its identity, strength, quality, and purity and were not made adequate within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

(3) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such drug or animal feed, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

(d) Approval of an application pursuant to section 512(c) or section 512(m)(2) of the act will be withdrawn on the basis of a request for its withdrawal submitted in writing by a person holding an approved new animal drug application on the grounds that the drug subject to such application is no longer being marketed and information is included in support of this finding, provided none of the conditions cited in paragraphs (a), (b), and (c) of this section pertain to the subject drug. A written request for such withdrawal shall be construed as a waiver of the opportunity for a hearing as otherwise provided for in this section. Withdrawal of approval of an application under the provisions of this paragraph shall be without prejudice.

(e) On the basis of the withdrawal of approval of an application for a new animal drug approved pursuant to section 512(c) of the act, the regulation published pursuant to section 512(i) of the act covering the conditions of use of such drug as provided for in the application shall be revoked. An application providing for the manufacture of animal feeds bearing or containing such drug and approved pursuant to section 512(m)(2) of the act shall be deemed as withdrawn upon publication in the FEDERAL REGISTER of the order revoking the corresponding regulation.

§ 135.29 Revocation of order refusing to approve an application, or suspending or withdrawing approval of an application.

The Commissioner, upon his own initiative or upon request of an applicant stating reasonable grounds therefor and if he finds that the facts so require, may issue an order approving an application that previously has had its approval refused, suspended, or withdrawn.

§ 135.30 Service of notices and orders.

All notices and orders under this Part 135 and section 512 of the act pertaining

to new animal drug applications shall be served:

(a) In person by any officer or employee of the Department designated by the Commissioner; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in the records of the Food and Drug Administration.

§ 135.31 Untrue statements in applications.

Among the reasons why an application for a new animal drug or animal feed bearing or containing a new animal drug may contain an untrue statement of a material fact are:

(a) Differences in:

(1) Conditions of use prescribed, recommended, or suggested by the applicant for the product from the conditions of such use stated in the application;

(2) Articles used as components of the product from those listed in the application;

(3) Composition of the product from that stated in the application;

(4) Methods used in or the facilities and controls used for the manufacture, processing, or packing of the product from such methods, facilities, and controls described in the application;

(5) Labeling from the specimens contained in the application; or

(b) If it is a supplement to an approved application and does not explain omissions in whole or in part from the original application or any amendment or supplement to it or from any record or report required under the provisions of section 512 of the act and § 135.14a or § 135.14b of any information obtained from:

(1) Investigations as to the safety, effectiveness, identity, strength, quality, or purity of the drug, made by the applicant on the drug, or

(2) Investigations or experience with the product that is the subject of the application, or any related product, available to the applicant from any source if such information is pertinent to an evaluation of the safety, effectiveness, identity, strength, quality, or purity of the drug, when such omission would bias an evaluation of the safety or effectiveness of the product.

§ 135.32 Judicial review.

The General Counsel of the Department of Health, Education, and Welfare is hereby designated as the officer upon whom copies of petitions for judicial review shall be served. Such officer shall be responsible for filing in the court a transcript of proceedings and the record on which the final orders were based. The transcript and record shall be certified by the Commissioner.

§ 135.33 Confidentiality of information contained in applications.

For the purpose of this section, the term "application" refers to applications submitted pursuant to section 512 (b) and (m) of the act.

(a) The Federal Food, Drug, and Cosmetic Act provides that any person may file with the Secretary an application with respect to any new animal drug, or animal feed bearing or containing any new animal drug, which shall include among other things a full list of the articles used as components and a full statement of the composition of such preparations. These requirements apply to all components or ingredients whether or not they are therapeutically active. Fulfillment of these requirements may be met by submitting a full statement of the chemical or common or usual name and of the quantity of each component or ingredient. Such requirements may also be met by including in the application a properly authorized reference to a previous application or other Food and Drug Administration file containing the relevant information.

(b) Section 301(j) of the act makes it an offense to divulge to unauthorized persons any information acquired from an application submitted pursuant to section 512 of the act concerning any method or process that is a trade secret. Manufacturers may sometimes submit data to the Food and Drug Administration for the purpose of establishing the safety of ingredients that may be used in drugs and authorize specified applicants to incorporate by reference such data in their applications. Such manufacturers may regard some of the data in such files as trade secrets and request the Food and Drug Administration to treat such information as confidential. The Food and Drug Administration will preserve the confidentiality of such data to the extent that it may properly do so. Because the applicant is legally responsible for the composition of the drug and all its ingredients and may require information in the other person's file for judicial or administrative proceedings concerning the drug, the Food and Drug Administration will not withhold such information from the applicant when his need for it arises and he submits a written request for it. The Food and Drug Administration will inform the person who submitted the data of any such requests.

§ 135.34 Notice of withdrawal of approval of application.

When an approval of an application submitted pursuant to section 512 of the act is withdrawn by the Commissioner, he will give appropriate public notice of such action by publication in the FEDERAL REGISTER.

§ 135.35 Records and reports on new animal drugs and antibiotics for use in animals for which applications or certification Forms 5 and 6 became effective or were approved prior to June 20, 1963.

(a) Each applicant for whom a new animal drug application or supplement for a drug for use in animals became effective or was approved at any time prior to June 20, 1963, each person holding an approved Form 5 or 6 for an antibiotic drug for use in animals at any time prior to June 20, 1963, and each person who has been manufacturing and/or marketing a product deemed approved under §§ 144.24 through 144.26 of this chapter, shall submit in duplicate the following information for each dosage form within 90 days from the effective date of this section:

(1) Identification of the dosage form of the new animal drug by its established and proprietary names, if any, the formula showing quantitatively each ingredient of the drug to the extent disclosed on the label (a copy of the label will ordinarily fulfill this requirement), the route of administration, and the new animal drug or other identification or application number.

(2) Whether the new animal drug was marketed and whether it is currently marketed.

(3) If the new animal drug was marketed and marketing has been discontinued, the date and reason for discontinuing its marketing.

(b) Such reports shall be addressed to the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Veterinary Medicine (VM–1), 5600 Fishers Lane, Rockville, Md. 20852, and shall be distinctly marked "New Animal Drug (or Antibiotic) Report," together with the applicable new animal drug application number, antibiotic account number, or other identification on the envelope.

(c) Reports showing that a new animal drug was not marketed or has been discontinued may be followed by publication in the FEDERAL REGISTER of a notice of a proposal to withdraw approval of such application, on any of the grounds specified in section 512 of the act, giving any interested person who would be adversely affected by such an order an opportunity to respond and avail himself of a hearing prior to the issuance of such order. This will allow any person distributing a new animal drug that was covered by an application held by a person who did not market the drug or who has abandoned marketing of the drug an opportunity to show cause why appproval of the application should not be withdrawn and why marketing of the drug should not be discontined.

§ 135.36 Export of new animal drug.

Before a new animal drug or an animal feed bearing or containing a new animal drug may be exported, it must comply with the regulations promulgated under section 512 of the act.

§ 135.37 Designated veterinary journals.

(a) The following journals, in addition to those listed in § 130.38 of this chapter, are available to the Food and Drug Administration and thus permit waiving of the submission of reprints and summaries covering reports contained in these journals to the extent that such requirements are waived in the regulations in this part:

All Pet's Magazine (Jersey City).
American Journal of Veterinary Research (Chicago).
Animal Health (Journal of the Animal Health Trust) (London).
Animal Nutrition & Health (Sausalito, Calif.).

Animal Production (Edinburgh).
Avian Diseases (Amherst).
British Poultry Science (Edinburgh).
Canadian Journal of Comparative Medicine and Veterinary Science (Gardenvale, Quebec).
Canadian Veterinary Journal (Guelph, Ontario).
Cornell Veterinarian (Ithaca).
Experimental Parasitology (New York).
The Feed Bag (Milwaukee).
Feedstuffs (Minneapolis).
Hoard's Dairyman (Fort Atkinson).
Journal of the American Veterinary Medical Association (Chicago).
Journal of Animal Science (Albany).
Journal of Dairy Science (Champaign).
Journal of Economic Entomology (Baltimore).
Journal of Small Animal Practice (London).
Modern Veterinary Practice (formerly North American Veterinarian) (Wheaton, Ill.).
National Hog Farmer (Grundy Center, Iowa).
New Zealand Veterinary Journal (Wellington).
Poultry Science (Guelph, Ontario).
Praktische Tierarzt (Postfach, Germany).
Research in Veterinary Science (Chicago).
Small Animal Clinician (Kansas City, Mo.).
Veterinaermedizin (Konstanz, Germany).
Veterinarian (London).
Veterinarian (International) (New York).
The Veterinary Bulletin (Farnham Royal, England).
Veterinary Medicine (Kansas City, Mo.).
Veterinary Record (Croydon, England).
Zentralblatt Fuer Veterinaermedizin Zentr. Veterinaermed (Berlin).

(b) By adding the following new sections to Subpart B:

§ 135.103 Drugs for use in milk-producing animals; labeling.

(a) Part 135d of this chapter provides for new animal drugs intended for intramammary use in animals and includes conditions of use intended to prevent the contamination of milk from the use of such drugs.

(b) Preparations containing antibiotics and other potent drugs labeled with directions for use in milk-producing animals will be misbranded under section 502(f)(2) of the act unless their labeling bears appropriate warnings and directions for use to avoid adulteration of milk under section 402(a)(2)(D) of the act.

(c) It is the position of the Food and Drug Administration that the labeling for such preparations should bear a clear warning that either:

(1) The article should not be administered to animals producing milk, since to do so would result in contamination of the milk; or

(2) The label should bear the warning, "Milk that has been taken from animals during treatment and within _____ hours (_____ milkings) after the latest treatment must not be used for food," the blanks to be filled in with the number of hours (not to exceed 96) and milkings that the manufacturer has determined by appropriate investigation is needed to insure that the milk will not carry residues resulting from use of the preparation. If the use of the preparation as recommended does not result in contamination of the milk, neither of the above warning statements is required.

§ 135.104 Use of poultry litter as animal feed.

(a) Poultry rations used today generally contain drugs used individually or in combination. The levels of drug use vary from very small quantities of antibiotic drugs for growth promotion to relatively large quantities of drugs for treatment of diseases. Consequently, poultry litter can be expected to contain drugs and antibiotic drugs or their metabolites. It is not practical to determine, or feasible to estimate, the nature and levels of the drugs and their metabolites in litter. Therefore, it is not possible to conclude that poultry litter is safe as a feed or as a component of feed for animals, nor is it possible to conclude that there will be no drug residues in the tissues and byproducts of animals fed poultry litter.

(b) Disease organisms may be transmitted from poultry to other animals through the use of poultry litter as animal feed. There are several diseases affecting poultry that can also affect cattle, hogs, and sheep as well as man. Thus such transmission of disease organisms from poultry to other animals and possibly to man constitutes a hazard to animals and to the public health.

(c) Therefore, the Food and Drug Administration has not sanctioned and does not sanction the use of poultry litter as a feed or as a component of feed for animals. Poultry litter subject to the jurisdiction of the Federal Food, Drug, and Cosmetic Act and offered for use as animal feed may be considered as adulterated within the meaning of section 402(a)(1), (2)(C), and/or (3) of the act.

§ 135.105 Animal feeds contaminated with Salmonella micro-organisms.

(a) Investigations by the Food and Drug Administration, the Center for Disease Control of the U.S. Public Health Service, the Animal Health Division of the Agricultural Research Service, U.S. Department of Agriculture, and by various State public health agencies have revealed that processed fish meal, poultry meal, meat meal, tankage, and other animal byproducts intended for use in animal feed may be contaminated with Salmonella bacteria, an organism pathogenic to man and animals. Contamination of these products my occur through inadequate heat treatment of the product during its processing or through recontamination of the heat-treated product during a time of improper storage or handling subsequent to processing.

(b) Articles used in food for animals are included within the definition of "food" in section 201(f) of the Federal Food, Drug, and Cosmetic Act. Further, Salmonella contamination of such animal feeds having the potentiality for producing infection and disease in animals must be regarded as an adulterant within the meaning of section 402(a) of the act. Therefore, the Food and Drug Administration will regard as adulterated within the meaning of section 402(a) of the act shipments of the following when intended for animal feed and encountered in interstate commerce and found upon examination to be contaminated with Salmonella micro-organisms: Bone meal, blood meal, crab meal, feather meal, fish meal, fish solubles, meat scraps, poultry meat meal, tankage, or other similar animal byproducts, or blended mixtures of these.

§ 135.106 Injectable iron preparations for veterinary use.

There has been an increasing interest in the use of injectable iron compounds for the prevention or treatment of iron-deficiency anemia in animals. Although some such preparations have been shown to be safe, such articles are regarded as new animal drugs within the meaning of the Federal Food, Drug, and Cosmetic Act. Accordingly, an approved new animal drug application is required prior to the marketing of such preparations within the jurisdiction of the act. In addition to the need for demonstrating the safety of such articles, the labeling of such preparations should not only recommend appropriate dosages of iron but also declare the amount (in milligrams) of available iron (Fe) per milliliter of the subject product.

§ 135.107 Exemption from certain drug-labeling requirements.

(a) Section 1.106(c)(3) of this chapter provides that in the case of certain drugs for which directions, hazards, warnings, and use information are commonly known to practitioners licensed by law, such information may be omitted from the dispensing package. Under this proviso, the Commissioner of Food and Drugs will offer an opinion, upon written request, stating reasonable grounds therefor on a proposal to omit such information from the dispensing package.

(b) The Commissioner of Food and Drugs has considered submitted material covering a number of drug products and has offered the opinion that the following drugs when intended for those veterinary uses for which they are now generally employed by the veterinary medical profession, should be exempt from the requirements of § 1.106(c)(3) of this chapter, provided that they meet the conditions prescribed in this paragraph. Preparations that are not in dosage unit form (for example, solutions) will be regarded as meeting the conditions with respect to the maximum quantity of drug per dosage unit if they are prepared in a manner that enables accurate and ready administration of a quantity of drug not in excess of the stated maximum per dosage unit:

Atropine sulfate. As an injectable for cattle, goats, horses, pigs, and sheep, not in excess of 15 milligrams per dosage unit; as an injectable for cats and dogs, not in excess of 0.6 milligram per dosage unit.

Barbital sodium. For oral use in cats and dogs, not in excess of 300 milligrams per dosage unit.

Epinephrine injection, 1 : 1,000. For cats, dogs, cattle, goats, horses, pigs, and sheep (except as provided in § 135.108).

Morphine sulfate. As an injectable for dogs, not in excess of 15 milligrams per dosage unit.

Pentobarbital sodium. For oral use in cats, and dogs, not in excess of 100 milligrams per dosage unit.

Phenobarbital sodium. For oral use in cats and dogs, not in excess of 100 milligrams per dosage unit.

Procaine hydrochloride injection. Containing not in excess of 2 percent procaine hydrochloride, with or without epinephrine up to a concentration of 1:50,000. For use in cats, dogs, cattle, goats, horses, pigs, and sheep.

Thyroid. For oral use in dogs, not in excess of 60 milligrams per dosage unit.

§ 135.108 Epinephrine injection 1:1,000 in 10-milliliter containers for emergency treatment of anaphylactoid shock in cattle, horses, sheep, and swine.

(a) Anaphylactoid reactions in cattle, horses, sheep, and swine occur occasionally from the injection of antibiotics, bacterins, and vaccines. Adequate directions for use of these antibiotics, bacterins, and vaccines can generally be written for use by the laity and thus are available to livestock producers. Epinephrine injection is effective for the treatment of anaphylactoid reactions in animals and would be of value in saving lives of animals if it were readily available at the time of administration of the causative agents. In connection with this problem the Food and Drug Administration has obtained the views of the Advisory Committee on Veterinary Medicine, and other experts, and has concluded that adequate directions for over-the-counter sale of epinephrine injection 1:1,000 can be prepared.

(b) In view of the above, the Commissioner of Food and Drugs has concluded that it is in the public interest to make epinephrine injection 1:1,000 available for sale without a prescription provided that it is packaged in vials not exceeding 10 milliliters and its label bears, in addition to other required information, the following statements in a prominent and conspicuous manner: "For emergency use only in treating anaphylactoid shock. Usual Dosage: Cattle, horses, sheep, and swine—1 cubic centimeter per 100 pounds of body weight. Inject subcutaneously."

(c) The labeling must also bear a description of the symptoms of anaphylactoid shock including glassy eyes, increased salivation, grinding of the teeth, rapid breathing, muscular tremors, staggering gait, and collapse with death following. These symptoms may appear shortly after injection of a bacterin, vaccine, or antibiotic.

PART 144—ANTIBIOTIC DRUGS; EXEMPTIONS FROM LABELING AND CERTIFICATION REQUIREMENTS

8. Part 144 is amended as follows:

a. In § 144.1(c) by adding "or 512(n)" following the phrase "the requirements of section 507".

b. In § 144.1(f) by adding the new phrase "for human use" after the phrase "any antibiotic-containing drug".

c. In § 144.2(b) by adding the new phrase "drug for use in humans" after the phrase "an exemption for an antibiotic".

d. In § 144.3(a) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

e. In § 144.3(b)(2) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

f. In § 144.3(c) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

g. In § 144.3(d) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

h. In § 144.4(a) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

i. In § 144.4(b)(1) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

j. In § 144.4(c) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

k. In § 144.4(d) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

l. In § 144.5(a) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

m. In the first sentence of § 144.5(b)(3) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

n. In § 144.5(c) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

o. In § 144.5(d) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

p. In § 144.6(a) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

q. In the first sentence of § 144.6(b)(3) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

r. In § 144.6(c) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

s. In § 144.6(d) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

t. In § 144.7(a) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

u. In § 144.7(b)(3) by adding the new phrase "or the certification requirements of section 512(n) of the act" after the phrase "section 502(l) of the act".

v. By revising § 144.8 to read as follows:

§ 144.8 Exemption for investigational use.

A shipment or other delivery of an antibiotic drug shall be exempt from section 502(l) of the act or the certification requirements of section 512(n) of the act if all the procedures outlined in § 130.3 or § 135.3 of this chapter are complied with. For the purposes of this section, the references in § 130.3 or § 135.3 of this chapter to "new drug" and "approved new animal drug application" shall be deemed to read "antibiotic drug" and "approval for certification or exemption from certification" respectively.

w. By revising § 144.9 to read as follows:

§ 144.9 Exemption of antibiotic drugs for use in teaching, law enforcement, research, and analysis.

Antibiotic drugs subject to section 507 or 512(n) of the act shall be exempt from the requirements of section 502(l) and from the certification requirements of section 512(n) of the act if shipped or sold to, or in the possession of, persons regularly and lawfully engaged in instruction in pharmacy, chemistry, or medicine not involving clinical use; or in law enforcement; or in research not involving clinical use; or in chemical analysis or physical testing, provided they are to be used only for such instruction, law enforcement, research, analysis, or testing, and provided further that their labels bear the statement "Not for drug use."

x. In § 144.10 by adding the new phrase "and the certification requirements of section 512(n) of the act" after the phrase "sections 502(l) and 507 of the act".

y. In § 144.11 by adding the new phrase "and the certification requirements of section 512(n) of the act" after the phrase "sections 502(l) and 507 of the act".

z. In the introductory text in § 144.12 by adding the new phrase "and the certification requirements of section 512(n) of the act" after the phrase "sections 502(l) and 507 of the act".

aa. In the introductory text in § 144.14 by adding the new phrase "and the certification requirements of section 512(n) of the act" after the phrase "sections 502(l) and 507 of the act".

bb. In § 144.15 in paragraph (a) by adding "and 512" after the phrase "certification requirements of section 507" and in paragraph (b) by adding "or to be adulterated under section 501(a)(5) of the act" after the phrase "section 502(l) of the act".

cc. In § 144.16 by revising the first two sentences of paragraph (a) as follows:

§ 144.16 Antibiotic drugs intended for export.

(a) Unless exempted pursuant to section 507(c) or 512(n)(3) of the Federal Food, Drug, and Cosmetic Act, antibiotic drugs consigned to persons engaged in export shipment of the articles are fully subject to the certification requirements of sections 502(l) and 507 of the act or of section 512(n) of the act. Further, unless exempted pursuant to section 507(d), 512(n)(4), or 801(d) of the act, such shipments are required to be labeled in full conformance with the act and regulations promulgated thereunder.

* * * * *

dd. By deleting § 144.24 which is being concurrently incorporated into § 144.26.

ee. Section 144.25 is revised to read as follows:

§ 144.25 Antibiotic drugs for use in medicated animal feed (antibiotic medicated feed premixes).

Antibiotic drug premixes subject to section 512(n) of the act shall be exempt from the certification requirements under the conditions specified in § 135.5(b) of this chapter.

ff. In § 144.26 the section heading and the introductory text are revised to read as follows:

§ 144.26 Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act.

Animal feeds that bear or contain penicillin, streptomycin, chlortetracycline, bacitracin, feed grade bacitracin, feed grade manganese bacitracin, feed grade zinc bacitracin, and bacitracin methylene disalicylate, with or without added suitable nutritive ingredients, are approved for use if they comply with the requirements of Part 135e of this chapter and any one of the following paragraphs of this section:

* * * * *

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETIVE REGULATIONS

9. Part 146 is amended:

a. In § 146.13 by revising the description of Form 5 and by deleting Form 10 and replacing it with Form 1800, as follows:

§ 146.13 Forms for certification or exemption of antibiotic drugs.

* * * * *

Form	
*	* * * *
5	Request to provide for certification of a new antibiotic product (the form provided for in § 135.4 of this chapter is to be used if the antibiotic is intended to be used in animals).
*	* * * *
1800	Application for exemption for antibiotics mixed in animal feeds. Form FD 1800—Revised must be used when applications for medicated feeds rely for evidence of safety and effectiveness on a regulation published pursuant to section 512(i) of the act.

b. In § 146.14 by revising the section heading to read "§ 146.14 Records and reports concerning experience with antibiotic drugs for human use for which a certificate or release has been issued."

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

10. Part 146a is amended by deleting § 146a.1 which is being concurrently incorporated into Part 135.

Effective date. This order shall be effective 30 days after its publication in the FEDERAL REGISTER.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a))

Dated: September 3, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-13463 Filed 9-13-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The Renegotiation Board hereby adopts, without change, the proposed amendments published on July 24, 1971 (36 F.R. 13795-13797), consideration having been given to all relevant matter submitted by interested persons pursuant to the notice of proposed rule making. Such regulations, as adopted, read as set forth below.

Dated: September 8, 1971.

LAWRENCE E. HARTWIG,
Chairman.

PART 1451—SCOPE OF RENEGOTIATION BOARD REGULATIONS UNDER THE RENEGOTIATION ACT OF 1951, AND DEFINITIONS APPLICABLE THERETO

§ 1451.20 [Amended]

Section 1451.20 *"Received or accrued" and "paid or incurred"* is amended by deleting "The Tax Court of the United States" each place it appears and inserting in lieu thereof "the Court of Claims."

PART 1452—PRIME CONTRACTS AND SUBCONTRACTS WITHIN THE SCOPE OF THE ACT

§ 1452.1 [Amended]

Section 1452.1(b) *Coverage after December 31, 1956* is amended by deleting "by Pub. Law 870, 84th Cong., approved August 1, 1956, effective December 31, 1956" in subparagraph (1); and by deleting "June 30, 1971" in the last sentence of subparagraph (c)(1) of the statutory provisions set forth in subparagraph (1)(iii) and inserting in lieu thereof "June 30, 1973."

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

§ 1453.5 [Amended]

Section 1453.5 *Contracts that do not have a direct and immediate connection with the national defense* is amended by deleting "Tax Court" in the last sentence of the statutory provision set forth in paragraph (a) and inserting in lieu thereof "Court of Claims."

PART 1459—COSTS ALLOCABLE TO AND ALLOWABLE AGAINST RENEGOTIABLE BUSINESS

§ 1459.1 [Amended]

Section 1459.1 *Statutory provisions and general regulations* is amended by deleting "The Tax Court of the United States" each place it appears in the statutory provisions set forth in paragraph (a) and inserting in lieu thereof "the Court of Claims."

PART 1460—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

This part is amended in the following respects:

Section 1460.10 *Reasonableness of costs and profits* is amended by adding at the end of paragraph (b) a new subparagraph (5) to read as follows:

§ 1460.10 Reasonableness of costs and profits.

* * * * *

(b) * * *

(5) The Board will give consideration to certain situations where a contractor had deficient profits on renegotiable sales in a year or years prior to that under review. Where it can be established that deficient profits in prior years resulted from nonrecurring costs in the early stages of production which relate to production in the year under review, the Board will take this into account in reviewing the contractor's renegotiable business in the year under review. Thus, for example, labor costs and a proper proportion of the related overhead may be high in the early stages of production because of (i) excessive defective work resulting from inexperienced labor, (ii) idle time and subnormal production occasioned by testing and changing methods of production, or (iii) the cost of training employees. There may also be high material costs due to abnormal scrap losses. Further, there may be instances where deficient profits resulted in prior years from expenses incurred in the design of a product or of special tooling, in the planning of production processes and layout, or in the rearrangement of the contractor's plant, when incurred for a renegotiable contract or contracts. Circumstances such as those set forth herein which can be present under a long-term contract can also be

equally present in the case of a series of two or more short-term successive contracts for the production of the same or similar items. In evaluating the extent to which matters such as these should be taken into account, the Board will consider the reasonableness of the management practices followed.

PART 1461—RECOVERY OF EXCESSIVE PROFITS AFTER DETERMINATION

This part is amended in the following respects:

1. Section 1461.1 *Collection authority* is amended by adding at the end of the statutory provisions set forth therein the following:

§ 1461.1 Collection authority.

* * * * *

(2) *Interest.*—Interest at the rate per annum determined pursuant to the next to the last sentence of this paragraph for the period which includes the date on which interest begins to run shall accrue and be paid on the amount of such excessive profits from the 30th day after the date of the order of the Board or from the date fixed for repayment by the agreement with the contractor or subcontractor to the date of repayment, and on amounts required to be withheld by any person or subcontractor for the account of the United States pursuant to paragraph (1)(C), from the date payment is demanded by the Secretaries or any of them to the date of payment. When the Court of Claims, under section 108, redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate per annum determined pursuant to the next to the last sentence of this paragraph for the period which includes the date on which interest begins to run shall accrue and be paid by such contractor or subcontractor as follows:

(A) When the amount of excessive profits determined by the Court of Claims is greater than the amount determined by the Board, interest shall accrue and be paid on the amount determined by the Board from the 30th day after the date of the order of the Board to the date of repayment and, in addition thereto, interest at the same rate shall accrue and be paid on the additional amount determined by the Court of Claims from the date of its order determining such excessive profits to the date of repayment.

(B) When the amount of excessive profits determined by the Court of Claims is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the 30th day after the date of the order of the Board to the date of repayment.

(C) When the amount of excessive profits determined by the Court of Claims is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the 30th day after the date of the order of the Board to the date of repayment, except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the issuance of the order of the Board. Interest shall accrue and be paid at a rate which the Secretary of the Treasury shall specify as applicable to the period beginning on July 1, 1971, and ending on December 31, 1971, and to each 6-month period thereafter. Such rate shall be determined by the Secretary of the Treasury, taking into consideration current private commercial rates of interest for new loans maturing in approximately 5 years.

§ 1461.2 [Amended]

2. Section 1461.2(b) *Interest* is amended as follows:

a. Subparagraph (1) is amended by inserting, before the first sentence thereof, the following:

(b) *Interest*—(1) *In general.* Pursuant to section 105(b)(2) of the act, interest when required shall accrue and be paid at a rate per annum specified by the Secretary of the Treasury as applicable to the period beginning on July 1, 1971, and ending on December 31, 1971, and to each 6-month period thereafter. Such rates will be determined by the Secretary of the Treasury, taking into consideration current private commercial rates of interest for new loans maturing in approximately 5 years. Once determined in this manner, the interest rate attaching to a particular determination of excessive profits shall continue unchanged thereafter with respect to such excessive profits, whether payable in a single payment or in installments, and without regard to whether, before payment is completed, a new 6-month period begins and the Secretary of the Treasury determines a different interest rate for such period. Except as set forth in this paragraph, and in the absence of unusual circumstances, renegotiation agreements will not provide for the payment of interest on any refund of excessive profits.

b. Subparagraphs (2) and (3) are amended by deleting "at the rate of 4 per centum per annum" in each such subparagraph and adding at the end of each such subparagraph the following new sentence: "Interest so payable shall accrue and be paid at a rate per annum determined pursuant to the next to the last sentence of section 105(b)(2) of the act for the period which includes the date on which interest begins to run."

§ 1461.3 [Amended]

3. Section 1461.3 *Recovery of refund pursuant to unilateral order* is amended by deleting "at the rate of 4 per centum per annum" and adding at the end thereof the following new sentence: "Interest so payable shall accrue and be paid at a rate per annum determined pursuant to the next to the last sentence of section 105(b)(2) of the act for the period which includes the date on which interest begins to run."

PART 1466—TERMINATION OF RENEGOTIATION

This part is amended in the following respects:

§ 1466.1 [Amended]

1. Section 1466.1 *Statutory provision* is amended by deleting "June 30, 1971" in the last sentence of subsection (c)(1) of the statutory provision set forth in the section and inserting in lieu thereof "June 30, 1973."

§ 1466.2 [Amended]

2. Section 1466.2 *Definition of "termination date"* is amended by deleting "June 30, 1971" and inserting in lieu thereof "June 30, 1973."

PART 1472—CONDUCT OF RENEGOTIATION

§ 1472.1 [Amended]

Section 1472.1 *Statutory provision* is amended by deleting "The Tax Court of the United States" in the last sentence of the statutory provision set forth in the section and inserting in lieu thereof "the Court of Claims."

PART 1474—AGREEMENT PROCEDURE

Section 1474.6 *Modification of terms of payment provided in agreement* is amended by deleting paragraph (c)(4) in its entirety and inserting the following in lieu thereof:

§ 1474.6 Modification of terms of payment provided in agreement.

* * * * *

(c) * * *

(4) The contractor agrees to pay interest upon the amount with respect to which the time for payment is extended, such interest to accrue from and after the date for such payment to the extended date therefor. Interest so payable shall accrue and be paid at a rate per annum determined pursuant to the next to the last sentence of section 105(b)(2) of the act for the period which includes the date on which interest begins to run.

* * * * *

PART 1475—UNILATERAL ORDER PROCEDURE

This part is amended in the following respects:

§ 1475.5 [Amended]

1. Section 1475.5 *Tender of refund by contractor* is amended as follows:

a. The first paragraph of the statutory provision set forth in paragraph (a) is deleted in its entirety and the following is inserted in lieu thereof:

* * * When the Court of Claims, under section 108, redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate per annum determined pursuant to the next to the last sentence of this paragraph for the period which includes the date on which interest begins to run shall accrue and be paid by such contractor or subcontractor as follows: * * *

b. In subparagraph (C) of such statutory provision, "the Tax Court" is deleted and "the Court of Claims" is inserted in lieu thereof.

§ 1475.6 [Amended]

2. Section 1475.6 *Modification of order to extend time for payment* is amended by deleting from paragraph

(e) "Tax Court of the United States" and inserting in lieu thereof "Court of Claims."

PART 1476—REVIEW BY THE COURT OF CLAIMS

This part is amended in the following respects:

1. The heading of the part is amended by deleting therefrom "Tax Court" and inserting in lieu thereof "Court of Claims."

2. Section 1476.1 *Statutory provision* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1476.1 Statutory provision.

Section 108 of the Act as amended, provides as follows:

Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may—

(a) If the case was conducted initially by the Board itself—within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 105(a) of the notice of such order, or

(b) If the case was not conducted initially by the Board itself—within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 107(e) of the notice of the decision of the Board not to review the case or the notice of the order of the Board determining the amount of excessive profits,

file a petition with the Court of Claims for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to (finally) determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency except as provided in section 108A. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Court of Claims to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. In the case of any witness for the Board, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board available for that purpose, and in the case of any other witnesses shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this section shall operate to stay the execution of the order of the Board under subsection (b) of section 105 only if within 10 days after the filing of the petition the petitioner files with the Court of Claims a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Any amount collected by the United States under an order of the Board in excess of the amount found to be due under a determination of excessive profits by the Court of Claims shall be refunded to the contractor or subcontractor with interest thereon from the date of collection by the United States to the date of refund at the rate per annum determined pursuant to the next to last sentence of section 105(b)(2) for the period which includes the date on which interest begins to run.

PART 1477—STATEMENTS TO CONTRACTORS

This part is amended in the following respects:

§ 1477.1 [Amended]

1. Section 1477.1 *Statutory provision* is amended by deleting from the statutory provision set forth therein "The Tax Court of the United States" and inserting in lieu thereof "the Court of Claims."

§ 1477.4 [Amended]

2. Section 1477.4 *Contents of Statements* is amended by deleting from paragraph (f) "The Tax Court of the United States" and inserting in lieu thereof "the Court of Claims."

PART 1498—FORMS RELATING TO AGREEMENTS AND ORDERS

This part is amended in the following respects:

§ 1498.1 [Amended]

1. Section 1498.1 *Form of renegotiation agreement* is amended by deleting "rate of four (4%) per centum" in Act. 10 *Interest* and inserting in lieu thereof "rate determined pursuant to section 105(b)(2) of the Act."

§ 1498.10 [Amended]

2. Section 1498.10 *Notice by Regional Board of order determining excessive profits* is amended by deleting from the next to the last paragraph of the notice "The Tax Court of the United States" and inserting in lieu thereof "the Court of Claims."

§ 1498.11 [Amended]

3. Section 1498.11 *Notice that order of Regional Board is deemed order of the Board* is amended as follows:

a. By deleting from the third paragraph of the notice "four (4%) per centum" and inserting in lieu thereof "_____ per centum."

b. By deleting from the last paragraph of the notice "The Tax Court of the United States" and inserting in lieu thereof "the Court of Claims."

[FR Doc.71-13454 Filed 9-13-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

[Federal Procurement Regs.; Temporary Reg. 22]

PART 1-1—GENERAL

General Services Administration

To: Heads of Federal Agencies.

Subject: Stabilization of prices, rents, wages, and salaries.

1. *Purpose.* This regulation amends the Federal Procurement Regulations to provide procedures designed to facilitate the stabilization of prices, rents, wages, and salaries.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (9-14-71).

3. *Expiration date.* This regulation will continue in effect until canceled or until the requirements of Executive Order 11615, August 15, 1971, expire.

4. *Background.* Executive Order 11615, August 15, 1971, provided for the stabilization of prices, rents, wages, and salaries. This regulation provides implementing procedures.

5. *Explanation of change.* Section 1-1.321 is added as follows:

§ 1-1.321 Stabilization of prices, rents, wages, and salaries.

By Executive Order 11615, August 15, 1971, the President stabilized prices, rents, wages, and salaries. Pursuant to the Executive order, the President's Regulations and Purchasing Review Board stated:

The U.S. Government is the largest purchaser of goods and services in the world. That government purchasing power should be used to the full extent the law permits to support the recently announced Federal price-wage-rent freeze. In placing Government contracts for goods and services, officials should consider, as a decisive factor, whether contractors are in compliance with the price-wage-rent freeze in all of their transactions.

This section prescribes procedures for carrying out the purpose of the Executive order.

§ 1-1.321-1 Solicitations.

Price certifications shall be included in all solicitations (invitations for bids and requests for proposals), excluding small purchases under $2,500 and any contracts resulting therefrom (see § 1-1.321-2). A price certification is prescribed in paragraph (a) of this section and an alternate price certification is prescribed in paragraph (b) of this section which may be employed as provided therein.

(a) *Price certification.* Agencies shall satisfy the requirements of this section by employing the price certification set forth in this paragraph (a), except to the extent that the price certification prescribed in paragraph (b) of this section is authorized for use.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance and will continue to comply with the requirements of Executive Order 11615, August 15, 1971, for the duration thereof and further certifies that the prices bid (offered) herein conform to the requirements of Executive Order 11615 or shall be reduced accordingly at the time of any billings that are made during the effective period of the Executive order.

(b) Prior to the payment of invoices under this contract, the Contractor shall place on, or attach to, each invoice submitted the following certification:

I hereby certify that amounts invoiced herein do not exceed the lower of (i) the contract price, or (ii) maximum levels established in accordance with Executive Order 11615, August 15, 1971.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

(b) *Alternate price certification.* The price certification set forth in this paragraph may be employed in lieu of the certification in paragraph (a) of this section only in those situations which do not involve the submission of invoices.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance and will continue to comply with the requirements of Executive Order 11615, August 15, 1971.

(b) Acceptance of any payments for property, goods, or services furnished during the effective period of the Executive order shall constitute a certification by the Contractor that the amounts paid do not exceed the maximum levels established in accordance with Executive Order 11615.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts.

§ 1–1.321–2 Notification of contractors.

Contracting officers shall notify all contractors with existing contracts (i.e., a contract which does not contain a price certification as prescribed in § 1–1.321–1) and all contractors awarded contracts under $2,500 except (a) those made with imprest funds (see § 1–1.321–6), and (b) other small purchases as provided by individual agency procedures, of their obligations under Executive Order 11615. This shall be accomplished by issuance of a notice, as provided in paragraphs (a) or (b) of this section, whichever is appropriate.

(a) Notice to contractors:

Reference is made to your Contract No(s). ----------

You are hereby notified of your following obligations under Executive Order 11615, August 15, 1971:

Prior to payment of invoices submitted under each contract, you must place on, or attach to, each invoice or other payment document submitted the following certification:

I hereby certify that amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11615, August 15, 1971.

Payments will not be made on invoices submitted under the above noted contract unless certification, as prescribed above, has been completed.

(b) Alternate notice to contractors:

Acceptance of any payments for property, goods, or services furnished during the effective period of the Executive order shall constitute a certification by the Contractor that amounts paid do not exceed the maximum levels established in accordance with Executive Order 11615, August 15, 1971.

§ 1–1.321–3 Absence of certification in solicitations.

Solicitations which do not include a certification as required by § 1–1.321–1 shall be handled as follows:

(a) In formally advertised procurements, invitations for bids which do not include the certification shall be amended to include the certification where there is sufficient time to amend the invitation prior to the time (including permissible time extensions) set for the opening of bids.

(b) In negotiated procurements where awards have not been made, requests for proposals shall be amended to include the certification.

(c) Where invitations for bids and requests for proposals include the certification requirement and bidders and offerors decline to comply with the certification, their bids and offers shall be deemed to be nonresponsive.

(d) In formally advertised procurements, where the invitation for bids did not include the certification requirement and the requirement was not included by an amendment of the invitation, awards shall be made in accordance with established procedures. Prior to award, however, such bidders shall be notified in the same manner provided in § 1–1.321–2 for existing contracts that they will be subject to the procedures of the applicable price certification prescribed in §1–1.321–2.

§ 1–1.321–4 Violations.

Reported and suspected violations of Executive Order 11615, which are brought to the attention of contracting personnel, shall be reported in accordance with agency procedures.

§ 1–1.321–5 Payments.

(a) Where the procedure prescribed in paragraph (b) of the price certification in § 1–1.321–1(a) and the procedure in § 1–1.321–2(a) are employed, payment shall not be made until the contractor has complied with the procedure.

(b) Where the alternate notice to contractors prescribed in paragraph (b) of § 1–1.321–2 is employed, payment shall not be made until the notice has been acknowledged by the contractor in the manner prescribed by agency procedures or some other appropriate form of certification has been obtained.

§ 1–1.321–6 Imprest funds.

Individuals authorized to place imprest fund orders shall not place such orders with concerns which are in known violation of Executive Order 11615. Further, such individuals shall report violations in accordance with agency procedures.

§1–1.321–7 Execution of certification.

Invoices which otherwise satisfy the requirements of the finance offices receiving such invoices need not be signed by contractors executing the certification in order to satisfy the certification requirements of this regulation.

ROBERT L. KUNZIG,
Administrator of General Services.

SEPTEMBER 9, 1971.

[FR Doc.71–13565 Filed 9–13–71;8:50 am]

Chapter 50—Public Contracts, Department of Labor

PART 50–250—LISTING OF JOB VACANCIES WITH THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

On July 24, 1971, notice of proposed rule making, regarding an addition of a new Part 50–250 to Title 41 of the Code of Federal Regulations, was published in the FEDERAL REGISTER (36 F.R. 13789). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations. After consideration of all relevant matter presented by interested persons, the proposal was modified accordingly and the new Part 50–250 is hereby adopted as set forth below to be effective 10 days after publication in the FEDERAL REGISTER.

The added 41 CFR Part 50–250 reads as follows:

Sec.

AUTHORITY: The provisions of this Part 50–250 are issued under Executive Order 11598, 36 F.R. 11711.

§ 50–250.1 Purpose and scope.

This part contains the Department of Labor's rules and regulations relating to the implementation of Executive Order 11598.

§ 50–250.2 Federal departments and agencies.

Federal executive departments and agencies, in order to implement the Federal policy of assistance to Veterans in obtaining employment, shall list all of their employment openings, for which they have direct-hire authority or which are in the excepted service, with the appropriate office of the Federal-State Employment Service. They shall also furnish to the Secretary of Labor such reports and information as he may require in carrying out his responsibilities under Executive Order 11598.

§ 50–250.3 Required clause in Federal contracts and subcontracts.

(a) Except as hereinafter provided, in every contract with a private contractor made and entered into by an executive department, independent establishment, or other agency or instrumentality of the United States, or by any corporation all the stock of which is beneficially owned by the United States, the contracting officer shall cause to be inserted in the invitation or the specifications and incorporated, either directly or by reference, in such contract, the following clause:

CONTRACTOR AND SUBCONTRACTOR LISTING REQUIREMENT

(1) As provided by 41 CFR 50–250, the contractor agrees that all employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by the contract and including those occurring at an

establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required: *Provided*, That this provision shall not apply to openings which the contractor fills from within the contractor's organization or are filled pursuant to a customary and traditional employer-union hiring arrangement and that the listing of employment openings shall involve only the normal obligations which attach to the placing of job orders.

(2) The contractor agrees further to place the above provision in any subcontract directly under this contract.

(b) Federal executive departments and agencies may, with the prior approval of the Secretary of Labor, where necessary or appropriate, substitute a contract clause different from that prescribed in subsection (a) so long as such substitute clause is found by the Secretary of Labor to comply with section 2 of Executive Order 11598.

§ 50.250.4 Definitions.

As used in this part:

(a) "All employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than $18,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

(b) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(c) "Openings which a contractor or subcontractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside of the contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the contractor and the representative of its employees and includes any openings which the contractor or subcontractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

§ 50–250.5 Exclusions.

(a) The provisions of this part shall not apply to openings which a contractor or subcontractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(b) The contract clause required by § 50–250.3 is not required in any contract or subcontract which is for an amount less than $10,000 or which will generate less than 400 man-days of employment within the contractor's or subcontractor's organization; each man-day consisting of any day during which an employee performs more than 1 hour of work.

(c) Under the most compelling circumstances, such as situations where the needs of the government cannot reasonably be otherwise supplied or where it is determined that a deviation would be for the best interest of the government, a deviation from the provisions of this part may be made, subject to the approval of the Secretary of Labor. Requests for any such deviations shall be addressed to the Secretary of Labor, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210, or to the Regional Manpower Administrator of the U.S. Department of Labor of the region wherein the contract is to be signed, and shall set forth the reasons for the request and any alternative course which the contracting agency proposes to follow.

(d) These provisions do not apply to the listing of employment openings which occur outside of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§ 50–250.6 Infeasibility of listing.

Executive Order 11598 requires Government contractors and subcontractors to list all of their suitable employment openings to the maximum extent feasible. Feasibility, in this regard, shall be taken to mean that it is reasonably possible for the listings to be made. An example of an infeasible listing is where the listing of the employment opening would be contrary to national security. Questions regarding other situations where the listing of openings may be considered to be infeasible should be submitted for resolution to the Manpower Administrator, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210.

§ 50–250.7 Obligations attached to listings.

Listing of employment openings with the employment service system pursuant to the provisions of this part shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order but does not require the hiring of any job applicant referred by the employment service system.

§ 50–250.8 Records and reports.

(a) Contractors and subcontractors shall file periodic reports at least quarterly with the appropriate local office or, where a contractor or subcontractor has more than one establishment in a State, the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge.

(b) Whenever a contractor or subcontractor becomes contractually bound to the listing provisions of these regulations, it shall advise the employment service system in each State wherein it has establishments of the name and location of each such establishment in the State. As long as a contractor or subcontractor is contractually bound to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent contracts. The contractor or subcontractor may advise the State systems when it is no longer bound by the contract clause set forth in these regulations.

(c) Contractors and subcontractors shall maintain copies of such reports for 1 year.

§ 50–250.9 Obligations of executive departments and agencies.

(a) Executive departments and agencies shall issue amendments or additions to their procurement rules and regulations as may be necessary to conform those rules and regulations to the requirements of Executive Order 11598 and these regulations. Such amendments or additions shall be issued in consultation with the Secretary of Labor. Requests for consultation may be made to the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210.

(b) Upon receipt of notice of failure of a contractor to comply with the provisions of this part, the cognizant government agency or agencies shall take such action as may be appropriate in consonance with the default provision of the contracts concerned.

§ 50–250.10 Manpower Administration Regional Offices.

Following are the addresses of the regional offices of the Manpower Administration of the Department of Labor, together with a list of the States and Territories in each region. The addresses of the State and local offices of the various State employment services can be obtained at the office of the appropriate Regional Manpower Administrator.

Region I—Room 1703, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.)

Region II—Room 716, 341 Ninth Avenue, New York, NY 10001. (New York, New Jersey, Puerto Rico, and the Virgin Islands.)

Region III—Post Office Box 8796, Philadelphia, PA 19101 (5000 Wissahickon Avenue, do not use street address for mailing purposes). (Delaware, Maryland, Pennsylvania, Virginia, and West Virginia)

Region IV—Room 405, 1371 Peachtree Street NE., Atlanta, Ga. 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.)
Region V—Room 2402, Federal Office Building, 219 South Dearborn Street, Chicago, IL 60604. (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.)
Region VI—7th Floor, Federal Center, 1100 Commerce Street, Dallas, TX 75201. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.)
Region VII—Room 3000, Federal Building, 911 Walnut Street, Kansas City, MO 64106. (Iowa, Kansas, Missouri, and Nebraska.)
Region VIII—Room 16015, Federal Office Building, 1961 Stout Street, Denver, CO 80202. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.)
Region IX—Room 10064, Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102. (Arizona, California, Guam, Hawaii, and Nevada.)
Region X—Arcade Plaza, 1321 Second Avenue, Seattle, WA 98101. (Alaska, Idaho, Oregon, and Washington.)
District of Columbia—Room 341, 555 Pennsylvania Avenue NW., Washington, DC 20212. (District of Columbia.)

Effective date. The provisions for contractor and subcontractor listings of suitable employment openings shall be effective as to solicitations for bids issued and to unsolicited proposals received after the effective date of this part, contracts and subcontracts entered into pursuant to such bids and proposals and such modifications, amendments, and supplemental agreements to existing contracts which are in the nature of new procurements and entered into subsequent to the effective date of this part. The effective date of this part is 10 days after its publication in the FEDERAL REGISTER.

Signed in Washington, D.C., this 10th day of September 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-13562 Filed 9-13-71;8:50 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-28; Notice 71-24]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Hand Axes in Buses

On May 31, 1971, the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rule making announcing that he was considering revoking § 393.96(b) of the Motor Carrier Safety Regulations (36 F.R. 11046). Section 393.96(b) requires certain buses used in interstate or foreign commerce to be equipped with hand axes. Interested persons were given until August 2, 1971, to submit written comments, suggestions, or objections regarding the proposal.

No objections were received. All persons who commented favored the revocation of the requirement for installation of hand axes in buses.

Therefore, the Director is revoking the hand-axe requirement. Paragraph (b) of § 393.96 in Subchapter B of Chapter III of Title 49, CFR, is revoked, effective 30 days after the date this document is published in the FEDERAL REGISTER. On or after that date, § 393.96 will read, in pertinent part, as follows:

§ 393.96 Buses, additional emergency equipment.

On every bus, except buses engaged in drive-away-towaway operations there shall be:

(a) All items required by § 393.95, and in addition,

(b) [Reserved]

(c) One first-aid kit complying with the following requirements:

* * * * *

(Sec. 204, Interstate Commerce Act, as amended (49 U.S.C. 304), sec. 6, Department of Transportation Act (49 U.S.C. 1655), delegations of authority at 49 CFR 1.48 and 49 CFR 389.4)

Issued on August 30, 1971.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.71-13474 Filed 9-13-71;8:47 am]

[Docket No. MC-27; Notice 71-23]

PART 395—HOURS OF SERVICE OF DRIVERS

Use of Old Log Forms Prohibited

On May 25, 1971, the Acting Director, Bureau of Motor Carrier Safety issued a notice, proposing to delete from § 395.8 of the Motor Carrier Safety Regulations a provision which authorizes motor carriers and their drivers to use forms other than Form MCS-59 for the preparation of drivers' daily logs (36 F.R. 10802). No comments have been received upon the proposal contained in that notice of proposed rule making.

In consideration of the foregoing, the last sentence of the first paragraph of the note following § 395.8 of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR) is revoked. This action is effective 30 days after the date of this document is published in the FEDERAL REGISTER. On and after that date, the first two paragraphs of the note following § 395.8 will read as follows:

NOTE: *Driver's daily log (Form MCS 59).* The Federal Highway Administration will not provide supplies of the log. The log may be incorporated as a part of any daily form used by a carrier, provided it is so ruled that the log appears distinct and separate from other portions of such form. In reproducing the log, dimensions of not less than 5¼ x 7½ inches shall be used.

This executed specimen document shows how a driver is to prepare a daily log. It covers a driver's activities on the first day of a trip in which he left Richmond, Va., with a shipment of miscellaneous freight to be delivered in Newark, N.J. and Boston, Mass.

* * * * *

(Sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304, sec. 6, Department of Transportation Act, 49 U.S.C. 1655, delegations of authority at 49 CFR 1.48 and 389.4)

Issued on August 30, 1971.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.71-13473 Filed 9-13-71;8:47 am]

[Interpretation 71-4]

APPENDIX A—INTERPRETATIONS

Questions and Answers on Driver Qualifications

Since January 1, 1971, when the revised driver qualification regulations in Part 391 of the Motor Carrier Safety Regulations became effective, the Bureau of Motor Carrier Safety has responded to several requests for informal interpretations of particular provisions of those rules. Some of the responses appear to be of general interest, and the Bureau is therefore incorporating their substance into its published interpretations found in appendix A to the regulations.

The format chosen is a series of hypothetical questions and their answers. Interested persons are cautioned that, while the question-and-answer technique tends to expose the Bureau's views on problem areas, it necessarily requires the omission of qualifying language found in the actual response. Therefore, these interpretations must be read together with the regulatory language they interpret. Furthermore, virtually all of the published answers assume, without any explicit mention, that requisite jurisdictional elements are present in the case. For example, it is assumed, in virtually all of the answers to the hypothetical questions, that the subject matter is a driver (or prospective driver) of a commercial motor vehicle operating in interstate or foreign commerce and outside the scope of any general exemption, such as the exemption for commercial zone operations.

As noted above, the purpose of this issuance is to provide general guidance as to the Bureau's approach to frequently-raised interpretive questions. The Bureau welcomes, and will attempt to respond to, questions on the subjects covered and allied subjects to the extent its resources will permit.

In consideration of the foregoing, Appendix A to Subchapter B of Chapter III in Title 49, CFR is amended by adding Interpretation No. 71-4, Questions and Answers on Driver Qualifications, reading as set forth below.

(Sec. 204, Interstate Commerce Act, 49 U.S.C. 304, sec. 6, Department of Transportation Act, 49 U.S.C. 1655, and delegations of authority at 49 CFR 1.48 and 389.4)

Issued on August 30, 1971.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

APPENDIX A—INTERPRETATIONS

QUESTIONS AND ANSWERS ON DRIVER QUALIFICATIONS

[Interpretation No. 71–4]

1. (§ 391.7). Q. Would an official of a labor organization violate § 391.7 by successfully demanding that a carrier use an unqualified driver on the ground that the use of that driver is mandatory under the carrier's collective bargaining agreement?

A. If the union official knew that the driver was not qualified under Part 391, he would be considered an aider and abettor of the carrier's violation and would himself incur liability under § 391.7. This is the case regardless of the terms of the collective bargaining agreement. However, he would not be in violation of § 391.7 if he acted upon a good-faith belief that the driver was qualified, even though his belief was erroneous.

2. (§ 391.11(b) (4), (5)). Q. Must a driver personally load, block, brace, and tie down the cargo on the property carrying vehicle he drives?

A. No. The driver must be capable of ascertaining that the cargo is properly loaded so that, if it is not, he can direct others to take the necessary corrective steps. There is no requirement that the driver must personally load the vehicle or correct any unsafe load condition, although he is not prohibited from doing so.

3. (§ 391.15(b)). Q. A driver has his license to operate a motor vehicle suspended for driving while under the influence of alcohol. Two months later he is convicted of the driving-under-the-influence charge. Does his 3-year disqualification period begin from the the date of suspension or the date of conviction?

A. The disqualification period begins on the date of conviction. Disqualification for loss of operating privileges is a separate ground of disqualification, and the fact that the driver was already disqualified when he was convicted does not shorten the period of disqualification by reason of the conviction. In general, there is no reason why two or more grounds for disqualification may not be concurrently applicable to a particular person at one time.

4. (§ 391.15(b)(1)). Q. A driver is charged with a disqualifying offense prior to January 1, 1971. He is convicted after that date. Is he disqualified?

A. No. Under the rule, both the commission of the offense and the conviction of the offense must occur on or after January 1, 1971 in order for a driver to be disqualified.

5. (§ 391.15(b)). Q. If a driver is convicted of an offense specified in § 391.15(b)(1) or has forfeited bond on account of one of those offenses but is allowed to retain his driver's license, is he disqualified?

A. Yes. As noted in item 3, loss of a driver's license and conviction of certain offenses are entirely separate grounds for disqualification. A driver who is convicted of one of the enumerated offenses is disqualified even though he retains his driver's license or permit. Likewise a driver who loses his driving privileges is disqualified even though he is not convicted.

6. (§ 391.15(b)). Q. Is a driver disqualified if he is convicted of one of the specified offenses and the conviction arose out of the operation of his personal automobile?

A. Yes. The rule makes no distinction between offenses committed while the driver is on duty and those committed while he is off duty.

7. (§ 391.15(b)(2)). Q. A driver who holds a license to drive issued by one State has a second State revoke or suspend his privilege to drive in the second State. Is the driver disqualified?

A. Yes. A driver whose driving privileges are suspended or revoked in any State is disqualified until his privileges are restored. It is immaterial that he holds a valid license from another State.

8. (§ 391.15(b)(2)). Q. Is a driver disqualified if State authorities revoke or suspend his privilege to drive a pleasure vehicle but do not revoke or suspend his privilege to drive a commercial vehicle?

A. No. The Bureau follows the rule in the State in which the action was taken against a driver. If that State permits him to operate a commercial vehicle over its highways, as by allowing the driver to retain his chauffeur's license or permit, he remains qualified under the Motor Carrier Safety Regulations.

9. (§ 391.21). Q. Must the driver's application for employment be made on a prescribed form?

A. No. Carriers should develop their own forms. The application form must, at a minimum, call for furnishing the data specified in § 391.21(b). It may require the applicant to supply additional information.

10. (§ 391.23). Q. May a motor carrier employ another person to perform the required investigations and inquiries with respect to newly-hired drivers?

A. Yes. A carrier may contract out the task of making the preemployment investigations and inquiries. However, the motor carrier remains responsible for the accuracy and completeness of the work. The carrier must have the record of the preemployment investigations and inquiries in its driver qualification files (either the original or a legible copy will do), regardless of whether the documents are also retained by the person who performed the work.

11. (§ 391.23). Q. If a carrier makes the inquiries and investigations specified in § 391.23(a) but receives no response from the State agency, prior employers, or both, may he employ the driver?

A. Generally, yes. The rule requires the carrier to make a bona fide good-faith attempt to secure the specified background information about a prospective driver. The carrier fulfills his duty by doing so. The carrier must, of course, keep required records of any response to its attempts to secure the information.

12. (§ 391.23). Q. If a carrier receives a request for information from another carrier about a former driver, is the carrier required to supply the information?

A. No. The rules do not impose that duty upon him. If the carrier knowingly supplies false information about the driver, however, the carrier risks being charged as an aider and abettor to the use of an unqualified driver.

13. (§ 391.25). Q. What violations must a carrier consider when he makes an annual review of a driver's record?

A. He must consider all violations known to him that indicate the driver exhibited lack of due regard for the safety of the public. A violation involving only the size or weight of a vehicle would not generally indicate a disregard for public safety unless the driver had knowledge of the violation before his apprehension.

14. (§ 391.27). Q. Must a driver report violations of size and weight laws to the carrier that employs him?

A. Yes. The driver must prepare and furnish the carrier that employs him with a list of *all* violations of motor vehicle traffic laws and ordinances (except parking violations) of which he was convicted or forfeited bond or collateral during the preceding 12 months.

15. (§ 391.31). Q. Do the Regulations prohibit a carrier who issues a certificate of driver's road test from placing language in the certificate to the effect that the certificate is valid only when the driver is operating that carrier's equipment?

A. No. The form of certificate set out in § 391.31(f) is not mandatory; the certificate must be in substantially that form. A carrier may, therefore, place additional language in the form he uses so long as drivers operating vehicles under his authority carry a form certifying that they have been tested and found qualified to operate those vehicles.

16. (§ 391.33(a)(1)). Q. May a carrier accept a chauffeur's license as the equivalent to a road test?

A. A carrier may accept a chauffeur's license as the equivalent of a road test if, and only if, the State that issued the license required the driver, as a condition of securing the license, successfully to complete a road test in a vehicle of the type the carrier intends to assign to that driver.

17. (§ 391.41(b)(4)). Q. A driver had a clinical diagnosis of a heart disease sometime in the past. Does this diagnosis permanently disqualify the driver?

A. No. The regulations were drafted to preclude permanent disqualification of a driver solely because he once suffered from a heart disease. The phrase "has no current clinical diagnosis" was specifically chosen so as to disqualify only persons who have had a recent onset of heart disease and persons with heart conditions that have not fully stabilized, regardless of when the disease was first diagnosed. If a driver has suffered a heart attack in the past, and the medical evidence indicates that the condition has stabilized to the point that the examining physician concludes that the driver can withstand the tensions of driving a commercial vehicle, the driver would not be disqualified because of his past heart disease.

18. (§ 391.41(b)(10)). Q. Is a person who is colorblind physically disqualified?

A. Not necessarily. If a person can recognize, and distinguish among traffic control signals and devices showing standard red, green, and amber, he meets the minimum standard even though he may be colorblind as to other colors.

19. (§ 391.47). Q. If two medical examiners disagree about whether a person is qualified to drive, must the disagreement be submitted to the Director, BMCS, for resolution?

A. No. It is recommended that the opinion of a third physician, preferably one who specializes in the field in which the medical condition arises, be sought and that all possible efforts for informal resolution of the disagreement be made first. If the disagreement cannot be resolved informally, either party may submit all available information about the case to the Bureau of Motor Carrier Safety for determination.

20. (§ 391.47). Q. If there is a conflict of medical evaluations on the question whether a person is physically qualified to drive and the conflict is submitted to the Director for resolution, may the person drive a commercial vehicle in interstate commerce while his case is under review?

A. No. If the carrier does not accept the medical examiner's certificate for the potential driver, the carrier may not permit him to drive until the dispute about his qualifications has been resolved in his favor.

21. (§ 391.63). Q. May a driver who has been laid off by one carrier drive for another carrier as an intermittent, casual, or occasional driver?

A. Yes, if the second carrier complies with the prerequisites for employing a driver on an intermittent, casual, or occasional basis set forth in § 391.63.

22. (§ 391.65). Q. When one carrier furnishes a regularly-employed driver to another, how often must he furnish the second carrier with a certificate that the driver is fully qualified to drive?

A. Each time the driver is furnished. Permanent certificates are not permitted. How-

ever, a single certificate may be issued for a continuous period during which the driver is in the second carrier's service. In this connection, it should be noted that if the driver is in the second carrier's service for a continuous period of 7 days or more, he may be deemed a regularly-employed driver of the second carrier, rather than the carrier who originally furnished him, and the exemptions in § 391.65 may become inapplicable. As a general rule, the Bureau would regard a certificate valid on its face for a period exceeding 30 days as raising a question whether the driver remained regularly employed in the service of the carrier that issued it.

23. (§ 391.65). Q. A regularly-employed driver who is on vacation applies for work as a driver for a carrier other than his regular employer. May the carrier employ him, and under what conditions may he do so?

A. The driver may be employed without undergoing full qualification if all the requirements of § 391.65 are fulfilled, i.e., the carrier must obtain a certificate from the regular employer that the driver is fully qualified and must obtain and retain a copy of the driver's medical examiner's certificate. Alternatively, the carrier may take the steps necessary to qualify the driver as if he were entering into that carrier's service on a regular basis.

[FR Doc.71-13472 Filed 9-13-71;8:47 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

Correction

In F.R. Doc. 71-12588 appearing at page 17343 in the issue of Saturday, August 28, 1971, the following changes should be made in S4.6.1.3:

1. Subdivision (ii) in paragraph (b) should read as follows:

(ii) 12.0 or 6.0 volts; 0° F.

2. Subdivision (ii) in paragraph (c) should read as follows:

(ii) 11.0 or 5.5 volts; 0° F.

3. Subdivision (iv) in paragraph (c) should read as follows:

(iv) 11.0 or 5.5 volts; 125° F.

Chapter VI—Urban Mass Transportation Administration, Department of Transportation

PART 601—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Miscellaneous Amendments

Pursuant to section 552 of title 5 of the United States Code (formerly the Freedom of Information Act), and for the purpose of updating the material originally published in 35 F.R. 11687, July 22, 1970, to reflect all the amendments and revisions made therein since that time, this part sets forth, for the information of the public, the basic organizational structure, areas of responsibility, lines of authority, duties, functions and procedures of the Urban Mass Transportation Administration, and the places at which, the employees from whom, and the methods whereby the public may obtain information, submit suggestions and requests, or obtain decisions. This part also lists and advises the public as to where and how copies of all standards, guidelines, forms, statements of policy, and procedures promulgated by the Administration, as well as any final opinions and orders made in the adjudication of cases, statements of policy and interpretations not otherwise published, and any administrative staff manuals and instructions to staff affecting the public, may be obtained.

Since this amendment relates only to the internal management of the Urban Mass Transportation Administration, notice and public procedure thereon are not required and this amendment may be made effective in less than 30 days.

In consideration of the foregoing, effective on publication in the FEDERAL REGISTER (9-14-71), Part 601 of Title 49, Code of Federal Regulations, is amended to read as set forth below.

Issued at Washington, D.C., on September 8, 1971.

CARLOS C. VILLARREAL,
Urban Mass Transportation Administrator.

Sec.
601.1 Organization and structure.
601.2 Urban mass transportation programs.
601.3 Sources of available program information.

AUTHORITY: The provisions of this Part 601 are issued under sec. 9 of the Department of Transportation Act (49 U.S.C. 1659), Reorganization Plan No. 2 of 1968 (82 Stat. 1369), and sec. 1.50 of title 49 CFR.

§ 601.1 Organization and structure.

(a) The Urban Mass Transportation Administration (hereinafter called the Administration) is one of the operating administrations within the Department of Transportation. Its Administrator is directly responsible to the Secretary of Transportation (hereinafter referred to as the Secretary) for exercising the functions of the Secretary under the Urban Mass Transportation Act of 1964, as amended (Public Law 88-365, 78 Stat. 302, 49 U.S.C. sec. 1601 et seq.) (hereinafter referred to as the Act) which were transferred to the Secretary by section 1 of Reorganization Plan No. 2 of 1968 (33 F.R. 6965, Feb. 26, 1968, 82 Stat. 1369). The Secretary has delegated his functions under the Act to the Administrator (49 CFR 1.50).

(b) The Administrator is responsible to the Secretary for the comprehensive planning, direction, and control of the activities of the Administration, and has sole authority within the Administration to approve mass transportation loans, grants, and contracts, except that the Deputy Administrator may do so during the absence or disability of the Administrator (33 F.R. 9629, July 2, 1968).

(c) The Administration is composed of the following offices:

(1) *Office of Administration.* Directed by the Assistant Administrator for Administration, this office provides general administrative support services for the Administration, including financial management, personnel, audit, procurement, logistics, and management systems.

(2) *Office of Chief Counsel.* Directed by the Chief Counsel, this office provides legal advice and services to the Administrator and the Administration, and coordinates with and supports the General Counsel of the Department on legal and regulatory matters involving or affecting urban mass transportation.

(3) *Office of Public Affairs.* Directed by the Assistant Administrator for Public Affairs, this office advises and assists the Administrator in the area of public affairs and in the dissemination of general information to the public and the press about Administration programs, projects and activities.

(4) *Office of Program Planning.* Directed by the Assistant Administrator for Program Planning, this office advises and assists the Administrator in the development of policies and plans for carrying out the functions and programs authorized by the Act, and in coordinating the Administration's activities with those of other agencies. The Assistant Administrator for Program Planning has been delegated authority to execute grant or procurement contracts and contract amendments for approved planning and evaluation research projects under section 6(a) of the Act (49 U.S.C. sec. 1605(a)) and is further authorized in connection with the administration of such contracts to approve requisitions for funds, third-party contracts and project budget amendments within previously approved limits (36 F.R. 17527, Sept. 1, 1971).

(5) *Office of Program Operations.* Directed by the Assistant Administrator for Program Operations, this office is responsible for reviewing and processing all applications for urban mass transportation capital facilities grants and loans, advance land acquisition loans, and technical studies grants, and for managing the execution of the resulting projects. The Assistant Administrator for Program Operations has been delegated authority to execute grant or loan contracts or contract amendments for approved projects under sections 3 and 9 of the Act (49 U.S.C. 1602, 1607a) and to approve requisitions for funds, third-party contracts, and budget amendments within previously approved limits (33 F.R. 10862, Nov. 26, 1968).

(6) *Office of Research, Development and Demonstrations.* Directed by the Assistant Administrator for Research, Development and Demonstrations, this office is responsible for reviewing and processing applications and proposals for urban mass transportation research, development and demonstration projects, managerial training projects, and university research and training programs in urban transportation, and for managing the execution of the resulting projects. The Assistant Administrator for Research, Development and Demonstrations has been delegated authority to execute grant and procurement contracts or contract amendments for approved projects under sections 6(a), 10, and 11

of the Act (49 U.S.C. 1605a, 1607b, 1607c), and to approve requisitions for funds, third-party contracts and budget amendments within previously approved limits (33 F.R. 10862-3, Nov. 26, 1968).

(7) *Office of Civil Rights and Service Development.* Directed by the Director, Office of Civil Rights and Service Development, this office advises and assists the Administrator in implementing compliance with applicable laws and directives pertaining to civil rights and equal employment opportunity, both within the Administration and in the conduct of urban mass transportation projects and programs. The Director, Office of Civil Rights and Service Development has also been delegated authority to execute grant contracts and contract amendments for approved service development demonstration projects under section 6(a) of the Act (49 U.S.C. 1605(a)), and is authorized in connection with the administration of such contracts to approve requisitions for funds, third-party contracts and project budget amendments within previously approved limits (35 F.R. 19201, Dec. 18, 1970).

(d) The offices of the Administration are located in the Department of Transportation Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5 p.m. on regular business days.

§ 601.2 Urban mass transportation programs.

The Administration administers the following urban mass transportation programs authorized by the Act:

(a) Grants or loans to local public bodies and agencies thereof to assist in financing acquisition, construction, reconstruction, and improvement of facilities and equipment for use in mass transportation service in urban areas (section 3 of the Act; 49 U.S.C. 1602);

(b) Research, development, and demonstration projects in all phases of urban mass transportation (section 6(a) of the Act; 49 U.S.C., 1605(a));

(c) Technical studies grants to local public bodies and agencies thereof to assist in financing the planning, engineering and designing of urban mass transportation projects, and other technical studies (section 9 of the Act; 49 U.S.C. 1607a);

(d) Managerial training grants to local public bodies to assist in financing the cost of academic fellowships for the training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field (section 10 of the Act; 49 U.S.C. 1607b); and

(e) Research and training program grants to publicly or privately owned institutions of higher learning to assist in establishing or carrying on comprehensive research and training in problems of transportation in urban areas (section 11 of the Act; 49 U.S.C. 1607c).

§ 601.3 Sources of available program information.

(a) The Administration has published the following informational pamphlets, procedural and accounting guides, and other publications, which contain the rules of procedure, criteria, guidelines, interpretations, statements of policy and rules of general applicability formulated and adopted by the Administration for the guidance of the public:

Form No.	*Title*
UMTA P-6520.1	"Urban Mass Transportation Act of 1964 and Related Laws," January 1, 1970.
UMTA P-6500.1	"Urban Mass Transportation Planning Requirements Guide," February 1966 (and Supplement).
UMTA P-6540.1	"Procedural Guide for Project Sponsors," July 1969.
UMTA P-6540.2	"Accounting Procedures, Urban Mass Transportation Program," January 1971.
UMTA P-6540.3	"Urban Mass Transportation Grant Contract, Part II, Terms and Conditions," July 1968.
UMTA P-6550.1	"Capital Grants for Urban Mass Transportation—Information for Applicants," July 1969.
UMTA P-6550.2	"Advance Land Acquisition Loans for Urban Mass Transportation," March 1971.
UMTA P-6550.3	"A Priority Plan for Management of UMTA Capital Grant Funds," February 1971.
UMTA P-6550.4	"Private Transit Operators—Capital Grant Funding," April 1971.
UMTA P-6550.5	Sample Format—"Application for Urban Mass Transportation Capital Improvement Grant," January 1969.
UMTA P-6560.1	"Urban Mass Transportation Demonstrations—Information for Applicants," July 1968.
UMTA P-6560.2	"Instructions for Completing UMTA Form 1 'Application for Mass Transportation Demonstration Grant'."
UMTA P-6560.3	"Service Development Program—Instructions for Completing UMTA Form 1 'Application for Mass Transportation Demonstration Grant'."
UMTA P-6570.1	"Grants for Technical Studies for Urban Mass Transportation—Information for Applicants," July 1968.
UMTA P-6580.1	"Grants for Managerial Training for Urban Mass Transportation—Information for Applicants," July 1968.
UMTA P-6590.1	"Grants for University Research and Training in Urban Transportation, etc.—Information for Applicants," September 1970.
UMTA P-6590.2	"Procedural Guide for Sponsors of University Research and Training Grants," November 1970.

(b) Single copies of any of these publications may be obtained without charge from the Assistant Administrator for Administration, Urban Mass Transportation Administration, Room 9228, Department of Transportation Building, 400 Seventh Street SW., Washington, DC 20590.

(c) In addition, the Administration maintains at the same place and under the supervision of the same official a document inspection facility where the general files of the Administration are kept, and where the following records are located and available:

(1) Final opinions and orders made in the adjudication of cases and issued within the Administration;

(2) Policy statements and interpretations issued within the Administration, including policy statements and interpretations concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation;

(3) Administrative staff manuals and instructions to staff, issued within the Administration which affect members of the public;

(4) An index to the material described in subparagraphs (1) through (3) of this paragraph.

(d) Any person desiring to inspect any of these records or obtain a copy thereof must submit his request in writing, specifying the record he wishes to inspect or a copy of which he desires, to the Assistant Administrator for Administration, Urban Mass Transportation Administration, Room 9228, Department of Transportation Building, 400 Seventh Street SW., accompanied by the appropriate fee prescribed in 49 CFR Part 7, Subpart H, § 7.85.

[FR Doc.71-13485 Filed 9-13-71;8:48 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1075-A]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of August 1971.

Upon further consideration of Service Order No. 1075 (36 F.R. 12305 and 13996) and good cause appearing therefor:

It is ordered, That § 1033.1075 *Service Order No. 1075* (Distribution of refrigerator 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 11:59 p.m., August 20, 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 car hire 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.71-13514 Filed 9-13-71;8:50 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Lacreek National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-14-71).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Lacreek National Wildlife Refuge, S. Dak., is permitted from October 2 through December 10, 1971; but only on the area designated by signs as open to hunting. This open area, comprising 310 acres is delineated on a map available at the refuge headquarters, Martin, S. Dak. 57551, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots.

In addition to the regular duck and coot season, the same area described above will be open from December 11 through December 30, 1971, for the hunting of mallards only in accordance with the State of South Dakota's High Plains Mallard Season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1971.

TRAVIS S. ROBERTS, *Regional Director.*

SEPTEMBER 1, 1971.

[FR Doc.71-13465 Filed 9-13-71;8:46 am]

PART 32—HUNTING

Certain Wildlife Refuges in Southeast United States

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (9-14-71).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rails on the Cape Romain National Wildlife Refuge, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 11,638 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of rails subject to the following special conditions:

(1) Open season: October 2 through December 10, 1971.

(2) Guns must be encased or otherwise rendered incapable of firing except when in the designated hunting area.

(3) The use of dogs is permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1971.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

General conditions. Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and/or delineated on maps which are available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323.

Quail, rabbits, gray squirrels, raccoons, and opossum may be hunted in accordance with the following special conditions:

(1) Hunting shall be by permit only. Permits may be obtained from the Refuge Manager under prescribed conditions.

(2) Crows and foxes (non-protected species) may be hunted during periods prescribed for other game species.

(3) Foxes may be hunted with dogs, but without guns, at other times of the year under conditions set forth in permits obtainable from the Refuge Manager.

(4) Gray squirrels and rabbits may be hunted October 19-23, 1971.

(5) Raccoons and opossums may be hunted February 1 through 12, 1972, Sundays excluded.

(6) Rabbits may be hunted February 21 through 26, 1972.

(7) Quail may be hunted February 14, 15, 18, and 19, 1972.

(8) Both shotguns and .22 rimfire rifles may be used for squirrel hunting, but only shotguns may be used for other species listed.

(9) Legal hours for entering upon and hunting on the refuge for raccoons and opossums shall be 7:00 p.m. to 5:00 a.m. inclusive.

(10) No hunting is permitted within 100 yards of building on the refuge or adjoining the refuge boundary.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through February 26, 1972.

ARKANSAS

BIG LAKE NATIONAL WILDLIFE REFUGE

Squirrels and raccoons may be hunted during the prescribed State seasons and in accordance with the following special conditions:

(1) Hunting of raccoons is permitted only from sunset to midnight.

(2) Dogs are permitted during the raccoon hunt but are prohibited during the squirrel hunt.

(3) Fires and cutting of trees are not permitted.

(4) No boats permitted during raccoon hunt.

(5) Shotguns or rifles not larger than .22 caliber may be used to hunt raccoons and squirrels.

(6) Persons are prohibited from possessing while on the refuge, either on their person or in their vehicles, game for which there is not an open season on the refuge.

(7) The squirrel season will close at sunset on the day prior to the opening of duck season in the State.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through June 30, 1972.

WAPANOCCA NATIONAL WILDLIFE REFUGE

Squirrels, bobcats, rabbits, and raccoons may be hunted in accordance with the following special conditions:

(1) Squirrels, bobcats, and rabbits may be hunted October 1 through 19, 1971.

(2) Raccoons may be hunted November 20 through December 5, 1971.

(3) Dogs are permitted during the raccoon hunts and are prohibited during the other hunts.

(4) Raccoon hunting permitted only from sunset until midnight. Boats prohibited.

(5) Cutting or burning of trees, fires, camping, and littering are prohibited.

(6) Shotguns and .22 caliber rifles are permitted.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1971.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting on the White River National Wildlife Refuge, Ark., is permitted only on the areas designated by signs as open to hunting. These open areas are delineated on maps available

at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations and subject to the following special conditions:

(1) *Species to be taken.* Squirrel, rabbit, bobcat, and feral hogs by gun and turkey by archery only.

(2) *Open season.* Gun Hunt—October 1–15; Archery only—October 16–30, 1971.

(3) *Bag limit.* One turkey of either sex, rabbits—8, and squirrels—8. No limit on bobcat and hogs.

(4) *Weapons.* (a) Gun—shotguns and rimfire rifles are legal. Rifles larger than .22 caliber are prohibited. (b) Long bows only with a minimum pull of 40 pounds and arrows with ⅞-inch minimum width blades.

The provisions of these special regulations supplement the regulations which govern hunting on national wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 30, 1971.

GEORGIA

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of bobwhite quail and squirrels on the Piedmont National Wildlife Refuge, Ga. is permitted only on the area designated by signs as open to hunting. The open area, comprising approximately 32,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of bobwhite quail and squirrels subject to the following special conditions:

(1) Species permitted to be taken: Bobwhite quail and squirrel only.

(2) Open season: December 7, 1971 through February 29, 1972 on Tuesdays, Thursdays, and Saturdays only. Hunters are permitted on areas open to quail and squirrel hunting from 30 minutes before sunrise until 30 minutes after sunset on the above cited hunting days.

(3) No vehicular or horseback travel except on State and county roads.

(4) Hunters under 18 years of age must be under the immediate supervision of an adult.

(5) Camping and fires are prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 29, 1972.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of squirrels on the Catahoula National Wildlife Refuge is permitted on the timbered portions of the refuge. Hunting shall be in accordance with State regulations governing the hunting of squirrels and raccoons except that the season extends from October 2–17, 1971. Hunters may enter the area 30 minutes prior to legal shooting time (30 minutes before sunrise) and must be out of the refuge 30 minutes after legal shooting hours (30 minutes after sunset).

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 17, 1971.

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of squirrels and raccoons on the Yazoo National Wildlife Refuge, Miss., is permitted on all the refuge except for that area which lies within 250 yards of the refuge headquarters, personnel housing, or equipment buildings. This open area, comprising approximately 7,000 acres, is delineated in a map available at the refuge headquarters, Route 1, Hollandale, MS 38748, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Huting shall be in accordance with all applicable State regulations governing the hunting of squirrels and raccoons subject to the following special conditions:

(1) The open season for squirrels extends from October 9–23, 1971, Sundays excluded; and the open season for raccoons extends from December 4–18, 1971, Sundays excluded.

(2) No dogs permitted during the squirrel hunt; however, dogs may be used in the process of taking raccoons.

(3) Raccoon hunting permitted from dark to daylight only.

(4) Firearms limited to 10 gauge shotguns or smaller (buckshot and slugs prohibited), and .22 caliber rifles or pistols (rimfire only).

(5) No firearms may be discharged within 250 yards of Refuge headquarters or residences.

(6) Carrying of loaded firearms in vehicles is prohibited and shooting from vehicles or shooting from or across State or county roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 18, 1971.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rabbits, squirrels and raccoons on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits, squirrels and raccoons except the following special conditions:

(1) The open season for hunting rabbits, squirrels, and raccoons is October 25–30, November 22–27, and December 13–18, 1971. Daylight hours only.

(2) Bow and arrows permitted. Firearms, crossbows, or any type mechanical bow prohibited. Drugged or poison arrows prohibited.

(3) No dogs allowed on the island.

(4) Hunters must check in with refuge personnel upon arrival and check out upon departure from Bulls Island.

(5) Hunters under 18 years of age must be accompanied by an adult.

(6) Camping is permitted in the designated campground only. Campsites may be erected 24 hours prior to each hunt, and must be removed within 24 hours after the close of each hunt. Campsites and camp gear may not be left from one hunt to the next.

(7) Permits are required and may be obtained at the refuge office on Bulls Island.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1971.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Wheeler National Wildlife Refuge is permitted only on the area designated by signs and/or on hunt maps as open to hunting. This open area, comprising that part of Wheeler Refuge located within the boundaries of the Redstone Arsenal Reservation, is delineated on maps available at the refuge headquarters, Box 1643, Decatur, AL 35601, the Provost Marshal's Office at Redstone Arsenal, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting on Redstone Arsenal, subject to the following special conditions:

(1) Hunting shall be by daily permit only, to be obtained from the Provost Marshal's Office, Redstone Arsenal, or his representatives.

(2) Hunting will be limited to the periods November 27 and 28, 1971, bucks only; December 11 and 12, 1971, bucks only; one-half day of December 22 and of December 29, 1971, either sex.

(3) Arms are limited to shotguns of gauges 20 to 12 and loaded with single ball only.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 29, 1971.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of deer with long bow and arrow on the Holla Bend National Wildlife Refuge, Ark., is permitted. This area, comprising approximately 6,366 acres, is delineated on a map available at Refuge headquarters, Russellville, Ark. 72801 and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following special conditions:

(1) Hunting dates: October 1 through November 14, 1971.

(2) Hunters may not enter the refuge earlier than 1 hour before official sunrise daily.

(3) No firearms permitted.

(4) All deer taken must be reported before leaving the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 14, 1971.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting on the White River National Wildlife Refuge, Ark., is permitted only on the areas designated by signs as open to hunting. These open areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations and subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer, bobcat, and feral hogs.

(2) Open season: Archery—October 16–30, 1971; Gun—November 19–20 and December 3–4, 1971.

(3) Bag limits: One deer of either sex. No limit on hogs and bobcats.

(4) Weapons: (a) Gun—in accordance with State regulations. (b) Archery—long bows only with a minimum pull of 40 pounds and arrows with a ⅞-inch minimum width blade.

(5) Shooting is not allowed from boats, vehicles, or roadways used by vehicles. Dogs and horses are not allowed, and all vehicles, including Jeeps, Scouts, Tote Goats, Hondas, etc., must stay on roads and trails. Shooting hours are 30 minutes before sunrise to 30 minutes after sunset. Camping is permitted in designated areas. Hunters may enter the open hunting area at noon on the date preceding each hunt. Fires can only be built in the campsites.

(6) Deer killed during the 4 days of gun hunting must be tagged immediately upon possession with the State and Federal tags and also checked at one of the designated check stations between 7:30 a.m. and 7 p.m.

(7) Hunters may not return to hunt hogs or bobcats after they have killed a deer.

(8) No permit required for archery hunt. Permits are required for the gun hunt. Gun hunters under 18 years of age must be accompanied by an adult.

(9) All hunters must exhibit their hunting licenses, deer tag, game, and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on national wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 4, 1971.

FLORIDA

ST. VINCENT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer, feral hogs, raccoons, and opossums is permitted on St. Vincent National Wildlife Refuge. The open area, including all of St. Vincent Island, is delineated on a map available at the refuge headquarters, Post Office Box 447, Apalachicola, FL 32320, or from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, hogs, raccoons, and opossums subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer, either sex; hogs, raccoons, and opossums.

(2) Bag limits: White-tailed deer—2 per day, 3 per season; hogs, pigs, raccoons, and opossums—no bag limit.

(3) Open seasons; (a) Bow and arrow only—October 24–27 and November 21–24, 1971; (b) primitive weapon or bow and arrow—December 12–15, 1971.

(4) Methods of hunting: (a) Bow and arrow only seasons—only long bows are permitted. Firearms and crossbows are prohibited. Hunters must be on stands from daylight to 9:30 a.m. and from 4 p.m. until sunset. (b) Primitive weapon or bow and arrow season—weapons are restricted to long bows and muzzle loading percussion cap or flint lock rifles with a single rifled barrel of .40 caliber minimum and a .58 caliber maximum bore.

(5) Each participant must have in his possession a valid refuge hunting permit.

(6) Access to the hunting area is restricted to two check-in-stations designated on the hunting area map. The use of boats to gain access at other locations is prohibited. Each hunter must check in with a wildlife refuge officer at one of these locations before hunting.

(7) A red, orange, or yellow garment must be visible while hunting.

(8) Individuals under 18 years of age will not be permitted to hunt unless accompanied by a responsible adult.

(9) Camping and fires are restricted to the two designated camping areas. Campers may set up camp 1 day prior to the opening of each hunt season and must remove all camping equipment by 12 m. following the last day of each hunt season. Campers will remain in the campsite area prior to opening of the hunts and following the closing of the hunts.

(10) Dogs are not permitted on the island.

(11) No motorized vehicles will be permitted on the island.

(12) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(13) Apprehension of a participant for any infraction of regulations shall be cause for immediate revocation of his hunting permit.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1971.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer on Blackbeard Island National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. This open area, comprising 4,585 acres, is delineated on a map available at the refuge headquarters, Route 1, Hardeeville, S.C. 29927, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Deer of either sex may be taken during the following open periods: October 19–22, 1971, November 24–27, 1971 and December 28–31, 1971.

(2) Hunting hours will be from daylight to 9:30 a.m. and from 3:30 p.m. to sunset daily.

(3) The season bag limit is two deer only one of which may be a doe.

(4) Raccoons may also be taken during the above season.

(5) Only bows and arrows may be used. Bows must have not less than 40 pounds pull and arrows must be broadhead, seven-eighths inch or more in width. Firearms, crossbows, and mechanical bows are prohibited.

(6) Dogs are prohibited.

(7) Camping and fires will be permitted only at the designated camping area.

(8) Participants must arrange their own transportation to the island and may not enter the refuge more than 2 days in advance of each opening date.

(9) Hunters will be restricted to the camping area until the morning of the first day of each hunt period.

(10) A Federal permit is required. Permit applications must be received by the Refuge Manager, Savannah National Wildlife Refuge, Route 1, Hardeeville, South Carolina 29927, by the following dates:

October 1 for the hunt beginning October 19;

November 1 for the hunt beginning November 24; and

December 3 for the hunt beginning December 28.

The provisions of these special regulations supplement the regulations which goven hunting on wildlife refuge areas generally as set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1971.

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Piedmont National Wildlife Refuge, Ga. is permitted on the refuge except in those areas designated by signs as closed. The open area, comprising approximately 32,000 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sports Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) Open season and bag limit: (a) Archery Hunt—October 1–12, 1971. Limit of two bucks or one buck and one doe; (b) Trophy Buck Hunt—November 2–6, 1971. Limit of one buck with four or more points on one side; (c) Anterless Deer Hunts—November 20 and December 4, 1971. Limit of one anterless deer.

(2) Additional species: Bobcats, foxes, and racoons may be taken only during the archery hunt.

(3) Buckshot, handguns, crossbows, and drug-tipped arrows may not be used or possessed. Target practice during the gun hunt is prohibited.

(4) All deer killed must be checked in at refuge headquarters on the same day they are killed and before leaving the refuge area.

(5) All hunters must check out by 12 m. on the day following each hunt period.

(6) Dogs are prohibited.

(7) Camping and fires are restricted to the designated camping area in Compartment 19 which will be open on the following dates: September 25–26; September 30–October 13; November 1–7; November 19–21; and December 3–5, 1971.

(8) Hunters not having reached their 18th birthday must be under the immediate supervision of an adult.

(9) Hunters must furnish and wear either red, orange, or yellow vests, coats, or coveralls during all hunts.

(10) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(11) All areas open for hunting may be visited for scouting purposes on September 25–26, 1971 during daylight hours only. Weapons and dogs are not permitted.

(12) A refuge permit is required. Hunt permits are nontransferable. Hunters for the gun hunts will be selected by computer from applications received. Applications for the gun hunts must be made on the form available from the Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Completed applications must be in the office of the Piedmont National Wildlife Refuge by 4:30 p.m. on September 10, 1971. Only one application for each hunter is permitted. Successful applicants must have their gun hunt permits validated before going afield.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally as set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 4, 1971.

MARYLAND

EASTERN NECK NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Md., is permitted on all areas not designated by signs as closed to hunting. This open area, comprising 2,169 acres, is delineated on maps available at refuge headquarters, Rock Hall, Md., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons: (a) Bow and arrow hunt only: October 22–23 and November 1–2, 1971; (b) muzzle loading rifle hunt only: October 29–30, 1971; (c) shotgun hunt only: October 18–19 and November 5–6, 1971.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must report at the designated check station before entering or leaving the refuge. All deer killed must be presented for examination at the check station.

(4) Hunters may not enter the refuge before three-fourths hour before sunrise and must check out no later than 1 hour after sunset.

(5) Possession of loaded weapons before or after legal hunting hours is prohibited.

(6) All hunters must enter and leave the refuge by way of State Road 445 only. Entry by boat is prohibited.

(7) Dogs are prohibited.

(8) Unauthorized entry into any building or designated "Closed Area" is prohibited.

(9) Hunters must not hunt or possess loaded guns or arrows notched in bow on the county roads or designated parking areas.

(10) During the shotgun hunt all hunters must furnish and wear, so as to be readily noticeable, red, yellow, or orange caps, hats, and similarly colored vests, shirts, or coats while on the hunting area.

(11) Hunters under 18 years of age must be accompanied by an adult.

(12) Hunters shall not disturb, damage, or destroy unharvested crops.

(13) Camping and fires are prohibited.

(14) A Federal permit will be required of all participants in the deer hunts. Permits will be limited to 250 per day for the bow and arrow hunt and 100 per day for the firearms hunt. They will be issued in advance of the season to hunters selected by an impartial drawing of applications received. Applications must be received no later than September 10, 1971, at the Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, MD 21661. Permits will not be transferable.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1971.

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Yazoo National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. This open area, comprising approximately 7,000 acres is delineated on a map available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all State regulations governing the hunting of deer subject to the following special conditions:

(1) Open Season: Archery—November 5–19, 1971. Gun—December 27, 1971–January 1, 1972, Sundays excluded.

(2) Bag Limit—One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

(3) Weapons: Archery — Longbows only, crossbows prohibited. No firearms permitted on the refuge during the archery hunt. Gun—Only 10-gauge, 12-gauge, 16-gauge, or 20-gauge shotguns or rifles larger than .22 caliber may be used.

(4) A refuge deer hunting permit is required for the gun hunt.

(5) Firearms may not be discharged within 250 yards of residences or the refuge headquarters. The carrying of loaded firearms in vehicles, and shooting from or across county or State roads is prohibited.

(6) All deer killed must be checked out at a refuge checking station.

(7) Hunters may enter the hunting area no earlier than 1 hour before sunrise and must depart the hunting area no later than 1 hour after sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 2, 1972.

NORTH CAROLINA

PUNGO NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Pungo National Wildlife Refuge, N.C., is permitted on all areas not designated by signs as closed to hunting. This open area, comprising 7,000 acres, is delineated on maps available at the refuge headquarters, Plymouth, N.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Tunting shall be in

accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Deer may be taken from sunrise to sunset during the following open seasons: Bow and arrow hunt: September 17–October 9, 1971; Shotgun hunt: October 11, 12, 13, 14, 15, and 16, 1971.

(2) Bag limit: One deer per day; two per season. Bucks only.

(3) Weapons: Archery equipment—same as provided for in State regulations. Shotguns may be used with rifled slugs or shot not smaller than No. 4 buckshot.

(4) Permits are required. Archery hunters may acquire a permit at the refuge headquarters prior to hunting. Two hundred permits will be issued for each of three 2-day gun hunts. Permittees will be selected in a drawing from applications received at the refuge prior to September 29, 1971.

(5) Dogs and rifles are prohibited.

(6) All deer harvested must be checked in at the refuge headquarters on Coulbourn Road the day they are killed and prior to leaving the hunting area.

(7) Camping and fires are prohibited.

(8) No hunting permitted within 200 yards of the refuge subheadquarters.

(9) Motor vehicular traffic will be confined to established roads.

(10) Guns must be unloaded and bows unstrung while being transported in a motor vehicle.

(11) Hunters under 18 years of age must be accompanied by an adult.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 16, 1971.

South Carolina

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer except the following special conditions:

(1) The open season for bow and arrow hunting of white-tailed deer (either sex) is October 25–30, November 22–27, and December 13–18, 1971. Daylight hours only.

(2) Bows with minimum recognized pull of 45 pounds and arrows with minimum blade width of seven-eighths inch will be required for deer. Firearms, crossbows, or any type of mechanical bow prohibited.

(3) Stand hunting only is permitted on the area north of the beach road from sunrise to 9 a.m. and from 3 p.m. until sunset. Stalk hunting is permitted between the hours of 9 a.m. until 3 p.m. on this area. Stalk hunting is permitted at all times on the area south of the beach road.

(4) No dogs allowed on the island.

(5) Hunters must check in with refuge personnel upon arrival and check out upon departure from Bulls Island.

(6) There is no limit on the number of deer taken.

(7) Camping is permitted in the designated campground only. Campsites may be erected 24 hours prior to each hunt, and must be removed within 24 hours after the close of each hunt. Campsites and camp gear may not be left from one hunt to the next.

(8) Permits are required and may be obtained at the refuge office on Bulls Island.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1971.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted on 97 percent of the Carolina Sandhills National Wildlife Refuge. This open area is designated by signs as open to hunting and delineated on a map available from refuge headquarters, McBee, S.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations and subject to the following special conditions:

(1) Seasons: Archery only—October 18–23, 1971; gun hunts—November 1–6 and 11–13, 1971.

(2) Hunters may not enter hunting area prior to 5 a.m., e.s.t., and must leave by 6:30 p.m., e.s.t.

(3) Bag limits: Archery only—one buck with visible antlers and one antlerless deer. Gun hunt—bucks only with visible antlers, limit not to exceed that set by State regulations. It is illegal to pursue or shoot white colored (albino) deer.

(4) Deer drives permitted only on designated areas.

(5) Hunters must sign in and out at registers located at the Lake Bee and Martin's Lake entrance for the archery hunt and at the headquarters and Lake Bee areas for the gun hunts.

(6) Weapons: Same as allowed on State Game Management Areas.

(7) Individuals under 18 years of age must be accompanied by a responsible adult.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 13, 1971.

Tennessee

TENNESSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tennessee National Wildlife Refuge, Tenn., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,700 acres for bow hunting only, and 3,300 acres for gun and bow hunting are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of deer subject to the following special conditions:

(1) The open season for archery hunting of deer on the Refuge is October 2–3 and October 16–17, 1971.

(2) The open season for gun hunting of deer on the Refuge is December 21, 22, 23, and 24, 1971.

(3) The bag limit is one deer of either sex per hunter during the archery hunting and one buck during the gun hunting.

(4) The use of dogs is not permitted.

(5) Camping on the area is not permitted.

(6) Driving of deer is prohibited.

(7) Hunters may enter public hunting area at sunrise and must be out of the area by 1 hour after sunset.

(8) Bow hunters desiring to hunt Britton Ford Peninsula on October 2 and October 16 will be required to possess a refuge permit. There will be a total of 300 permits available for October 2 and 400 for October 16. Permits will be issued to the first 700 written requests marked "Archery Deer Hunt" and submitted to the refuge office, Bureau of Sport Fisheries and Wildlife, Box 849, Paris, TN 38242, and received postmarked on or after September 1, 1971. Permits will be free and transferable. Only one permit will be furnished each of the first 700 requests. No permit is required to bow hunt the other archery areas and no permit is required on any area open for bow hunting except on October 2 and 16.

(9) Hunters must check in and out of the designated checking station.

(10) Hunters desiring to hunt deer in the area open to gun hunting will require a refuge permit. Hunters under 18 years of age must be accompanied by an adult. Applications may be secured from the refuge office, Bureau of Sport Fisheries and Wildlife, Box 849, Paris, TN 38242, after August 1, 1971. Applications must be submitted in time to be received by September 10, 1971.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1972.

Virginia

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Chincoteague National Wildlife Refuge, Va., is permitted only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Chincoteague, Va., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting will be in accordance

with all applicable State regulations governing the hunting of deer subject to the following conditions:

(1) Species to be taken: (a) Archery hunt—sika deer and white-tailed deer, either sex; (b) trophy gun hunt—sika, deer, stags (male) with six or more combined points per set of antlers.

(2) Bag limits: (a) Archery hunt—sika or white-tailed deer, one per day, two per license year, either sex; (b) trophy gun hunt—sika deer, one per license year, trophy stag (6 points) only.

(3) Season: (a) Archery—October 15 through November 13, 1971, except Sundays; (b) trophy gun hunt—November 29 through December 4, 1971, and December 6 through December 11, 1971.

(4) Weapons: (a) Archery hunt—Virginia bow hunting regulations apply; (b) trophy gun hunt—rifles (modern or antique) or shotguns capable of holding no more than one shell. Shotguns must be 20 gauge or larger using shot not smaller than No. 4 buckshot. Possession of any firearm or ammunition on the refuge which is not stipulated as permitted in these regulations is prohibited.

(5) Dogs are prohibited.

(6) Hunting hours: Same as State hunting hours. All hunters must be clear of the hunting areas by 8 p.m., e.s.t.

(7) Carrying loaded firearms in or on or shooting from a vehicle is prohibited.

(8) Camping and fires are prohibited.

(9) All hunters under 18 years of age must be accompanied by an adult.

(10) Permits: (a) Archery hunt—all archery hunters must have in their possession a refuge hunting permit obtained by mail or in person between September 15 and October 15, 1971; (b) trophy gun hunt—all hunters must have in their possession a refuge hunting permit. Ten permits will be issued for each of the two 6-day hunts. Permits may be applied for in person or by mail by October 15, 1971. Applicants for permits must include with their request a range certified target showing three shots fired from the off hand (standing) position at 50 yards with the weapon to be used in the hunt. Applicants failing to prove with certified target their ability to place three consecutive shots within 3 inches of center of target may be subject to disqualification. Selection of permittees will be made with a drawing to be held October 19, 1971.

(11) Scouting: (a) Archery hunt—no advance scouting; (b) trophy hunt—permit holders may scout their assigned areas the Sunday preceding the hunt, November 28 or December 5, 1971.

(12) Hunter orientation: (a) Archery hunt—no orientation required; (b) trophy buck hunt—permit holders for the trophy stag hunt must complete a short orientation before commencing with hunt. Orientation sessions will be held at refuge headquarters at 2:30 p.m. on the Sundays preceding the hunts or at the convenience of the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations Part 32 and are effective through December 12 1971.

PRESQUILE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions.

(1) A Federal permit costing $2 will be required. Permits will be issued for a 2-consecutive-day period. Permits will be limited to 85 for each 2-day period and will be issued in advance of the season to hunters selected by an impartial drawing. Applications must be received on a post card no later than September 17, 1971, at the Presquile National Wildlife Refuge, Post Office Box 658, Hopewell, VA 23860. Permits are nontransferable.

(2) White-tailed deer may be taken with bow and arrow only from one-half hour before sunrise to 5:30 p.m., e.d.t., on October 15, 16, 21, 22, 29, and 30 and 4:30 p.m., e.s.t., on November 4, 5, 12, and 13, 1971.

(3) Bag limits: One deer per day, either sex.

(4) All hunters must enter the refuge on the refuge ferry at 6 a.m., e.d.t. (5 a.m., e.s.t.). Entry by boat is prohibited. There will be an official State checking station on the refuge. Hunters must leave on the refuge ferry by 6 p.m., e.d.t. (5 p.m., e.s.t.).

(5) All travel on the refuge will be on foot or by refuge vehicles. Horses and dogs are prohibited.

(6) Possession of firearms on the refuge is prohibited.

(7) Hunters shall not disturb, damage, or destroy any unharvested crops.

(8) Camping, fires, and littering are prohibited.

(9) All arrows in the possession of each hunter must be marked with the permit number issued to the hunter. The marking may be accomplished in any manner so long as the number is clearly visible.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 13, 1971.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 3, 1971.

[FR Doc.71-13466 Filed 9-13-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 19]

SECURITY OF CARGO IN UNLADING AREAS AND CLEARANCE OF CONTAINERIZED CARGO

Permission To Unlade and Establishment and Operation of Container Stations

On June 26, 1970, notice of a proposal to amend the Customs Regulations regarding the issuance of permits to unlade and the security of cargo in unlading areas was published in the FEDERAL REGISTER (35 F.R. 10463). Final regulations under this proposal were issued in Treasury Decision 71-39 published in the FEDERAL REGISTER of February 3, 1971 (36 F.R. 1891).

Notice is hereby given pursuant to the authority contained in section 251 of the Revised Statutes, as amended (19 U.S.C. 66), and sections 448, 450, 499, 555, 556, 623, 624, 644, 46 Stat. 714, as amended, 715, as amended, 728, as amended, 743, as amended, 759, as amended, 761 (19 U.S.C. 1448, 1450, 1499, 1555, 1556, 1623, 1624, 1644), it is proposed to amend the Customs regulations by adding new §§ 19.40 through 19.49 as set forth below to:

(1) Incorporate established procedures, instituted on a provisional basis, for transporting containerized cargo from the place of unlading to a designated container station for the purpose of breaking bulk and redelivering the cargo:

(2) Make applicable to independent container station operators the procedures relating to the security of cargo in unlading areas contained in the aforementioned Treasury Decision.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

1. The title of Part 19 is amended to read as set forth above.

2. Part 19 is amended by adding a new centerhead and §§ 19.40 through 19.49 to read as follows:

CONTAINER STATIONS

§ 19.40 Establishment of container stations.

A container station, independent of the importing carrier, may be established at any port upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format:

Port of _____
No. _____

BUREAU OF CUSTOMS
CONTAINERIZED CARGO BOND (TERM)

Know All Men By These Presents:

That: [1] _____, of _____, as principal, and [1] _____ of _____, and _____ of _____, as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19__.

Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the _____, for transportation to the _____ terminal(s) at _____ for a period beginning on the _____ day of _____, 19__, and ending on the _____ day of _____, 19__, both days inclusive; and

Whereas, the above-bounden principal has requested, or will request, the assignment of Customs officers or employees to overtime duty at night or on Sunday or a holiday pursuant to the provisions of the Tariff Act of 1930, as amended, the Act of February 13, 1911, as amended, or any other act, or acts and regulations relating thereto, in effect at the time of such duty, on behalf of the herein referred to containers, and the merchandise therein;

Now, Therefore, the Condition of This Obligation is Such That—

(1) If the above-bounden principal shall pay such sums as are chargeable under law and regulations for any services as may be performed for said containers and the merchandise therein by Customs officers or employees and shall promptly pay any duties, charges, exactions, penalties, or other sums found legally due the United States by said principal on account of said containers and the merchandise therein;

(2) And if the above-bounden principal shall exonerate and hold harmless the United States and its officers from, or on account of, any risk, loss, or expense of any kind or description which might occur or be occasioned by reason of the granting of any special license to discharge or take on such merchandise in said containers at night or on Sunday or holiday, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the above-bounden principal, by reason of the granting of any special license;

(3) And if the principal shall make prompt report of arrival of the containers and the merchandise therein by delivery of the manifest, and permit to transfer, to the district director or other proper customs officer to whom the containers and the merchandise therein are consigned in said manifest or permit to transfer, or by other notice satisfactory to the district director;

(4) And if the said principal shall, in the event of failure to comply with any or all of the conditions referred to in this instrument, pay to the United States as liquidated damages an amount equal to the value of the nondutiable merchandise with respect to which there shall have been default, the damages on any one shipment not to exceed $500, and shall pay an amount equal to the duties on such dutiable merchandise as may be involved in the default (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise whether free or dutiable, together with the rate and amount of duty and tax, shall also be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry); provided that when delivery shall have been made of any dutiable merchandise in the containers to the ultimate consignee, owner, or other person without permit or release having been issued by the district director or other proper officer of the Customs, the principal shall pay, in addition to the duties on such merchandise a sum equal to 25 per centum of the duties on the merchandise so delivered; and shall pay any internal revenue taxes or other taxes accruing to the United States on the merchandise which is the subject of the default together with all costs, charges, penalties, and expenses caused by the failure to comply with the conditions of this obligation;

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned terminal(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and exactions accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges, and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

[1] If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

(6) And if the said principal shall pay the necessary expense of such seals, locks, and other proper fastenings as may be prescribed and required by the district director for securing the transportation and safekeeping or storage of such merchandise contained in the containers as may be placed in the custody of the principal, in such terminals, stations, buildings, rooms, warehouses, elevators, safes, trunks, pouches, or other things for, and places of, keeping or storage, as may be authorized and used by the principal for that purpose;

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Principal)

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Surety name and number)

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Surety name and number)

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station prior to the filing of an entry therefor or the permitting thereof (see § 15.8 of this chapter) for the purpose of breaking bulk and redelivery of the cargo.

§ 19.42 Application for transfer of merchandise.

The container station operator may file an application for the transfer of a container intact to the station. The application shall be in duplicate in the following or substantially similar format:

BUREAU OF CUSTOMS

APPLICATION AND PERMIT TO TRANSFER CONTAINERIZED CARGO TO A CONTAINER STATION

Date _____

Application is made to transfer the containers and their contents listed below which arrived on _____ (Carrier) on _____ (Date) at Pier _____ to the _____ (Container station)

An abstract of the carrier's manifest covering the containers by B/L No., marks, numbers, contents, consignee, etc., is attached hereto.

LIST OF CONTAINERS BY MARKS AND NUMBERS ONLY

_____

_____

_____

_____ (Signature of authorized agent of container station)

We concur: _____ (Signature of agent of importing carrier)

TRANSFER RECORD

Delivered to _____ (cartman), C.H.L. No. _____ in apparent good order and condition except as noted:

Truck No.	Container numbers	Date	Signature of inspector	Signature of cartman	Received signature container operator

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the discharging inspector at the place where the container is unladen, as designated by the district director.

§ 19.44 Importing carrier concurrence.

The importing carrier (who, with the operator, remains jointly and severally liable for the proper delivery of the merchandise until it is permitted in accordance with § 15.8 of this chapter) shall indicate its concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator. The importing carrier shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container. The importing carrier will be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator.

§ 19.45 Transfer of merchandise, approval and method.

Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. The merchandise may only be transferred to a container station by a bonded cartman or bonded carrier. The cartman or carrier shall receipt for the merchandise on both copies of the application.

§ 19.46 Employee lists.

A permit shall not be granted to an operator to transfer a container or containers to a container station, if the operator, within 30 calendar days after the date of receipt of a written demand by the district director, does not furnish a written list of names, addresses, social security numbers, and dates and places of birth of persons employed by him in connection with the movement, receipt, storage or delivery of imported merchandise. Having furnished such a list, no new permit shall be issued to an operator who has not within 10 calendar days after the employment of any new personnel employed in connection with the movement, receipt, storage, or delivery of imported merchandise advised the district director in writing of the names, addresses, social security numbers, and dates and places of birth of such new employees. The operator shall, within 10 calendar days, advise the district director if the employment of any employee is terminated. A person shall not be deemed to be employed by an operator if he is an officer or employee of an independent contractor engaged by the operator to move, receive, store, deliver, or otherwise handle imported merchandise.

§ 19.47 Security.

The space to be used for the purposes of breaking bulk and delivering cargo shall be properly secured against access by unauthorized persons, including persons not on the list of current employees furnished to the district director by the container station operator, the principal on the bond, as required by § 19.46. A suitable working and office space for the use of Customs officers and employees performing functions in the area shall also be provided.

§ 19.48 Withdrawal of privileges.

If discrepancies are discovered which indicate that the revenue may be endangered or there is a failure to retain or secure the designated examination packages, the privileges of a container station operator granted by this subpart may be revoked pursuant to the procedure stated in § 19.3(e).

§ 19.49 Entry of containerized merchandise.

Merchandise not entered within the lay order period, or extension thereof, shall be placed in general order. The importing carrier shall issue carrier's certificates for individual shipments in a container. Entries covering merchandise transferred to a container station shall clearly show that the merchandise is at the container station.

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received no later than 30 days following the date of publication of this notice. No hearing will be held.

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

Approved: September 1, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-13519 Filed 9-13-71;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

EXTRA LONG STAPLE COTTON

Notice of Determinations Regarding 1972 Crop

The Secretary of Agriculture is preparing to make the following determinations with respect to the 1972 crop of extra long staple cotton (referred to as ELS cotton):

a. Amount of the national marketing quota.

b. Amount of the national acreage allotment.

c. Apportionment of the national acreage allotment to States and counties.

d. Date of period for conducting the national marketing quota referendum.

e. Unrestricted use sales policy.

The first four determinations above are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 38, as amended; 7 U.S.C. 1281 et seq.):

(a) *National marketing quota.* Section 347(b)(1) of the act requires the Secretary to proclaim the amount of the national marketing quota for the 1972 crop of ELS cotton by October 15, 1971. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1972–73 marketing year, which begins August 1, 1972, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1973 crop becomes readily available without resort to Commodity Credit Corporation stocks. The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the act.

(b) *National acreage allotment.* Section 344(a) provides that the national acreage allotment for the 1972 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the 4 calendar years 1967, 1968, 1969, and 1970.

(c) *Apportionment of the national acreage allotment to States and counties.* Sections 344 (b) and (e) provide that the national acreage allotment for the 1972 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton (including acreage regarded as having been planted) during the 5 calendar years 1966, 1967, 1968, 1969, and 1970, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.* Section 343 requires the Secretary to conduct a referendum, by secret ballot, of farmers engaged in the production of ELS cotton during 1971, by December 15, 1971, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

The following determination will be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.):

(e) *Unrestricted use sales policy.* Section 407 of the act provides that no ELS cotton may be sold at less than 115 percent of the current loan rate.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be postmarked not later than October 8, 1971. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on September 9, 1971.

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

[FR Doc.71-13507 Filed 9-13-71;8:49 a.m.]

[7 CFR Part 722]

UPLAND COTTON

Notice of Determinations Regarding 1972 Crop

The Secretary of Agriculture is preparing to make the following determinations with respect to the 1972 crop of upland cotton (referred to as "cotton"):

a. Amount of the national production goal.

b. Amount of the national base acreage allotment.

c. Apportionment of the national base acreage allotment to States and counties.

d. Loan level and 2-year average world market price.

e. Cropland set-aside percentage.

f. Unrestricted use sales policy.

The first three determinations listed above are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 38, as amended; 7 U.S.C. 1281 et seq.):

(a) *National production goal.* Section 342a of the act requires the Secretary to proclaim a national production goal for the 1972 crop by November 15, 1971. Such production goal (in terms of standard bales of 480 pounds net weight) shall be the number of bales of cotton equal to the estimated domestic consumption and estimated exports for the 1972–73 marketing year, which begins August 1, 1972, plus an allowance of not less than 5 percent of such estimated consumption and estimated exports for market expansion. Section 342a further provides that the Secretary shall make such adjustments in the amount of the production goal as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the 1972–73 marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 percent of the average offtake for the 3 preceding marketing years), to provide for a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton-consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

(b) *National base acreage allotment.* Section 350(a) requires the Secretary to establish and announce a national base acreage allotment for the 1972 crop of cotton by November 15, 1971. It states, "The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of 480 pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be 11,500,000 acres for the 1971 crop and in the case of the 1972 and 1973 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies."

(c) *Apportionment of the national base acreage allotment to States and counties.* Section 350 (b) and (c) provides that the national base acreage allotment for 1972 shall be apportioned to States and counties on the basis of acreage planted (including acreage regarded as having been planted) to cotton within the farm acreage allotment during the 5 calendar years 1966, 1967, 1968, 1969, and 1970, adjusted for abnormal weather conditions or other natural disasters during such period. Section 350(c) further provides that the State committee may reserve not to exceed 2 percent of its

State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

The following determinations will be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.):

(d) *Loan level and 2-year average world market price.* Section 103(e)(1) of the act requires the Secretary to determine and announce the loan level for the 1972 crop by November 1, 1971. Such loan level must reflect—for Middling 1-inch cotton, micronaire 3.5 through 4.9 at average location in the United States—90 percent of the average world price for such cotton for the 2-year period August 1, 1969, through July 31, 1971, except that, following 1 or more years of excessively high prices, adjustments may be made in the loan level in order to keep U.S. cotton competitive and to retain an adequate share of the world market. Section 103(e)(1) further requires the Secretary to determine the 2-year average world price annually pursuant to a published regulation specifying the procedures and factors to be used in making the determination. Such regulation was published in the FEDERAL REGISTER on December 12, 1970 (35 F.R. 18913).

(e) *Cropland set-aside percentage.* Section 103(e)(4)(A) requires the Secretary to provide for a set-aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect, then as a condition of eligibility for loans and payments on cotton, producers must set aside and devote to approved conservation uses an acreage of cropland equal to such percentage of the farm base acreage allotment as the Secretary determines (not to exceed 28 percent), in addition to the soil-conserving base established for the farm.

(f) *Unrestricted use sales policy.* Section 407 provides that the sales price cannot be less than 110 percent of the loan rate for Middling 1-inch cotton (micronaire 3.5 through 4.9), adjusted for such current market differentials reflecting grade, quality, location, and other value factors determined appropriate, plus reasonable carrying charges, except that a quantity of cotton equal to the "shortfall" (amount by which 1972 production is less than estimated requirements for domestic use and for export for 1972–73 marketing year) must be made available at current market prices.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be postmarked not later than October 8, 1971. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on September 9, 1971.

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

[FR Doc.71-13508 Filed 9-13-71;8:49 am]

Consumer and Marketing Service

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Notice of Proposed Free and Restricted Percentages for 1971–72 Fiscal Period, Standard of Grade for Withheld Cranberries and Ending Date for Compliance With Withholding Requirements

Consideration is being given to a proposal to establish, for the 1971–72 fiscal period beginning September 1, 1971, free and restricted percentages which percentages shall be applied to all cranberries acquired during such fiscal period, to establish the standard of grade that withheld cranberries shall meet and to fix the date by which all handlers shall have met their withholding requirements.

The proposed percentages, minimum grade, and ending date, which were recommended by the Cranberry Marketing Committee at its meeting on September 2, 1971, would be established in accordance with the provisions of the marketing agreement and Order No. 929 (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The recommendation by the Cranberry Marketing Committee reflects its appraisal of the available supply of cranberries and the current and prospective market conditions. The fixing of the free and restricted percentages as specified herein is designed to establish and maintain orderly marketing conditions, provide the market with an adequate supply of cranberries, and to prevent the chaotic marketing conditions which would likely result if all of the available supplies of cranberries were marketed during the current fiscal period.

The minimum grade requirement for withheld cranberries specified herein is designed to effect a desirable reduction in the marketable supply of cranberries by preventing handlers from using lower quality berries, normally eliminated, to meet a part of their withholding (restricted percentage) requirement.

The ending date of February 1, 1972, is designed to provide ample opportunity for each handler to meet his withholding obligations before completion of the marketing season by permitting maximum flexibility in scheduling requests for inspection and certification of cranberries for withholding, while enagaging in normal shipping operations.

The proposal is as follows:

§ 929.303 Free and restricted percentages for the 1971–72 fiscal period, standard of grade for withheld cranberries and ending date for compliance with the withholding requirements.

(a) The free percentage and restricted percentage applicable to all cranberries acquired during the fiscal period September 1, 1971, through August 31, 1972, shall be 88 percent and 12 percent, respectively.

(b) Each lot of cranberries withheld pursuant to paragraph (a) above shall grade at least U.S. No. 1 grade, as set forth in the U.S. Standards for Fresh Cranberries for Processing (§§ 51.3030–51.3037 of this title) except that, for the purposes of this regulation, cranberries infested with worms shall be scored against the grade under the 5 percent tolerance provided for cranberries which are soft or affected by decay (see § 51.3031(b)(3) of this title).

(c) Each handler shall meet his withholding requirements, as provided in § 929.54, not later than February 1, 1972.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. 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)).

Dated: September 8, 1971.

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

[FR Doc.71-13486 Filed 9-13-71;8:48 am]

[7 CFR Part 1007]

[Docket No. AO 366-A7]

MILK IN GEORGIA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and 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 Georgia 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 East Point, Ga., on April 27–29, 1971, pursuant to notice thereof which was issued April 5, 1971 (36 F.R. 6830).

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

1. Pooling standards for a plant operated by a cooperative association.
2. Pricing point on diverted milk.
3. Adoption of a Class I base plan.

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. *Pooling standards for a plant operated by a cooperative association.* Provision should be made in the Georgia order for pooling a supply plant operated by a cooperative association on the basis of the cooperative's overall performance in the market rather than solely on shipments from the plant.

The proponent cooperative association representing producers in the market operates a milk receiving and storage facility at Eatonton, Ga. The cooperative plans to use the Eatonton receiving facility (1) to balance supplies of handlers whose direct receipts from farms may be less than their current needs, and (2) to assemble milk supplies in excess of handlers' needs for disposal to manufacturing outlets. These are primary functions of proponent cooperative association.

The principal manufacturing outlets for Georgia reserve supply are located outside the State of Georgia. In some cases, diversion of milk directly to such nonpool plants provides the most efficient handling of the milk in excess of handlers' needs. Because of the long distances usually involved, it is frequently more economical, however, to receive the milk first at Eatonton where the milk from small pickup tank trucks is reloaded into large over-the-road tankers. Receiving and assembling the milk at Eatonton results in a substantial reduction in the cost of moving such reserve milk.

Pool plants under the Georgia order are scattered over a wide area. In many instances the distributing plant may be nearer to a producer's farm than the Eatonton receiving facility. Therefore, since all producer milk in the market is delivered in bulk tanks, it normally is more economical to move the milk directly from the farm to a handler's plant than it is to haul the milk to Eatonton, receive it at the cooperative plant for purposes of qualifying the plant, reload it and then haul it back to a distributing plant which is closer to where the milk was produced. Consequently, very little milk actually is moved through the Eatonton facility to supply Georgia distributing plants even though it provides a supply-balancing function for the Georgia market.

If the Eatonton plant were not a pool plant, at least some of the reserve supply of the market received at Eatonton still could retain pool status as diverted milk. The order requires, however, that 10 days' production of each producer must be received at a pool plant during each month to be eligible for diversion on the remaining days of the month. Since it is not economical to receive at the Eatonton facility each day the milk located nearest the plant, it would be necessary on at least 10 days during the month to haul substantial amounts of milk from farms close to Eatonton to more distant pool plants and then return the milk to Eatonton. Qualifying the Eatonton plant as a pool plant will eliminate a substantial amount of uneconomic hauling otherwise necessary.

A cooperative plant such as that at Eatonton therefore can serve the market more efficiently if it is a pool plant, but, in view of the nature of the operation as described, the market performance required for pooling such a supply plant operated by a cooperative association must be somewhat different from that of other supply plants. The conditions for pooling such a plant should be that: (1) The plant is not a distributing plant; (2) two-thirds or more of such cooperative's total member producer milk (including such milk delivered directly from farms and from the association's plant(s)) is received during the month as producer milk at pool distributing plants; and (3) such plant meets the order's minimum shipping requirements for supply plants generally, subject to the conditions set forth below. These conditions will insure that undue quantities of milk not regularly serving the Georgia fluid milk market will not be associated with the Georgia pool.

In view of the fact that the Georgia market is one which is frequently relatively short on supply (and the fact that there is some seasonal variation in supplies), the cooperative in order to qualify a supply plant on terms somewhat different from those applicable to other supply plants, should have a high proportion of its producer-member milk regularly supplying the market. A supply plant, other than one operated by a cooperative as described herein, must deliver at least 50 percent of its receipts to pool distributing plants. When the milk of member-producers which is delivered directly from the farm to other pool plants, is considered as having been first received at the plant of the cooperative it is reasonable to require as a basis for such plant qualification that not less than two-thirds of a cooperative's member-producer milk be received at pool distributing plants.

In determining whether such cooperative plant meets the minimum 50 percent shipping requirement generally applicable to supply plants in this market, all deliveries by the cooperative (acting as a bulk tank handler) on milk delivered to pool distributing plants would be considered as having been received first at the association's plant qualifying under this provision. If the cooperative were to operate more than one supply plant all such direct deliveries of member producer milk to pool distributing plants would be assigned for this purpose to the supply plant nearest Atlanta.

At the hearing, a proprietary handler representative expressed concern that large volumes of distant milk could be associated and pooled under the order if a provision of this kind were adopted. However, it is concluded that the conditions for pool participation set forth herein will insure that only the regular reserve supply for the Georgia market will be pooled.

Additional supply plants of the cooperative could qualify, of course, for pool supply plant status on the basis of actual shipments from the plant to pool distributing plants under the 50 percent rule.

2. *Pricing point on diverted milk.* No change should be made in the current Georgia order with respect to the pricing point on diverted milk. Milk diverted from a pool plant to a nonpool plant should continue to be priced at the location of the plant to which diverted rather than the pool plant from which diverted, as proposed.

The purpose of the location adjustment is to reflect the value of the milk at the point of receipt. The uniform price for base milk paid to producers for diverted milk in this market should be the price applicable at the plant of physical receipt, not the price applicable at the plant where the milk was received prior to diversion. When producer milk is moved from the farm to a nonpool plant at which no location adjustment applies, the producer pays the cost of moving his milk to such plant. When milk is diverted to a nonpool manufacturing at which a location adjustment is applicable, it is appropriate that the difference in the price at such location be reflected in the uniform price received by the producer.

Proponents of the change in the pricing point on diverted milk contended that in the Georgia market, most manufacturing plants are located a considerable distance from the market and that

the cost of moving milk from the producers' farms to such plants sometimes exceeds the cost of moving milk to the pool distributing plants. However, when milk is priced at the plant from which diverted, this cost is borne instead by all producers on the market since the amount of the location adjustment applicable at the point of receipt otherwise would enhance the uniform price for base milk.

Pricing the milk at the point of receipt will insure that milk will not be moved uneconomically or undue distances at other producers' expense. It will further protect the uniform price for regular producer suppliers by eliminating the incentive to associate with a plant in the central market dairy farmers whose milk usually is received at a distant point, and then to divert such milk to the plant of usual receipt while drawing from the Georgia pool the applicable uniform price f.o.b. central market.

At the hearing and also in its brief, the proponent cooperative association indicated that the proposal to change the pricing point on diverted milk should be adopted to make it clear that diverted milk may qualify as base milk under the Class I base plan. The Georgia order, as amended herein, makes it clear that a producer will receive credit under the Class I base plan for all his producer milk deliveries whether such milk is received at a pool plant, or is diverted therefrom to a nonpool manufacturing plant under the rules for diversion.

3. *Adoption of a Class I base plan.* Producers supplying plants regulated by the Georgia Federal order should have the opportunity to decide whether the proceeds from the sale of their milk should be distributed among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

At the present time, producers under the Georgia order are paid in accordance with the terms of a 12-month seasonal base-excess plan.

The purpose of the Class I base plan is to provide a method for producers regulated by the Georgia order individually to adjust production to meet the Class I needs of the market. Cooperative organizations representing a majority of the producers on the Georgia market presented all the testimony in favor of the proposed base plan. There was no opposition to the proposed base plan. However, a proprietary handler representative suggested modifications regarding certain aspects of the proposal.

The proposed base plan is designed to adapt to changing supply-demand conditions. Under it new producers coming on the market would be able to earn, over a reasonable period of time, bases comparable to those of other producers. Similarly, it would provide a means whereby any producer desiring to increase his production and thus earn additional base may do so.

Under the plan proposed herein producer bases would be adjusted annually to reflect changing supply-sales conditions. While the plan provides a means whereby new producers may earn bases and established producers may increase their bases, it also provides that base-holding producers who reduce their marketings will not be adversely affected. This would be accomplished by providing that a producer's production history would not be reduced as long as he markets a volume of milk at least equal to his Class I base.

In its brief, the proponent cooperative organization stated that a number of producers had purchased 1970–71 bases under the seasonal base plan. In order to provide an equitable transition from the base-excess plan, presently a part of the Georgia order, proponent stated that all transfers of 1970–71 base under the present plan, purchased by producers between March 1971 and the effective date of this order, should be assigned to them under the new base plan. There is no basis, however, for such a transfer of production history. The agricultural Act of 1970 does not provide that a producer be credited with production history associated with a seasonal base purchased prior to the effective date of the new Class I base plan. Consequently, producers who purchased 1970–71 base under the present seasonal base plan will not receive credit for production history associated with such bases. All bases issued under the present plan must terminate on the effective date of a Class I base plan, and production history associated with such bases earned under the present plan may not be transferred.

The only exception would be in the case of an intrafamily base transfer which occurred prior to the effective date of the new plan, in which the herd and farm were transferred with the base and there was an uninterrupted continuation of the same dairy operation. In such case the production of the transferor producer would be considered as having been delivered by the transferee producer.

To alleviate this situation, it is proposed that the Class I base plan provisions be made effective on March 1, 1972. This would permit producers who purchased base under the current seasonal base plan, in the expectation that they would enjoy the benefit of such base until February 29, 1972, to gain a full return on their investment.

Proponents of the Class I base plan expressed the view that delaying the effective date until March 1 would provide an incentive to farmers to increase their production during the coming September–January period in order to take advantage of the new plan. We cannot agree with this argument. Producers who increase their production, or who become producers, during the coming base-forming period will receive approximately the same monetary returns for their milk and earn the same production history for future base computations regardless of whether the present seasonal plan or the new Class I base plan is in effect.

A producer who increases production will receive only the excess price for his additional production regardless of which plan is in effect. Similarly, a dairy farmer who begins production on September 1, will receive the base price for 50 percent of his deliveries regardless of which plan is in effect.

When Class I bases are computed on March 1, 1972, the producer will receive the same credit toward computing his new production history and Class I base under either plan. Thus, a delay until March 1, 1972, will afford no incentive for a so-called "race for base", nor will it affect the monetary returns of producers. Such a delay, however, will permit those producers who, in good faith, acquired seasonal base by transfer to avoid the financial loss they would incur if the Class I base plan were made effective at an earlier date.

(2) *A description of the Class I base plan adopted herein*—(a) *A summary of the basic features of the Class I base plan.* The new Class I base plan adopted herein generally follows the form of base plan proposed by producer representatives.

Class I bases would be assigned to eligible producers on the effective date of the base plan and would be updated on March 1 of each year thereafter.

The total Class I bases to be assigned would equal 115 percent of the average daily producer milk used in Class I during the previous September–January period. For the purpose of allocating Class I bases to producers, such quantity would be prorated to the production history of each producer.

New producers coming on the market would be assigned Class I bases or base milk at a time and in an amount depending on the circumstances of their entry into the market. The various categories of new producers and the manner in which their base assignments would be made are specified in subsequent findings and conclusions.

(b) *Representative period.* With respect to the representative period and computation of production history, the Agricultural Act of 1970 provides: "and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of 1 to 3 years, which will be automatically updated each year."

The representative period for the computation of production histories and Class I bases would be a 3-year period consisting of three 12-month periods extending from March of one year through February of the next year. The production of each producer to be credited to his production history each year would be his average daily deliveries during the months of September through January in each such 12-month period. These are the months in which Class I sales by handlers regulated by the Georgia Federal order are the highest relative to the market supply. Use of these 5 months will create production incentives consistent with Class I sales patterns of handlers regulated under the Georgia order.

In addition, this particular 5-month period was chosen by producers because

it is the base-forming period for the seasonal base-excess plan now effective in the current Georgia order. Since Georgia order producers have conducted their entire dairy operations including feeding, breeding, and farm management with this 5-month period as the base forming months, it would be desirable to continue with the same September–January period under the Class I base plan.

There are 153 days in the 5-month period. However, dividing a producer's total deliveries during the representative period by 153 creates inequities when most producers are on every-other-day delivery.

For the most part, the milk of Georgia order producers is picked up on an every-other-day basis. Producers delivering milk on the first day of September and every other day thereafter through January 31 would have delivered 154 days' production during the 5-month period. Producers picked up on September 2, and each succeeding alternate day thereafter, would have delivered only 152 days' production during the 5-month period. If the total volume of milk delivered during such period is divided by 153, one producer's base is enhanced and the other producer's base is reduced as a result of the use of this common divisor.

To illustrate—in the case of two producers, each producing exactly 1,000 pounds per day, one whose milk is received on September 1, and on each alternate day thereafter, would have delivered 154,000 pounds of milk and would receive a base of 1,007 pounds. The other producer would deliver only 152,000 pounds of milk and would receive a base of only 993 pounds. Since each produced 153,000 pounds during the 153-day period, each should receive a base of 1,000 pounds.

In addition, the use of a common divisor of 153 would work a hardship on a producer who may be off the market for a few days through no fault of his own. A producer's health permit may be suspended temporarily because pesticide residues are found in milk even though the source of that residue may have been purchased hay. A dairy farmer may intend to begin shipping milk to the market as a producer on September 1, but his actual entrance on the market, for one reason or another, may be delayed a few days. Other producers may have milk rejected for high acidity resulting from a power failure, or other circumstances over which the producer has no control.

The proponent cooperative organizations recognized these problems and incorporated a provision in the Class I base plan which would allow a producer 8 days to correct the situation without penalty to the producer with respect to his Class I base. The 8-day grace period is adequate and reasonable. Any producer problem covering failure of delivery of more than 8 days' production should be considered by the hardship committee.

Accordingly, it is provided, that, in determining a producer's average daily deliveries during the September–January period, his total deliveries will be divided by the number of days of production represented by such deliveries or by 145, whichever is greater.

(c) *Production history period.* The base plan provides for a 3-year rolling average to determine the production history of each producer for use in assigning him a Class I base. In each such year (the 12-month period of March through February), the average daily deliveries of the producer during the months of September through January would be used to establish his production history for that year. His 3-year production history base would be the simple average of his daily producer milk deliveries during the September–January period of each of the 3 years.

In addition to providing a method for each producer to share in the Class I milk of the market in relation to his marketings over a period of 3 years, the order must provide for the assignment of bases to producers with a production history of less than 3 years.

The Agricultural Act of 1970 provides that a new dairy farmer, upon becoming a producer under the order, will be assigned a base consistent with the supply and demand conditions on the market, the development of orderly and efficient marketing conditions and the interests of producers under the order, other dairy farmers and the consuming public. The Act further provides that bases so assigned shall, for a period of not more than 3 years, be reduced by not more than 20 percent.

In view of the current and anticipated supply-demand situation in the market, it is provided that the production history base of a new producer shall be reduced only for his first year on the market.

(d) *Initial production history.* Following the adoption of the base plan the market administrator will compute and assign a production history for each eligible producer. The production history for each producer will be computed on an average daily basis.

Producers delivering producer milk on not less than 100 days in the immediately preceding September–January period who have been delivering producer milk under the Georgia order continuously since September 1969 would be credited with their producer milk deliveries in the higher of the 2 prior years (September 1969–January 1970 or September 1970–January 1971) at the outset of this base plan. In computing an initial production history for such producers, each producer's milk deliveries in the higher of the two periods would be averaged with his average daily production during the period September 1971–January 1972.

Proponents proposed that if the Class I base plan were made effective in the fall of 1971, the initial production history to be used should be the average daily production of a producer during the period September 1969–January 1970, or September 1970–January 1971, whichever is higher. Use of the alternative periods would afford relief to producers who had reduced production in the latter period. Even though the plan will not be made effective until March 1, 1972, producers should have the opportunity to use either period in conjunction with their production in the September 1971–January 1972, period in determining their initial production history. Use of the alternative periods should result in greatly reduced application for relief from hardship on the effective date of the plan.

Producers delivering producer milk on not less than 100 days during the September 1971–January 1972 period and no milk in the previous September–January periods would be assigned an initial production history base by the market administrator. Such production history base would be computed by multiplying his average daily deliveries during the 5-month period by 0.80.

A producer who delivered less than 100 days during the September–January period, but had delivered for at least 90 days on the effective date of the order would have a production history base equal to 80 percent of his deliveries during his first 3 months of delivery, adjusted to reflect the seasonality of production on the market.

Producers delivering producer milk for less than 90 days on the effective date of the base plan would have no initial production history. Such producers would be assigned a Class I base in accordance with the provisions applicable for new producers.

As earlier stated, initially a producer's production history base will be determined by dividing his deliveries during specified months in the representative period by two. Were this method applied to producers with a 1-year production history, the production history base of the producer would equal only 50 percent of his average deliveries during the months used in computing his production history base.

In view of the current and anticipated supply-demand situation in this market, however, producers with less than a 2-year production history should be assigned a larger production history base which would result from the above computation. The 80 percent figure adopted herein for use in the assignment of initial production history to a producer, both on the effective date of the order and on the occasion of subsequent updating of production history, will contribute to orderly and efficient marketing conditions. It will afford reasonable opportunity for the establishment of new production units, yet will not dispute the market for established producers.

(e) *Annual update of production history.* Following the computation of an initial production history on the effective date of this base plan the market administrator would update the production history for each eligible producer on March 1 of each year thereafter.

The basic mathematical computation used to update the production history of

each eligible producer is made by the market administrator prior to March 1 each year. The computation involves dividing each producer's deliveries during the immediately preceding September–January period by the number of days represented by such deliveries or 145, whichever is greater.

Producers who were assigned an initial production history on the effective date of this base plan who continued to deliver to the Georgia market would have accumulated a 3-year production history on March 1, 1973. On that date, the market administrator would update the production history for such producers. This would be accomplished by computing the average daily delivery for each producer during the September 1972–January 1973 period. This quantity would be added to the producer's initial production history and the result would be divided by three. This figure would represent the 3-year production history for each producer for the next year under this base plan. This production history would be effective from March 1, 1973, through February 1974.

On March 1 of each year thereafter the average daily computation for the most recent September–January period would be added and the oldest data would be deleted in computing the 3-year rolling average production history for each producer.

A producer who had not been assigned a production history previously but who had delivered at least 90 days' production prior to March 1 would be assigned a production equal to his average daily deliveries during such period. The production history base assigned to such producer would be 80 percent of his production history. This initial allotment would be updated by including his average daily deliveries in two subsequent September–January periods until a 3-year rolling average production history is established for such producer. After a 3-year production history is established, the data for the most current September–January period would be added and the oldest deleted.

(f) *Factors to be considered in updating production history.* The basic factors to be considered in updating each producer's production history on March 1 each year are: (1) His average daily production during the most recent September–January period; and (2) his production history subject to adjustments for underdelivery, transfers, and hardship.

The Act of 1970 provides that a producer may retain his previously assigned production history even though he reduces his marketings, unless his marketings fall below the level of his Class I base.

In updating the production history of each producer with regard to underdelivery, these rules would be applicable. If a producer delivers an amount equal to his Class I base times the number of days in the months of September through January, his production history for the next year would not be reduced. If a producer delivers less than his daily average Class I base during the most recent September–January period, then such producer's production history would be reduced in proportion to the amount his average daily Class I base exceeds his average daily delivery during the immediately preceding September through January.

In effect, a producer who is assigned a Class I base assumes the duty of supplying the market with a certain volume of milk. When he fails to deliver that amount it is fitting that his assigned share of the market be reduced by the amount of his underproduction. This is accomplished by reducing his production history base in proportion to his underdelivery of Class I base milk. Proponents proposed that the production history base be reduced by the amount that the producer underdelivered his base.

Since Class I bases are a percentage of a producer's production history, only by reducing his production history base in proportion to his underdelivery of base milk, will the producer receive a new Class I base on the same basis as all other producers on the market.

It is provided, however, that in no event shall a producer's production history base be reduced by more than 25 percent in any one year as a result of underdelivery. Proponents requested such a modification on the basis that a producer's deliveries could not fall below 25 percent of his base, except in the case of some catastrophe. Limiting production history reductions to 25 percent will limit the number of hardship claims which will be submitted for review by the hardship committee.

If a producer's average daily milk delivery increases during any September–January period to a production level above that from which his previous Class I base had been computed, the increased level would be credited towards an increase in production history.

Under the Class I base plan adopted herein, a producer could also modify his assigned production history through transfers. Thus, when a producer disposes of Class I base by transfer, he automatically transfers a proportionate amount of the production history associated with such Class I base. Accordingly, this amount of production history would be subtracted from that previously assigned to him in arriving at his updated production history. Similarly, production history associated with the acquisition of Class I base would be added to his assigned production history. Also, any adjustment for hardship or inequity would be accounted for in terms of a proportionate amount of production history. This recognizes that a producer's effective Class I base could change during the year due to transfers.

If an adjustment is necessary in a producer's production history and Class I base as a result of: (1) The acquisition or disposition of Class I base by transfer; or (2) the decision of the hardship committee, such producer's production history and Class I base would be updated immediately or as of the effective date of the transfer or the hardship committee's action.

(g) *New producers.* The law requires that a base be assigned to a new producer who comes on the market because the nonpool plant to which he has been delivering milk becomes a fully regulated plant under the Georgia order. His production history and Class I base would be determined in the same manner as for a producer who had been on the market, depending on his average daily milk deliveries during the representative production history period. Such Class I base would be assigned to him effective on the date on which he becomes a producer under the Georgia order.

A Class I base would also be assigned to a producer who had been a producer-handler in the past. His production history and Class I base would be computed as if his milk production received at his plant had been delivered to a pool plant.

It is required under the law that a new producer who previously delivered to a nonpool plant and comes on the market as an individual (rather than because the plant to which he had been delivering becomes regulated) be assigned a base within 90 days after his first delivery under the order. Such a base would be assigned only to a producer marketing milk from the same production facilities from which he marketed milk during the representative period. Under the proposed Class I base plan, such a producer would be assigned to Class I base on the first day of the third pay period in which he began producer milk deliveries under the Georgia order. Then he would be assigned a production history and a Class I base computed from his deliveries to nonpool plants and to pool plants as if all such deliveries had been to a pool plant. For producer milk delivered in the period prior to such assignment of Class I base such a producer would receive only the Class II price.

Another category of new producers includes those who had not produced milk previously and have not acquired base by transfer.

Such new producers would be assigned base milk until a production history and Class I base can be established for such producers based on their deliveries in a subsequent September–January period. The effective date of the base assignment would vary depending upon the month in which such new producer enters the market.

Under the base plan, adopted herein, a new producer coming on the Georgia market during the September–January period when the milk is needed most because Class I sales are highest would be assigned Class I base milk immediately. A new producer coming on the market in other months when milk supplies have been more than adequate to meet fluid needs in the Georgia market would not be assigned Class I base milk until the third month of his delivery of producer milk. In the interim, such producer would receive a price reflecting the lowest use classification for all his producer milk deliveries.

A new producer making his first delivery of producer milk during the months of September through January, would be assigned Class I base milk in an amount equal to 50 percent of his producer milk deliveries each month.

A new producer coming on the market during the months of February through August would be assigned Class I base milk in an amount equal to 50 percent of his deliveries each month, effective the first day of the third pay period in which such producer delivers producer milk under the Georgia order.

This method of assigning base milk to new producers will encourage new production units to enter the market at a time when their milk will not contribute to a burdensome supply. Paying new producers for 50 percent of their milk as base milk will provide an incentive for such producers to come on the market and earn bases, rather than acquire base by transfer. This will tend to prevent bases from taking on an excessive value.

The Agricultural Act of 1970 requires that if any producer delivers a portion of his milk to plants not fully regulated by an order, his Class I base allocation should be reduced accordingly. Therefore, if a producer delivers a portion of his milk to an nonpool plant (except by diversion) during the month, he would receive no credit for base deliveries on the days on which milk was delivered to such nonpool plants. His base milk for the month would be computed by multiplying his Class I base by the number of days in the month on which his entire production was delivered as producer milk.

(h) *Allocation of Class I bases.* On the effective date of this base plan, the market administrator will compute a "Class I base" for each producer based on his initial production history. The production history for each producer will be adjusted by a ratio computed by dividing 115 percent of Class I sales in the 1971–72 September–January period by the sum of the production history assigned to all producers serving the Georgia market.

The proponent cooperative association proposed the assignment of 110 percent of the net Class I sales. However, a 10 percent reserve would not provide an adequate reserve supply to fulfill Class I needs in the market. Therefore, allocating Class I bases equal to 110 percent of Class I use would be insufficient to meet the changing day to day, weekend, and holiday supply-demand situations as well as the normal seasonal fluctuation associated with milk production.

The 115 percent figure adopted herein should provide an adequate supply to meet the fluid demand and provide the necessary reserve to allow for the changing supply-demand conditions.

This plan provides that the total of Class I bases to be assigned would be 115 percent of producer milk used in Class I by handlers in the market in the preceding period of September through January. The quantity of Class I milk used in this computation would include:

(1) Total producer milk disposed of as Class I by all regulated handlers during the immediately preceding September–January period;

(2) Class I disposition of plants which were nonpool plants during part or all of the September–January period and which were pool plants in the second month preceding the effective date of the new plan; and

(3) The Class I disposition of persons who were producer-handlers during part or all of the September–January period, and in the second month preceding the effective date of the new plan have producer status.

The total of such Class I disposition during the September–January period would be multiplied by 115 percent and averaged on a daily basis. The resulting quantity would be prorated to the production history of individual producers. The quantity prorated to each producer will be his "Class I base."

For purposes of this proration, the relationship between Class I base and production history will be expressed as a percentage called the "Class I base percentage." The Class I base percentage would be computed by dividing the sum of the production history into the total Class I to be assigned, with the resulting ratio converted to a percentage by multiplying by 100 and rounding to the third decimal place.

Each year producers' Class I base will be updated to reflect changes in Class I sales and production history. The Class I milk quantity to be used for the updating would be that disposed of by regulated handlers in the preceding September–January together with the Class I milk of any former nonpool plant which became a pool plant and held pool plant status in January preceding the March 1 on which the new bases are to be computed. The Class I sales of former producer-handlers would likewise be included if such persons were producers in January preceding the March 1 date.

The law also provides that an order may include a provision to encourage seasonal adjustments in milk production. The base plan adopted herein would provide for a seasonal reduction of Class I bases in the summer months of June, July, and August. This reduction would reflect the decrease in the average daily Class I sales during the summer months relative to the average daily Class I sales in the other 9 months. The seasonal adjustment would encourage producers to increase production in the fall when Class I sales are highest and milk is needed and to decrease production in the summer when Class I sales are lowest and the milk supply is more than adequate to meet the fluid demand.

Thus, on March 1 of each year the market administrator would: (1) Update the production history for each producer; and (2) adjust the production history of each producer by a ratio reflecting the relationship between Class I sales and the total amount of production history allotted to producers under the Georgia order. For June, July, and August each assigned Class I base is reduced seasonally according to the relationship between Class I sales in June, July, and August compared with Class I sales in the months of September through May on a daily average basis.

Following these three computations by the market administrator each producer would be assigned a share of the Class I sales in the Georgia market. The assigned base would be effective for 1 year from March 1 through February of the following year.

Using the most current data to make the base computation, it is estimated that for each 100 pounds of production history during the September–January period, a producer would receive a Class I base of approximately 90 pounds. This would be reduced to approximately 81 pounds for the months of June, July, and August.

(i) *Base transfers*—(1) *The need for base transfers.* The Agricultural Act of 1970 provides that bases allocated to producers may be transferable under an order pursuant to the terms and conditions set forth in that order, including those which would prevent bases taking on an unreasonable value. Considered by proponent to be an important part of the base plan as adopted herein, the transfer provisions should be included in this order for several reasons.

Base transfers allow new producers to obtain base quickly and in a manner which would not dilute the base pool. This method promotes an orderly alternative to base building. Moreover, a producer can plan his production in accordance with his share of the Class I sales from the beginning of his dairy operation. A producer building base from his own production must develop a production history which would be in excess of his allotted Class I base. To reduce his production in accordance with his Class I base, a producer would have to reduce his operation, which, after possibly investing in expensive equipment, he would be reluctant to do. Acquiring a base by transfer, therefore, would help a producer adjust his production to his share of the market in a way which would be beneficial to him as well as to existing baseholders.

Providing for transfers of base also would help established producers to adjust the scale of their operations. An established producer could purchase Class I base to cover an increase in his milk production, thus avoiding the necessity of establishing a greater production history himself. A producer desiring to decrease the scale of his operation, perhaps as a result of ill health or a shortage of labor, would have opportunity to do so. In the absence of transfers, a producer may reluctantly continue production at the same level.

While base transfers would be permitted, the Act requires that bases should not take on an "unreasonable value." Several features of the plan adopted herein would keep bases from taking on an unreasonable value. The Class I base plan allows a new dairy farmer to establish a production history for himself and earn a full base over a 3-year period. Thus, the producer does not have to buy a base to assure the base price for a portion of his milk production. There is less incentive for a new producer to

buy base when he can earn one himself.

Similarly, an established producer may increase his Class I base by building up a greater production history through his own production. With the option of earning additional base himself, such producer will have less incentive to buy base under the Class I base plan.

(2) *The rules regarding base transfers.* Under the base plan, Class I bases established on producer milk deliveries for not less than 100 days in the preceding September–January period would be transferable. Allowing base transfers would facilitate adjustments by producers desiring to expand or contract their operations. In addition, transfers of base would provide producers an opportunity for more economical milk production and would contribute to the maintenance of an adequate supply of milk for the market. The following rules would be applicable to base transfers under the Class I base plan adopted herein.

A producer may transfer his base in its entirety or in multiples of 100 pounds. These limits are administratively practical and should be adequate.

The transfer of an entire base may be made effective as of the day on which the transfer takes place, if the market administrator receives an application for such transfer within 5 days of the transaction. Usually an entire base is transferred only in the case of death or the retirement of the producer. In the latter instance, the base transfer often is accompanied by a dispersal sale at which the herd and the base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer would become effective as of the first day of the following month.

Partial transfers of base, in 100-pound multiples, would be effective as of the first day of the month following that in which the application for transfer is made to the market administrator. An exception is made for the month of March because a producer does not know until March 5 of each year what his Class I base will be for the 12-month period beginning March 1.

A producer who finds that his established base exceeds his anticipated production for the year will be permitted to transfer that portion of his base in excess of his requirements to another producer effective as of March 1. For such transfer to become effective on March 1, the signed application for transfer must be received by the market administrator no later than March 15.

The dates on which notice of transfer must be filed with the market administrator are the same as those incorporated in the present seasonal base-excess plan. They are equally appropriate for the Class I base plan. The reasons for the adoption of these dates are set forth in the decision of the Assistant Secretary issued August 18, 1970 (35 F.R. 13454), which is officially noticed.

To further insure that there will be no month-to-month transfers between producers or between groups of producers to enhance unduly the returns of the producers who are parties thereto, no producer who has received base by transfer will be permitted to dispose of any base to another producer until 3 full months have elapsed. Similarly, no producer who has transferred base to another will be permitted to acquire additional base by transfer until 3 full months have elapsed. Such rules will not interfere with the acquisition of additional base by a producer who intends to increase his production on a long-term basis, nor will they adversely affect the producer who is reducing the size of his operation and desires to dispose of base in excess of his anticipated production.

In the case of jointly held bases, transfers of either the entire base or a portion thereof would be recognized only if the application for transfer is signed by each of the joint holders. In the case of bases held by estates or held in trust, the executor or trustee would have authority to sign an application for transfer of such base.

A base established by two or more persons, operating a dairy farm as joint owners or as a partnership, may be divided between the owners. Such division will be effective on the first day of the month following receipt of written notification by the market administrator indicating the agreed division and signed by each baseholder (joint owner, partner, heir, executor, or trustee).

The rules regarding base transfers discussed thus far in these findings are similar to the rules pertaining to base transfers with respect to the seasonal base-excess plan which is currently effective under the Georgia order. From an administrative point of view, these rules have worked well in the current Georgia order. Such rules would be equally applicable and effective for the Class I base plan adopted herein, and therefore should be continued.

In addition to the rules regarding base transfers, which have been discussed already, certain other conditions are necessary to discourage producers from selling their bases and earning new bases.

The base plan proposal provided that a producer transferring his entire base to another person would not be eligible to receive a base as a new producer for 3 years after the effective date of such transfer.

A producer who sells his entire base, and resumes production at a subsequent date, is not a new producer in the same sense as other nonbaseholding dairy farmers. Therefore, he need not be assigned a Class I base subject to the same terms and conditions as other dairy farmers who become producers for the first time under the order.

Obviously, a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is thereby disposing of his privilege to receive returns for his milk at the minimum base price under the order. He would be aware that under these circumstances he would be eligible to receive only the excess price as long as he has no base.

Normally, he would receive a payment in return for the sale of his base. If the payment so obtainable by sale is substantial, and the producer could get a new base assignment without delay, there would be a strong incentive for many producers to engage in milk production in large part for the returns to be obtained by the sale of Class I base. Such a situation would be contrary to the statutory requirement that bases should not take on an unreasonable value.

Thus, if a producer disposes of his entire Class I base by transfer, some time limitation on his reentry is justified. However, the 3-year restriction is unduly restrictive. It is, therefore, provided that a producer who disposes of his entire base by transfer and continues in production or subsequently resumes production will not be eligible to be assigned a base as a new producer for 1 year after the date on which such producer transferred his entire base. A similar situation and treatment should apply to a producer assigned a Class I base who ceases deliveries for a period and then returns at a later time.

The base plan proposal provided that a producer assigned a Class I base who failed to ship producer milk during the immediately preceding 12 months and has not transferred his base would forfeit such base and production history effective March 1. The 12-month period is excessive, however. Except for situations beyond his control (which are covered by the rules applicable to hardship) cessation of deliveries for as long as 90 days would indicate that a producer no longer intended to continue regular supply service to the market.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could, of his own free will, cease deliveries to the market for an extended period, and then return to the market with the privilege of receiving payment under the plan for Class I base milk in the same amount as before he left the market. Therefore, it is provided that if a producer ceases producer milk deliveries for more than 90 consecutive days under this base plan his assigned Class I base and production history will be forfeited.

There would be only one exception to this rule. A producer who enters the military service would retain his Class I base and the associated production history until 1 year after such person is released from active military service.

A time limitation on transferring base is another feature of this new Class I base plan. With the exception of intra-family transfers, Class I bases computed for producers established on deliveries of producer milk for less than 100 days during the preceding representative period, and bases computed for dairy farmers who become new producers after the effective date of this plan, may not be

transferred until 12 months after the effective date of the base assignment.

This provision will require a producer to demonstrate his ability and willingness to supply the market's needs regularly before becoming eligible to transfer base. All producers shipping to a nonpool plant which becomes a pool plant would be assigned a Class I base. Such a plant could get a short-term contract in the marketing area and lose it a short time later. However, if such producers are allowed to transfer their base immediately, the producers shipping to that nonpool plant which became pooled under the Georgia order for a short time could sell their allotted bases—thereby receiving a windfall gain—at the expense of other producers remaining on the market, since the total assigned Class I base would be unchanged but the Class I base percentage would be diluted.

A time limitation on transfer of base is needed for other types of producers also. In the absence of some limitation, a producer-handler could easily switch to producer status, be assigned a full Class I base, and then sell it. A 1-year time limitation on the transfer of base by a former producer-handler will prevent such windfalls at the expense of other producers. This 12-month waiting period would begin to run when the base is allotted to the producer-handler and would apply to any family member who receives this base via the intrafamily transfer provision.

The Class I base plan also should provide that a producer who desires to become a producer-handler must forfeit the maximum amount of Class I base and production history base held at any time during the preceding 12-month period before he can be designated a producer-handler. This provision is necessary to assure that such a person does not receive a windfall by having a Class I base available for transfer and simultaneously having exemption as producer-handler. This forfeiture should also be required if producer-handler designation is to be issued to any member of such a producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part. This is necessary in order to prevent windfall benefits. The definition of producer-handler is modified, therefore, to reflect this requirement that a former producer must forfeit his base before attaining producer-handler status.

An intrafamily transfer involves the transfer of base from the baseholder to a member of his immediate family (including transfers to an estate and from an estate to a member of the family), provided that the transfer implements a continuous operation on the same farm with the same herd.

In instances where an intrafamily transfer has occurred under the present seasonal base-excess plan resulting in the maintenance of a continuing farm herd production unit, the operation shall be considered as one operation for establishing production history base under the new Class I base plan. Thus, the production delivered by the transferor producer during base-earning periods prior to the effective date of the new Class I base plan is assumed to have been delivered by the transferee for use in computing a production history base under the new plan.

(j) *Provisions for alleviation of hardship and inequity.* The Agricultural Act of 1970 requires that provision be made for the alleviation of hardship and inequity among producers. Therefore, certain administrative guidelines should be established for review of hardship claims and the alleviation of hardship and inequities to producers under the Class I base plan adopted herein.

Certain provisions are included in the order to define circumstances for which a producer may apply for relief. A producer may apply for adjustment or alleviation of hardship or inequity if he feels his production history is not representative of his level of milk production because of conditions which are beyond his control (such as acts of God, disease, pesticide residue, and condemnation of milk). Conditions over which a producer could have exerted control through prudent precautionary measures are not cause for hardship adjustment. These conditions would include, for example, inability to obtain adequate labor or equipment failure during the representative base period.

The producer would be responsible for filing a written request for review of any hardship condition or inequity affecting him. Such request would be submitted to the market administrator for future review by the hardship committee. A claimed hardship or inequity would set forth the following: (1) Conditions that caused alleged hardship or inequity; (2) extent of relief or adjustment requested; (3) basis upon which the amount of adjustment requested was determined; and (4) reasons why the relief or adjustment should be granted. Such request must be filed within 45 days of the date on which Class I bases are issued, or of the occurrence to which it is related.

The market administrator would establish one or more "Producer Base Committees". A committee would consist of five producers appointed by the market administrator. The committee would review the requests for relief from hardship or inequity referred to it by the market administrator in a meeting called by the market administrator. The market administrator, or his designated representative, would be the recording secretary at such meeting. The committee decision must be endorsed by at least three of the five members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification of the producer, subject only to appeal by such producer to the Director, Dairy Division within 45 days thereafter. Recommendations of the committee to grant a request, in whole or in part, would be transmitted to the Director, Dairy Division, and would become final unless vetoed by the Director within 15 days after transmitted.

The market administrator is authorized to reimburse committee members for their services at $30 per day, and for necessary travel and subsistence expenses incurred in carrying out their duties as committee members. Reimbursement to committee members would be from monies collected under the administrative expense fund.

At the hearing, a proprietary handler witness objected to financing the operations of the Producer Base Committee on monies collected in the Administrative Fund. In his brief, an attorney, representing six fluid milk processors regulated by the Georgia order, also objected to the use of administrative fund monies to pay for expenses associated with the function of the Producer Base Committee.

However, the monies collected in the administrative fund are to pay for the necessary expenses incurred in the administration of the order. The statute expressly requires that provision be made for the relief of hardship and inequity among producers. It has been concluded that the review of petitions for such relief can be handled most effectively by a committee of producers. Hence, the expense associated with the operation of a Producer Base Committee is one incurred in the performance of an appropriate and necessary function of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committee be paid from monies collected pursuant to the administrative assessment.

(k) *Ruling on objections.* At the hearing a witness for the proponent cooperative association declined to answer certain questions on cross examination. The Hearing Examiner upon being requested to compel the witness to answer these questions ruled that he was without authority to compel this testimony. We affirm the ruling of the Hearing Examiner which has been further challenged in a brief filed in behalf of six proprietary handlers.

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 Georgia marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1007.10 the introductory text is revised and a new paragraph (c) is added to read as follows:

§ 1007.10 Pool plant.

"Pool plant" means a plant specified in paragraph (a), (b), or (c) of this section that is not an other order plant, a producer handler plant, or an exempt distributing plant.

* * * * *

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.13(d)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.13(d); in the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

2. In § 1007.14, a new paragraph (e) is added to read as follows:

§ 1007.14 Producer-handler.

* * * * *

(e) If such person had been a producer to whom a Class I base had been assigned pursuant to § 1007.114, has forfeited such Class I base in accordance with the requirement of § 1007.116(c).

§§ 1007.22, 1007.23 [Revoked]

20. Revoke §§ 1007.22 and 1007.23.

3. Revise § 1007.61a to read as follows:

§ 1007.61a Computation of uniform prices for base milk and excess milk.

The market administrator shall compute uniform prices for base milk and excess milk each month as follows:

(a) Determine the aggregate amount of producer milk in each class included in the computation pursuant to § 1007.61 and the hundredweight of such milk that is base milk and that is excess milk;

(b) Determine the value of the total hundredweight of milk of producers specified in § 1007.114 (c) and (d) to whom no base milk has been assigned by multiplying such volume by the Class II price;

(c) Determine the total value of excess milk by assigning such milk in series beginning with Class II to the hundredweight of milk in each class as determined pursuant to paragraph (a) of this section, multiplying the quantities so assigned by the respective class prices and adding together the resulting amounts;

(d) Divide the total value of excess milk in paragraph (c) of this section by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk;

(e) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to paragraph (c) of this section;

(f) Multiply the hundredweight of milk specified in § 1007.61(e)(2) by the uniform price for the month;

(g) Subtract the total values arrived at in paragraphs (b), (e), and (f) of this section from the amount resulting from the computations pursuant to paragraphs (a) through (e) of § 1007.61; and

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk determined in paragraph (a) of this section and subtract not less than 4 nor more than 5 cents per hundredweight. The resulting figure rounded to the nearest cent, shall be the uniform price for base milk.

4. In § 1007.70 paragraph (a)(2) is revised and a new paragraph (a)(3) is added to read as follows:

§ 1007.70 Time and method of payment.

(a) * * *

(2) On or before the 15th day of each month at not less than the applicable uniform prices for the quantities of base milk and excess milk received adjusted by the butterfat differential computed pursuant to § 1007.71, and in the case of base milk by the location differential computed pursuant to § 1007.72, subject to the following:

(i) Less payments made pursuant to subparagraph (1) of this paragraph;

(ii) Less proper deductions authorized by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator; and

(3) On or before the 15th day of the month at not less than the Class II price adjusted by the butterfat differential computed pursuant to § 1007.71 for the quantity of milk received from producers described in § 1007.114 (c) and (d) for whom no base milk has been computed.

5. The centerhead immediately preceding § 1007.110 and §§ 1007.110, 1007.111, and 1007.112 are revoked and a new centerhead and new §§ 1007.110 through 1007.117 are substituted therefor.

CLASS I BASE PLAN

§ 1007.110 Definition of terms relating to the Class I base plan.

For purposes of determination and assignment of the Class I base of each producer the following terms are defined:

(a) "Production history" means the average daily marketings of a producer during the production history period used for the determination of bases or the future updating of bases.

(b) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1007.111.

(c) "Production history period" means the days or months to be used for the computation of the production history base of a producer.

(d) "Average daily producer milk deliveries" of any producer in any specified period used for computing a production history base means the total pounds of producer milk delivered by the producer divided by the number of days' production represented by such deliveries: *Provided*, That for any September–January period, the divisor shall be the actual days of production, or 145 whichever is greater.

(e) "Class I base" means a quantity of milk in pounds per day computed pursuant to § 1007.114 for which a producer may receive the base milk price.

(f) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued in

the amount determined for such producer pursuant to § 1004.114 (c) and (d).

(g) "Excess milk" means milk received in excess of base milk from a producer who is delivering base milk during such month.

§ 1007.111 Computation of production history base.

A "production history base" shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on March 1 of each year thereafter. The computation of production history base shall be subject to adjustments due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his own production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1007.116(a); and during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer. The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The market administrator shall determine for each producer who delivered at least 100 days' production in each of the preceding periods of September 1970–January 1971 and September 1971–January 1972 an initial production history base adding such producer's average daily producer milk deliveries during the period, September 1971–January 1972, to his average daily producer milk deliveries in September 1969–January 1970, or September 1970–January 1971, whichever is higher and dividing the sum thereof by two.

(b) For producers who delivered milk on not less than 100 days in the period, September 1971–January 1972, but who delivered for less than 100 days during the period, September 1970–January 1971, but for at least 90 days prior to March 1, 1971, the market administrator shall determine a production history base by computing such producer's average daily deliveries during the months in which milk was delivered prior to March 1, 1971, multiplying the resulting figure by .80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily deliveries per producer during the same months used for such producers, adding this amount to the producer's average daily producer milk deliveries during the period September 1971–January 1972 and dividing the sum thereof by two.

(c) For producers who delivered milk on not less than 100 days during the period September 1971–January 1972 and who delivered for less than 90 days prior to March 1, 1971, the market administrator shall determine a production history base by multiplying such producer's average daily producer milk deliveries during such period by .80.

(d) For producers who delivered milk on less than 100 days during the period September 1971–January 1972, but at least 90 days prior to March 1, 1972, the market administrator shall determine a production history base by multiplying such producer's average daily producer milk deliveries during the months in which milk was delivered prior to March 1, 1972, by .80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily producer milk deliveries during the same months used for such producer.

(e) Producers who have delivered milk for less than 90 days on the effective date of this order shall have no initial production history base but shall be assigned a history of production in accordance with the provisions applicable for new producers.

(f) For each producer not subject to § 1007.114(d) who became a producer for this market subsequent to September 1, 1970, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible pursuant to paragraphs (a), (b), and (c) of this section based on his deliveries of milk as if the nonpool plant to which he delivered had been a pool plant during the representative period.

(g) A producer not described in paragraph (e) of this section who delivered milk to a nonpool plant prior to becoming a producer, and who is not subject to the provisions of § 1007.114 (c) and (d) shall have a production history base determined on his average daily producer milk deliveries to the nonpool plant.

(h) For a producer who held producer-handler status at any time subsequent to September 1, 1970, a production history base shall be calculated as prescribed in paragraph (a) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant.

(i) With respect to the computation of production history base pursuant to this section, the following rules shall apply:

(1) If a producer operated more than one farm at the same time, a separate computation shall be made with respect to the average daily producer milk deliveries from each farm except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler.

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned or operated.

§ 1007.112 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1007.116(a) or after having disposed of his entire base by transfer or forfeiture, has met the delivery requirements prescribed in § 1007.113 shall be determined by the market administrator on March 1 of each year as follows:

(a) Effective March 1, 1973, the market administrator shall update the production history base for each producer as follows:

(1) For a producer who is assigned an initial history of production pursuant to § 1007.111 (a) or (b) on the effective date of this order, add the average daily milk deliveries of such producer during the period September 1972 through January 1973 to the production history bases computed for such producer on the effective date of this order and divide the result by three: *Provided*, That if during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: *And provided further*, That if during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period but in no event, shall such producer's production history base be reduced by more than 25 percent.

(2) For a producer who is assigned an initial history of production pursuant to § 1007.111 (c) or (d) on the effective date of this order, add the average daily milk deliveries of such producer during the period September 1972 through January 1973 to the production history bases computed for such producer on the effective date of this order and divide the result by two: *Provided*, That if during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: *And provided further*, That if during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period but in no event, shall such producer's production history base be reduced by more than 25 percent.

(3) For producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the period September 1972 through January 1973 and multiplying the result by 0.80.

(b) Effective March 1, 1974, and on March 1 of each year thereafter the market administrator shall update the history of production for each producer as follows:

(1) For producers who have a production history base covering 3 or more years, the market administrator shall compute the average daily producer milk deliveries for such producer during the immediately preceding period of September through January and shall add such figure to the average daily producer milk deliveries of the preceding two years and divide the result by three: *Provided*, That if during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: *And provided further*, That if during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) For a producer who had a production history base for the two most recent periods, determine the average producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the two most recent periods and divide the result by three: *Provided*, That if during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: *And provided further*, That if during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) For a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by two: *Provided*, That if during the immediately preceding period of September through January a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: *And provided further*, That if during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(4) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80; and

(5) On March 1 of each year of which this plan is in effect, the market administrator shall determine a production history base for producers who delivered milk for less than 100 days in the immediately preceding period of September through January but who delivered milk for at least 90 days prior to March 1 by determining such producers average daily producer milk deliveries during the first 3 months in which the producer delivered milk to the market, multiplying the result by 0.80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily deliveries per producer during the same months used for such producer.

§ 1007.113 New producers.

The market administrator shall determine a history of production for each producer for whom a production history base was not determined pursuant to § 1007.111 as follows:

(a) Any producer who during the immediately preceding September through January period delivered his milk to a nonpool plant which became a pool plant shall be assigned a history of production on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant.

(b) Effective on the first day of the third pay period in which his milk is delivered to a pool plant a producer who delivered milk to a nonpool plant prior to the effective date of this order shall be assigned a production history base on the same basis as if he had been a producer under the order and his deliveries to the nonpool plant had been deliveries to a pool plant provided that in no event shall the production history base exceed the amount of milk actually delivered by such producer under this order.

(c) A producer who delivered no milk to a nonpool plant or who delivered milk to a pool plant for less than 90 days prior to the effective date of this order and who has not acquired a history of production by transfer shall be assigned Class I base milk pursuant to the provisions of § 1007.114(c).

§ 1007.114 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on March 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1007.113 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding period of September through January:

(i) Class I producer milk pursuant to § 1007.45(c),

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding January, and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding January.

Multiply the sum by 1.15 and divide the result by 153:

(2) Divide the quantity computed pursuant to subparagraph (1) of this paragraph by a quantity which is the total of production history bases computed pursuant to § 1007.111 or § 1007.112, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage." For each of the months of June, July, and August the Class I base so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the preceding months of September through May.

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month until the first March 1 on which he is eligible for a Class I base in an amount equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month (1) effective with his first delivery of producer milk if he begins deliveries in the months of September through January, and (2) effective on the first day of the third month of delivery if he begins deliveries in the months of February through August.

(d)(1) A producer who, after having forfeited or disposed of all of his Class

I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month, such assignment to be effective on the later of the following dates: the first day of the third month after the month in which he recommences deliveries of producer milk on the market, or the first day of the twelfth month after the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. The production history period of such producer shall begin on the later of the following dates: The date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1007.113.

(2) In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1007.115 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of Class I base of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer, and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the base holder(s), his heirs, executor, or trustee and by the person to whom such base is to be transferred.

(c) A transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise, such transfer shall be effective on the first day of the month following that in which application is made.

(d) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator, except that a portion of a base may be transferred to be effective on March 1 of any year if application for such transfer is filed with the market administrator no later than March 15.

(e) A producer who has received base by transfer on or after March 1 of any year may not transfer any portion of the base for 3 full months following the effective date of such transfer.

(f) A producer who has transferred base on or after March 1 of any year may not receive additional base by transfer for 3 full months from the effective date of such transfer.

(g) A base which is jointly held or in a partnership may be transferred in part or in its entirety only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred.

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is received by the market administrator prior to the first day of the month on which such division is to be effective.

(i) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(j) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(k) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(l) A producer who receives a base pursuant to § 1007.111 (e) or (f) may not transfer such base, other than pursuant to paragraph (k) of this section, for 1 year from the date of receipt.

(m) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 1 year from the date of receipt, except to a member of the immediate family pursuant to paragraph (k) of this section.

(n) A base which has been computed from less than a full production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (k) of this section.

(o) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will require a transfer of bases and compliance with all base rules therein.

§ 1007.116 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1007.14, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1007.117 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1007.111 through 1007.116 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding March 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1007.116(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1007.112; and

(5) Inability to transfer base due to the provisions of § 1007.115 (l), (m), and (n).

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1007.116 with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to request pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(*a*) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(*b*) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1007.77 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

Signed at Washington, D.C., on September 8, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-13487 Filed 9-13-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 135]

[Docket No. 11376; Notice 71-25]

HELICOPTER EMERGENCY LANDING AREAS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending § 135.89 of the Federal Aviation Regulations to require that helicopters have adequate areas available during takeoff or landing to allow an emergency landing to be made without undue hazard to passengers or to persons or property on the surface.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before November 15, 1971, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Section 135.89 prohibits air taxi helicopter operations unless areas are available which allow an emergency landing to be made without undue hazard to passengers or to persons or property on the ground. Certain Part 135 helicopter operators have objected to that section for the reason that it appears to restrict the flight of helicopters over rocky, swampy, forested, or mountainous areas more so than in the case of airplanes operated under that part. As a consequence they consider the regulation to be impracticable and unduly restrictive.

A review of the material issued prior to the adoption of § 135.89 indicates that there is no intention to provide that the availability of emergency landing areas must be continuous. Furthermore, to require emergency landing areas to be continuously available is impracticable for Part 135 helicopter operations. For these reasons, it appears that § 135.89 as presently stated is overly broad, and is not representative of the intent of the agency in the safety regulation of Part 135 helicopter operations.

Therefore, it is proposed to amend § 135.89 to require emergency landing areas to be available during approaches to landings and during takeoffs. Complementary consideration of available landing areas during the en route phase of flight would continue to be governed by § 91.79 (a) and (d), which specifies en route minimum altitudes and excepts altitudes necessary for takeoffs and landings from the minimum altitude rules.

The proposed amendment would not apply to the operation of helicopters certificated under the Transport Category A provisions of Part 29 of the Federal Aviation Regulations because of the demonstrated capability they have for safely operating with one engine inoperative.

In consideration of the foregoing, it is proposed to amend § 135.89 of the Federal Aviation Regulations to read as follows:

§ 135.89 Helicopter operations: emergency landing areas.

No person may takeoff or land a helicopter that is not certificated under the Transport Category A provisions of Part 29 of this chapter, unless areas are available from any point necessary for that takeoff or landing to allow an emergency landing to be made without undue hazard to passengers or to persons or property on the surface. For the purposes of this section, areas such as school yards, parking lots, recreation areas, highways, shopping centers, and public docks are not considered available areas for possible emergency use when they are occupied by persons or vehicles unless there are unoccupied parts thereof that are large enough to allow a landing without that hazard.

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

Issued in Washington, D.C., on September 3, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-13484 Filed 9-13-71;8:47 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-33; Notice 71-25]

APPRENTICESHIP PROGRAMS FOR DRIVERS LESS THAN 21 YEARS OLD

Advance Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering an amendment to the Motor Carrier Safety Regulations to permit persons who are less than 21 years old to drive commercial motor vehicles in interstate or foreign commerce if those persons are enrolled in, or are graduates of, approved apprenticeship programs. The amendment under consideration would create a partial exception to the rule, now found in § 391.11(b)(1) of the regulations, that a person who is not a farm vehicle driver as defined in § 391.67 of the regulations must be at least 21 years old before he may lawfully operate a commercial motor vehicle in interstate or foreign commerce.

A number of private motor carriers, public utilities, and labor organizations have sought relief from the prohibition on driving of commercial vehicles by minors. They have argued that the existing rule works a severe hardship on employees who are less than 21 years of age and who must drive occasionally during the course of their employment, although their primary duties do not involve driving. Employees in this category include operating engineers, who operate construction equipment and must move that equipment over the highways from one building site to another, and persons working on highway construction projects, who must occasionally drive trucks to and from the construction sites. Motor carriers generally have expressed concern about a diminishing supply of qualified drivers. They have said that this problem might be alleviated if they were permitted to employ persons younger than 21 as drivers under controlled conditions. It has also been suggested that allowing carriers to employ younger people as drivers shortly after they have completed their educations or fulfilled their military obligations may assist in instilling a spirit of professionalism in those drivers, thereby furthering the overall objectives of the driver qualification rules.

When he issued the present revised driver qualification rules, the Federal Highway Administrator said that he was retaining the age-21 requirement in reliance upon reports that "statistics collected by liability insurance companies indicate that persons who have not yet attained the age of 21 are in a higher risk category than older persons" (35 F.R. 6438). On that basis, the Administrator decided not to lower the minimum age for drivers but promised to "give further consideration to establishing conditions under which persons who are less than 21 can be permitted to drive under close supervision for the purpose of training them to become journeyman drivers." Ibid. As noted above, many reliable sources have urged the adoption of rules under which younger drivers could be matriculated into special training programs and, by virtue of the training and experience they receive, become much more acceptable risks than their contemporaries.

In order to authorize the employment of minors who are enrolled in, or who have graduated from approved driver-training or apprenticeship programs, it will be necessary to establish criteria for those programs. Consequently, the Director is inviting interested persons to submit written data, views, or arguments concerning the virtues and disadvantages of permitting bona fide apprentices to drive in interstate or foreign commerce both during and after the period of their apprenticeships. He is also inviting the submission of information on the criteria which ought to be adopted to determine whether a program is satisfactory. Interested persons are particularly invited to comment on such factors as:

1. Minimum age of apprentices.
2. Preemployment screening of apprentices.
3. The extent of classroom training to be provided apprentices and the curriculum to be followed.
4. The extent and nature of training behind the wheel in a simulated driving environment.
5. The nature and extent of on-the-road training of apprentices.
6. The qualification, experience, and skills of instructors in both the classroom and behind-the-wheel phases of the program.
7. Testing methods and techniques to assure that only well-qualified, safe drivers are graduated to journeyman status.
8. Whether licensing by, or approval of, any Federal or State agency should be a prerequisite of an approved program.
9. Whether carrier-operated "in-house" programs should be permitted to qualify as approved apprenticeship programs.
10. Conditions of approval of apprenticeship programs, as well as grounds and procedures for revoking approval.

Comments on pertinent subjects other than those specified above may also be submitted for consideration.

All comments should refer to the docket number and notice number appearing at the top of this notice. Comments should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on December 10, 1971 will be considered before further action is taken. Comments will be available for examination by the public in the docket room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, both before and after the closing date for comments. Although further action in this proceeding may include issuance of a notice of proposed rule making, interested persons are urged to submit their views, even if tentative, at as early a stage as possible.

This advance notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority in §§ 1.48 and 389.4 of title 49, CFR.

Issued on August 31, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.71-13476 Filed 9-13-71;8:47 am]

[49 CFR Part 393]

[Docket No. MC-34; Notice 71-26]

PLASTIC FUEL TANKS

Advance Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering the issuance of an amendment to the Motor Carrier Safety Regulations to establish requirements for plastic fuel tanks. The purpose of the proposed amendment would be to promote safety of operations when vehicles equipped with plastic fuel tanks are engaged in interstate or foreign commerce.

During a recent rulemaking proceeding dealing with fuel systems (36 F.R. 15444), a manufacturer of thermoplastic fuel tanks responded to the invitation for public comments by requesting that the regulations permit use of his products. The manufacturer also asked the Director to establish safety standards applicable to thermoplastic fuel tanks. The Director believes that properly designed, manufactured, and installed plastic tanks can be used safely. However, the increased use of plastic tanks may require that specific rules be adopted to govern their design, manufacture, and installation.

Interested persons are invited to submit data, views, or arguments pertaining to the subject of safety regulations for plastic fuel tanks. The Director particularly invites the submission of comments on the criteria necessary to assure that plastic fuel tanks will perform at a level of safety at least equal to that attained by other types of tanks that conform to the Motor Carrier Safety Regulations. Information about the relative merits of various types of thermoplastic and thermosetting plastic tanks manufactured by various processes, as well as the specific and general safety advantages and disadvantages of these tanks, is also invited. Specific proposals concerning the contents of regulations for the safety of plastic fuel tanks would also be welcome. In addition, interested persons may also submit matter pertaining to the proposed new rules on subjects other than those specified.

All comments should refer to the docket and notice number appearing at the top of this notice. Comments should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on November 30, 1971, will be considered

before further action is taken. Comments will be available for examination in the public docket of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, both before and after the closing date for comments.

This advance notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended (49 U.S.C. 304), section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 389.4.

Issued on August 31, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.71-13475 Filed 9-13-71;8:47 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Interests in Nonbanking Activities

The Board of Governors proposes to permit bank holding companies, subject to established regulatory procedures, to engage in property management following a determination by the Board that such activity is "so closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c)(8) of the Bank Holding Company Act.

Property management encompasses farm management, the management of office buildings and other business or industrial properties, the management of residences ranging from single-family dwellings to high-rise apartment buildings, and the management of the air rights above, or the oil and mineral rights below, a particular parcel of land.

Property management does not, in the Board's judgment, include activities such as the buying and selling of property or the development of real estate. Although serving as an intermediary in bringing lessor and lessee together does not itself constitute property management, serving in that capacity might nonetheless fall within the permissible scope of incidental activities necessary to carry on functions that are regarded by the Board as property management.

To implement the Board's proposal § 222.4(a) would be amended by adding subparagraph (10), to read as follows:

§ 222.4 Nonbanking activities.

(a) *Activities closely related to banking or managing or controlling banks.* * * * The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

* * * * *

(10) Performing property management services.

* * * * *

To aid in the consideration by the Board of this matter, interested persons are invited to submit relevant data, views, or arguments. In accordance with the provisions of section 4(c)(8) of the Act, interested persons are also given opportunity to request a hearing on this matter. Any comments or requests for hearing should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 8, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, September 7, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-13456 Filed 9-13-71;8:45 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Utah 15498]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

Correction

In F.R. Doc. 71-12603, appearing at page 17057 in the issue of Friday, August 27, 1971, under "Salt Lake Meridian, Little Brush Creek Cave," in line 5, "Sec. 26, NE¼." is corrected to read "Sec. 36, NE¼."

[OR 8437]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

SEPTEMBER 3, 1971.

The Bureau of Land Management, Department of the Interior, has filed an application, Serial No. OR 8457, for the withdrawal of public land described below, from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. ch. 2), and from leasing under the mineral leasing laws.

The applicant desires to have the area withdrawn for the "Lost Forest Natural Area," to protect a disjunct ponderosa pine forest which is valuable for scientific, instructive, and research purposes.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, OR 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources.

After receipts of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the Bureau of Land Management.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

T. 25 S., R. 20 E.,
sec. 20, S½SE¼ and SE¼SW¼;
sec. 21, S½;
sec. 22, S½, NE¼, and S½NW¼;
sec. 23;
sec. 24, W½;
sec. 25, W½;
secs. 26 to 30, inclusive;
sec. 31, all except lot 4;
secs. 32 to 35, inclusive;
sec. 36, W½.

The area described contains 8,960 acres in Lake County.

IRVING W. ANDERSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.71-13480 Filed 9-13-71;8:47 am]

Geological Survey

[Power Site Cancellation 248]

GREAT SALT LAKE BASIN, IDAHO

Cancellation of Power Site

Correction

In F.R. Doc. 71-13054 appearing at page 17878 in the issue of Saturday, September 4, 1971, in the description of Power Site Classification 223, under T. 9 S., R. 39 E., the third line reading "Sec. 26, SW¼SW¼" should be deleted.

DEPARTMENT OF AGRICULTURE

Forest Service

REGIONAL FORESTER FOR ALASKA

Delegation of Authority

Pursuant to (a) the Delegation of Authority and Assignment of Functions by the Secretary of Agriculture dated November 27, 1964 (29 F.R. 16210), and (b) the delegation of authority by the Chief, Forest Service, dated June 5, 1968 (33 F.R. 8552), authority is hereby delegated to the Regional Forester for Alaska to perform the functions granted to the Secretary of Agriculture by the Act of May 17, 1906 (34 Stat. 197), as amended by the Act of August 2, 1956 (70 Stat. 954).

Effective date. This delegation of authority shall be effective upon publication in the FEDERAL REGISTER (9-14-71).

EDWARD W. SCHULTZ,
Deputy Chief, Forest Service.

SEPTEMBER 8, 1971.

[FR Doc.71-13521 Filed 9-13-71;8:50 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Organization Order 30-2B; Amdt. 2]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This material further amends the material appearing at 36 F.R. 5809 of March 27, 1971, and 35 F.R. 18550 of December 5, 1970.

Department Organization Order 30-2B, dated November 16, 1970, is hereby further amended as follows:

1. In section 11, *Institute for Applied Technology:*

a. Paragraph .07, The Office of Vehicle Systems Research is deleted.

b. Paragraphs .08 through .12 are renumbered .07 through .11, respectively.

2. The organization chart of March 15, 1971, is superseded by the chart attached to this amendment. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: August 22, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-13479 Filed 9-13-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23561 etc.; Order 71-9-41]

EASTERN AIR LINES, INC., ET AL.

Order Regarding Application and Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of September 1971.

Application of Eastern Air Lines, Inc., Executive Airlines, Inc., and Thomas J. Richert, Docket No. 23561; agreement between Eastern Air Lines, Inc., and Executive Airlines, Inc., Docket No. 23515; agreement CAB 22482.

On June 2, 1971, Eastern Air Lines and Executive Airlines entered into an agreement (hereinafter, the "letter agreement") covering in broad outline and without specific details a plan pursuant to which Eastern would provide management and personnel assistance to Executive. The two carriers would also offer joint fares, coordinate scheduling and would jointly use terminal facilities. Executive would use Eastern's reservation system under a plan that would encourage Executive to interline its traffic on Eastern. Although Executive asserts that

it is in "serious financial straights," [1] the arrangements with Eastern do not provide for financial assistance. On the other hand, Executive states that if "potential investors" recognize that it has acquired sound and experienced management, new funds may be attracted. The agreement was filed with the Board on June 17, 1971. (Agreement CAB 22482, Docket 23515) under cover of a letter which states, in part, that:

> The instant agreement has already been superseded in negotiations as between the two parties. It is anticipated that a series of new agreements, dealing with some or all of the same subject matter, will be signed by Eastern and Executive in the near future, and that they will specifically revoke all prior agreements, including that transmitted herewith * * *.
>
> In the meantime neither Eastern nor Executive will perform any activity described in the instant agreement.

The first of the specific agreements contemplated by the letter agreement of June 2 was executed by Eastern and Executive on June 23, 1971, and filed with the Board on June 25 in Docket 23561. In filing the agreement the carriers requested that the Board disclaim jurisdiction under sections 408 and 409 of the Act, grant them an exemption from those provisions of the Act, and/or approve the agreement under sections 408, 409, and 412.

The June 23 agreement, denominated a Technical Assistance Agreement by the carriers, contemplates that Eastern will designate one of its officers as General Manager of Executive.[1a] The person to be appointed, Thomas J. Richert, Vice President-Engineering and Maintenance, would remain an officer and employee of Eastern and would continue to receive his salary, benefits, and expenses from Eastern, although he is to be responsible to the Executive Board of Directors who are to retain control of Executive's affairs "at all times."

In addition to his duties as General Manager, Mr. Richert is to prepare and present to Executive's Board "a Profit Plan designed to maximize Executive's revenues and minimize its costs." Upon approval of the Profit Plan by Executive's Board, Mr. Richert is to have full authority for its implementation.

In his capacity as General Manager of Executive, Mr. Richert is to have the right to call upon Eastern "from time to time as may be required or desirable for services to be performed on Executive's premises by Eastern sales, technical and professional personnel * * *" and to call upon "additional Eastern personnel for advice and guidance in their various areas of expertise not requiring their presence on Executive's premises * * *." [2]

The agreement specifically states, however, that EAL shall not be required "to expend or risk its own funds or resources or otherwise incur financial liability * * *" or "to advance any funds to Executive or to assume or perform any obligation of Executive."

In support of the application for disclaimer, exemption, and/or approval Eastern states that it is proposing an experiment under which it will "extend a helping hand" to one air taxi operator with the expectation that its example will encourage other certificated carriers to launch similar programs. The need, say the joint applicants, is for a method whereby the commuter carriers will be able to bring to small markets the benefits of certificated service (e.g., computerized reservations, sophisticated training, "adequate and varied ticketing facilities and airport space," and specialist employees).[3] In addition, the applicants argue that, as a class, the commuter carriers have been unable to obtain adequate financial backing and this problem can be traced to their lack of sufficient expert managerial ability. In the case of Executive, approval of the Technical Assistance Agreement would solve that problem.

Allegheny, Delta, National, Northeast, Pan American, Air New England, Provincetown-Boston, Southeast, and Shawnee [4] have filed answers to one or both of the agreements urging that the relief requested by Eastern and Executive be denied. As an alternative position, many of the carriers request that the joint application for disclaimer of jurisdiction, exemption, and/or approval be set for hearing. Allegheny, Northeast, and Shawnee specifically request that the Board defer further procedural steps until the applicants have filed with the Board all of the agreements which represent the mutual understanding of the carriers contemplated by the June 2 agreement. Eastern and Executive have filed a reply urging immediate favorable action, without hearing, on their requested relief.[5]

Several carriers also filed procedural motions, each of which has been opposed by the joint applicants. Delta has filed a motion requesting consolidation of the application for approval of the agreements with the New England Service Investigation. Northeast has filed a motion for an order to show cause why Eastern and Executive should not be prohibited from implementing any mutual agreements prior to approval by the Board [6] and, in its answer, has requested that Eastern and Executive be required to file detailed monthly reports concerning transactions between one another pending final Board action.

The carriers opposing the agreements argue that the June 2 letter agreement contemplates a complete restructuring of the existing relationships between and among certificated carriers and commuter carriers, that the Technical Assistance Agreement does not constitute the whole of the arrangement between Eastern and Executive, and that the Board should not approve piecemeal the sweeping proposal contemplated by the June 2 agreement. They also argue that the Technical Assistance Agreement standing alone is far too sketchy to permit an intelligent assessment of its implications and that Eastern and Executive have failed to document their claim that implementation of the proposal would be consistent with the public interest. The foremost concern of the carriers is that the combination of Eastern and Executive would give to each an unfair competitive advantage against other carriers in its class in competing for connecting traffic and that the agreements would permit Eastern to extend its system to points at which it is not certificated, in violation of existing Board policy. (Cf., Order 71-4-198.)

Upon consideration of the pleadings and all of the relevant facts, we have concluded that the joint application of Eastern and Executive for disclaimer of jurisdiction, exemption, and/or approval of the Technical Assistance Agreement, together with that agreement and the June 2 letter agreement, have raised complex and controversial questions which require a hearing.

In the first place, it is evident that the Technical Assistance Agreement was initially negotiated as part of a broad package of agreements which together contemplate integrating the authority, management, schedules, and both financial and technical resources of a certificated carrier and a commuter carrier.

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[1] However, Executive has not submitted financial information to substantiate this assertion.

[1a] The Technical Assistance Agreement is intended by the carriers to supplant paragraphs 1 and 6 of the letter agreement and, in essence, it is no more than an adoption of the essential elements of those paragraphs together with minor details relating to form (such as the designation of persons at each corporation to receive notices, invoices, etc.).

[2] Executive will reimburse Eastern for the salaries (plus 15 percent to cover benefits) and expenses of Mr. Richert and such Eastern personnel as he might employ from time to time on Executive's premises. No reimbursement is required for the services of those additional Eastern employees on whom Mr. Richert might call for advice.

[3] The parties contend that in their present status the commuter carriers are generally unable to afford such programs and Eastern likens them to the scheduled carriers of underdeveloped countries such as Afghanistan and Ethiopia which have long been assisted by U.S. carriers under "technical assistance agreements" approved by the Board.

[4] In addition, Southern Airways filed a motion for leave to intervene and, on August 26 (nearly 6 weeks after answers were due) Florida Airlines, Inc., filed an answer together with a motion for leave to file. Both carriers will be made parties to the proceeding instituted herein and their motions will be dismissed as moot.

[5] On July 27, 1971, Northeast filed a motion for leave to file a supplemental answer (together with the supplemental answer), alleging that it had recently obtained new information having a direct bearing on the proceeding. Executive filed a reply opposing Northeast's motion. Good cause having been shown, we will grant Northeast's motion for leave to file.

[6] In their answers Air New England and Provincetown-Boston make a similar argument.

Although the present agreement involves but two carriers, Eastern states that it "stands willing to negotiate similar agreements with other commuter lines and it hopes that [other certificated carriers] would do the same." Thus, approval, at least on the terms contemplated by Eastern, could constitute the basis for a restructuring of domestic air transportation, altering the relationships between the certificated carriers, on the one hand, and the commuter carriers, on the other hand, and altering as well the competitive relationships among the carriers within each group.

Such a change in policy cannot be taken until the novel and substantial issues presented have been fully aired in a hearing. These issues, it should be noted, are not confined to local service in New England, where Executive operates as a replacement carrier for Northeast and Mohawk or to Florida where Executive operates a substantial route system as an independent commuter carrier. Rather, the issues here raised are national in scope and go to the very essence of the competitive relationships between the carriers. Whereas the certificated carriers are subject to substantial regulation, the Board's policy with respect to the commuter carriers—other than their restriction to small aircraft—has been to permit free entry, free exit, and free competition without regulatory control as to routes or rates. The Board has permitted commuter carriers to enter into standard interline agreements with certificated carriers and to file joint fares and the like, but, with the exception of arrangements designed to preserve air transportation service at certificated cities, the Board has declined to approve relationships between certificated carriers and air taxi operators having competitive implications of the sort here involved. For example, we have refused to allow certificated carriers to franchise commuter carriers for operations at cities which are not part of the certificated air transportation system, finding that such action "would severely curtail competition among air taxis." (Application of Allegheny Airlines, Order 71–4–198.) It is clear from the history and terms of these filings that Eastern and Executive propose a reversal of that policy.

Through its relationship with Eastern, Executive would be able to compete with other commuter carriers from a position of strength. Under the letter agreement, Eastern would provide it with a complete reservations system at a charge which would decline as the level of Executive-Eastern connecting traffic increased; Eastern would also provide terminal space and ground handling at all common points; and Eastern would explore the possibility of joint purchasing arrangements and a joint charter sales effort. The two carriers would file joint fares, engage in joint advertising, and mesh their schedules so as to maximize the possibility of connections between the two. Eastern would assist Executive in developing a STOL operation between Disney World and points in Florida certificated to Eastern. Finally, Eastern is evidently prepared to give Executive the first opportunity to provide replacement service at small communities on its system which it can no longer serve economically. Obviously, all of these actions would redound to Executive's benefit and would increase its ability to compete with other commuter carriers. Eastern likewise stands to benefit if the terms of the letter agreement are carried out, principally in that it would be in a position to capture Executive's connecting traffic, a formidable competitive advantage vis-a-vis other certificated carriers. Indeed, it is likely that Eastern would receive favored treatment even if the formal agreement between the two carriers were limited to the Technical Assistance Agreement, since pursuant to that agreement an officer of Eastern would be at the helm of Executive.

We have also decided, in light of the novel and substantial issues of national applicability presented, and the particular air transportation services provided by Executive, that the relief requested should not be granted on a temporary basis pendente lite. We recognize that Executive operates replacement services for Northeast between Boston, on the one hand, and Lebanon, Montpelier, Augusta/Waterville and Lewiston/Auburn, on the other hand, and for Mohawk between Keene and both Albany and Boston, and between Worcester and both Albany and Boston. If, because of its alleged "serious financial straits," Executive cannot continue to provide such services, the Board's orders temporarily suspending Northeast and Mohawk make clear that these carriers are obligated to resume services or to arrange for alternate substitute services pursuant to their underlying certificate obligations. We can see no basis for injecting a third certificated carrier, Eastern, which has no certificate obligations in the markets in question, for the purpose of sustaining these substitute services. In any event, we note that Eastern does not contemplate providing financial assistance to Executive. On the contrary, Executive only alleges that the more experienced management that it will acquire from Eastern will permit the carrier to seek additional funding from potential investors. Moreover, we note that the requested relief would apply not only to those New England markets in which Executive provides substitute service for Northeast and Mohawk, but also to a number of markets in both New England and Florida in which Executive has operated heretofore as an independent air taxi. In both areas several other Part 298 operators are providing services, some of which are competitive with those of Executive. Such carriers could be expected to continue competitive service, or replace Executive's service in noncertificated markets in which commuter carrier service is economically feasible.

We recognize that it can be alleged that only the Technical Assistance Agreement is presently before the Board, and not the June 2 letter agreement with the controversial elements described above. We note that when Eastern filed the June 2 agreement with the Board its filing document asserted that the agreement had "already been superseded." However, even considered by itself, without reference to the broader issues, the Technical Assistance Agreement raises serious questions, left unanswered by the pleadings, which can only be resolved through the hearing process. Thus, e.g., the Technical Assistance Agreement contemplates that Executive would be free to call upon Eastern to supply personnel to perform services on Executive's premises and to make available additional Eastern personnel to supply advice and guidance in their areas of expertise. The extent to which Eastern plans to supply the staff of Executive and the limits, if any, on its commitment to do so if requested are not spelled out. Moreover, it would appear that these provisions, in contemplating that a substantial portion of Executive's staff might be composed of employees of Eastern, raise control issues under section 408 of the Act. In addition, the Technical Assistance Agreement fails to spell out how it is that the proposed new general manager (an Eastern vice president) is to be subject to the directors of both carriers simultaneously unless, as the opponents of the agreement have alleged and the applicants have denied, Eastern will, in fact, control Executive. Similarly, the Technical Assistance agreement fails to make clear how it is that the relationship between the two carriers with respect to such matters as connecting traffic could remain neutral with an officer of Eastern at the helm of Executive.

Because we believe that the Technical Assistance Agreement cannot adequately be considered alone without reference to broader issues, the scope of the proceedings we are ordering shall be broad enough to include a full exploration of the present and proposed relationship between Eastern and Executive and of the negotiations between the carriers which led up to the adoption of the June 2 letter agreement, the Technical Assistance Agreement, all subsequent agreements,[7] and any related or similar agreements or understandings whether or not they have been filed with the Board.[8]

[7] Including, but not limited to, Agreements CAB 22642, 22643, 22644, and 22645.

[8] We will deny Delta's motion that the joint application for approval of the Technical Assistance Agreement be consolidated with the New England Service Investigation. The policy issues presented by the Eastern-Executive agreement are not confined to local service in New England and, indeed, Executive has an extensive route system in Florida. Consolidation of the two proceedings would unduly complicate the issues and would be likely to delay the hearing on the agreement.

We will also deny, without in any way intending to limit the scope of the proceeding or the nature of the evidence which may be requested, Northeast's motion for an order to show cause and its request that Eastern and Executive file monthly reports of their transactions. Sections 408 and 409 of the Act specifically prohibit the carriers from implementing agreements and interlocking relationships covered by those sections without the Board's approval and the issue of whether Eastern and Executive have violated those provisions will be included within the scope of the proceeding.

Accordingly, it is ordered, That:

1. The motion of Northeast Airlines, Inc., for leave to file an otherwise unauthorized document be and it hereby is granted; the motion of Southern Airways, Inc., for leave to intervene and the motion of Florida Airlines, Inc., for leave to file be and they hereby are dismissed;

2. The application in Docket 23561 of Eastern Air Lines, Inc., Executive Airlines, Inc., and Thomas J. Richert for disclaimer of jurisdiction, exemption, or approval be and it hereby is set for hearing at a time and place to be hereafter designated;

3. The proceeding instituted by paragraph 2 above shall encompass a full exploration of the present and proposed relationship between Eastern Air Lines, Inc., and Executive Airlines, Inc., including, but not limited to, the negotiations between the carriers which led up to the adoption of Agreement CAB 22482, the Technical Assistance Agreement, all subsequent agreements, and any related or similar agreements or understandings whether or not filed with the Board;

4. A copy of this order shall be served upon Eastern Air Lines, Inc.; Executive Airlines, Inc.; Thomas J. Richert, Allegheny Airlines, Inc.; Delta Air Lines, Inc.; National Airlines, Inc.; Northeast Airlines, Inc.; Pan American World Airways, Inc.; Southern Airways, Inc.; Air New England, Inc.; Florida Airlines, Inc.; Provincetown-Boston Airlines, Inc.; Shawnee Airlines, Inc.; and Southeast Airlines, Inc.; the foregoing be and they hereby are made parties to this proceeding; and

5. To the extent not specifically granted herein all motions be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-13506 Filed 9-13-71;8:49 am]

[Docket No. 22871]

LATIN AMERICAN ROUTES STOPOVER AUTHORITY INVESTIGATION

Notice of Oral Argument

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled investigation is assigned to be held on September 22, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the Board.

Dated at Washington, D.C., September 8, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-13403 Filed 9-13-71;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 560]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 7, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any part in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

1060-C2-AL-72—Cascade Telephone Co. Consent to assignment of license from Cascade Telephone Co., Assignor, to Fall City Telephone Co., Assignee. Station KOP320, Snoqualmie, Wash.

1066-C2-P-(2)72—Lehigh Valley Mobile Telephone Co. (New), C.P. for a new two-way station to be located at South Mountain, Allentown, Pa., to operate on frequencies 454.100 and 454.250 MHz.

1067-C2-P-72—Tel-Car, Inc. (KLF490), C.P. for additional facilities to operate on frequency 152.12 MHz located at 1.9 miles west of Pocatello, Idaho.

1142-C2-P-(3)72—RCA Alaska Communications, Inc. (New), C.P. for a new two-way station to be located at 0.7 mile east of Aniak Post Office, Aniak WACS, Alaska, to operate on frequencies 152.57, 152.66, and 152.75 MHz.

1143-C2-P-(4)72—RCA Alaska Communications, Inc. (New), C.P. for a new two-way station to be located at Third and Main Streets, Bethel, AK, to operate on frequencies 152.51, 152.60, 152.69, and 152.78 MHz.

1144-C2-P-(3)72—RCA Alaska Communications, Inc. (New), C.P. for a new two-way station to be located at Cape Newenham AFS Radomé, 152 miles, 184° TN from Bethel, Alaska, to operate on frequencies 152.57, 152.66, and 152.75 MHz.

1145-C2-P-(3)72—RCA Alaska Communications, Inc. (New), C.P. for a new two-way station to be located at Cape Romanzof AFS Radome, 156 miles from Bethel, Alaska.

1068-C2-P-72—New England Telephone & Telegraph Co. (KCA207), C.P. to replace the transmitter operating on 152.57 MHz, located at Silver Hill, Observatory Avenue, Haverhill, MA.

1147-C2-TC-72—Minnesota Mobile Telephone Co. Consent to transfer of control from Mobile Telephone Co., Transferor, to Mobile Radio Engineering, Inc., Transferee. Station KRS637, Minneapolis, Minn.

1149-C2-MP-72—Jay En, Inc. (KEK301), Modification of C.P. to relocate the control facilities operating on 72.30 MHz at location No. 2, to: 3189 Miller Trunk Highway, Duluth, MN.

1150-C2-P-72—Radio Relay Corp. (KSC645), C.P. for additional facilities to operate on 35.580 MHz at a new site described as location No. 7: 2108 North State Road, Arlington Heights, IL.

1151-C2-P-(2)72—Pacific Northwest Bell Telephone Co. (New), C.P. for a new one-way station to operate on frequency 152.840 MHz at location No. 1: Selah Butte, 1.3 miles north of Yakima, Wash., and location No. 2: 2 miles southwest of Union Gap, Wash.

1162-C2-P-72—Canaveral Communications (New), C.P. for a new one-way station to be located at 3 miles west of Cocoa, Fla., to operate on 158.70 MHz.

1163-C2-P-72—Greenville Radio Dispatch (New), C.P. for a new two-way station to be located at the Mary Greene Dorm, East Carolina University, N.C., to operate on 152.06 MHz.

Major Amendment

4507-C2-P-71—Athens Mobile Telephone Co. (New), Amended to read: Autophone of Gainesville, Inc. For other particulars see Public Notice dated Mar. 1, 1971, Report No. 533.

6738-C2-P-71—Zipcall (New), Amended to change transmitter, antenna and azimuth of maximum radiation. For other particulars see Public Notice dated June 7, 1971, Report No. 547.

RURAL RADIO SERVICE

1090–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Akiachak village coop store in west section of village, approximately 15.6 miles east-northeast from Bethel, Alaska, to operate on frequencies 157.77, 157.86, 157.95, and 158.04 MHz.

1091–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Akiak village store, south-southwest section of village, approximately 21.1 miles east-northeast from Bethel, Alaska.

1092–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Atmautlauk community building, approximately 9.6 miles west from Bethel, Alaska.

1093–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.83, 157.92, and 158.01 MHz and to be located at Chauthbaluk school teachers quarters on west side of village, approximately 9.7 miles east-northeast from Aniak, Alaska.

1094–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.80, 157.89, and 157.98 MHz and to be located at Chevak, at Peter Nayamin's private residence in extreme southwest section of village, approximately 136 miles west from Bethel, Alaska.

1095–C2–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.83, 157.92, and 158.01 MHz and to be located at Goodnews Village Store, approximately 115 miles south-southeast from Bethel, Alaska.

1096–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.80, 157.89, and 157.98 MHz and to be located at Hooper Bay Village Community Hall, approximately 151.5 miles from Bethel, Alaska.

1097–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.83, 157.92, and 158.01 MHz and to be located at Kalskag, in George Morgan's village store, approximately 26.7 miles west-southwest from Aniak, Alaska.

1098–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.83, 157.92, and 158.01 MHz and to be located at Lower Kalsag, at council member's home adjacent to town mall building, in southwest section of village.

1099–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.77, 157.86, 157.95, and 158.04 MHz and to be located at Kasigluk village clinic building, approximately 24.3 miles west-northwest from Bethel, Alaska.

1100–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Kwethluk village clinic building, approximately 15.2 miles east-northeast from Bethel, Alaska.

1101–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Napakiak village community building, approximately 12.4 miles south-southwest from Bethel, Alaska.

1102–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Napaskiak village community building, approximately 6.3 miles south-southeast from Bethel, Alaska.

1103–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at the Nunaphsinckak (Moravian Childrens Home), approximately 15.3 miles east-northeast of Bethel, Alaska.

1104–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Nunapitchuk, in Nick D. Nicks residence 22.4 miles west from Bethel, Alaska.

1105–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to be located at Oscarville Trading Post Building, approximately 5 miles south-southeast from Bethel, Alaska.

1106–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.83, 157.92, and 158.01 MHz and to be located at Platinum Village Store, approximately 123 miles south-southeast from Bethel, Alaska.

1107–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.80, 157.89, and 157.98 MHz and to be located at Scamnon Bay, at Joe Jim's Store, approximately 145 miles west-northwest from Bethel, Alaska.

RURAL RADIO SERVICE—continued

1108–C1–P–72—RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station, frequencies 157.77, 157.86, 157.95, and 158.04 MHz and to be located at Tuluksak village clinic building, approximately 3 miles east-northeast from Bethel, Alaska.

1164–C1–P/L–72—AAA Anserphone, Inc.—Jackson (New), C.P. and license for a new rural subscriber station to be located at any temporary fixed location within the territory of the applicant, to operate on frequency 158.58 MHz, communicating with station KRH666, Natchez, Miss.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

577–C1–P–72—Indiana Telephone Corp. (New), C.P. to resubmit a new station to be located at 718 West McClain Avenue, Scottsburg, IN. Frequency: 5945.2 MHz toward Quick Creek, Ind.

578–C1–P–72—Indiana Telephone Corp. (New), C.P. to resubmit a new station to be located 5.3 miles east-northeast of Austin, Ind. Frequencies: 6197.2 MHz toward Scottsburg, Ind., 6256.5 MHz toward Madison, Ind., and 6315.9 MHz toward Seymour, Ind.

579–C1–P–72—Indiana Telephone Corp. (KSO45), C.P. to resubmit station to be located 302 North Walnut Street, Seymour, IN, to add frequency 6063.8 MHz toward Quick Creek, Ind., a new point of communication.

580–C1–P–72—Indiana Telephone Corp. (New), Resubmit: C.P. for a new station to be located 1827 Marion Street, IN. Frequency: 6004.5 MHz toward Quick Creek, Ind.

1062–C1–P–72—Southwestern Bell Telephone Co. (KYJ47), C.P. to add frequency 6375.14 MHz toward High Point, Ark. Station location: 715 Louisiana, Little Rock, Ark.

1063–C1–P–72—Southwestern Bell Telephone Co. (New), C.P. for a new station to be located at High Point Mountain, 2.4 miles northwest of Roland, Ark. Frequency: 6123.1 MHz toward Cadron Ridge, Ark.

1064–C1–P–72—Southwestern Bell Telephone Co. (New), C.P. for a new station to be located at Cadron Ridge, 3.7 miles west-northwest of Conway, Ark. Frequency: 11,365 MHz toward Conway, Ark.

1084–C1–P–72—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located 221 West Winton Avenue, Hayward, CA. Frequencies: 11,265, 11,345, and 11,425 MHz toward Walpert Ridge, Calif.

1085–C1–P–72—The Pacific Telephone & Telegraph Co. (KMN91), C.P. to add frequency 3930 MHz toward Walpert Ridge, Calif. Station location: 95 Almaden Avenue, San Jose, CA.

1086–C1–P–72—The Pacific Telephone & Telegraph Co. (KMQ36), C.P. to add frequency 3930 MHz toward Walpert Ridge, Calif. Station location: 1587 Franklin Street, Oakland, CA.

1087–C1–P–72—The Pacific Telephone & Telegraph Co. (KTG20), C.P. to add frequencies 3890 MHz toward San Jose, Calif., and toward Oakland, Calif., and 10,775, 10,855, and 10,935 MHz toward Hayward, Calif., a new point of communication. Station location: Walpert Ridge, 3.7 miles east-southeast of Hayward, Calif.

1110–C1–P–72—Northwestern Bell Telephone Co. (KVI33), C.P. to add frequency 3870 MHz toward Omaha, Nebr. Station location: 4.5 miles south of Gretna, Nebr.

1153–C1–P–72—The Pacific Telephone & Telegraph Co. (KMW59), C.P. to change frequency to 2129 MHz presently authorized 450 MHz toward Keller Peak, Calif. Station location: 4 miles east of Phelan, Calif.

1154–C1–P–72—The Pacific Telephone & Telegraph Co. (KMW60), C.P. to change frequency to 2179 MHz presently authorized 450 MHz toward Phelan, Calif. Station location: Keller Peak, 10 miles northeast of Highland, Calif.

1155–C1–P–72—The Pacific Telephone & Telegraph Co. (KMA38), C.P. to reroute frequencies 10,755, 10,835, 10,915, 10,995, 11,075, and 11,155 MHz toward Baldwin Hills, Calif., via passive reflector. Station location: 434 South Grand Avenue, Los Angeles, CA.

1156–C1–P–72—The Pacific Telephone & Telegraph Co. (KNM41), C.P. to reroute frequencies 11,285, 11,365, 11,445, 11,525, 11,605, and 11,685 MHz toward Los Angeles, Calif., via passive reflector. Station location: Baldwin Hills, approximately 305 feet south of Los Angeles city limits, and 500 feet south of Baldwin Hills Reservoir, Calif.

1157–C1–P–72—South Central Bell Telephone Co. (KLJ68), C.P. to add frequency 4150 MHz toward Magee, Miss. Station location: 5.6 miles southwest of Star, Miss.

1158–C1–P–72—South Central Bell Telephone Co. (KKK50), C.P. to add frequency 4110 MHz toward Seminary, Miss., and 3710 MHz toward Star, Miss. Station location: 2 miles south of Magee, Miss.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

1159–C1–P–72—South Central Bell Telephone Co. (KKK51), C.P. to add frequency 3750 MHz toward Magee, Miss., and 4150 MHz toward Hattiesburg, Miss. Station location: 3.25 miles west-southwest of Seminary, Miss.

1160–C1–P–72—South Central Bell Telephone Co. (KLG21), C.P. to add frequency 3710 MHz toward Seminary, Miss. Station location: 100 Brunie Street, Hattiesburg, MS.

4967–C1–R–72—New Jersey Bell Telephone Co. (KYC84), Renewal of a developmental of a license expiring Aug. 7, 1971. Term: Aug. 7, 1971, to Aug. 7, 1972.

1165–C1–P–72—American Telephone & Telegraph Co. (KSE21), C.P. to add frequency 3810 MHz toward Peoria, Ill. Station location: 2 miles north-northwest of Groveland, Ill.

1166–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPX37), C.P. to correct coordinates from latitude 32°52'41" N., longitude 111°45'08" W. to latitude 32°52'41" N., longitude 111°45'07" W. Frequencies: 11,285 and 11,525 MHz toward Coolidge, Ariz., via passive reflector. Station location: 202 East Fourth Street, Casa Grande, AZ.

1167–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPR24), C.P. to correct coordinates from latitude 32°58'30" N., longitude 111°31'10" W. to latitude 32°58'38" N., longitude 111°31'15" W. Frequencies: 10,835 and 11,075 MHz toward Casa Grande, Ariz., via passive reflector. Station location: 391 West Central, Coolidge, AZ.

Major Amendment

6478–C1–P/ML–71—Michigan Bell Telephone Co. (KSV68), Major amendment: Change frequencies to 11,305 and 11,545 MHz at station location: 25189 Lahser Street, Southfield, MI. All other particulars same as reported on Public Notice dated May 24, 1971.

Major Amendment

181–C1–P–72—American Telephone & Telegraph Co. (KIL27), Major amendment: Change frequency to 10,975 MHz on azimuth 194°. Location: 3.5 miles south of Hillsboro, N.C.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

1077–C1–P–72—East Texas Transmission Co. (KLH75), C.P. to add frequencies 10,955 and 11,075 MHz on azimuth 78°26'. Location: North Glenwood Boulevard and West Cloud Street, Tyler, TX, at latitude 32°21'13" N., longitude 95°19'11" W.

1078–C1–P–72—East Texas Transmission Co. (New), C.P. for a new station on Goodman Mountain, 5 miles west-northwest of Kilgore, Tex., at latitude 32°24'39" N., longitude 94°59'16" W. Frequencies 11,245 and 11,565 MHz on azimuth 68°40'.

1079–C1–P–72—East Texas Transmission Co. (New), C.P. for a new station 2 miles south of Walker's Mill, Tex., at latitude 32°33'20" N., longitude 94°32'52" W. Frequencies 10,915 and 11,075 MHz on azimuths 95°45' and 112°06'.

1080–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station 4 miles northwest of Pancla at latitude 32°24'42" N., longitude 94°07'55" W. Frequencies 11,245 MHz and 11,565 MHz on azimuth 112°35'.

1081–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station 4.5 miles east-southeast of Stonewall, La., at latitude 32°16'39" N., longitude 93°45'14" W. Frequencies 10,915 and 11,075 MHz on azimuth 81°35'.

1082–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station 0.5 mile west of Ringgold, La., at latitude 32°20'00" N., longitude 93°18'12" W. Frequencies 11,245 and 11,565 MHz on azimuth 138°50'.

1083–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station 0.5 mile north of Oshkosh, La., at latitude 32°02'00" N., longitude 92°59'45" W. Frequencies 10,915 and 11,075 MHz on azimuths 108°28' and 200°48'.

(INFORMATIVE: Applicant proposes to provide the television signals of KTVT and KERA–TV to Teleservice Corp. of America in Winnfield, La., and Natchitoches, La.)

1146–C1–P–72—Microwave Transmission Corp. (KPZ25), C.P. to power split frequency 6275.0 MHz on azimuth 206°00'. Station location: Jump-Off-Joe Butte, Wash., at latitude 46°06'16" N., longitude 119°07'50" W.

(INFORMATIVE: Applicant proposes to provide the television signal of Station CHEK–TV of Victoria, British Columbia to Columbia Television Co., Inc., in Hermiston, Oreg.)

1161–C1–P–72—Western Tele-Communications, Inc. (KZA87), C.P. to power split frequency 6241.7 MHz on azimuth 63°38'. Location: East Butte, 32 miles west of Idaho Falls, Idaho, at latitude 43°30'00" N., longitude 112°39'48" W.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

(INFORMATIVE: Applicant proposes to provide the television signal of Station KWGN–TV of Denver, Colo., to Rex TV, Inc., in Rexburg, Idaho.)

1168–C1–P–72—KHC Microwave Corp. (WDE81), C.P. to add frequencies 6226.9 and 6286.2 MHz, via power split, toward Mossville, La. (latitude 30°15'30" N., longitude 93°17'33" W.) on azimuth 49°42'. Station location: Cameron Farms, 7 miles south-southeast of Vinton, La.

1169–C1–P–72—American Television Relay, Inc. (KOS63), C.P. to power split frequency 6160.2 MHz on azimuth 45°57'. Location: Heliograph Peak, 13.9 miles southwest of Safford, Ariz., at latitude 32°38'59" N., longitude 109°50'53" W.

(INFORMATIVE: Applicant proposes to provide the television signal of Station KAET of Phoenix, Ariz., to Cablecom-General, Inc., in Clifton-Morenci, Ariz.)

1170–C1–P–72—Microrelay of New Mexico (KLR72), C.P. to power split frequency 5987.5 MHz on azimuth 115°52'. Location: Cedar Point 30 miles west of Hagerman, N. Mex., at latitude 33°00'45" N., longitude 103°52'25" W.

(INFORMATIVE: Applicant proposes to provide the television signal of station KNME of Albuquerque, N. Mex., to Cable Information Services, Inc., in Hobbs, N. Mex.)

The following applicants proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

1065–C1–P–72—Microband Corp of America (New), C.P. for a new station to be located at Keystone Building, 99 High Street, Boston, MA. Frequencies: 2152.325 (visual) and 2150.20 MHz (aural) toward various points of the system and 2158.50 (visual) and 2154.00 (aural) toward various points of the system.

1088–C1–P–72—Sherman M. Wolf, doing business as ZIPCALL (New), C.P. for a new station to be located at John Hancock Tower Building, Boston, Mass. Frequencies: 2150.200 MHz (aural) and 2152.325 MHz (visual) and 2154.000 (aural) and 2158.500 MHz (visual) toward various receiving points.

1089–C1–P–72—Sherman M. Wolf, doing business as ZIPCALL (New), C.P. for a new station to be located at Asnebumskit Hill, Paxton, Mass. Frequencies 2150.200 MHz (aural), 2152.325 MHz (visual) and 2154.000 MHz (aural) and 2158.500 MHz (visual) all toward various receiving points.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Massachusetts

Peabody Telephone Answering Service (New), File No. 7424–C1–P–71.
Microband Corp. of America (New), File No. 1065–C1–P–72.
Sherman M. Wolf, doing business as ZIPCALL (New), File No. 1088–C1–P–72.

Major Amendment

7748–C1–P–71—Pacific Telatronics, Inc. (KNM59), Application amended to change frequency from 6249.1 MHz to 6271.4 MHz toward Cohasset Ridge, Calif., on azimuth 336°00'. Station location: Red Hill, 20 miles northeast of Marysville, Calif.

[FR Doc.71–13395 Filed 9–13–71;8:45 am]

FEDERAL MARITIME COMMISSION

AIR-SEA SHIPPING ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Emilio E. Ruiz doing business as, Air-Sea Shipping, 3061 Northwest Seventh Street, Miami, FL 33125.

I.T.C. Compu-Customs Corp., 11 Broadway, Room 1531, New York, N.Y. 10004.
Officers and Directors:
Daniel W. Murphy, President.

Robert O. Niethamer, Executive Vice President.
Joseph C. Scura, Vice President.
Marta Gomez, Vice President.
Joseph A. Leoce, Secretary/Treasurer.
Ansie Charcat, Director.
Leo Rosenhand, Director.
Zecharia Sitchin, Director.

Corcoran International Corp., 15 Park Row, New York City, NY 10038.

Officers and Directors:
Thomas A. Corcoran, President.
Marta Gomez Corcoran, Vice President.
Robert G. Corcoran, Treasurer.
John Hernandez, Secretary.
Angeles Hernandez, Director.
Luisa Mosa, Director.
Martha Hernandez, Director.

Fabio A. Ruiz R. doing business as, Far Express Co., 137 Madeira Avenue, Coral Gables, FL 33134.

Dated: September 9, 1971.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-13499 Filed 9-13-71;8:48 am]

[Independent Ocean Freight Forwarder License 1089]

E. M. MALONE & CO.

Order of Revocation

By letter dated July 29, 1971, E. M. Malone & Co., Post Office Box 2286, Panama City, FL, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1089 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 28, 1971.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

E. M. Malone & Co. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated September 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License of E. M. Malone & Co. be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of E. M. Malone & Co. be and is hereby revoked effective August 28, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon E. M. Malone & Co.

AARON W. REESE,
Managing Director.

[FR Doc.71-13500 Filed 9-13-71;8:49 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01054	Wilhelm Wilhelmsen: Titania.
01103	Poseidon Schiffahrt Gesellschaft mit beschrankter Haftung: Poseidon.
01108	Hvalfangeraktieselskapet "Rosshavet" & "Vestfold" ("Rosshavet" Whaling Co., Ltd., & "Vestfold" Whaling Co., Ltd.): Vestfold.
01147	Providence Steamboat Co.: Rhode Island.
01204	A/S Sunde: Ventura.
01302	Boston Fuel Transportation, Inc.: Dean Reineaur.
01305	Royal Mail Lines, Ltd.: Lombardy.
01306	Shaw Savill & Albion Co., Ltd.: Delphic.
01318	Aug. Bolten, Wm. Miller's Nachfolger: Teesland. Cappenberg.
01344	Reeder Union AG.: Damaskus.
01345	Bock, Godeffroy & Co.: Galata. Libanon. Ankara.
01423	Charente Steamship Co., Ltd., Thos & Jas Harrison, Ltd., Managers: Crofter.
01430	Tankers, Ltd.: Athelcrest.
01504	Yngvar Hvistendahl: Tai Ping.
01562	G. W. Gladders Towing Co. Inc.: GWG 102.
01634	Star Financing, Ltd.: Atlantic Empress.
01803	Texas City Refining, Inc.: Thalia. Four Lakes.
01824	Erice S.p. A.-Palermo: Sportivo.
02001	Rederiaktiebolaget Transocean: Goonawarra. Parrakoola. Sunnaren.
02136	A/S Anatina: Aquila.
02151	Anchor Line, Ltd.: Fernmoor.
02194	Compagnie Generale Transatlantique: La Hague.
02249	Fisser & v. Doornum: Hendrik Fisser.
02269	Merivienti Oy: Finnmaid.
02374	Minoutsi Shipping, Ltd., of Nicosia: Minoutsi.
02430	The Buckeye Steamship Co.: Buckeye Pacific.
02448	Rederiaktiebolaget Nordstjernan: Panama.
02498	Chevron Oil Co.: LST-S-21. LST-S-24. LST-S-25.
02503	Panoceanic Tankers Corp.: Stella Palaris.
02554	Hall Line, Ltd.: City of Hereford.
02703	Komrowski Befrachtungskontor KG-AS Managing Owner for Partenreederei M/S "Ossian": Ossian.
02771	Philtankers, Inc.: Phillips Arkansas.
02870	Isthmian Lines, Inc.: Steel Architect.
02889	Showa Kaiun K.K.: Wayo Maru.
02948	Raymond International, Inc.: S-73 Commonwealth.
02980	Rederi A/S Mimer and A/S Norfart: Anja.
03137	The Cunard Steamship Co., Ltd.: Manaar.
03247	Rederiaktiebolaget Polar: Polar Viking.
03255	Port Line, Ltd.: Port Victor. Port Wellington.
03287	Dominion Far East Line (Hong Kong), Ltd.: Marco Polo.
03422	Daiwa Kaiun Kabushiki Kaisha: Biak Maru.
03441	Japan Line K.K.: Towa Maru.
03428	Hachiuma Kisen K.K.: Tamon Maru.
034451	Kowa Shosen K.K.: Kokyo Maru.
03459	Meiji Kaiun K.K.: Meijyo Maru.
03517	Tokyo Kaiji Kabushiki Kaisha: Byakudan Maru.
03519	Toko Shosen K.K.: Indus Maru.
03843	Victory Carriers, Inc.: Northwestern Victory.
04004	Koninklijke Java-China-Paketvaart Lijnen N.V.: Tjinegara.
04007	Egon Oldendorff: Gretke Oldendorff.
04082	Helge Kyvik: John Kyvik.
04090	Sabine River Barge Line, Inc.: NDT 101.
04187	Hamburg - Subamerikanische Dampfschiffahrts - Gesellschaft Eggert & Amsinck, Zweigniederlassung Bremen: Walter.
04232	B & B Marine & Construction Corp.: Bollinger No. 11.
04264	Outerocean Navigation Corp., Ltd.: Lisboa. Silvana.
04285	Western Contracting Corp.: Barge 515-N. Western Hunter. Western Scout.
04435	Gateway Barge Lines, Inc.: LTC 30.
04564	Yamashita-Shinnihon Kisen Kaisha: Kiiharu Maru.
04597	Oswego Oil Carrier Corp.: Nepco Friendship.
04595	Antillean Carriers N.V.: Antillian Baron.

Certificate No.	Owner/operator and vessels
04627	Inland Tugs Co.: James Bowie. Stephen F. Austin.
04640	McAllister Lighterage Line, Inc.: McAllister Bros. No. 89. Ira. Silas.
04662	Atlantic Sugar Refineries Co., Ltd.: Atlantic Gennis.
04758	Carbridge Enterprises, Ltd.: Sunjarv.
05148	Samyang Navigation Co., Ltd.: Gold Star.
05166	Sun Transport, Inc. Island Sun. Caribe Sun.
05427	Royal Transport & Trading Co., Ltd.: York.
05428	Mercantile Navigation Corp.: Henry.
05520	Union Carbide Corp.: NMS 1900. M/G 10-B.
05766	South Coast Towing Co.: Island Sun.
05966	Penn Shipping Ltd.: Golden Sable:

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-13501 Filed 9-13-71;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. E-7645]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Suspending Proposed Rates

SEPTEMBER 7, 1971.

Public Service Company of Indiana, Inc. (PSI), on July 9, 1971, filed proposed changes in its wholesale rates which would increase charges by $3,338,277 and $1,058,054 annually to its cooperative and municipal cutomers, respectively based on sales for the 12 months ended December 31, 1970, PSI submited a revised FPC Electric Tariff to supersede the present tariff for wholesale service to municipal utilities, a new rate, REMC-1, to supersede the company's present rates REMC-X and REMC-O applicable to 15 wholesale cooperative customers, and a revised firm power service schedule to an interconnection agreement among PSI, Southern Indiana Gas and Electric Co. (SIGECO) and Indiana Statewide Rural Electric Cooperative, Inc. (Statewide). Designation of the proposed instruments are shown in the attachment.

PSI states that the proposed rates will raise its rate of return from 5.24 percent to 7.75 percent for the municipal customers and from 2.29 percent to 7.73 percent for the cooperatives. PSI requests that the Commission suspend the proposed rate schedules for only 1 day in view of the 11.5 percent reduction in earnings it experienced for the first 5 months of 1971, as compared with earnings for the same period in 1970.

Notice of the filing was published in the FEDERAL REGISTER on August 4, 1971 (36 F.R. 14356) with comments or answers due on or before August 16, 1971.

Petitions to intervene and to reject were filed on August 16, 1971, by (1) the Indiana Statewide Rural Electric Cooperative, Inc., and 12 rural electric cooperatives (Statewide), (2) the Indiana Municipal Electric Association and 20 municipalities (IMEA) and on August 18, 1971, by (3) the rural electric cooperatives of Henry, Jackson, and Parke Counties, Ind. (Counties). Statewide and Counties request that PSI's filing be rejected insofar as it pertains to them contending that their currently effective rate agreements with PSI do not provide for unilateral rate change filings by the company and therefore such filings are invalid under the doctrine of the Mobile [1] and Sierra [2] cases. IMEA requests rejection on grounds that PSI's contracts and agreements contain anticompetitive provisions and further contends that PSCI does not have the contractual authorization under its agreements with IMEA cities to request an effective date prior to final Commission approval of the rate increase. In order to allow sufficient opportunity to evaluate the petitions for rejection as well as any answers thereto which may be filed we shall defer action on those petitions at this time.

PSI requests that the proposed rate schedule changes for wholesale service to its municipal and cooperatives be made effective September 8, 1971. PSI further proposes that rate REMC-1 apply to sales to Hoosier Energy Division of Statewide under the aforementioned interconnection agreement effective March 9, 1974. In this connection, PSI requests waiver of the notice requirements of § 35.3 of the regulations under the Federal Power Act. It would be inappropriate to accept a rate to be effective some 2½ years from now. Changes in company's operations, costs and sales agreements during the intervening period may render such an action a nullity. Accordingly, PSI's request for waiver of § 35.3 of the regulations under the Federal Power Act shall be denied. Our action herein is without prejudice to PSI's right to refile to make rate REMC-1 apply to service to Statewide under the above-described interconnection agreement at the appropriate time. Review of PSI's filing indicates that certain issues are raised which require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in PSI's FPC rate schedules, as proposed to be amended herein, and that the proposed rate schedules listed in Attachment A be suspended, and the use thereof deferred as herein provided.

(2) Good cause has not been shown for waiver of § 35.3 of the Commission's regulations under the Federal Power Act to permit proposed rate REMC-1 to apply to service to Statewide under the above-described interconnection agreement commencing March 9, 1974.

(3) Participation by the aforementioned named petitioners for leave to intervene in this proceeding may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, including sections 205, 206, 308 and 309 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 concerning the lawfulness of the rates, charges, classifications and services contained in PSI's FPC rate schedules, as proposed to be revised herein.

(B) Pending such hearing and decision thereon, PSI's revised rate schedules listed in Attachment A above are hereby suspended and the use thereof deferred until February 8, 1972.

(C) PSI's request for waiver of § 35.3 of the regulations under the Federal Power Act is denied.

(D) Staff will serve its direct case no later than December 23, 1971. Intervenors will serve their direct cases no later than January 21, 1972. PSI's rebuttal evidence shall be served no later than February 8, 1972. Cross-examination of all evidence shall commence February 22, 1972.

(E) Increased rates and charges found by the Commission in this proceeding to be unjustified shall be refunded and shall bear interest at the prime rate in effect at the Chase Manhattan Bank in New York on the date the rates become effective or such other rate as the Commission may prescribe. PSI shall bear all costs of refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges effective at the termination of the suspension period; and shall file with the Commission a monthly written report for each billing period in duplicate and under oath such report shall set forth: (1) The billing determinants of electric power and energy sold and delivered during the billing period; (2) the revenues resulting from such sale and delivery computed under PSI's present rate schedules and under its proposed rate schedules and shall show the differences in the revenues so computed.

(F) The 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 this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedures.

[1] F.P.C. v. Sierra Pacific Power Company, 350 U.S. 348.

[2] United Gas Pipe Line Co. v. The Mobile Gas Service Corp., 350 U.S. 332.

(G) Each of the aforementioned petitioners for intervention is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors 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 this proceeding.

(H) This order is without prejudice to any findings or orders which have been made or may hereafter be made by this Commission in this proceeding.

(I) This order is subject to our statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

RATE SCHEDULE DESIGNATIONS

Public Service Company of Indiana, Inc.

Filing date: July 9, 1971.

Designation	*Date of issue*
FPC Electric Tariff, Original Volume No. 1, First Revision (Supersedes FPC Electric Tariff, Original Volume No. 1 issued Jan. 1, 1968).	July 9, 1971.
Instrument: Rate REMC—1, issued July 9, 1971.	

Filing date: July 9, 1971.

Designation	*Other party*
Supplement No. 4 to Rate Schedule FPC No. 103 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 103).	Boone County REMC.
Supplement No. 2 to Rate Schedule FPC No. 104 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 104).	Carroll County REMC.
Supplement No. 2 to Rate Schedule FPC No. 105 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 105).	Clark County REMC.
Supplement No. 2 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 123).	Fulton County REMC.
Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 124).	Hancock County REMC.
Supplement No. 4 to Rate Schedule FPC No. 130 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 130).	Hendricks County REMC.
Supplement No. 4 to Rate Schedule FPC No. 131 (Supersedes Supplement No. 2 and Supplement No. 1 to Supplement No. 2 to Rate Schedule FPC No. 131).	Henry County REMC.
Supplement No. 3 to Rate Schedule FPC No. 132 (Supersedes Supplement No. 2 and Supplement No. 1 to Supplement No. 2 to Rate Schedule FPC No. 132).	Jackson County REMC.
Supplement No. 2 to Rate Schedule FPC No. 149 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 149).	Kosciusko County REMC.
Supplement No. 2 to Rate Schedule FPC No. 150 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 150).	Miami-Cass County REMC.
Supplement No. 2 to Rate Schedule FPC No. 164 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 164).	Parke County REMC.
Supplement No. 5 to Rate Schedule FPC No. 187 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 187).	Tipmont REMC.
Supplement No. 4 to Rate Schedule FPC No. 189 (Supersedes Supplement No. 2 and Supplement No. 1 to Supplement No. 2 to Rate Schedule FPC No. 189).	United REMC.
Supplement No. 3 to Rate Schedule FPC No. 199 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 199).	Wabash County REMC.
Supplement No. 2 to Rate Schedule FPC No. 203 (Supersedes Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 203).	Warren County REMC.
Supplement No. 3 to Rate Schedule FPC No. 209 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 209).	Clark County REMC.

[FR Doc.71-13443 Filed 9-13-71;8:45 am]

[Docket No. RI72-64 etc.]

SHELL OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund [1]

SEPTEMBER 3, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI69-749...	Shell Oil Co.	344	2 to 3	Transwestern Pipeline Co. (Halley Field, Winkler County, Texas Permian Basin).	$11,858	8-6-71	10-6-71	[1] Accepted	[10]	[10]	RI69-749.
RI72-64...	R & G Drilling Co., et al.	5	6	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.), (San Juan Basin).	500	8-9-71		10-10-71	[2] 14.0	[2] 15.0	RI64-483.
RI72-65...	Amoco Production Co.	279	11	Transwestern Pipeline Co. (Crawar Field, Crane County, Texas Permian Basin).	4,500	8-5-71		10-6-71	[10] 18.08	[10] 19.08	RI70-781.
RI72-66...	Great Lakes Natural Gas Corp.	1	10	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan Co., N. Mex.), (San Juan Basin).	1,200	8-9-71		10-10-71	[2] 14.0	[2] 15.0	RI64-459.
RI72-67...	Jerome P. McHugh	5	7	El Paso Natural Gas Co. (Ballard Pictured Cliffs Field, Rio Arriba County, N. Mex.) (San Juan Basin).	40,028	8-9-71		2-9-72	13.2188	29.23	RI70-342.
RI70-545...	Shell Oil Co.	309	1-15	Montana-Dakota Utilities Co. (Wind River Basin, Freemont, Wyo.) (Rocky Mountain Area).	3,067	8-9-71	8-9-71	[3] Accepted			RI70-545.
RI72-68...	American Petrofina Co. of Texas.	39	5	Northern Natural Gas Co. (Hunt Baggett Field, Crockett County, Tex.) (Permian Basin).	2,101	8-9-71		10-10-71	[10] 16.06	[10] 17.0638	
RI72-69...	Atlantic Richfield Co.	333	[4] 7	El Paso Natural Gas Co. (San Juan Basin, Rio Arriba and San Juan Counties, N. Mex.).	40,653	8-9-71		2-9-72	[2] 15.2525	21.33	RI69-383.
	do	334	[4] 6	do	4,559	8-9-71		2-9-72	[2] 15.2525	21.33	RI69-383.
	do	335	[4] 6	do	1,876	8-9-71		2-9-72	[2] 15.2525	21.33	RI69-383.
	do	408	[5] [6] 14	do	127,345	8-9-71		2-9-72	13.2188	21.33	RI69-383.
	do	498	[4] [6] 15	do	4,559	8-9-71		2-9-72	[2] 15.2525	21.33	RI69-383.
RI72-70...	Amoco Production Co.	109	12	El Paso Natural Gas Co. (Blanco Mesa Verde Field; San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	219,658	8-4-71		2-4-72	14.2693	21.33	RI69-364.
	do	117	[7] 32	El Paso Natural Gas Co. (Ignacio Blanco Field, La Plata County, Colo.; and Blanco and Flora Vista Fields, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	802,096	8-4-71		2-4-72	14.2693	21.33	RI70-302.
	do	124	13	Kutz Pictured Cliffs Field; San Juan County, N. Mex.) (San Juan Basin Area).	27,472	8-4-71		2-4-72	13.2501	21.33	RI69-374.
	do	371	25	El Paso Natural Gas Co. (Blanco Mesa Verde Field; San Juan County, N. Mex.) (San Juan Basin Area).	26,901	8-4-71		2-4-72	14.2693	21.33	RI69-364.
	do	469	6	do	8,404	8-4-71		2-4-72	14.2678	21.33	RI69-324.
	do	517	7	El Paso Natural Gas Co. (Basin Dakota Field; San Juan County, N. Mex.) (San Juan Basin Area).	3,389	8-4-71		2-4-72	14.2693	21.33	RI69-324.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Not used.
[2] Includes 1 cent per Mcf minimum guarantee for liquids.
[3] Not used.
[4] Applicable to production from Mesa Verde Formation.
[5] Applicable to production from Pictured Cliffs Formation.
[6] Does not apply to gas so d from acreage added by Supplement No. 8.
[7] Does not apply to acreage added by Supplements Nos. 20, 25, and 30.
[8] Accepted for filing subject to the existing suspension proceeding in Docket No. RI69-749 to be effective on the date shown in the "Effective Date" column.
[9] Accepted for filing subject to the existing suspension proceeding in Docket No. RI70-545 to be effective on the date shown in the "Effective Date" column.
[10] The pressure base is 14.65 p.s.i.a.

The proposed increase of Shell Oil Co. reflects both an increase in upward B.t.u. adjustment (determined by calculating the adjustment from a base of 1,000 B.t.u.'s per cubic foot as provided by the contract rather than 1,050 B.t.u's per cubic foot provided by the Permian Opinion) and a corresponding increase in tax reimbursement. The proposed increase is accepted for filing to be effective 60 days after filing, subject to the existing related suspension proceeding in Docket No. RI69-749.

The proposed increases for sales to El Paso in San Juan Basin are based on favored-nation clauses which are allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. The purchaser, El Paso Natural Gas Co., has protested these favored-nation increases on the basis that they are not contractually authorized. In view of the contractual problem presented, the hearings herein shall concern themselves with the contractual basis for these favored-nation filings, as well as the justness and reasonableness of the proposed increased rates.

Amoco and Atlantic have submitted increases to only 21.33 cents[1] to avoid a suspension period of longer than 1 day. Since these are fractured rate increases based on a favored-nations escalation in the contracts that was triggered by a unilateral rate increase that was suspended for 5 months and applicants will file for the difference between the subject rates and the 29.23 cents unilateral rate and since the buyer contends that such a rate increase is not within the contemplation of the applicants contracts they are suspended for 5 months. Accordingly, the proposed increase of Jerome P. McHugh to 29.23 cents is also suspended for 5 months.

The proposed rate decrease of Shell Oil Co. reflects a downward adjustment in the reimbursement of the Wyoming severance tax. Shell has been collecting, subject to refund, a double amount of the contractually due reimbursement of the tax to provide reimbursement of taxes applicable to both future and past production back to January 1, 1968. Shell will hereafter collect reimbursement of only the tax applicable to future production and requests and effective date as of the date of filing for the proposed decrease. The decrease is accepted for filing to be effective as of the date of filing subject to the existing suspension proceeding in Docket No. RI70-545.

Certain respondents request effective dates for which adequate notice has not been given. Good cause has not been shown for granting these requests and they are denied.

This order is subject to our statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of general policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc.71-13439 Filed 9-13-71;8:45 am]

[1] Rate limit for 1 day suspension in the San Juan Basin Area (Item G-17, Agenda of Mar. 18, 1971).

[Project 2245]

CITY OF VANCEBURG, KENTUCKY

Notice of Application for License for Unconstructed Project

SEPTEMBER 8, 1971.

Public notice is hereby given that the City of Vanceburg, Ky. (correspondence to: Howard D. Shelton, Mayor, Vanceburg, Ky. 41179) has been substituted for Harrison County Rural Electric Membership Corp., as the applicant for license under the Federal Power Act (16 U.S.C. 791a–825r) for proposed Project No. 2245, known as the Cannelton Project, to be located on the Ohio River at the U.S. Government Cannelton locks and dam which are almost completed. The proposed power facilities would utilize 26 feet of hydraulic head created by the government dam and would be located in Hancock County, Ky.

According to the application the Cannelton Project, to be operated as a run-of-river plant, would consist of: (1) A powerplant (constructed in an excavation on the Kentucky shore) housing 3 submerged bulb-type generating units with a total installed capacity of about 70,000 kw.; (2) a switchyard; (3) two single circuit 161 kv. parallel transmission lines which will extend approximately 2.8 miles southwest of the powerhouse to interconnect with the 161 kv. transmission system of Big Rivers Rural Electric Cooperative Corp. (these lines would open the existing transmission line of Big Rivers and loop it through the Cannelton switching station at the proposed plant); and (4) appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–13498 Filed 9–13–71;8:48 am]

[Docket No. CP71–49]

MOUNTAIN FUEL SUPPLY CO.

Notice of Petition To Amend

SEPTEMBER 8, 1971.

Take notice that on August 26, 1971, Mountain Fuel Supply Co. (Petitioner), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP71–49 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act in said docket on November 16, 1970 (44 FPC), by authorizing a short-term exchange of natural gas with Colorado Interstate Gas Co., a Division of Colorado Interstate Corp. (Colorado) for the 1971–72 winter heating season, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 16, 1970, authorized, inter alia, the exchange of natural gas between Petitioner and Colorado. Under the terms and conditions of this order, Colorado was to deliver up to 30,000 Mcf of natural gas per day, but not to exceed 2 million Mcf seasonally, during the period from November 1, 1970, through March 31, 1971, subject to the availability of said volumes in excess of the requirements of Colorado's customers. Petitioner is to redeliver an equivalent volume of natural gas at a rate not to exceed 10,000 Mcf per day during the period from April 1, 1972, through October 31, 1972.

Petitioner states that it has entered into an agreement with Colorado to provide for a similar exchange agreement for the 1971–72 winter heating season and requests that the authorization hereinbefore granted for the exchange of natural gas be extended to permit the exchange during the 1971–72 heating season.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 28, 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,
Secretary.

[FR Doc.71–13496 Filed 9–13–71;8:48 am]

[Project 13]

NIAGARA MOHAWK POWER CORP.

Notice of Application for New License for Constructed Project

SEPTEMBER 8, 1971.

Public notice is hereby given that application for new license has been filed under section 15 of the Federal Power Act (16 U.S.C. 791a–825r) by Niagara Mohawk Power Corp. (correspondence to: Lauman Martin, General Counsel, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, NY 13202) for its constructed Green Island Project No. 13, located on the Hudson River at Green Island, N.Y. The project utilizes water power from the government dam and occupies lands of the United States. The original license for the project expired March 2, 1971, and the project is presently operating under an annual license.

The Green Island Project consists of: (1) A forebay located downstream and at the west end of the U.S.-owned dam and bulkhead; (2) a powerhouse containing four turbines, each directly connected to a 1,500 kw. generator; (3) a tailrace channel approximately 1,400 feet long and 220 feet wide (bed elevation −6 feet, M.S.L.), and (4) appurtenant facilities.

According to the application: (1) Power produced from the project will be integrated into applicant's electric system; (2) the net investment in the project is estimated to be $1,118,000 as of March 2, 1971; (3) the estimated fair value and the estimated severance damages in the event of "takeover" by the United States is not furnished at this time; (4) the project provides estimated annual taxes to State and local government agencies in the amount of $54,227; and (5) the project is located in a highly industrialized area and has little recreational potential.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–13497 Filed 9–13–71;8:48 am]

FEDERAL RESERVE SYSTEM

CENTRAL NATIONAL CHICAGO CORP.

Proposed Acquisition of Union Realty Mortgage Co., Inc.

Central National Chicago Corp., Chicago, Ill., a bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Union Realty Mortgage Co., Inc., Chicago, Ill. Notice of the application was published on July 20, 1971, in the Chicago Daily News and on July 21, 1971, in the Chicago Tribute, both newspapers circulated in Chicago, Ill.

The proposed subsidiary would perform the activity of mortgage lending. Such activity has been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected in Room 1020 of the Board's building or at the Federal Reserve Bank of Chicago.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 7, 1971.

Board of Governors of the Federal Reserve System, September 7, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13457 Filed 9-13-71;8:45 am]

FIRST SECURITY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Security Corp., which is a bank holding company located in Salt Lake City, Utah, for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent of the voting shares (less directors' qualifying shares) of First Security Bank of Bountiful (N.A.), Bountiful, Utah, a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, September 7, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13458 Filed 9-13-71;8:45 am]

MICHIGAN NATIONAL CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Michigan National Corp., Lansing, Michigan., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the following five Michigan banks: Michigan National Bank, Lansing; Michigan Bank, N.A., Detroit; Livonia National Bank, Livonia; Troy National Bank, Troy; and Oakland National Bank, Southfield. As a result of its acquisition of voting shares of the Michigan National Bank, applicant would acquire indirect ownership of more than 5 percent of the outstanding voting shares of seven Michigan banks as follows: Central Bank, Grand Rapids (24.1 percent); Valley National Bank of Saginaw, Saginaw (24.9 percent); Security National Bank of Manistee, Manistee (23.4 percent); First National Bank of East Lansing, East Lansing (13.8 percent); First National Bank of Wyoming, Wyoming (23.3 percent); Central National Bank of Alma, Alma (18.8 percent); and St. Clair Shores National Bank, St. Clair Shores (10 percent).

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, September 8, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13459 Filed 9-13-71;8:46 am]

MID AMERICA BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Mid America Bancorporation, Inc., which is a bank holding company located in St. Paul, Minn., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of First National Bank of Hutchinson, Hutchinson, Minn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Board of Governors of the Federal Reserve System, September 8, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13460 Filed 9-13-71;8:46 am]

SHOREBANK, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Shorebank, Inc., which is a bank holding company located in Quincy, Mass., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The Falmouth National Bank, Falmouth, Mass.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

Board of Governors of the Federal Reserve System, September 8, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13461 Filed 9-13-71;8:46 am]

UNITED TENNESSEE BANCSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by United Tennessee Bancshares Corp., which is a bank holding company located in Memphis, Tenn., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Nashville City Bank and Trust Co., Nashville, Tenn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, September 8, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13462 Filed 9-13-71;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D-30]

SECRETARY OF AGRICULTURE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Agriculture to assist in controlling violations of law at the U.S. Agricultural Research Center, Beltsville, Md.

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; and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Agriculture to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c, as will insure their enforcement, for the protection of the U.S. Agricultural Research Center, Beltsville, Md., over which the United States has exclusive and/or concurrent jurisdiction.

b. The Secretary of Agriculture may redelegate this authority to any officer or employee of the Department of Agriculture.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited Acts, and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: September 8, 1971.

ROBERT L. KUNZIG, *Administrator of General Services.*

[FR Doc.71-13502 Filed 9-13-71;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

SEPTEMBER 7, 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 Corp., and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 8, 1971 through September 17, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-13467 Filed 9-13-71;8:46 am]

[812-2996]

NATIONAL INVESTORS CORP.

Notice of Filing of Application for Order Exempting Sale by Open-End Company Shares at Other Than Public Offering Price

SEPTEMBER 8, 1971.

Notice is hereby given that National Investors Corp. (Applicant), 65 Broadway, New York, NY 10006, a Maryland corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus, in exchange for the assets of Rogers Investment Co. (Rogers). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Rogers, a Connecticut corporation, is a company all of the outstanding stock of which is owned beneficially by two persons, and is primarily engaged in investing and reinvesting its funds. Applicant asserts that Rogers is excepted from the definition of an investment company by reason of the provisions of section 3(c)(1) of the Act.

Pursuant to an agreement between Applicant and Rogers, substantially all of the cash and securities owned by Rogers with a value of approximately $329,781 as of July 13, 1971, will be transferred to Applicant in exchange for shares of Applicant's capital stock. The number of shares of Applicant to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in the application) of the assets of Rogers to be transferred to Applicant by the net asset value per share of the Applicant, both to be determined as of the valuation time, as defined in the agreements.

Since the exchange is expected to be tax free for Rogers and its stockholders, Applicant's cost-basis for tax purposes for the assets acquired from Rogers will be the same as Rogers' cost basis, rather than the price actually paid by Applicant for the assets. If the valuation under the agreement had taken place on July 13, 1971, Rogers would have received 39,166 shares of Applicant's stock.

When received by Rogers, the shares of Applicant, which are registered under the Securities Act of 1933, are to be distributed to the Rogers stockholders on the liquidation of Rogers. Applicant has been advised by the management of Rogers that the stockholders of Rogers have no present intentions of redeeming or otherwise transferring any of Applicant's shares following the proposed transactions.

The Applicant represents that no affiliation exists between Rogers or its officers, directors, or stockholders and Applicant, its officers or directors, and the agreement was negotiated at arm's length by the two companies. Applicant's Board of Directors approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account, including, among other things, the fact that the resulting increase in assets will tend to reduce per share expenses of Applicant.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. The exchange contemplated by the agreement would be prohibited by section 22(d) as being a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d), and submits that the granting of the application would be in accordance with the established practice of the Commission, is necessary and appropriate in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 29, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-13468 Filed 9-13-71;8:46 am]

[File No. 24B-1696]

NEHAMA-DATA CORP.

Order Permanently Suspending Regulation A Exemption

SEPTEMBER 7, 1971.

I. Nehama-Data Corp. (Nehama), 40 Pleasant Street, Portsmouth, NH, a Maryland corporation located at 40 Pleasant Street, Portsmouth, NH, filed with the Commission on December 31, 1969, a Notification on Form 1-A and an Offering Circular relating to a proposed offering of 113,000 shares of its no par value common stock at $2 per share for total proceeds of $226,000. The issue was underwritten by John, Edward & Co., Inc. (Underwriter), on a 90-day "best efforts all-or-none" basis. The offering was commenced on March 27, 1970. The entire issue was sold by May 6, 1970. Nehama, which was in poor financial condition, filed a petition in bankruptcy on August 13, 1970.

II. The Commission on May 11, 1971, issued an order pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the exemption. The order alleged that:

A. The underwriter, as agent for Nehama, had offered and sold Nehama stock on the basis of untrue statements of material facts and omissions to state facts necessary to make statements made in the light of the circumstances in which they were made not misleading, concerning among other things:

1. That the price of Nehama's shares would double within 6 months;

2. That the stock of Nehama would be good for a quick rise; and

3. That Nehama would show unlimited earnings.

B. Nehama through its agent, the underwriter, had violated the terms and conditions of the Regulation A exemption in the following respects:

1. In connection with the offer of Nehama stock, by failing to furnish an offering circular as required by Rule 256.

2. By urging prospective investors to disregard the offering circular disclosures; and

3. By making false statements of material facts or omitting to state material facts with respect to the issuer's financial condition and potential business.

C. The offering had been made in violation of section 17(a) of the Securities Act of 1933, as amended, for the reasons described above.

D. Nehama had violated the terms and conditions of the Regulation A exemption by failing to file a report of sales on Form 2-A pursuant to Rule 260.

III. Lionel Bergeron, Roland Hebert, and Stephen Pappas, directors of Nehama-Data Corp., filed, on June 28,

1971, a notice of appearance and request for hearing through their attorneys, Coolidge & Cullinane. The request for hearing was withdrawn on July 29, 1971, and the hearing was canceled for the Commission by its Chief Hearing Examiner.

The request for hearing having been withdrawn and no other hearing request having been made within 30 days after the entry of the order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-13469 Filed 9-13-71;8:46 am]

[File No. 24SF-3676]

PHYSICS TECHNOLOGY LABORATORIES, INC.

Order Permanently Suspending Regulation A Exemption

SEPTEMBER 7, 1971.

I. Physics Technology Laboratories, Inc. (PTL), 7841 El Cajon Boulevard, La Mesa, CA, incorporated in California on December 27, 1961, filed a Notification under Regulation A with the San Francisco office on January 29, 1971, and amendments to the Notification on March 19 and April 12, 1971. PTL has been engaged in the development and production of a barbed wire type of metal tape, a device to apply thin coatings of materials to various surfaces and other products.

II. The Commission, on June 3, 1971, issued an order pursuant to Rule 261(a), subparagraph 1 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the exemption. The order alleged that:

A. The terms and conditions of Regulation A had not been complied with in that the securities included in the filing had been offered to the public before 10 days had elapsed after the filing of an amendment to the notification, and were then being offered, by Financial Services, Inc., the underwriter of PTL.

B. The offering was made or would have been made in violation of section 17 of the Securities Act of 1933, as amended, by Financial Services, Inc., the underwriter of PTL in that false and misleading information had been given in the offer of the securities: (1) To the effect that the Commission had authorized commencement of the offering, that the offer had been oversold and that some purchasers of the stock intended to resell their shares immediately for quick profits; and (2) in that unsupported predictions about the future sales of the products of PTL had been made to the public by PTL and Financial Services, Inc.

III. PTL on July 6, 1971 filed without objection by the staff an answer and request for hearing. The Commission by its Chief Hearing Examiner issued an order canceling the hearing on August 4, 1971 pursuant to the withdrawal of the request for hearing.

The request for hearing having been withdrawn and no other hearing request having been made within 30 days after the entry of the order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-13470 Filed 9-13-71;8:46 am]

[812-2146]

SHAREHOLDERS INVESTMENT PROGRAM FOR THE ACCUMULATION OF SHARES OF ENTERPRISE FUND, INC.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

SEPTEMBER 8, 1971.

Notice is hereby given that Shareholders Investment Programs for The Accumulation of Shares of Enterprise Fund, Inc. (Applicant), Shareholders Management Co., 1888 Century Park East, Los Angeles, CA 90067, an unincorporated association registered as an investment company of the unit investment trust type under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein which are summarized below.

Applicant registered under the Act by filing a notification of registration on Form N-8A and a Registration Statement on Form N-8B-2 on December 2, 1970. A Registration Statement on Form S-6 for the securities of Applicant was filed with the Commission under the Securities Act of 1933, but said Registration Statement has not been made effective and Applicant has requested its withdrawal. Applicant represents that it has no assets or liabilities, that none of its securities have been issued or offered for sale, either publicly or privately, and that no offer or sale of its securities is contemplated.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 28, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation pursuant to delegated authority.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-13471 Filed 9-13-71;8:47 am]

TARIFF COMMISSION

[TEA-F-31]

BIBB MANUFACTURING CO.

Determination of Eligibility To Apply for Adjustment Assistance; Rescheduling of Hearing

Notice is hereby given that the hearing in Investigation No. TEA-F-31, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m., e.d.s.t., on September 14, 1971, has been postponed to 10 a.m., e.d.s.t., on September 20, 1971.

The hearing is being held in connection with a Commission investigation under section 301(c)(1) of the Trade Expansion Act of 1962 to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with yarns, fabrics, and other articles (of the types described in the following provisions of the Tariff Schedules of the United States (TSUS): yarns—301.01–.19, 302.01–.19, and 310.01–.02, –.10, –.11, –.40, –.50; fabrics—320.01–.30, 321.01–.30, 322.01–.30, 323.01–.30, 324.01–.30, 325.01–.30, and 357.80; sheets and pillowcases—363.30; and blankets—363.40, 363.45, and 363.85) produced by the Bibb Manufacturing Co., Macon, Ga., are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm. Notice of the investigation was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17675).

Issued: September 9, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-13515 Filed 9-13-71;8:50 am]

[TEA-W-110]

SUN MANUFACTURING CO.

Workers' Petitions for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of Sun Manufacturing Co., Mayaguez, P.R., the U.S. Tariff Commission, on the 8th day of September 1971, instituted an investigation under 301(c)(2) of the said act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the upper portions of men's, women's, and boys' tennis shoes produced by the aforementioned firm are being imported into the United States in such increased quantities as to cause, or to threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of the aforementioned firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigations, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets, NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: September 9, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-13517 Filed 9-13-71;8:50 am]

[TEA-F-33, etc.]

WISCONSIN SHOE CO. ET AL.

Firm and Workers' Petitions for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigations

On the basis of petitions filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of—

TEA-F-33 Wisconsin Shoe Company, Milwaukee, Wis. and on behalf of the workers of—

TEA-W-104	P. M. Footwear Corp., Lajas, P.R.
TEA-W-105	Moca Shoes, Moca, P.R.
TEA-W-106	B. E. Cole Co., Norway, Maine.
TEA-W-107	Francine Shoe Co., Norway Maine
TEA-W-108	Yabucoa Shoe Corp., Yabucoa, P.R.
TEA-W-109	Las Piedras Shoe Corp., Las Piedras, P.R.

the United States Tariff Commission, on the 7th day of September 1971, instituted investigations under 301(c)(1) and 301(c)(2) of the said act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the men's, women's and misses' footwear produced by the aforementioned firms are being imported into the United States in such increased quantities as to cause, or to threaten to cause, serious injury to the Wisconsin Shoe Co., and the unemployment or underemployment of a significant number or proportion of the workers of the aforementioned firms other than Wisconsin Shoe Co.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigations, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petitions filed in this case are available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: September 9, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-13518 Filed 9-13-71;8:50 am]

[337-L-45]

PRESSURE SWITCHES

Notice of Dismissal of Preliminary Inquiry

The Tariff Commission on September 7, 1971, dismissed the preliminary inquiry instituted pursuant to a complaint filed on behalf of Controls Co. of America, Melrose Park, Ill. (36 F.R. 13306, July 17, 1971) under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

The Commission's action in dismissing the preliminary inquiry came as a result of correspondence filed by attorneys for the complainant stating that the interested parties had settled the alleged infringement.

Issued: September 9, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-13516 Filed 9-13-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

SEPTEMBER 9, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 11220 Sub 122, Gordons Transports, Inc., now assigned November 8, 1971, at Atlanta, Ga., in Room 305, 1252 W. Peachtree Street SW.

MC 83835 Sub 80, Wales Transportation, Inc., assigned October 14, 1971, in Room 16B3, New Federal Building, 1100 Commerce Street, Dallas, TX.

MC 135409, General Van & Storage, Inc., assigned October 12, 1971, in Room 16B3, New Federal Building, 1100 Commerce Street, Dallas, TX.

MC 116073 Sub 151, Barrett Mobile Home Transport, Inc., assigned October 18, 1971, in Room 16B3, New Federal Building, 1100 Commerce Street, Dallas, TX.

MC 923 Sub 10, Meade Transport, Inc., now reentitled Owensboro Express Inc., now assigned November 8, 1971, at Nashville, Tenn., in Room 651 U.S. Courthouse, Eighth and Broad Street.

MC-F-11076, Scott Truck Line, Inc.—Control—Nebraska Transport Co., Inc., and Merscheim Transfer, Inc., MC 121066 Sub 3, Nebraska Transport Co., Inc., and MC-C-7393, Scott Truck Lines, Inc.—Investigation of Operations, assigned November 18, 1971, in Room 595, U.S. Courthouse, 1929 Stout Street, Denver, CO

MC-F-11154, Curtis, Inc.—Control—G & H Truck Lines, Inc., assigned November 10, 1971, in Room 595, U.S. Courthouse, 1929 Stout Street, Denver, CO.

MC 134915 Sub 2, Southwest Refrigerated Distributing, Inc., doing business as Refrigerated Distributing, now assigned November 15, 1971 at Jefferson City, Mo., at the Missouri Public Service Commission, 10th floor, Jefferson Building.

MC 127042 Sub 75, Hagen, Inc., now assigned September 30, 1971, at Omaha, Nebr., in Room 2404 Federal Building, 215 North 17th Street.

FD 26668, Chicago & North Western Railway Co. Abandonment Between Riverton & Lander, Fremont County, Wyo., assigned November 4, 1971, in the Courtroom, second floor, U.S. Post Office, 173 Third Street, Lander, WY.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-13513 Filed 9-13-71;8:49 am]

[Notice 749]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 9, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73013. By order of August 31, 1971, the Motor Carrier Board approved the transfer to Ralph Neff Trucking, Inc., Rapid City, S. Dak., of the operating rights in Certificate No. MC-117617, issued October 4, 1960 to Claude Roth, Piedmont, S. Dak., authorizing the transportation of livestock feeds from Sioux City, Iowa and the site of Morris Farms, near Havana, Ill. to points in Meade, Custer, and Pennington Counties, S. Dak., other than incorporated municipalities. Gene R. Bushnell, Post Office Box 190, Rapid City, SD 57701, attorney for applicants.

No. MC-FC-73062. By order of September 2, 1971, the Motor Carrier Board approved the transfer to Raffel Truck Service, Inc., 2310 North 10th Street, St. Louis, MO, of certificate No. MC-33393 issued to Frank F. Raffel, doing business as Frank Raffel Hauling Co., (above address) authorizing the transportation of: General commodities, with the usual exceptions, between points in the St. Louis commercial zone as defined by the Commission.

No. MC-FC-73094. By order of September 3, 1971, the Motor Carrier Board approved the transfer to D. E. Kilby, Indianola, Miss., of the operating rights in permit No. MC-111677 (Sub-No. 2) issued January 13, 1970, to Curry C. Carroll, Indianola, Miss., authorizing the transportation of brick and structural tile, from the site of Delta Brick & Tile Co., Inc., at or near Indianola, Miss., to points in Alabama, Arkansas, Georgia, Louisiana, and Tennessee; and from Birmingham, and Phenix City, Ala., and points within 10 miles of each, to points in Mississippi. John A. Crawford, 700 Petroleum Building, Post Office Box 22567, Jackson, MS 39205, attorney for applicants.

No. MC-FC-73101. By order of September 2, 1971, the Motor Carrier Board approved the transfer to Challis Transportation Co., Inc., Challis, Idaho, of the operating rights in certificate No. MC-95285 issued March 15, 1963 to Alice Swigert, doing business as Challis Transportation Co. & Garage, Challis, Idaho, authorizing the transportation of general commodities, with exceptions, between points in Idaho within 75 miles of Challis, Idaho.

No. MC-FC-73114. By order of September 1, 1971, the Motor Carrier Board approved the transfer to Duncan Motor Lines, a corporation, Easley, S.C., of the operating rights in certificates No. MC-124636, MC-124636 (Sub-No. 2), MC-124636 (Sub-No. 4), and MC-124636 (Sub-No. 5) issued September 2, 1965, May 2, 1967, May 6, 1968 and June 29, 1970 respectively to Bradley Freight Lines, Inc., Asheville, N.C., authorizing the transportation of named commodities from, to and between specified points and areas in Tennessee, Kentucky, North Carolina, Virginia, and South Carolina and specified points and areas in the United States except Alaska and Hawaii. Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219, attorney for applicants.

No. MC-FC-73120. By order of September 2, 1971 the Motor Carrier Board approved the transfer to Morwall Trucking Inc., Daleville, Pa., of the operating rights in permit No. MC-124608 (Sub-No. 5) issued January 28, 1970, to William Gilchrist, Old Forge, Pa., authorizing the transportation of artificial Christmas trees, from the plantsite of Masterpiece, Inc., in Blakely, Pa., to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusettts, Michigan, Minnesoda, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and equipment, supplies, and materials used in the manufacture of artificial Christmas trees from points in Connecticut, Michigan, New Jersey, New York, North Carolina, Ohio, and Vermont, to the plantsite of Masterpiece, Inc., in Blakely, Pa. Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, practitioner for applicants.

No. MC-FC-73160. By order of September 8, 1971, the Motor Carrier Board approved the transfer to Piedmont Petroleum Products, Inc., Chesapeake, Va., of the operating rights in certificate No. MC-109060, MC-109060 (Sub-No. 57), MC-109060 (Sub-No. 58), and MC-109060 (Sub-No. 62) issued May 7, 1962, March 11, 1959, July 7, 1960 and May 12, 1967 respectively to Julia L. Hagan, doing business as Hagan Truck Line, Chesapeake, Va., authorizing the transportation of named commodities from a specified area of Virginia to points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, Connecticut, New York, West Virginia, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and the District of Columbia. Jno. C. Goddin, 200 West Grace Street, Richmond, VA 23220, attorney for applicant.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-13570 Filed 9-13-71;8:49 am]

[Notice 749-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 9, 1971.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73178. By application filed September 7, 1971, COMMAND TRUCKING CORP., 91 Moultrie Street, Brooklyn, NY 11222, seeks temporary authority to lease the operating rights of INDUSTRIAL CARRIERS CORPORATION, Post Office Box A-4, Sayreville, NJ 08872, under section 210a(b). The transfer to COMMAND TRUCKING CORP., of the operating rights of INDUSTRIAL CARRIERS CORPORATION, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-13511 Filed 9-13-71;8:49 am]

[Notice 749-B]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 9, 1971.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73182. By application filed September 8, 1971, CAPITAL MESSENGERS, INC., 1518 Sunny Hill Lane, Havertown, PA 19083, seeks temporary authority to lease the operating rights of B. S. REYNOLDS COMPANY, INCORPORATED, 471 H Street NW., Washington, DC 20001, under section 210a(b). The transfer to CAPITAL MESSENGERS, INC., of the operating rights of B. S. REYNOLDS COMPANY, INCORPORATED is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-13512 Filed 9-13-71;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

3 CFR

Page

PROCLAMATIONS:

4077 ... 17557
4078 ... 17559

EXECUTIVE ORDERS:

10713 (amended by EO 11618) ... 18365
11010 (see EO 11618) ... 18365
11263 (see EO 11618) ... 18365
11395 (see EO 11618) ... 18365
11615 (amended by EO 11617) ... 17813
11617 ... 17813
11618 ... 18365

5 CFR

213 ... 17483, 17484, 17561, 17815, 17816, 17979
550 ... 17816

7 CFR

210 ... 18173
301 ... 18367
354 ... 17484
701 ... 18289
718 ... 17485
775 ... 17643
792 ... 17561
831 ... 18298
905 (2 documents) ... 18371, 18372
908 ... 17563, 18059
910 ... 17485, 17816, 17979, 18299
931 ... 18059
945 ... 17816
948 ... 18299
958 ... 17817
981 ... 18372
1004 ... 17491
1050 ... 17492
1079 ... 17817
1106 ... 17492
1421 ... 18300
1446 ... 18060
1802 ... 17818
1803 ... 17832
1804 ... 18062
1814 ... 18069
1863 ... 17833
1864 ... 17833
1865 ... 17840
1866 ... 17841
1867 ... 17843

PROPOSED RULES:

101 ... 17579
271 ... 18213
272 ... 18213
722 ... 18322, 18412
724 ... 18198
725 ... 18000
726 ... 18198
728 ... 18322
729 ... 17872
775 ... 18322
906 ... 18001
910 ... 17579
929 ... 17875, 18413
932 ... 18085
946 ... 17875
948 ... 18002
966 ... 18095, 18212

7 CFR—Continued

Page

PROPOSED RULES—Continued

993 ... 17579
999 ... 18323
1001 ... 17580
1002 ... 17580
1004 ... 17580
1007 ... 18413
1015 ... 17580, 17586
1133 ... 17588
1421 ... 18323
1464 ... 17874

8 CFR

214 ... 18300

9 CFR

76 ... 17844

10 CFR

2 ... 18173
50 ... 18071, 18301
70 ... 17573
140 ... 17979
170 ... 18173

12 CFR

265 ... 18373
524 ... 17564
545 ... 17564, 17980

PROPOSED RULES:

9 ... 18082
222 ... 17514, 18427

13 CFR

121 ... 17492

PROPOSED RULES:

121 ... 17514

14 CFR

39 ... 17493, 17494, 17847–17849, 18190, 18301, 18302, 18373
61 ... 17495
63 ... 17495
71 ... 17495, 17496, 17575, 17643, 17644, 17849, 18076, 18077, 18191–18193, 18302, 18303
73 ... 18193
75 ... 17849
91 ... 17495, 18304
97 ... 17575, 18193
121 ... 17495
123 ... 17495
127 ... 17495
135 ... 17495
208 ... 17644

PROPOSED RULES:

39 ... 17512
71 ... 17513, 17588, 17589, 17653–17655, 17876, 18109, 18110, 18214
73 ... 17876
135 ... 18425
202 ... 18111

14 CFR—Continued

Page

PROPOSED RULES—Continued

207 ... 17655
208 ... 17655
212 ... 17655
214 ... 17655
372 ... 17655
1241 ... 18221

15 CFR

PROPOSED RULES:

7 ... 18095

16 CFR

13 ... 17982–17995
252 ... 18078

17 CFR

PROPOSED RULES:

1 ... 18000

18 CFR

2 ... 17576, 18373

PROPOSED RULES:

2 ... 18221
154 ... 18323
157 ... 18323
260 ... 17665

19 CFR

1 ... 18304

PROPOSED RULES:

1 ... 17579
19 ... 18410
24 ... 17653

21 CFR

1 ... 18377
3 ... 18377
121 ... 18377
130 ... 18378
132 ... 18378
133 ... 18378
135 ... 18378
135a ... 18078
141a ... 17644
141c ... 17645
144 ... 18394
146 ... 18395
146a ... 17644, 18395
146c ... 17645
191 ... 17645
420 ... 17646, 18078–18080, 18174, 18175

PROPOSED RULES:

3 ... 18098
27 ... 18098
31 ... 18098
125 ... 18098
146a ... 17653
146c ... 17653
295 ... 17512, 18012

22 CFR

41 ... 17496

24 CFR

Page

4 ... 17496
241 ... 17506
1909 ... 18176
1910 ... 18179
1911 ... 18182
1912 ... 18184
1913 ... 18185
1914 ... 17647, 18185
1915 ... 17648, 18186

26 CFR

PROPOSED RULES:

1 ... 17863, 18012, 18214, 18316
13 ... 18012, 18214

28 CFR

21 ... 17506
51 ... 18186
201 ... 18280

29 CFR

1903 ... 17850
1910 ... 18080
1911 ... 17506

PROPOSED RULES:

12 ... 18007

30 CFR

PROPOSED RULES:

400 ... 17546

31 CFR

202 ... 17995
203 ... 17996

32 CFR

186 ... 17996
199 ... 17508
1451 ... 18395
1452 ... 18395
1453 ... 18395
1459 ... 18395
1460 ... 18395
1461 ... 18396
1466 ... 18396
1472 ... 18396
1474 ... 18396
1475 ... 18396
1476 ... 18397
1477 ... 18397
1498 ... 18397
1710 ... 18174

32A CFR

Page

OEP (Ch. I):

ES Reg. 1 ... 17651
Circ. 6 ... 17510
Circ. 7 ... 17577
Circ. 8 ... 17651
Circ. 9 ... 17861
Circ. 10 ... 17998
Circ. 11 ... 18314

PROPOSED RULES:

Ch. X ... 18084

33 CFR

117 ... 17854, 17855
208 ... 17996
209 ... 17855

35 CFR

5 ... 17509

37 CFR

PROPOSED RULES:

2 ... 18002

38 CFR

6 ... 17855
8 ... 17855
21 ... 18304
36 ... 18195

41 CFR

1-1 ... 17509, 18397
5A-1 ... 17576
5A-72 ... 17856
5A-76 ... 17576
8-1 ... 18174
8-7 ... 18174
8-16 ... 18174
9-5 ... 17576
14-1 ... 18305
14-2 ... 18305
14-3 ... 18305
14-7 ... 18306
14-30 ... 18306
50-250 ... 18398
101-19 ... 17648
114-26 ... 17996
114-47 ... 17509

42 CFR

37 ... 17577
59a ... 18306

42 CFR—Continued

Page

PROPOSED RULES:

466 ... 17514

45 CFR

PROPOSED RULES:

252 ... 18106

46 CFR

PROPOSED RULES:

503 ... 18214
510 ... 18214
543 ... 18214

47 CFR

2 ... 18307
63 ... 18307
73 ... 18308
89 ... 18080
91 ... 18080
93 ... 18080

PROPOSED RULES:

1 ... 17589
15 ... 17589

49 CFR

171 ... 17649
192 ... 18194
Ch. III ... 17845, 18400
393 ... 18400
395 ... 18400
571 ... 18402
601 ... 18402
1033 ... 18403
1104 ... 18309
1201 ... 17847

PROPOSED RULES:

391 ... 18426
393 ... 17513, 18426
1048 ... 17514

50 CFR

10 ... 17565, 17857
25 ... 17997
26 ... 17998
28 ... 17858
29 ... 17998
31 ... 17998
32 ... 17510, 17569–17572, 17650, 17651, 17858–17861, 18195–18197, 18313, 18314, 18404
33 ... 17572, 17998

LIST OF FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*	*Pages*	*Date*
17477–17542	Sept. 1	17973–18051	Sept. 8
17551–17636	2	18053–18165	9
17637–17805	3	18167–18281	10
17807–17972	4	18283–18357	11
		18359–18446	14