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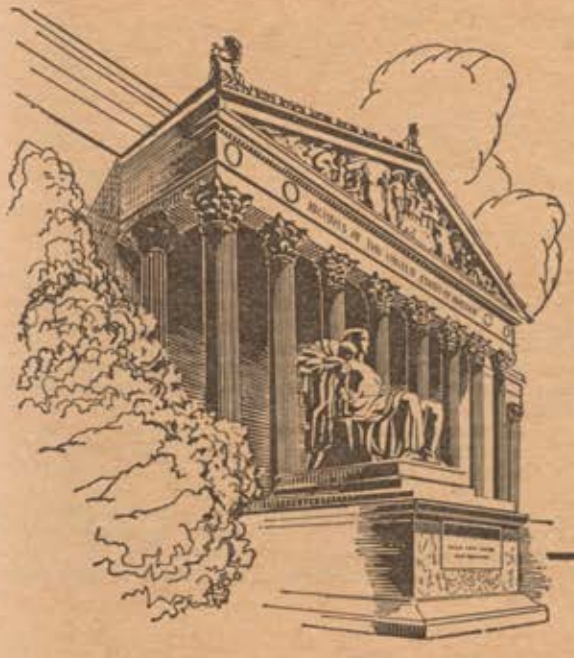

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1949–1963

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Title 3—THE PRESIDENT

Executive Order 11366

ASSIGNING AUTHORITY TO ORDER CERTAIN PERSONS IN THE READY RESERVE TO ACTIVE DUTY

By virtue of the authority vested in me by section 673a of title 10 of the United States Code, and by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Defense is hereby authorized and empowered to exercise the authority vested in the President by section 673a of title 10 of the United States Code, to order to active duty any member of the Ready Reserve of an armed force (except the Coast Guard when not operating as a service in the Navy) who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) In pursuance of the provisions of section 673a of title 10 of the United States Code, the Secretary of Defense is hereby authorized to require a member ordered to active duty under the authority of this Order to serve on active duty until his total service on active duty equals 24 months. If the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under this authority would expire before he has served the required period of active duty prescribed herein, his enlistment or period of military service may be extended until he has served the required period.

(c) In pursuance of the provisions of section 673a of title 10 of the United States Code, and in order to achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this authority, appropriate consideration shall be given to—

(1) family responsibilities; and

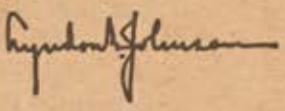
(2) employment necessary to maintain the national health, safety, or interest.

SEC. 2. The Secretary of Transportation is hereby authorized and empowered to exercise the authority vested in the President by section 673a of title 10 of the United States Code, with respect to any member of the Ready Reserve of the Coast Guard when it is not operating as a service in the Navy, under the same conditions as such authority may be exercised by the Secretary of Defense under this Order with respect to any member of the Ready Reserve of any other armed force.

SEC. 3. (a) The Secretary of Defense may designate any of the Secretaries of the military departments of the Department of Defense to exercise the authority vested in him by section 1 of this Order.

(b) The Secretary of Transportation may designate the Commandant of the United States Coast Guard to exercise the authority vested in him by section 2 of this Order.

SEC. 4. Executive Order No. 11327 of February 15, 1967, is superseded except with respect to members of the Ready Reserve ordered to active duty under the authority of that Order.



THE WHITE HOUSE,
August 4, 1967.

[F.R. Doc. 67-9323; Filed, Aug. 4, 1967; 4:57 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Proclamation of Results of Marketing Quota Referendum

Basis and purpose. The purpose of this proclamation is to add § 725.4 to announce the results of the flue-cured tobacco marketing quota referendum for the three marketing years beginning July 1, 1968. Under the provisions of the Agricultural Adjustment Act of 1938, as amended, the Secretary proclaimed national marketing quotas for flue-cured tobacco for the 1968-69, 1969-70, and 1970-71 marketing years, and announced the amount of the national marketing quota for such kind of tobacco for the 1968-69 marketing year (32 F.R. 9817). The Secretary announced (32 F.R. 9849) that a referendum would be held on July 18, 1967, to determine whether flue-cured tobacco producers were in favor of or opposed to marketing quotas for the three marketing years beginning July 1, 1968. Since the only purpose of this proclamation is to announce the results of the referendum, it is hereby found and determined that with respect to this proclamation, application of the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

§ 725.4 Proclamation of the results of the flue-cured tobacco marketing quota referendum for the three-year period beginning July 1, 1968.

In a referendum of farmers engaged in the production of the 1967 crop of flue-cured tobacco held on July 18, 1967, 162,314 farmers voted. Of those voting, 156,601 or 96.5 percent favored quotas for a period of 3 years beginning July 1, 1968; 5,713 or 3.5 percent were opposed to quotas. Therefore, the national marketing quota of 1,126.5 million pounds for flue-cured tobacco proclaimed July 5, 1967 (32 F.R. 9817), for the 1968-69 marketing year, will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the three marketing years beginning July 1, 1968.

(Secs. 312, 317, 375; 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1312, 1314b, 1375)

Signed at Washington, D.C., on August 2, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-9222; Filed, Aug. 7, 1967; 8:46 a.m.]

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

[Lemon Reg. 278, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

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

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 910.578 (Lemon Regulation 278, 32 F.R. 11073) are hereby amended to read as follows:

§ 910.578 Lemon Regulation 278.

* * * * *

(b) *Order.* (1) * * *

(ii) District 2: 265,050 cartons.

* * * * *

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

Dated: August 3, 1967.

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

[F.R. Doc. 67-9225; Filed, Aug. 7, 1967; 8:46 a.m.]

[Prune Reg. 5]

PART 925—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREGON

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg., under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the recommendations of the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of fresh prunes, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation 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 not later than August 14, 1967. A reasonable determination as to the supply of, and the demand for, prunes must await the development of the crop and adequate information thereon was not available to the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee until July 11, 1967; recommendation as to the need for, and the extent of, regulation of shipments of such prunes was made at the meeting of said committee on July 11, 1967, after consideration of all available information relative to the supply and demand conditions for such prunes, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental data for consideration in connection with the specification of the provisions of this regulation were not available until July 28, 1967; shipments of the current crop of such prunes will begin on or about August 15, 1967; and this regulation should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act; and compliance with

the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 925.306 Prune Regulation 5.

(a) *Order.* During the period August 14, 1967, through December 31, 1967, no handler shall handle any lot of prunes unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (4) of this paragraph:

(1) Minimum grade requirement: Such prunes grade at least U.S. No. 1: *Provided,* That prunes which are affected by healed hail marks may be shipped if they otherwise grade at least U.S. No. 1.

(2) Minimum size requirement: Such prunes shall measure at least 1⅛ inches in diameter: *Provided,* That any lot of prunes shall be deemed to meet such minimum diameter requirement if (i) not more than 10 percent of the prunes in such lot are smaller than 1⅛ inches in diameter; and (ii) if not more than 15 percent of the prunes contained in any individual container in such lot are smaller than 1⅛ inches in diameter.

(3) Containers: The net weight of prunes in any container, other than the one-half bushel basket shall be either (i) less than 20 pounds, or (ii) more than 30 pounds.

(4) Notwithstanding any other provision of this section, any individual shipment of prunes which, in the aggregate, does not exceed 150 pounds net weight may be handled without regard to the restrictions specified in this paragraph (a) or in §§ 925.41 (Assessment) and 925.55 (Inspection and certification).

(5) The terms "U.S. No. 1," "diameter," and "hail marks" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520–51.1537 of this title); and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

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

Dated: August 3, 1967.

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

[F.R. Doc. 67-9250; Filed, Aug. 7, 1967; 8:48 a.m.]

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

[Milk Order 4]

PART 1004—MILK IN DELAWARE VALLEY MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Delaware Valley marketing area (7 CFR Part 1004), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the month of August 1967: In § 1004.8(b) the words "except an 'other order plant' ".

(b) Notice of proposed rule making, public procedure thereon and 30 days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order will continue for one additional month the effect of a suspension order which was issued June 20, 1967 (32 F.R. 9006). Interested parties were afforded opportunity to file written data, views or arguments concerning this earlier suspension (32 F.R. 7976).

The present extension of the earlier suspension will remove for the month of August 1967 the provision which would otherwise preclude the pooling under the Delaware Valley order of a supply plant which has long been associated with that order. The original suspension for June and July was ordered so as to allow this supply plant to continue its regulated status under the Delaware Valley order pending consideration of proposed modifications of this provision which were presented at a public hearing held June 12 and 13, 1967.

A recommended decision was issued July 25, 1967 (32 F.R. 11039) proposing certain modifications of this provision and in view of the fact that final action cannot be taken on these proposed modifications before the end of the temporary suspension it is concluded that the effect of the temporary suspension should be continued for one additional month.

Therefore, good cause exists for making this order effective on publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the month of August 1967.

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

Effective date: On publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 3, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-9251; Filed, Aug. 7, 1967; 8:48 a.m.]

[Milk Order 13]

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Order Amending Order

§ 1013.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1967. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued June 22, 1967, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued July 19, 1967. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the

foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1967, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date thereof, the handling of milk in the Southeastern Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. In § 1013.41(c), subparagraph (5) is revised to read as follows:

§ 1013.41 Classes of utilization.

* * * * *

(c) * * *

(5) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1013.16) but not in excess of:

(i) Two percent of producer milk (including that received from a handler pursuant to § 1013.13(d)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

* * * * *

§ 1013.50 [Amended]

2. In § 1013.50, the last sentence is deleted.

3. In § 1013.51, paragraph (a) is revised to read as follows:

§ 1013.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date of this order through June 1963, the Class I price shall be the basic formula price for the preceding month plus $3.20, and plus or minus a supply-demand adjustment of not more than 30 cents, computed as follows:

(1) Determine the total hundredweight of producer milk pursuant to this part and Parts 1012 (Tampa Bay) and 1006 (Upper Florida) of this chapter for the 3-month period ending with the second preceding month;

(2) Determine the total hundredweight of producer milk classified as Class I pursuant to this part and Parts 1012 and 1006 of this chapter for the 3-month period ending with the second preceding month;

(3) Determine the "current utilization percentage" by calculating the percentage rounded to the nearest full percent, that the amount obtained in subparagraph (1) of this paragraph is of the amount obtained in subparagraph (2) of this paragraph; and

(4) Add or subtract 3 cents for each percent that the current utilization percentage is, respectively, below the minimum or above the maximum standard utilization percentages for the month in the following table: *Provided,* That such adjustment shall not vary from that for the preceding month by more than 10 cents:

Month for which price is being computed	Standard utilization percentage	
	Minimum	Maximum
January	110	114
February	110	114
March	109	113
April	109	113
May	109	113
June	109	113
July	113	117
August	118	122
September	120	124
October	119	123
November	114	118
December	111	115

* * * * *

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

Effective date: August 1, 1967.

Signed at Washington, D.C., on July 27, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-9253; Filed, Aug. 7, 1967; 8:48 a.m.]

[Milk Order 68]

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Minneapolis-St. Paul, Minn., marketing area (7 CFR Part 1068), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of August, September, and October 1967 and is hereby suspended for such months: "not less than 30 percent of the total" as it appears in the second proviso of § 1068.9(b), relating to standards required to qualify a cooperative supply plant for pool status.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension will permit all the milk of producer members of a cooperative association which is shipped directly from the farm to bottling plants located in the cities of Minneapolis or St. Paul to be assigned to country plants operated by such association for the purpose of meeting the shipping requirements of a pool supply plant during August, September, and October. The order presently provides that at least 30 percent of the member milk must be direct-shipped to plants in Minneapolis or St. Paul before any of it may be assigned to country plants for this purpose.

(4) This suspension is needed to permit an association of producers supplying the market to continue marketing and pooling milk regularly associated with the market on the most efficient and economical basis, pending a hearing on the matter.

(5) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (32 F.R. 10863). None were filed in opposition to the proposed suspension. The petitioner's request for this suspension was supported by seven other cooperative associations on the market.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of August, September, and October 1967.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 3, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-9252; Filed, Aug. 7, 1967; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 2]

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

AVAILABILITY OF PRICE SUPPORT

The regulations issued by Commodity Credit Corporation, published in 31 F.R. 9679 and 32 F.R. 10249, with respect to the tobacco price support loan program are herein amended as follows:

In § 1464.1756 paragraph (d)(1)(iv) is amended to designate that markets located in the type 13 tobacco marketing area shall be considered to be in two belts which is in keeping with historical market practices and the difference in opening dates of tobacco markets in such two belts. The amended subdivision reads as follows:

§ 1464.1756 Availability of price support.

* * * * *

(d) * * *

(1) * * *

(iv) In the case of flue-cured tobacco, price support will be available on flue-cured tobacco markets in the Georgia-Florida belt only if such tobacco is in untied form. During the first 95 hours of scheduled selling time for each flue-cured tobacco belt, other than the Georgia-Florida belt, price support will be available on eligible tobacco of all grades of tied and untied tobacco. Beginning with the 96th hour of scheduled selling time for each such belt, price support will be available only on eligible tobacco offered for sale in tied form. For the purposes of this subsection the markets located in the type 13 area shall be considered two belts as follows: Markets located in the area commonly known as the border North Carolina marketing area shall be considered a belt, and the markets located in the State of South Carolina shall be considered a belt, except that the markets of Loris, S.C. and Mullins, S.C. shall be considered a part of whichever of the two belts that their respective scheduled selling time corresponds.

* * * * *

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c)

Effective date: Date of filing with Office of the Federal Register.

Signed at Washington, D.C., on August 3, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-9224; Filed, Aug. 7, 1967; 8:46 a.m.]

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 2]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-4)

MISCELLANEOUS AMENDMENTS

The regulations containing the terms and conditions governing the Commodity Credit Corporation Export Credit Sales Program, published in the FEDERAL REGISTER of April 27, 1967 (32 F.R. 6496-6500), as corrected on May 4, 1967 (32 F.R. 6836), and as amended on May 19, 1967 (32 F.R. 7437), are further amended as follows:

§ 1488.2 [Amended]

1. Paragraph (h) of § 1488.2 *Definition of terms* is amended to read:

(h) "Eligible commodities" means those agricultural commodities, including eligible cotton, which are produced in the United States and which are designated as eligible for export under CCC's Export Credit Sales Program either in the CCC Monthly Sales List or other announcement by CCC in effect for the calendar month in which the financing approval is issued. Commodities which have been purchased from CCC are eligible for export as private stocks. Commodities shall not be eligible for financing under this program if they are exported under a barter contract or arrangement.

2. Paragraph (k) of § 1488.2 *Definition of terms* is amended by inserting the words "or other documents" between the words "instruments" and "evidencing the account receivable."

3. Paragraph (n) of § 1488.2 *Definition of terms* is amended to read:

(n) "Account receivable" means the contractual obligation of the foreign importer to the exporter for the portion of the port value of the commodity exported for which the exporter is extending credit to the importer. The account receivable shall be evidenced by a promissory note or accepted draft in form and substance satisfactory to CCC, except that it may be evidenced by other documents, in form and substance satisfactory to CCC, evidencing the contractual obligation of the foreign importer when the account receivable is assured by an obligation issued by a U.S. bank or when the Vice President, CCC, or his designee, determines under special circumstances that it is in the interest of CCC. All such notes, accepted drafts and other documents evidencing the account receivable shall provide for (1) payment in U.S. dollars in the United States, (2) interest in accordance with § 1488.6, and (3) acceleration of payment thereunder in accordance with the terms and conditions of GSM-4. As used in GSM-4, "instrument" means a promissory note or accepted draft.

4. Paragraph (u) of § 1488.2 *Definition of terms* is amended to read:

(u) "Bank obligation" means an obligation, acceptable to CCC, of a U.S. bank, agency or branch bank, or foreign bank to pay to CCC in U.S. dollars the amount of the port value which is being financed by CCC, plus interest in accordance with § 1488.6. The bank obligation shall be in the form of an irrevocable letter of credit issued, confirmed or advised by a U.S. bank or an agency or branch bank. The bank obligation shall provide for payment under the terms and conditions of the financing agreement and shall be payable not later than the date of expiration of the financing period or of the bank obligation, whichever occurs first, if payment is not received from other sources.

§ 1488.3 [Amended]

5. Paragraph (c)(6) of § 1488.3 *Submission of applications for financing* is amended by inserting after the words "if by a foreign bank" the words "or an agency or branch bank."

6. Paragraph (d)(4) of § 1488.3 *Submission of applications for financing* is amended to read:

(4) Substitute commercial dollar sales for sales for local currencies, sales on long term credits, and barter transactions.

7. The first sentence of paragraph (e) of § 1488.3 *Submission of applications for financing* is amended by deleting the word "and" after the word "destination", changing the period after the word "commodity" to a comma, and adding the words "the name and address of the foreign importer, and, if the bank obligation assuring payment of the account receivable will be issued by an agency or branch bank, the name and address of such bank."

8. Section 1488.3 *Submission of applications for financing* is amended by redesignating paragraph (g) as paragraph (h) and including a new paragraph (g) which reads:

(g) The financing approval may contain such terms and conditions as the General Sales Manager or the ASCS office deems in the interest of CCC not inconsistent with GSM-4.

9. Section 1488.4 *Coverage of bank obligations* is amended by adding a new paragraph (i) which reads:

§ 1488.4 Coverage of bank obligations.

* * * * *

(i) Collection of accounts receivable purchased under this program will be effected through the issuance by CCC of sight drafts against the bank obligations, but this method of collection shall not be exclusive of any other collection procedures or rights available to CCC.

10. The first sentence of § 1488.5 *CCC drafts* is amended by deleting the words "notes or other" between the words "related" and "instruments."

11. The second sentence of § 1488.5 *CCC drafts* is amended by substituting for the words "note or other instrument

reendorsed to CCC" the word "instrument."

12. The fourth sentence of § 1488.5 *CCC drafts* is amended by substituting for the words "note or other instrument shall be reendorsed to CCC and returned" the words "instrument shall be returned to CCC."

Section 1488.5 *CCC drafts*, as amended, will read:

§ 1488.5 CCC drafts.

Under those bank obligations which are partially confirmed, CCC will draw separate drafts for the amounts confirmed and the amounts not confirmed, to which CCC will attach the related instruments evidencing the account receivable, endorsed to the U.S. bank or agency or branch bank. If a CCC draft is dishonored, the U.S. or agency or branch bank shall return the dishonored draft together with the related instrument and its statement of the reasons for nonpayment. For confirmed amounts, a U.S. or agency or branch bank may request refund from CCC of the amount paid if it certifies to CCC that it is unable to recover funds from the foreign bank due to a stipulated political risk which existed on the date payment was made to CCC under the draft. On approval by CCC of such request, the refund shall be promptly made, together with interest at the Federal Reserve Bank of New York discount rate from the date payment was originally made to CCC to but not including the date of refund by CCC, and the related instrument shall be returned to CCC. For unconfirmed amounts, remittance to CCC shall be considered final, and the U.S. bank or agency or branch bank shall not thereafter have recourse to CCC.

§ 1488.8 [Amended]

13. The first sentence of § 1488.8 *Advance payment* is amended by substituting the word "accepts" for the word "receives."

§ 1488.9 [Amended]

14. The second sentence of paragraph (a)(2) of § 1488.9 *Documents required after export* is amended to read: "When the account receivable is evidenced by documents other than instruments, in accordance with § 1488.2 (n), such documents shall be submitted with the assignment."

15. The first sentence of paragraph (a)(7) of § 1488.9 *Documents required after export* is amended by substituting for the words "For a foreign bank obligation confirmed by a United States or agency or branch bank," the words "When the account receivable is evidenced by instruments, in accordance with § 1488.2 (n)".

16. The third sentence of paragraph (a)(7) of § 1488.9 is amended by deleting the words "shall include interest in accordance with § 1488.6 and".

17. Paragraph (d) of § 1488.9 *Documents required after export* is amended by adding the following second sentence: "However, if the use of a weighted average delivery date has been approved for starting the financing period, the 45 days will begin with the date of the last delivery."

§ 1488.10 [Amended]

18. Paragraph (b) of § 1488.10 *Evidence of export and warranty* is amended by inserting the words "or photocopy or other type of copy" between the words "nonnegotiable copy" and "of either (1)" in the first sentence thereof.

§ 1488.11 [Amended]

19. The fourth sentence of § 1488.11 *Evidence of entry into country of destination* is amended by inserting the word "nonnegotiable" between the words "General Sales Manager" and "copies," and including immediately after the word "copies" and before the words "of all applicable bills of lading" the words "or photocopies or other types of copies."

§ 1488.12 [Amended]

20. Section 1488.12 *Liability for payment* is amended by inserting the words "or other documents" between the words "instruments" and "evidencing the account receivable" in the two places where they appear in the first sentence thereof.

(Sec. 5(f), 62 Stat. 1072, 15 U.S.C. 714c; sec. 407, 63 Stat. 1055, as amended, 7 U.S.C. 1427; sec. 4, P.L. 89-808, 80 Stat. 1538)

Effective date: Date of signature.

Signed at Washington, D.C., on August 2, 1967.

RAYMOND A. IOANES,
Vice President, Commodity Credit Corporation, and Administrator, Foreign Agricultural Service.

[F.R. Doc. 67-9223; Filed, Aug. 7, 1967; 8:46 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instructions 447.1, 447.2]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart F—Watershed Loans

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1891—WATERSHED LOANS

The regulations contained in Part 1891, Title 7, Code of Federal Regulations (31 F.R. 14245) are revised and transferred to a new Subpart F, Part 1823, Title 7, and Part 1891 is hereby vacated. The new subpart reads as follows:

Subpart F—Watershed Loans

Sec.

AUTHORITY: The provisions of this Subpart F issued under 5 U.S.C. 301; sec. 5, 68 Stat. 667, sec. 1, 70 Stat. 1089; 16 U.S.C. 1005; E.O. 10584, 19 F.R. 8725; E. O. 10913, 26 F.R. 510; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

§ 1823.141 General.

This subpart sets forth the general policies and authorizations for making Watershed loans and advances to local organizations under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001), hereafter referred to as the Act. Technical and financial assistance will be given to local organizations in planning and carrying out works of improvement for protecting and developing the land and water resources in small watershed or subwatershed project areas, including recreation, wildlife, and storage of water for future use. Local people acting through their local organizations must take the initiative and full responsibility for starting small watershed projects.

(a) *Definitions.* (1) For purposes of this subpart, the term "local organization" means a State or a department, agency, or political subdivision thereof, soil or water conservation district, irrigation district, drainage district, flood prevention or control district, municipal corporation, or similar agency having authority under State law to carry out, maintain, and operate works of improvement, and to borrow and repay loans for the installation thereof; or any irrigation or reservoir company, water users' association, or similar organization having such authority, whether organized and chartered under special law, general nonprofit corporation law, or general profit corporation law, if it is operated on a nonprofit basis under adequate charter, bylaw, mortgage or supplementary agreement provisions which will assure continued operation in that manner.

(2) "Works of improvement" are defined as structural and land treatment measures needed in small watershed or subwatershed areas and included in a watershed work plan for flood prevention to reduce floodwater, sediment, and erosion damage, and for the conservation,

development, utilization, and disposal of water, including public recreation and fish and wildlife developments which must be an integral part of a watershed project.

(3) A "watershed work plan" is a plan agreed upon by a local organization and the Soil Conservation Service for carrying out, operating, and maintaining works of improvement for protecting and developing land and water resources in a particular watershed or subwatershed area. It describes the watershed and its problems and needs. It contains estimates of costs, proposed cost-sharing arrangements, responsibilities, and economic justification for specific works of improvement desired by local people for protection and improvement of that watershed. When approved, it is the basis for extending Federal, technical, and cost-sharing assistance. It will be used by the Farmers Home Administration (FHA) when considering an application for a Watershed loan or advance.

(4) A "watershed project" is a system of works of improvement in a watershed or subwatershed area of not more than 250,000 acres for flood prevention, irrigation, drainage, municipal water supply, recreation, fish and wildlife, or other water management purposes; except, that in the 11 watershed improvement programs authorized by Public Law 534, 78th Cong. (58 Stat. 887), there are no legal restrictions on the maximum storage capacity for a single structure, or upon the size of the watershed.

(5) The term "loan" means Watershed loans made by the FHA.

(6) The term "advance" means advances made by the Soil Conservation Service from construction funds to local organizations for future water supply or preservation of sites.

(7) "Future water supply" means the capacity authorized in a watershed work plan to be installed in a reservoir with related facilities for the release or withdrawal of water therefrom to meet anticipated future demand for municipal or industrial use.

(8) "Preservation of sites" means that immediate purchase of land, easements, or rights-of-way is essential to preserve sites for works of improvements from encroachment by other developments that would interfere with the use of the sites for project purposes.

(9) "Local share of watershed project costs" means that part of the total project costs set out in the watershed work plan to be paid by local organizations. The estimated amount of local share will be set out in Table I of the watershed work plan.

(b) *Effects of State law.* (1) Local organizations within a State may be subject to restrictions of State law which will not permit them to take full advantage of the FHA authorizations. FHA officials should become familiar with applicable statutory requirements in applying FHA policies, making administrative decisions, and preparing instructions for processing a Watershed loan. Applicants for loans or advances must comply with State and local laws pertaining to, among other things:

(i) Organization and authority to install, acquire, operate, and maintain the proposed facilities.

(ii) Obtaining loans and giving security therefor and levying taxes, making assessments, or raising revenues for the repayment thereof.

(iii) Land use zoning.

(iv) Permission to construct facilities and approval of construction plans and specifications by appropriate State officials.

(v) Health and sanitation standards.

(vi) Public service commission or similar State public body rules and regulations, where applicable.

(c) *Coordination between Soil Conservation Service and FHA.* The Secretary of Agriculture assigned to the FHA responsibility for administering section 8 of the Act relative to loans and for obligations for repayment of advances authorized under section 4 of the Act. The Soil Conservation Service is responsible for administering the other provisions of the Act. A memorandum of understanding has been entered into by the Soil Conservation Service and the FHA covering policies and methods coordinating these assigned responsibilities.

(d) *Cost sharing.* Certain costs of installing works of improvement are shared by the Federal Government and by local organizations. Under prescribed conditions, cost sharing and engineering services are available for the items listed under § 1823.145(a) (1), (3), and (4). No cost sharing is available to pay installation costs allocated to water storage for the purposes listed in § 1823.145(a)(2). An estimate of the local organization's share of the watershed project costs will be included in the watershed work plan.

§ 1823.142 Applications.

(a) *Loans.* Each local organization requesting a Watershed loan will make preliminary application on Form FHA 410-3, "Preliminary Application (Association Assistance—EO Cooperative Loan—Watershed Loan)," at the County Office.

(1) The State Director will consult with the State Conservationist of the Soil Conservation Service on each application to ascertain the status of the watershed plan, the estimated cost of the proposed works to be installed with the loan, any cost sharing which may be available to the organization, and other available pertinent information.

(2) If the State Director determines that favorable consideration should be given to the application, he will provide further loan forms, instructions, and assistance for the development and submission of a loan docket. If it is determined that no further consideration should be given to the application, the State Director will advise the County Supervisor why favorable action cannot be taken who will then notify the applicant.

(b) *Advance.* (1) If the applicant requires an advance, the request will be made to the State Conservationist of the Soil Conservation Service who will advise FHA of the application for the advance. The State Director will then assemble the following information and submit his written recommendation on the advance to the State Conservationist.

(i) Economic feasibility of the proposed obligation for the advance.

(ii) Legal authority of the local organization to incur the obligation and provide for its repayment.

(iii) Limitations on the issuance of additional bonds or notes which may be imposed by the provisions of bond ordinances or resolutions which authorized the issue of outstanding obligations of the local organization.

(2) As soon as FHA and the Soil Conservation Service concur in the application for the advance, instructions can be prepared for the development of the advance docket.

(c) *Combination of loans and advances.* If an applicant requests both an advance and a loan, the application for the loan will be made to the FHA County Supervisor and the request for the advance to the State Conservationist of Soil Conservation Service. The application for the loan should indicate the amount of the advance needed and whether a request for it has been made to the Soil Conservation Service.

§ 1823.143 Eligibility for loans or advances.

To be eligible for a Watershed loan or advance, the local organization must:

(a) Be a local organization as defined in § 1823.141(a).

(b) Have the legal capacity and organizational arrangements necessary for obtaining, giving security for, and raising revenues for repaying the loan or advance, and for operating and maintaining planned facilities.

(c) Sponsor or cosponsor a watershed work plan which provides for the installation, operation, and maintenance of works of improvement.

§ 1823.144 County Committee recommendations and comments.

County Committee recommendations and comments will be obtained on each application for a Watershed loan or advance.

(a) Comments will be obtained from the County Committee in the county in which the applicant's principal place of business is located. When the watershed covers more than one county, recommendations and comments may be obtained from such of the other County Committees as the State Director deems desirable to have on issues such as the local sentiment and the need for the project.

(b) The recommendations will cover, but need not be limited to, the community need for and interest in the proposed works of improvement, local issues, and other items of a similar character which will be helpful to the approving official.

(c) When adequate information has been assembled about the application and the development of the watershed plan is well along, the application and pertinent information related to it will be

presented to the County Committee. Following the discussions, the County Committee will make its recommendations in narrative form which will be signed by at least two members of the Committee. The recommendations will be included in the loan docket.

§ 1823.145 Loan purposes and limitations.

(a) *Purposes.* Watershed loans may be made for the following purposes:

(1) Installing, repairing, or improving works of improvement in the following categories:

(i) Facilities for the storage and conveyance of water to farms for irrigation.

(ii) Drainage facilities in farm areas.

(iii) Facilities for the storage or development, treatment, and distribution of water where the major portion of the water will be used on farms for farmstead, livestock, and orchard and crop spraying purposes.

(iv) Other agricultural water management measures and practices for such purposes as the stabilization of annual streamflow, increasing the recharge of ground water reservoirs, and the conservation of existing water supplies by the control of undesirable vegetation such as salt cedars and willows.

(v) Special land treatment measures, structures, or equipment which are primarily, though not exclusively, for flood prevention but which produce community benefits sufficient to justify the use of taxes or other revenues available to the local organization to install and maintain such measures, structures, or equipment, and to repay loans for that purpose. These include:

(*a*) Observation towers, dwelling for fire guard personnel, tank trucks, and other equipment for fire prevention and control.

(*b*) Tree plantings and the establishment of other vegetative cover needed for the stabilization of critical runoff and sediment producing areas.

(*c*) Minor structural and vegetative measures to stabilize stream channels and gullies.

(*d*) On-farm measures such as level water retention terraces used to control runoff and sediment in lieu of downstream flood prevention structures.

(2) Installing, repairing, or improving water storage facilities, including outlet works for such purposes as immediate and future municipal and industrial water supply, and pollution abatement by streamflow regulation and saline water intrusion control. A Watershed loan for this purpose may include funds for pipelines and any necessary pumping facilities to convey the water from the reservoir to the existing or proposed municipal treatment facilities or the nearest practicable point on a water distribution system.

(3) For recreational developments and facilities. The use of loan funds will be limited to the recreational purposes and amount allocated to the local organization in the watershed work plan. When a local organization desires to install facilities greater in number or more elaborate than those included in the plan, it may do so but a Watershed loan will not be made for such purpose. Authorized recreational developments and facilities may include one or more of the following:

(i) Construction of water resource improvements such as a reservoir, a lake level control structure, stream or channel rectification, or a similar improvement which makes possible the creation of a recreational development.

(ii) Acquiring fee simple title to land or perpetual easements for sites for direct resource improvements; for removals, relocations, and modification of existing improvements; and for access roads parking lots, sanitary facilities, picnicking, beach areas, and so forth.

(iii) Engineering, legal, and administrative costs for planning approved types of recreational developments and acquiring land, easements, and rights-of-way.

(iv) Minimum basic facilities such as roads and trails providing access from public highways and between different parts of the recreational development; parking lots; water supply, sanitary facilities, and garbage disposal for public use area; power facilities; beach development; boat docks and ramps; plantings and other shoreline or area improvements; picnic shelters, tables, and fireplaces; and other similar or related facilities needed for public health and safety, and access to and use of, the recreational development.

(4) For fish and wildlife development. The use of loan funds will be limited to the local share of the cost of construction of water resource improvements, land, easements and rights-of-way, and minimum basic facilities need for the creation or improvement of fish and wildlife habitat as set out in the watershed work plan.

(i) Water resource improvements may include:

(*a*) Storage capacity in multiple-purpose reservoirs, construction of single-purpose reservoirs, modification of existing reservoirs, or modification of existing reservoirs solely for fish and wildlife development or for regulation of water levels or streamflow conducive to improved fish and wildlife development. Included are related facilities such as fish ladders, site clearing, and fish shelters.

(*b*) Stream channel improvements including practices for the improvement of fish and wildlife habitat and environment along streams.

(*c*) Marsh and pit development for breeding and nesting areas.

(ii) Land, easements and rights-of-way for the water resource improvements, and such additional land as is required to meet the planned need for fish and wildlife management.

(iii) Minimum basic facilities may include:

(*a*) Roads and trails providing access from public highways which are needed for the management of the fish and wildlife development.

(*b*) Planting and other shoreline or area improvements.

(*c*) Fences, cattle guards, and other facilities for protecting the fish and wildlife development.

(*d*) Shelters, equipment sheds, and other similar facilities needed for proper management of the development.

(5) The purchase of land or an interest therein for sites or rights-of-way upon which works of improvement will be located and associated costs such as the removal, relocation, or replacement of bridges, roads, railroads, pipelines, utility lines, buildings, and fences.

(i) The use of loan funds and advances for land acquisition must be limited to costs that are reasonably necessary to carry out the works of improvement. When final construction plans for the works of improvement are completed, they will indicate the lands and rights-of-way which must be acquired for project needs. However, local organizations may request authority to acquire lands in excess of actual project needs. Reasons for such requests might include, but not be limited to, cases in which severance damages would be excessive if a part of an ownership tract were to be acquired by purchase or condemnation, the local organization lacks legal condemnation authority and is unable to negotiate for a part of the tract, the additional cost to purchase the remainder of a tract would be less than the probable cost in time and money if condemnation proceedings on that portion of the tract needed for construction were resorted to, or other conditions exist which would justify the acquisition of excess land. Such requests should be considered by State Directors on an individual basis after thorough review of the facts in each case. If the State Director determines that a proposal for acquisition of excess land is necessary for the orderly development of the works of improvement, he may approve the proposal if the following conditions are made:

(*a*) That the local organization agrees to sell the excess land as soon as practicable and apply the proceeds on its indebtedness.

(*b*) That the local organization furnish a legal opinion supporting its authority to acquire the additional land and to dispose of it as agreed.

(*c*) That satisfactory evidence is submitted showing that the particular circumstances justify the acquisition of the additional land.

(*d*) That arrangements are made to assure that sales proceeds or other income from the additional land are applied on the loan.

(ii) Easements for watershed protection structures must be perpetual and cannot include clauses whereby the easement will terminate with the dissolution or abandonment of the local organization. No easement on a form which deviates in any way from the standard Soil Conservation Service form will be paid for from loan funds unless the modifications thereto are approved by Soil Conservation Service and FHA.

(6) The acquisition of a water supply or a water right. This may be acquired by purchase or by appropriation pursuant to local, State, and Federal laws. The loan

may include funds for the purchase of land on which the water supply or water right is presently being used when the water supply or water right cannot be purchased without the land.

(7) The hiring of, or contracting for, personal services such as the services of engineers, attorneys, auditors, construction foremen, and clerks needed for organizing the group, making engineering surveys, developing construction plans, administering construction contracts, and supervising the construction of works of improvement. Funds to pay costs incidental to loan closing, such as those incurred to obtain title evidence, clear titles, and to file or record lien instruments may be included in a loan.

(8) The purchase of equipment and machinery needed by the local organization for construction or installation of planned works of improvement in the categories under subparagraph (1) of this paragraph, provided the equipment is not available at reasonable rental cost or the cost of works of improvement will be lower as the result of such purchase.

(9) To refinance debts of a local organization when all of the following conditions exist:

(i) The indebtedness being refinanced was incurred in the installation or rehabilitation of works of improvement of the types for which loan funds could be advanced and is a valid obligation of the local organization.

(ii) The creditors are unwilling to extend, subordinate, or modify the terms of the debts and any security instruments to provide a satisfactory basis for the loan.

(iii) The amount to be refinanced will not exceed 50 percent of the total loan unless the prior approval of the Administrator is obtained and the debts to be refinanced were incurred either for expenses classified by law as preliminary expenses of the organization or for expenses classified as construction expenses which were incurred prior to the actual initiation of construction and are repayable within not more than 5 years from the date they were incurred.

(10) The repayment of the unpaid portion of any advance by the Soil Conservation Service for the preservation of sites.

(b) *Limitations.* The proceeds of loans may not be used for:

(1) Bringing new land into agricultural production. Any land which has not been used for agricultural production for at least two of the five years preceding the approval of the watershed for planning will be considered as new land. Agricultural production is defined as cultivated crops and tame hay. No Federal financial or technical assistance will be provided for projects in which the monetary benefits accrue primarily from bringing new land into agricultural production through drainage or irrigation measures. No Federal financial or technical assistance or loans will be provided within projects for separate or independent parts of drainage or irrigation systems, the primary purpose of which is to bring new land into agricultural production.

(2) Land treatment measures on individual farms except as provided in paragraph (a)(1)(v) of this section. Other FHA loans may be made to eligible individual applicants for these purposes.

(3) Recreational facilities such as boat houses, lunch stands, cabins, motels, community buildings, dance pavilions, golf courses, and other facilities of a similar character as determined by the Soil Conservation Service.

(4) Facilities for the artificial propagation, harvesting, and enjoyment of fish and wildlife resources such as hatcheries, rearing ponds, and related facilities.

(5) Water treatment plants and pipelines or other facilities, for treating and distributing water for residential, municipal, industrial, commercial, and other nonagricultural uses, when such facilities will be needed to make use of the stored water, and loan repayments will depend upon income derived from such use, the applicant must present evidence, before loan closing, that these facilities can be financed and installed as needed.

(6) Electric generating, transmission, and distribution facilities, except as provided as a part of the minimum basic facilities for recreational and fish and wildlife developments.

(7) Paying costs allocated in a watershed work plan to structural measures for flood prevention.

(8) Storm and sanitary sewers.

(9) Drainage facilities primarily for nonrural areas.

(10) Payment for any tract of land, easement, or rights-of-way on which the Soil Conservation Service will cost share if the amount proposed to be paid from loan proceeds exceeds the difference between the Soil Conservation Service's share and the value on which the Soil Conservation Service's share was based.

(c) *Limitations on amount of loans.* The total amount of principal outstanding for all Watershed loans for any one watershed project, whether made to one or more borrowers, shall not exceed $5 million. However, a local organization sponsoring, cosponsoring, or participating in more than one watershed project may receive a separate Watershed loan for each watershed project, provided the amount of each such separate Watershed loan to the local organization together with the amount of Watershed loans to other borrowers does not exceed $5 million for any one watershed project.

§ 1823.146 Advance purposes and limitations.

(a) *Purposes.* Advances may be made from Soil Conservation Service construction funds for the following purposes included in a watershed work plan agreement:

(1) The payment of the construction cost, including cost of engineering and related services, of reservoir capacity including intake and outlet structures for future water supply. If an advance for this purpose is not consistent with State law or is impractical for other reasons, funds for the future water supply may be provided instead through a loan.

(2) The preservation of sites for authorized types of works of improvements by immediate purchase of land, easements, and rights-of-way to prevent encroachment by other developments which would interfere with the use of such sites for project purposes.

(b) *Limitations.* (1) The maximum amount that can be included in an advance for reservoir capacity for future water supply will be 30 percent of the estimated total installation cost of each structure in which capacity for future water supply is to be provided. Costs for future water supply in excess of, or not included in, the advance may be paid with the proceeds of a Watershed loan.

(2) The amount of an advance for preservation of sites may not exceed that determined by the Soil Conservation Service to be necessary. However, subject to the provisions of § 1823.145(a)(5)(i), an advance may include funds to purchase land in excess of the amount actually needed if necessary to acquire a particular site or right-of-way.

(3) Advances for future water supply may not be used for acquisition of land, easements and rights-of-way, water rights, administration of contracts, storage capacity for immediate municipal use, pipelines from the reservoir to place of use, or for other uses such as for irrigation, fish and wildlife, and recreation. However, a Watershed loan may be made for such purposes.

§ 1823.147 Special requirements.

(a) *Water rights.* Applicants under this program will be required to comply with applicable State and local laws and regulations governing appropriating, diverting, storing and using water, changing the place and manner of use of water, and in disposing of water. All of the rights of any landowner, appropriator, or user of water from any source will be fully honored in all respects as they may be affected by facilities installed with Watershed loans. If, under the provisions of State law, notice of the proposed diversion or storage of water by the applicant may be filed, the applicant will be required to file such a notice. Even though such filing may be optional under State law, the record might be of value at some future time to protect the borrower's rights or priority to the use of water. An applicant must furnish evidence to provide reasonable assurance that its water rights will be or have been properly established, will not interfere with prior vested rights, will likely not be contested or enjoined by other water users or riparian owners, and will be within the provisions of any applicable interstate compact.

(b) *Water pollution.* When repayment of a Watershed loan or advance will be dependent upon income from the use of sale of water, FHA approval will be contingent upon a determination that the proposed utilization of water will not be impaired by pollution. For example, full utilization of stored water for recreation or municipal supply might not be permitted by a State health department because the water was receiving pollution from some upstream source.

(c) *Title requirements.* (1) Except as provided in subparagraph (2) of this

paragraph, title evidence for lands, easements, and rights-of-way to be acquired with proceeds of loans or advances will be furnished by the local organization in accordance with Soil Conservation Service policies and procedures.

(2) The FHA will specify and give approval to the form and content of instruments for conveying title to real estate and interests in real estate upon which a lien will be taken to secure a loan or an advance, or which will provide sites for facilities producing revenue for loan payments. The State Director will notify the Soil Conservation Service in writing and thereafter title clearance will be completed under Soil Conservation Service regulations except that a marketable title must be obtained on any tract of land, a part of which will be sold as excess land in compliance with § 1823.145(a)(5)(i). In addition to the title evidence required by the Soil Conservation Service, applicants will furnish an opinion of counsel on all land and interests in land acquired pursuant to this paragraph.

(d) *Insurance.* The applicant will obtain insurance coverage in the amounts and types specified by the Administrator of the FHA in his loan approval memorandum.

(e) *Bonding.* (1) Prior to the execution of construction contracts by the local organization, contractors shall furnish surety bonds to guarantee both performance and payment.

(2) The local organization will provide fidelity bond coverage for the officials entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the local organization will have on hand at any one time exclusive of loan funds deposited in a supervised bank account, unless the income of the local organization is required by State statute to be deposited with a designated public official whose bond is fixed by the statute. Form FHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(3) The amount of coverage required by the FHA in surety and fidelity bonds will be specified in the loan approval memorandum.

(f) *Technical assistance.* When pipelines from reservoirs to treatment plants are included in watershed work plans, the Soil Conservation Service will not furnish engineering services for their design or installation. When such pipelines are to be financed by Watershed loans, FHA will supervise the activities of the private engineers retained for the purpose. Such FHA supervision will include approval of private engineer's contracts, approval of plans and specifications, authorization of contract awards, spot checks of engineering inspection and final inspection and acceptance.

§ 1823.148 Terms and interest rates of loans and advances.

The following terms are subject to State constitutional and statutory requirements under which an applicant is organized and derives its authority to obligate itself to repay and give security for money borrowed or advanced. Also, there must be evidence that income will be sufficient and adequate to meet scheduled payments including required debt service reserves.

(a) *Repayment period*—(1) *Loans.* (i) The repayment period on loans may not exceed:

(*a*) The statutory limitation on the local organization's borrowing authority.

(*b*) Fifty years from the date when the principal benefits from works of improvement first become available.

(*c*) The useful life of the works of improvement to be installed under the watershed work plan.

(ii) When practicable, installments will be scheduled annually on January 1, starting with the first January 1 following the date of loan closing or the end of any approved deferment period. However, a due date other than January 1 is permissable when better suited to the borrower's needs, statutory requirements, or if necessary to coordinate the repayment date with the collection of revenues or taxes.

(2) *Advances for future water supply.* Advances will be repaid within the life of the reservoir structure but in no event to exceed 50 years after the reservoir structure is built. Installments will be scheduled in accordance with subparagraph (1)(ii) of this paragraph.

(3) *Advances for preservation of sites.* Advances for site acquisition must be fully repaid prior to beginning construction of the works of improvement for which such sites will be acquired.

(b) *Deferred or partial payments*—(1) *Loans.* Deferred or partial payments on loans will be permitted only when:

(i) Repayments need to be delayed until the receipt of income from taxes or other revenues are sufficient to meet a regular installment.

(ii) Repayment will be dependent upon the increased returns expected from planned works of improvement, or from the installation on individual farms of land development or other soil and water improvements essential for obtaining benefits from works of improvement to be installed with loan funds.

(iii) The deferment or partial payment will not be used to permit the accelerated repayment of other debts, to make capital improvements, or to create operating reserves.

(2) *Advances for future water supply.* (i) The principal amount of an advance may be deferred until 1 year after water is first used from the storage capacity installed with the advance or until the end of 10 years from the scheduled completion date of a structure, whichever date shall occur earlier.

(ii) No interest will be charged on these advances until water is first used or the end of 10 years from scheduled completion date of the facility, whichever be the sooner and regardless of the principal repayment schedule. If the State law requires that interest be charged and paid before water is first used or earlier than 10 years from the completion date of the structure, interest payments will be scheduled to comply with the State law even though principal payments may be deferred as authorized above. Before a project agreement is entered into, there must be satisfactory evidence that the borrower will use the water from such capacity and that revenue will be sufficient to meet all scheduled installments. The borrower should be encouraged to begin repayments as soon as practicable after the reservoir is built even though this liberal deferment policy exists.

(3) *Advances for preservation of sites.* (i) Unless an advance is to be paid with a Watershed loan, installments will be scheduled at the earliest practicable date following the date of closing the advance and the date and amount of each such installment will be fixed to coincide with the receipt of income from taxes or other revenue.

(ii) Payments of both principal and interest may be scheduled for payment in one installment to become due on the date of the closing of a loan for the repayment of the advance.

(c) *Interest.* The interest rate on loans and advances will be the average rate, as determined by the Secretary of the Treasury, payable by the U.S. Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which an obligating agreement is executed, which are neither due nor callable for redemption for 15 years from date of issue. The rate will be announced at the beginning of each fiscal year, and this rate will prevail throughout the fiscal year. When a loan is approved, the interest rate for that particular loan will be the interest rate in effect for the fiscal year in which the loan is obligated and will not change during the life of the loan.

(1) Unless otherwise required by State law, interest on loans will begin with the date of the delivery of the note, bond, or loan disbursement, except that if a loan is made in multiple loan disbursements, interest on the first disbursement will begin with the date of the delivery of the note or bond and interest will begin on each subsequent disbursement on the date of the check.

(2) Interest on an advance for future water supply will begin as required in State law, when water is first used from the future water storage capacity installed with advance, or 10 years from the scheduled date of the completion of the facility, whichever date is the earlier.

(3) Interest on an advance for preservation of sites will begin on the date the advance is closed.

(d) *Payments.* (1) Each borrower may make prepayments in any amount at any time.

(2) Except as provided below, payments will be applied first to interest accrued on the note to the date of the receipt of payment, and second to the principal balance on the note. If the regular payments plus any prepayments exceed the cumulative amount due on the note, the excess payments will be applied on next due installments, except that loan refunds and proceeds from the sale of

security property will be applied on the final unpaid installments.

(3) Payments will be applied on principal for all advances for future water supply with provisions for nonpayment of interest until water is first used or the end of 10 years. However, when interest begins to run, payments will thereafter be applied in the same manner as any other Watershed loan.

(e) *Reserves.* Each borrower will be required to establish and maintain reserves for delinquent accounts sufficient to assure that loan installments will be paid on time and that provisions are made for emergency repairs and extensions to facilities. For those cases in which statutes provide for extinguishing assessment liens of public bodies when properties subject to such liens are sold for delinquent State and county taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment. Provision for the accumulation of necessary reserves over a reasonable period of time will be included in loan resolutions or bond ordinances and in assessments, tax levies, or rates charged for services. Reserves may be invested in time deposits, savings accounts, or obligations of the United States which may be converted readily into cash. Investments and income therefrom will always be a part of the particular reserve fund from which they were made.

(1) The amount of reserves for delinquencies will be determined by the State Director after careful consideration of the repayment ability of the association's members or patrons. The reserve for this purpose should ultimately be accumulated in an amount at least equal to any anticipated delinquency in any 1 year.

(2) Reserves for emergency repairs and extensions will be determined by the State Director after consultation between the borrower's officials and the County Supervisor.

(3) Reserves for the protection of borrowers' lien of assessments will be maintained at a level equivalent to the estimated average annual amount of State and county taxes for which property subject to such liens might be sold, as determined by the State Director.

§ 1823.149 Security requirements.

Watershed loans and advances will be secured in a manner which will adequately protect the interests of the Government and comply with the State statutes governing the particular local organization receiving a Watershed loan or advance. Loans and advances will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized in corporate documents, resolutions, ordinances, and relevant State statutes. All corporate or statutory requirements pertaining to the authorization, sale, and acceptance of evidences of debt to be offered to FHA, must be met before closing. The FHA does not require that a transcript of proceedings for bond issues be prepared for examination and opinion by bond counsel as is usually required by private investors. The FHA does not object, however, to the employment of bond counsel by the applicant to assist in such proceedings. Neither does the FHA require that bonds or note be printed when the FHA note form is not appropriate. Whenever possible, the evidence of debt should be in the form of an installment note or bond. If serial bonds are required by statute, the bond form should omit interest coupons if permissable under State law. State statutes may also specify the security that may be given by the local organization. This security may generally be one or more of the following:

(a) Pledges of the revenues to be derived from operation of the local organization's facilities including cash reserves for debt service as may be agreed upon.

(b) Pledges of taxes or assessments which will be liens upon lands served by the local organization.

(c) Liens on real and personal property including facilities to be acquired by the local organization if the giving of such liens is not prohibited by State law.

(d) For membership or stock companies, a pledge or assignment of promissory notes, stock or membership subscription agreements, individual member's liability agreements, or other evidences of debt, as well as security instruments mortgaging the private property of members of the local organization, if it appears there will not be adequate security under one or more of the above types of security.

§ 1823.150 Approval of loans and advances.

(a) State Directors are authorized to approve Watershed loans and obligations to repay advances in accordance with this subpart. No loan or obligation to repay an advance may be approved without prior authorization of the National Office which would result in a total outstanding principal indebtedness for Watershed loans and advances in excess of $100,000.

(b) Except as provided in paragraph (a) of this section, State Directors will be authorized to approve Watershed loans and obligations to repay advances to local organizations on an individual case basis after review by the National Office of loan dockets and related watershed work plans and State Directors' recommendations. Following the review, the Administrator will issue a memorandum to the State Director authorizing the approval of the loan or the obligation to repay an advance, specifying conditions that must be met by the local organization, and containing any special closing instructions. When the State Director approves a loan or an obligation to repay an advance, he will send a memorandum of approval to the County Supervisor. The memorandum will include the conditions specified by the Administrator or State Director that must be met. Two copies of the memorandum will be delivered to the applicant by the County Supervisor.

(c) The FHA will not approve a Watershed loan or an obligation to repay an advance unless and until the applicant becomes a sponsor or cosponsor of a watershed work plan approved by the Soil Conservation Service. If there will be an urgent need for funds immediately after approval of the watershed work plan, the loan docket may be prepared and submitted prior to the final approval of the watershed work plan by the Soil Conservation Service. The FHA will advise the local organization of steps that need to be taken prior to loan closing; however, no commitment will be made until the watershed work plan has been approved for operations.

§ 1823.151 Miscellaneous policies and procedures applicable to advances.

(a) *Future water supply.* (1) Capacity may be included in a reservoir for the storage of both immediate and future water supply and for other multiple uses such as flood prevention, irrigation, fish and wildlife, recreation, or combination of such uses.

(2) Proposals for including storage capacity in reservoirs for future water supply must be approved by the Administrator of Soil Conservation Service.

(3) Local organizations will be responsible for preparing proposals. Proposals may be in the form of a preliminary report of the kind usually prepared by consulting engineers showing project features, costs, and feasibility. A proposal will include estimates of installation costs, projections of need, use, income, expenditures, and debt service, and coverage ratio; need for and cost of other future facilities essential to the use of the future water supply; plan of financing the future facilities; and a statement by the counsel for the applicant giving citations to statutes under which the plan of financing will be carried out. It may be necessary to revise, expand, or update such data when the docket for the advance is compiled.

(b) *Preservation of sites.* (1) The local organization must present evidence satisfactory to Soil Conservation Service of the necessity to preserve a proposed site for works of improvement from encroachment by other developments.

(2) The amount of funds advanced for acquisition of the land rights may not exceed the amount needed as determined by the Soil Conservation Service and the local organization subject to the provisions of § 1823.145(a)(5).

(3) Repayment of advances with interest are required by law to be credited to the Soil Conservation Service watershed construction funds. If a loan is made to repay the advance, the FHA will transfer loan funds in the amount of the advance plus interest to the Soil Conservation Service.

§ 1823.152 Multiple loan disbursements.

A Watershed loan may be made in multiple disbursements in accordance with the need of the local organization for funds as shown by the budget prepared for the docket. When an additional check is needed, it will be requested by the County Supervisor.

§ 1823.153 Closing loans and advances.

(a) Except for a loan for planning purposes, no Watershed loan will be closed until:

(1) The Soil Conservation Service has scheduled the construction of works of improvement for which a loan, or any part thereof, is to be made.

(2) The local organization is ready to use the loan funds and has either met or will comply with those loan approval conditions and requirements in closing instruction which are to be completed on or before the day of loan closing.

(3) The local organization can, with the loan, meet all requirements of the Soil Conservation Service for entering into a project agreement for installing such scheduled works of improvement.

(b) No funds will be paid out by the Soil Conservation Service on an advance without the concurrence of the FHA.

§ 1823.154 Use of, and accountability for, loan and advance proceeds.

Each local organization will be required to use the proceeds of loans in accordance with its agreements with the Government. Proceeds of loans and any funds furnished by the local organization to supplement the loan will be deposited in a supervised or special bank account and will not be commingled with other funds of the local organization. When an advance will be made from funds transferred by the Soil Conservation Service to FHA for obligation and disbursement, the proceeds of such an advance will be deposited and handled the same as a Watershed loan.

(a) Watershed loan funds to be placed in a supervised bank account or special bank account will be deposited and handled in accordance with § 1823.24(k) (1) and (2).

(b) Payments to contractors or for other expenses incurred in the planning and construction of works of improvement will be made by checks drawn on a supervised or special bank account. Payments may be made in a lumpsum at the completion of a job, or partial payments may be made as work progresses in accordance with partial payment provisions of construction contracts or other prearranged agreements with suppliers of materials or services. All payments for construction items will be based upon Form SCS–49a, "Contract Payment Estimate and Construction Progress Report," prepared by the borrower and approved by the Soil Conservation Service. Payments for personal services will be based upon periodic payrolls, and payments for other purposes such as title clearance and miscellaneous supplies will be based upon invoices or bills.

(1) If payments are to be made from a supervised bank account, the borrower will present Form SCS–49a, a periodic payroll, and an invoice or a bill, as appropriate, to the County Supervisor before checks are countersigned.

(2) If payments are to be made from a special bank account, the borrower will make a report to the County Supervisor covering such period as agreed upon by the borrower and the FHA, showing the payee, amount, and purpose of each check drawn during the period. The borrower will attach to the report a copy of the payroll, Form SCS–49a, receipts, or receipted bills or invoices for the checks issued. The receipts and receipted bills or invoices will be returned to the borrower.

(c) Before loan funds are disbursed for the acquisition of a particular right-of-way, easement, or other land rights, the Soil Conservation Service will furnish the County Supervisor the name of the party to whom payment will be made. If the title to a particular right-of-way, easement, or other land rights will be obtained pursuant to § 1823.147(c)(2), the local organization's attorney will furnish the County Supervisor a written opinion that the local organization will acquire a valid title to the land rights to be purchased.

§ 1823.155 Accounts and records of local organization.

Borrowers will establish and maintain such accounts and other records pertaining to transactions related to the installation, operation, and maintenance of works of improvement as may be required by the FHA. These accounts and records will be kept in a form and manner satisfactory to the FHA and will be open to inspection and audits by representatives of the FHA during the borrower's regular business hours. The borrower will prepare and furnish to the County Supervisor at intervals designated by the State Director such written reports as may be required by the FHA. The records the FHA may require the borrower to keep will be held by such borrower until the records retention period specified by State statute has been met. If no records retention period is specified by State statute, such required records will be held by the borrower for FHA inspection and review for a period of at least 1 year after the year to which they pertain. After the above applicable records retention requirement has been met by the borrower, the disposition of the records involved will not be a matter of business to the FHA.

§ 1823.156 Preparation of loan docket.

(a) *Preliminary actions.* Loan docket preparation may commence as soon as a preliminary draft of the watershed work plan, together with an estimate of costs and benefits, has been prepared with the assistance of Soil Conservation Service and approved by the local organization. The State Director will send to the County Supervisor a memorandum giving complete instructions for preparation of the docket. The docket should be planned so that it will be reviewed by FHA before final actions by the governing board of the local organization, or by any court or other agency having legal jurisdiction, are taken on loan resolutions, bond ordinances, and referendum elections, and orders levying assessments or confirming the borrowing of money are executed or adopted. This review procedure is designed to avoid the necessity for additonal meetings, amended court petitions, or supplemental elections due to failure to comply with applicable statutory procedure or other insufficiencies in the proceedings.

(b) *Development of loan docket.* The docket will provide information evidencing that the local organization is or will be so organized that it has the requisite legal powers to construct and operate the works proposed, borrow money, give security therefor, and provide revenue for repayment thereof, it is or will become a sponsor or cosponsor of the watershed work plan and is otherwise eligible for a Watershed loan, that loan funds will be used for specific authorized purposes, the source of income to be pledged for repayment and the security proposed are adequate and the remaining actions to be taken in closing the loan will be administratively satisfactory and legally sufficient. In addition to the requirements outlined in the memorandum of the State Director, the following forms and information will be prepared and made a part of the docket:

FHA 440–3 Record of Actions.
County Committee recommendations.
FHA 440–1 Payment Authorization.
FHA 442–14 Association Project Fund Analysis.
FHA 447–1 Application for Watershed Loan.
FHA 447–2 Resolution of Governing Body of Applicant (or similar form of resolution approved by State Director).
FHA 447–3 Tax and Assessment Data (where applicable).
Narrative Report by County Supervisor.
FHA 447–4 Budget for Watershed Loans and Advances.
Complete transcript of organizational proceedings including notices and advertisements. If not completed, include proposed documents.
Watershed Work Plan Agreement.
Operation and Maintenance Agreement.
Draft of Project Agreement and any supplemental agreements, including those for engineering services.
Draft of Benefit Assessment Roll (if such assessments are to be pledged for loan repayment).
Report by engineer or financial advisor on expected project revenues (if repayment will be from utility or recreation revenues).
Draft of Referendum or Election Proposition and Notice (if used).
Draft of Bond Ordinance, or Petition and Order, authorizing borrowing of money, including form of bond or note complying with State Law.
Draft of Loan Resolution (if not included in other documents).
Certificate of Secretary showing names and terms of officers of local organization.
Latest and most accurate estimates of the probable cost of easements, rights-of-way, and land rights which must be acquired, regardless of estimate in the watershed work plan when it was prepared.

§ 1823.157 State Office loan processing.

The County Supervisor will forward the docket with his recommendations to the State Office. When the State Director determines that the loan can be approved, he will draft a proposed memorandum of loan approval, setting out the conditions under which the loan will be made. The complete docket and his proposed memorandum will then be forwarded to the Office of General Counsel for review and the preparation of additional legal requirements combined, if

practicable, with loan closing instructions.

§ 1823.158 Loan approval.

(a) *Time of approval.* The loan may be approved when all the following conditions exist:

(1) The watershed work plan has been approved for operations by Soil Conservation Service, and the applicant has become an official sponsor or cosponsor of the plan.

(2) Legal requirements and any necessary closing instructions have been prepared by the Office of General Counsel.

(3) The governing body of the applicant local organization has formally passed the loan resolution or it has been approved in final draft form.

(4) The State Director has determined that all subsequent actions can be carried out as proposed in the docket.

(b) *Procedures for approval.* When the State Director has determined that the loan is ready for approval and the loan resolution has been passed by the applicant, he will:

(1) Forward his memorandum of loan approval to the County Supervisor and return the loan docket. A copy of the memorandum and a project summary similar to those used for Association loans will be sent to the National Office.

(2) Execute Form FHA 440–1 after it has been signed by the officials of the applicant's governing body.

(c) *Scheduling multiple advances.* There is no limitation on the number of years over which Watershed loan funds may be scheduled for disbursement, so long as multiple disbursements are planned in accordance with § 1823.152.

(d) *Special procedure when bonds are to be offered at public sale.* If the loan is to be evidenced by bonds which must be offered at public sale, the State Director will forward his approval letter and the closing instructions to the County Supervisor. If the County Supervisor determines that the loan approval and closing conditions can be met within the time required by the bid invitation, the State Director will submit a bid for the bonds at the interest rate in effect at that time for Watershed loans. Generally, any bid deposit will be waived by the appropriate public officials for a bid by the Government. If a deposit must be made, the State Director will write the National Office for further instructions. As soon as it has been determined that the Government is the successful bidder for the bonds, the loan will be approved and funds obligated.

(e) *Loan rejection or cancellation.* When favorable action is not taken on a Watershed loan application, the State Director will notify the applicant in writing, and, if possible, send a representative to explain such action to the applicant. Watershed loans may be canceled before loan closing in accordance with § 1823.21.

§ 1823.159 Loan closing.

(a) *Time of loan closing.* The loan should not be closed until:

(1) All loan closing conditions can be met.

(2) The project agreemnet has been executed or the Soil Conservation Service has advised the State Director in writing that a project agreement will be executed and Soil Conservation Service funds made available for project construction.

(3) The State Director has reviewed the project agreement or proposed project agreement and determined that it is consistent in all respects with loan requirements.

(4) All statutory periods for appeals, objections, advertisements, or payment of assessments in full have passed and the local organization is ready to execute the note or deliver the bonds evidencing the loan.

(5) A loan closing date has been determined in consultation with the FHA County Supervisor, the applicant, and Soil Conservation Service. If loan funds are to be used for acquisition of land rights and easements the loan may be closed before these rights are acquired. However, the probable costs of such acquisition should be carefully estimated before the final amount of the loan is determined.

(b) *Loan closing procedures.* Loans will be closed in accordance with the closing instructions issued by the Office of General Counsel. Checks will be ordered in the same manner as direct loan checks for loans under Subpart A of this part. Loan funds will be handled in accordance with § 1823.154. Bonds should be registered wherever possible. At the time of loan closing, the applicant's attorney must submit a certificate that no suits, appeals, or judgments are pending against it. The note or bond will be dated the date of loan closing.

§ 1823.160 Processing advances.

(a) *Preparation of docket.* (1) When the FHA has concurred in the inclusion of an advance in a watershed work plan as outlined in § 1823.142(b), preparation of the advance docket can be initiated. The State Director will send the County Supervisor a memorandum giving complete instructions for preparation of the advance docket following the same procedures and policies as those outlined for loans in § 1823.156.

(2) The processing routine applies only to advances for future municipal and industrial water supply. Applications for advances for the preservation of sites should be sent to the National Office with requests for advice on processing.

(b) *Review of the advance docket.* After the County Supervisor, with the District Supervisor, has checked the advance docket for accuracy and completeness, he will forward it to the State Office with his recommendations. If the State Director determines that the advance can be made, he will send the docket to the Office of General Counsel for review and preparation of closing instructions, together with a proposed memorandum to the Soil Conservation Service State Conservationist concurring in the execution of a project agreement which will obligate advance funds by Soil Conservation Service and setting out specifically the conditions that must be met by the applicant. The memorandum will be signed and delivered to Soil Conservation Service when the State Director and the State Conservationist determine that all conditions can be met by the applicant.

(c) *Closing advances.* Advances may be closed when all the requirements of FHA and Soil Conservation Service have been met and funds are needed to meet project schedules. Advances will ordinarily be evidenced by bonds or notes. Since Soil Conservation Service will make the advances in increments, the notes or bonds must provide for multiple advances with the total payment obligation of the recipient limited to the total amount actually advanced.

(1) The note or bond and a certified copy of the resolution for the advance will be sent to the Finance Office as soon as it is delivered to FHA. A copy of the note or bond will be placed in the County Office file.

(2) Advances for future water supply will be made periodically by Soil Conservation Service directly to the recipient of the advance and use of these funds is covered by the project agreement, the engineering services agreement or such other supplementary agreements as may be necessary. It is therefore not necessary to deposit advance funds in a supervised or special account of the types used for loan funds.

(3) Advances for construction costs will be set out each month on Form SCS–49a, "Contract Payment Estimate and Construction Progress Report." The State Director should make arrangements with the State Conservationist to be supplied each month with a copy of Form SCS–49a where advance funds are included together with an official statement from the Soil Conservation Service State Administrative Officer giving the date of the check and the exact amount of each advance of funds made under the advance provisions of the project agreement or of any engineering services agreement or other supplementary agreement which further implements the proposal for the advance in the project agreement. The original will be sent immediately to the Finance Office and a copy provided for the County Office file.

§ 1823.161 Actions subsequent to closing of loans or advances.

(a) Any mortgages taken on security property should be placed on record with the appropriate County Office official. Bonds and notes should be registered if permitted by State laws.

(b) After a loan or advance is closed the docket should be sent to the Office of General Counsel for post review and a written statement as to whether or not all legal requirements have been met.

(c) The State Director should provide the County Supervisor with specific requirements which should be noted for servicing the loan. Such requirements may include bonds for officers of the borrower organization, the levy of annual taxes or assessments, or the preparation

of certain periodic reports. Where advances for future water supply are made, a followup should be established to check each year with Soil Conservation Service concerning the actual use of storage financed by the advance. These requirements may be included in the approval memorandum.

Dated: August 2, 1967.

J. V. HIGHFILL,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 67-9254; Filed, Aug. 7, 1967; 8:48 a.m.]

[FHA Instructions 446.1, 446.2]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart H—Resource Conservation and Development Loans

Part 1823, Title 7, Code of Federal Regulations (32 F.R. 8367) is amended by adding a new Subpart H to read as follows:

Subpart H—Resource Conservation and Development Loans

Sec.
1823.221 General.
1823.222 Responsibilities.
1823.223 Definitions.
1823.224 Eligibility.
1823.225 Loan purposes.
1823.226 Loan limitations.
1823.227 Rates and terms.
1823.228 Amount of loans.
1823.229 Security.
1823.230 Loan approval.
1823.231 Coordination of loan making actions.
1823.232 Loan application.
1823.233 Real estate appraisals.
1823.234 Preparation of loan docket.
1823.235 Loan approval and loan closing.
1823.236 Actions following loan closing.
1823.237 Requirements before starting construction when financial assistance is provided by Soil Conservation Service.
1823.238 Performing development where financial assistance (cost-sharing) is not provided by Soil Conservation Service.
1823.239 Nondiscrimination and equal opportunity.

AUTHORITY: The provisions of this Subpart H issued under 5 U.S.C. 301; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

§ 1823.221 General.

This subpart sets forth the general policies and authorizations for making Resource Conservation and Development loans for project measures directly related to the development, conservation, and utilization of natural resources to local public agencies in designated Resource Conservation and Development project areas, and to nonprofit corporations in rural areas within Resource Conservation and Development project areas. However, loans for recreational purposes and loans to nonprofit corporations may be made only in rural areas within Resource Conservation and Development project areas.

§ 1823.222 Responsibilities.

(a) *Soil Conservation Service responsibilities.* The Soil Conservation Service has been assigned the overall leadership for developing and carrying out Resource Conservation and Development projects. This includes handling the designation of the area, assignment of a Soil Conservation Service Project Coordinator, leadership in developing the project work plan, and assistance in initiating individual project measures, including those for which Resource Conservation and Development loans will be made.

(b) *FHA responsibilities.* The Farmers Home Administration (FHA) has been assigned responsibility for establishing policies and procedures for making and servicing Resource Conservation and Development loans, for cooperating with Soil Conservation Service and other Federal and State agencies in carrying out these responsibilities, and for taking such other actions as is necessary to carry out these provisions.

(c) *Memorandum of understanding.* A memorandum of understanding has been entered into by the Soil Conservation Service and the FHA covering policies and methods for carrying out responsibilities under this program.

§ 1823.223 Definitions.

(a) *Public agency.* A public agency is a State, State agency or instrumentality, county, municipality, or other subdivision or instrumentality of the State. This includes public agencies created by, or pursuant to, State law for making improvements of a public nature even though some of the improvements may be on privately owned land.

(b) *Nonprofit corporation.* The term "nonprofit corporation" includes mutual and other irrigation, water supply, drainage and waste disposal companies or associations, ditch companies, grazing, recreation, and forestry associations and similar organizations generally designated as private corporations operating on a nonprofit basis and authority having power to make available services and facilities of the types authorized in this subpart.

(1) A private corporation even though organized under the general profit corporation laws may come within this definition if it actually will be operated on a nonprofit basis under such charter, bylaw, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval.

(2) A nonprofit corporation may receive assistance for more than one of the major purposes listed in this subpart when it is organized with the necessary powers conferred by State law to engage in multiple purpose activities.

(3) Nonprofit corporations which do not come within the above definition include cooperative or other service-type organizations engaged primarily in selling supplies, processing, or marketing agricultural and forest products.

(c) *Rural area.* The term "rural area" is an area as defined in § 1823.2(c).

(d) *Resource Conservation and Development project plan.* A plan for the project area developed by the project sponsor with the assistance of the U.S. Department of Agriculture and other Federal and State agencies providing for the development of the resources of the area and which has been approved by the Governor or his designated agency and by the Secretary of Agriculture or his delegate.

(e) *Resource Conservation and Development loan.* Is an FHA loan to a local public agency or nonprofit corporation to carry out project measures consistent with the Resources Conservation and Development project plan for the development of the area.

§ 1823.224 Eligibility.

(a) *General.* Any local public agency or nonprofit corporation is eligible for a Resource Conservation and Development loan for authorized purposes provided it is unable to obtain needed credit from other sources; can provide security in accordance with § 1823.229; has reasonable prospects of repaying the loan; has authority under State and local laws to borrow funds, acquire necessary land rights, improve, develop, operate, and maintain property, and raise revenues to repay loans and meet other obligations; and is financially sound and so organized and managed that it will be able to provide efficient service. The local public agency or nonprofit corporation must have the authority under State statutes to obtain the type of loan being requested. Questions on eligibility will be referred to the Office of the General Counsel for advice prior to development of a loan docket.

(b) *Nonprofit corporations*—(1) *Membership.* The membership of nonprofit corporations should be broadly based and representative of the rural area benefiting from the facility. Membership on the governing board of the corporation will be limited to those living in the area to be benefited unless for justifiable reasons the State Director gives prior approval for other than local rural residents to serve on the board of directors.

(2) *Eligibility for assistance.* To be eligible for financial assistance a nonprofit corporation must propose a facility which will be primarily used by the corporation or which will generate other substantial, tangible benefits primarily for farmers and other residents of the rural area, and be located in the rural area to be served and controlled by farmers and others living in the rural area. In the case of a recreational project measure at least two-thirds of the membership must be farmers and others residing in the rural area.

(c) *Existing authority.* Nonprofit corporations will not be formed to serve an area which could be served by a public agency which has adequate authority to provide the needed service unless prior approval of the National Office is obtained.

§ 1823.225 Loan purposes.

Generally, loans may be made for project measures that bear directly upon land conservation and land utilization. Project measures for which loans are

made must also be for community benefit and contribute to the economic improvement of the area. Except as otherwise indicated, loans may be made to eligible local public agencies or nonprofit corporations for the following purposes:

(a) *Recreational facilities (rural areas only).* Install or improve rural community outdoor-oriented recreational facilities such as:

(1) Ponds, lakes, and streams for fishing, boating and basic minimum related facilities.

(2) Sports areas, including little league fields, athletic fields, golf courses, target ranges, swimming pools and swimming areas, and ski slopes.

(3) Recreational areas, including rodeo and horse show facilities, for the use of participants and performers who are primarily local residents using livestock from the immediate area.

(4) Picnic areas and parks.

(5) Camping facilities, such as tent platforms, dining halls, and cabins, including utility connections for trailers and sanitation facilities and roadways.

(6) Forest trails, caves, and other natural scenic attractions.

(7) Hunting and fishing areas and preserves.

(8) Access roads necessary to connect recreational areas with public roadways.

(9) Domestic water, irrigation, drainage, or waste disposal facilities, and parking areas in connection with recreational development.

(10) Historical sites and areas.

(b) *Soil and water development, conservation, control, and use facilities.* Install or improve:

(1) Works of improvement for flood prevention, sediment control, erosion control, and other water management purposes.

(2) Irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, canal lining, pipelines, sprinklers, and other such items.

(3) Open or closed drainage facilities in farm areas otherwise too wet for sustained agricultural production. Facilities will not be installed primarily to bring into production land which has not been previously in agricultural production. Land in agricultural production will be construed to mean all land which is or has been used for any farm crop, including pasture. It does not include woodland, brush, swampland, or marshland unless such land was formerly in agricultural production and has since reverted to a condition of nonuse or lesser use.

(4) Soil conservation and water control facilities such as dikes, terraces, detention reservoirs, stream channels, ditches, and other special land treatment and stabilization measures or structures needed to protect farms and rural residences from water damage, provided such facilities cannot be installed or improved under, or will not conflict with, other public programs such as those administered by the Corps of Engineers.

(c) *Shift-in-land-use facilities.* Develop shift-in-land-use project measures including association grazing, forestry, and other facilities through:

(1) The conversion of land to pasture, forest, wildlife areas, and preserves.

(2) Reorganization or reconstitution of farm management units, grazing areas or districts, or irrigation areas.

(3) Substantial reorganization of an existing land use through a system of controlled grazing or sustained yield forestry management practices.

(4) Conversion of land to uses which promote better conservation of soil and water resources.

(5) The conversion of land to uses such as parks, greenbelts, and other open spaces which better serve a rural community.

(d) *Community water storage facilities.* Install, repair, or improve water storage facilities, including outlet works for such purposes as immediate and future water supply and pollution abatement by streamflow regulation and saline water intrusion control. A loan for this purpose may include funds for pipelines and any necessary pumping facilities to convey the water from the reservoir to the existing or proposed municipal treatment facilities or the nearest practicable point on a water distribution system.

(e) *Purchase existing facilities.* Purchase existing facilities for recreation (rural areas only), shift-in-land use, soil and water development, conservation, control and use when it is determined that purchase is necessary to provide efficient service through a facility owned and operated by a public agency (or a nonprofit corporation in a rural area), or that the owner is either unwilling or unable to make improvements, enlargement, or extensions needed to provide significant additional or improved service for present users or for a new group of users at reasonable rates.

(f) *Special-purpose equipment.* Purchase or rent special-purpose equipment to install or maintain any community facility in the above categories or to establish on farms soil and water conservation measures such as terraces, ponds, land leveling for irrigation or drainage, subsoiling, seeding, tree planting, and removal of brush, scattered trees, and stumps, provided:

(1) Such equipment is not otherwise available when needed.

(2) There is sufficient need and local demand to justify ownership or rental.

(3) Rates to be charged include, among other things, an allowance for depreciation, obsolescence, and replacement based upon the recommendations of the equipment manufacturer or the experience of contractors engaged in providing services for similar types of work.

(g) *Forestry equipment and services (other than shift-in-land use).* Purchase or rent basic special-purpose equipment, facilities, certain land or land rights, and supplies needed for furnishing services for the establishment, improvement, protection, and harvesting of timber (not processing) suitable for lumber, pulp, poles or posts; providing that the forest program and forest practices benefiting from such service are in accordance with accepted forestry management and are directly related to and will promote approved conservation practices for the development, use, and control of water resources on farms and in forests. Special-purpose equipment will include such items as tractors, dozers, plows, planters, trucks, loaders, firefighting equipment, and sprayers. Facilities will include such items as ponds and reservoirs, pipelines, buildings for storage of equipment and supplies, nurseries, access roads, fire lanes, and lookout towers. Supplies will include such things as seed, seedlings, fertilizers, fencing, and pesticides. Land or land-rights acquisition will be limited to that necessary for sites for facilities listed above which are directly related to the forestry program. Loans for these purposes may be made only when the equipment, supplies, and facilities to be provided:

(1) Are not readily available when needed.

(2) Will be justified by the local need and demand.

(3) Will be made available to users at rates which will cover loan amortization, obsolescence, replacement, operation, and in the case of supplies, at least their cost.

(4) Will more efficiently serve the group through cooperative effort.

(h) *Acquisition of land and rights.* Acquire land, interests in land, and rights such as water rights, leases, permits, rights-of-way, and other evidence of control when acquisition of such land and rights is necessary to the development of the facility. When it is necessary to acquire a water supply or water rights, the land on which the water supply or water right is presently being used may be purchased when:

(1) The water supply or water right cannot be purchased without the land and permission can be obtained from State officials for the transfer of the water right from the land.

(2) The value of the land is only an incidental part of the total purchase price.

(i) *Refinancing.* Refinancing debts incurred by or on behalf of the applicant prior to an application for a loan when all of the following conditions exist:

(1) The debts were incurred for the facility or service to be installed or improved with the loan.

(2) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a loan.

(3) The prior approval of the National Office will be obtained when it is proposed that the amount to be advanced for refinancing will exceed 50 percent of the total loan.

(j) *Buildings, fences, roads, secondary facilities, and relocation.* (1) Construct buildings of modest design, size, and cost, essential to the successful operation or protection of authorized facilities or project measures.

(2) Install secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for the control of, primary facilities.

(3) Build or relocate roads, bridges, utilities, fences, and other improvements when necessary to acquire rights-of-way or to construct or operate the facility.

(k) *Services and fees.* Pay costs incidental to facilities or services accomplishing any of the above purposes including, but not limited to:

(1) Paying fees or other legal expenses of establishing a water right through appropriation, agreement, permit, or court decree.

(2) Acquiring a water supply by the purchase of water stock or membership in an incorporated water users association.

(3) Paying for hired labor, technical or professional services, and fees to be incurred in obtaining the loan, and in planning and completing the facilities or services to be financed with loan funds.

(l) *Site acquisition.* To enable local public agencies to acquire sites for works of improvement in advance of construction for the purpose of reserving such sites for natural resources development and use.

(m) *Public use areas.* Acquire and develop land for public use, including forest areas, areas for reforestation, wildlife and fishing areas, natural areas, parks, conservation areas, lakes, streams, natural springs, and campsites.

§ 1823.226 Loan limitations.

Resource Conservation and Development loans will not be made for:

(a) Building industrial parks or to construct facilities thereon or to establish private industrial or commercial enterprises or to purchase land to be used primarily for industrial purposes. However, this does not prohibit advances for the purchase of land, a portion of which might be set aside for an industrial park.

(b) Purchase of tracts of land primarily for later resale to private developers or individuals for agricultural or nonagricultural use.

(c) Motels, housing developments, farm dwellings, and dance pavilions.

(d) Land treatment on private or individual land units.

(e) Payment of that part of the cost of facilities, improvements, and practices which could be earned by participation in agricultural conservation programs unless such cost cannot be covered by purchase orders or assignments to material suppliers or contractors. If advances are made for this purpose and the portion of the payment for which the funds are advanced are likely to exceed $500, the applicant will assign payment to the Farmers Home Administration.

(f) Payment of obligations incurred before loan closing, except with the prior written permission of the State Director upon his finding that a necessity exists for incurring obligations before loan closing, the obligations will be incurred for authorized loan purposes, contracts and construction plans meet FHA and Soil Conservation Service standards, and the applicant has the legal authority to incur the obligations at the time proposed. The State Director's letter will specifically state that the permission granted is on the condition that the Government is not committed to make a loan and assumes no responsibility for any obligation incurred by the applicant because of the permission granted, and that the applicant must subsequently meet all FHA requirements for a loan.

(g) Primarily for bringing new land into agricultural production.

(h) Primarily for treatment plants and distribution systems.

(i) Drainage facilities primarily for the benefit of other than rural areas.

§ 1823.227 Rates and terms.

The interest rate for Resource Conservation and Development loans is the average rate paid by the U.S. Treasury on obligations of a similar maturity outstanding at the beginning of the fiscal year in which the loan is made. Resource Conservation and Development loans will be scheduled for repayment in amortized annual installments of principal and interest over periods not to exceed 30 years except that annual principal and interest payments may be deferred up to five years when there will not be sufficient income to make earlier payments.

§ 1823.228 Amount of loans.

The amount of a Resource Conservation and Development loan will be based on the applicant's resources, the proposed cost of the project measure being financed, and the applicant's ability to repay but not in excess of $250,000. In determining repayment ability, consideration will be given to all available sources of income such as taxes, assessments, fees, leases, rentals, and the sale of securities or property.

§ 1823.229 Security.

Resource Conservation and Development loans will be secured in such manner, depending on the nature of the project and the authority of the local public agency, or nonprofit corporation, as will protect the interest of the Government. Security will usually be contract liens on property, tax or assessment liens, or project revenues pledged for repayment of the loans.

§ 1823.230 Loan approval.

State Directors are authorized hereby to determine the eligibility of applicants and approve Resource Conservation and Development loans in accordance with the requirements of this subpart, and with the prior concurrence of the Administrator.

§ 1823.231 Coordination of loan making actions.

(a) The FHA County Supervisor will be notified by the Project Coordinator when it is known that an applicant desires to apply for a Resource Conservation and Development loan.

(b) The County Supervisor with assistance from the Project Coordinator will consult with the project sponsors on organizational arrangements and plans for financing and operating the project measure for which a Resource Conservation and Development loan is needed.

(c) The approved project work plan and the related executed project measure agreement will not bind FHA to make a Resource Conservation and Development loan to the applicant.

(d) The County Supervisor and the Project Coordinator will work closely with the applicant during development of plans including cost estimates to assure that Resource Conservation and Development loans are in accordance with FHA policies.

(e) The County Supervisor and the Project Coordinator will determine the technical assistance to be provided by the Soil Conservation Service in connection with the Resource Conservation and Development loan.

§ 1823.232 Loan application.

(a) *Action by local groups.* The applicant will submit a letter of application addressed to the State Director to the County Supervisor. The letter will be prepared with the assistance of the Project Coordinator and County Supervisor and will contain the following:

(1) A brief statement of the purpose and estimated cost of the proposed development, the amount of loan needed, and the contributions, if any, to be made by the applicant or Federal or State agencies.

(2) Justification for such loan.

(3) A cost estimate which will show the estimated construction cost, broken down by major items, the amount of engineering, legal, and supervision costs, the option price of the land to be acquired with the cost of rights-of-way and the amount of other costs. Detailed specifications, designs, drawings, and material lists which will be used in actual construction work need not be complete at this point. However, if such data are complete and available, they should be included.

(4) A map of the area being developed, giving principal features of the area and its relationship to, and distances to, nearby towns with a clearly defined outline of the proposed improvements to be installed with loan funds. A legal description of the land to be acquired should be provided.

(5) Basic documents reflecting the powers or authorities of the applicant for borrowing money, giving security, raising revenues, and for installing and operating the proposed project measure.

(6) The plans of the applicant for levying taxes, making assessments, charging of fees, and otherwise providing for the orderly repayment of the loan.

(7) A statement that the applicant is unable to obtain the credit they need from private and cooperative sources at reasonable rates and terms.

(b) *Action by County Supervisor.* The County Supervisor will determine if the application has been properly completed and is consistent with the Resource Conservation and Development project work

plan objectives. When such determinations are made, he will submit the application along with his recommendations to the State Director.

(c) *Actions by State Director.* (1) Upon receipt of the application, the State Director will consult with the State Conservationist to ascertain the status of the Resource Conservation Development project work plan, the estimated cost of the proposed works to be installed with the Resource Conservation Development loan, any cost sharing which may be available to the applicant, and other pertinent information.

(2) If the State Director and the State Conservationist determine that favorable consideration should be given to the application and find it to be consistent with loan policies and objectives, they will instruct the County Supervisor and Project Coordinator to assist the applicant in preparing a loan docket. If, however, they determine that no further consideration should be given to the application, the State Director will advise the County Supervisor why favorable action cannot be taken.

(3) The State Director will work closely with the State Conservationist and the Office of the General Counsel in acting upon applications. Consideration will be given to the total credit needs of the applicant, the purposes of the loan, the statutory authorities and procedures under which the applicant may incur and repay indebtedness, and preparation of recommendations on whether or not the circumstances would justify the requested financial assistance.

§ 1823.233 Real estate appraisals.

When the purchase of real estate is involved, an appraisal will be prepared by the FHA employee authorized to make real estate appraisals. Such appraisals will be made to determine the present market value in accordance with the policy outlined in Part 1809 of this chapter.

§ 1823.234 Preparation of loan docket.

The loan docket will consist of the following documents completed and executed, as appropriate, and assembled by the County Supervisors:

(a) Form FHA 440–3, "Record of Actions."

(b) Form FHA 422–1, "Appraisal Report (Farm Tract)."

(c) County Committee recommendation in the form of a narrative. The recommendation will be signed by at least two members.

(d) Form FHA 440–1, "Payment Authorization."

(e) Form FHA 442–7, "Operating Budget (Association)."

(f) Form FHA 443–1, "Option to Purchase Real Property," if required.

(g) Agreement between the applicant and the FHA. This agreement will be prepared with the assistance of the County Supervisor and advice of the Office of the General Counsel. It will be prepared in an original and three copies. One copy will be retained by the applicant. Form FHA 442–9, "Association Loan Resolution," may be used as a guide. The agreement will contain the following information:

(1) Statutory authority under which the applicant is authorized to act.

(2) The purpose of the project measure.

(3) Evidence of the vote or action of the agency to engage in such an undertaking.

(4) The amount of the loan and terms, including repayment schedule, interest rate, and date of payment of first installment.

(5) Statement of the security to be given and its value.

(6) The statutory authorization or designation of the authority to sign the note and other legal instruments.

(7) Sources of revenues, how revenues are to be utilized, and how allowances for operating and maintenance cost can be made.

(8) Authority for the Treasurer or other designated officials to deposit funds, secure bonds, and incur obligations.

(9) Authority of the Treasurer to establish a construction account and revenue fund account, including debt service, operating and maintenance, and reserve accounts.

(h) The complete loan docket will be forwarded to the State Director for review. The State Director will forward the docket to the National Office with his comments.

§ 1823.235 Loan approval and loan closing.

If the Administrator concurs in making the loan, he will inform the State Director by memorandum and return the docket to him. The State Director will approve the loan and forward the docket, loan closing instructions issued by the Office of the General Counsel, and any additional instructions to the County Supervisor. The County Supervisor will notify the applicant of the approval, furnish him with a copy of the loan closing instructions and any additional instructions to be followed. The County Supervisor will order the loan check. The loan check will be delivered as soon as loan approval conditions and loan closing instructions are met. It will be deposited in a supervised bank account but disbursements will not be made until the County Supervisor receives the final opinion of the Office of the General Counsel. Banks in which accounts in excess of $15,000 are maintained will provide collateral security for balances in excess of that amount.

§ 1823.236 Actions following loan closing.

(a) *Filing security instruments.* Security instruments will be filed or recorded as soon as the loan is closed. A copy will be delivered to the applicant.

(b) *Promissory note or bond.* The executed promissory note, or bond, or other legally acceptable documentary evidence of indebtedness created by the loan will be forwarded to the Finance Office as soon as the loan can be closed. A copy will be delivered to the applicant. The note or bond will be dated the date of loan closing.

(c) *Final opinion.* As soon as advice is received from the County Supervisor of the manner in which loan approval conditions and loan closing instructions have been met, the State Director will refer the matter to the Office of the General Counsel for final opinion after loan closing. The final opinion will be forwarded to the County Supervisor as soon as it is received from the Office of the General Counsel.

§ 1823.237 Requirements before starting construction when financial assistance is provided by Soil Conservation Service.

(a) Authorization for starting construction will not be given until the State Director has:

(1) Been notified by the State Conservationist that the local organization has met all requirements.

(2) Been furnished a schedule for the beginning, carrying out, and completion of project measures.

(3) Received a copy of the project agreement setting forth the mutual understanding, responsibility, working relationship, and cost sharing arrangements of the applicant and contracting local organization and the Soil Conservation Service.

(4) Made a determination that the loan has been properly closed and is consistent with FHA loan policies.

(5) Received evidence that all necessary land rights have been acquired.

(b) When the requirements of paragraph (a) of this section have been complied with, the FHA State Director will advise the State Conservationist by memorandum that the loan has been closed properly, that loan funds are available, and the conditions which must be met before loan funds can be released. A copy of this memorandum will be sent to the borrower. This memorandum will provide that:

(1) All engineering, plans, specifications, and drawings for works of improvement to be installed with loan funds must be approved by the State Director.

(2) The contract entered into by the applicant for materials, labor, or construction of works of improvement to be financed by loan funds must be approved in writing by the State Director.

(c) Change orders: Minor changes during construction which do not appreciably affect the size, cost, or function of a structure may be approved by Soil Conservation Service. The County Supervisor should be kept informed of such changes. The County Supervisor will submit requests for major changes to the State Director for prior approval.

(d) Inspections and deficiencies: (1) The FHA County Supervisor will make inspections as necessary to assure compliance with FHA loan policies and to protect the Government's interests.

(2) The FHA State Director will collaborate with the State Conservationist in arranging for correction of deficiencies.

§ 1823.238 Performing development where financial assistance (cost-sharing) is not provided by Soil Conservation Service.

Upon receipt of the final opinion the County Supervisor will proceed with development in accordance with the policies and procedures contained in Subpart B, Part 1804 of this chapter.

§ 1823.239 Nondiscrimination and equal opportunity.

All applicants and borrowers must comply with all nondiscrimination and equal opportunity requirements under Title VI of the Civil Rights Act of 1964 and the Executive order on equal opportunity in employment under federally assisted construction contracts.

(a) *Loan resolution.* The loan resolution required to be adopted by the applicant will contain the following:

Equal employment opportunity under construction contracts and nondiscrimination in benefits of the Resource Conservation and Development loan. The chairman and the Secretary of the Resource Conservation and Development Authority are hereby authorized and directed to execute on behalf of the authority (a) Farmers Home Administration Form FHA 400-1 entitled "Equal Opportunity Agreement," to which is attached and made a part hereof Farmers Home Administration Form FHA 400-2 entitled "Equal Opportunity Clause," to be incorporated in or attached as rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan; and (b) Farmers Home Administration Form FHA 400-4 entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

(b) *Mortgage or other security instrument.* The mortgage or other security instrument will include a provision to read as follows:

This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution of (Date), which is hereby incorporated herein by reference.

Dated: July 27, 1967.

HOWARD BERTSCH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 67-9255; Filed, Aug. 7, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-WE-35]

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

Designation of Transition Area

On June 28, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 9173) which would amend Part 71 of the Federal Aviation Regulations by designating a transition area in the Douglas, Wyo., area. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed action.

No objections have been received and the proposed regulation is hereby adopted subject to the following change: Delete "§ 71.171" and substitute "§ 71.181" therefor.

Effective date. This amendment shall be effective 0001 e.s.t., October 12, 1967.

Issued in Los Angeles, Calif., on July 31, 1967.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (32 F.R. 2148) the following transition area is added:

DOUGLAS, WYO.

That airspace extending upward from 8,500 feet MSL, bounded on the north by latitude 42°44'00" N., and the east by V-169, on the southeast by V-89, on the south by V-524, on the west by V-19E and on the southwest by V-19E and V-247.

[F.R. Doc. 67-9219; Filed, Aug. 7, 1967; 8:45 a.m.]

[Airspace Docket No. 66-CE-104]

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

Alteration of Federal Airways

On July 11, 1967, F.R. Doc. 67-7943 was published in the FEDERAL REGISTER (32 F.R. 10192) which amended Part 71 of the Federal Aviation Regulations by realigning VOR Federal airways Nos. 15 and 120 via the Mitchell, S Dak., VOR to become effective October 12, 1967.

The Mitchell VOR has been certified for use by IFR traffic. A request has been made by the scheduled air carrier serving Mitchell to advance the effective date of the amendments contained in Airspace Docket No. 66-CE-104 to 0001 e.s.t., September 14, 1967. The Administrator has determined that this minor action would be in the interest of safety and efficient utilization of airspace, and that compliance with the notice requirements of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. 67-7943 (32 F.R. 10192) is amended as follows: "effective 0001 e.s.t., October 12, 1967" is deleted and "effective 0001 e.s.t., September 14, 1967" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 1, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-9220; Filed, Aug. 7, 1967; 8:45 a.m.]

SUBCHAPER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8314; Amdt. 95-157]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective September 14, 1967 as follows:

1. By amending Subpart C as follows:

From, to, and MEA

Section 95.1001 *Direct routes—United States* is amended to read in part:

Mango INT, Fla.; Miami, Fla., I-MIA localizer crs., *2,000. *1,200—MOCA.
Pahokee, Fla., VOR; Shawnee INT, Fla.; *2,200. *1,300—MOCA.

Bahama Routes

54V:
Palm Beach, Fla., VOR; *Basket INT, Fla.; **2,000. *2,500—MRA. **1,400—MOCA.
Basket INT, Fla.; Carey INT, Bahamas; *6,400. *1,200—MOCA.

55V:
Palm Beach, Fla., VOR; Bimini, Bahamas, VOR; *2,000. *1,400—MOCA.

56V:
Nassau, Bahamas, VOR; *Wallace INT, Bahamas; **2,000. *4,000—MRA. **1,400—MOCA.
Wallace INT, Bahamas; *Major INT, Bahamas; **3,000. *3,000—MRA. **1,200—MOCA.
Major INT, Bahamas; *Abaco INT, Bahamas; **8,500. *10,000—MRA. **1,200—MOCA.
Palm Beach, Fla., VOR; Bimini, Bahamas, VOR; *2,000. *1,400—MOCA.
Bimini, Bahamas, VOR; Carey INT, Bahamas; *2,000. *1,300—MOCA.
Carey INT, Bahamas; Nassau, Bahamas, VOR; *2,000. *1,400—MOCA.

58V:
Nassau, Bahamas, VOR; *Morley INT, Bahamas; *2,000. *8,000—MRA. **1,400—MOCA.
*Gorda INT, Bahamas; **Jordon INT, Bahamas; ***4,000. *8,000—MRA. **4,000—MRA. ***1,200—MOCA.
Jordon INT, Bahamas; *Abaco INT, Bahamas; **10,000. *10,000—MRA. **1,200—MOCA.

64V:
Fort Lauderdale, Fla., VOR; Pike INT, Fla.; *2,000. *1,400—MOCA.
Pike INT, Fla.; Akron INT, Bahamas; *4,500. *1,200—MOCA.

From, to, and MEA

65V:

Nassau, Bahamas, VOR; *Wallace INT, Bahamas; **2,000. *4,000—MRA. **1,400—MOCA.

Wallace INT, Bahamas; *Major INT, Bahamas; **3,000. *3,000—MRA. **1,200—MOCA.

Major INT, Bahamas; Freeport, Bahamas, VOR; *2,000. *1,200—MOCA.

Freeport, Bahamas, VOR; *Mullet INT, Fla.; **2,000. *6,500—MRA. **1,200—MOCA.

1 Lima:

Grand Bahamas, Bahamas, AAFB–RBN; Eleuthera, Bahamas, AAFB–RBN; *2,000. *1,300—MOCA.

Eleuthera, Bahamas, AAFB–RBN; San Salvador, Bahamas, AAFB–RBN; *2,000. *1,300—MOCA.

2 Lima:

Int, 091° bearing from Perrine RBN and 111° bearing from Bimini RBN; Nassau, Bahamas, RBN; *2,000. *1,400—MOCA.

Nassau, Bahamas, RBN; San Salvador, Bahamas, AAFB–RBN; *2,000. *1,400—MOCA.

4 Lima:

Int, 091° bearing from Perrine RBN and 111° bearing from Bimini RBN; Nassau, Bahamas, RBN; *2,000. *1,400—MOCA.

Nassau, Bahamas, RBN; Yankee 1 INT, Bahamas; *2,000. *1,400—MOCA.

5 Lima:

Nassau, Bahamas, RBN; Eleuthera AAFB, Bahamas, RBN; *2,000. *1,400—MOCA.

6 Lima:

Nassau, Bahamas, RBN; Thompson INT, Bahamas; *2,000. *1,400—MOCA.

7 Lima:

Nassau, Bahamas, RBN; Thompson INT, Bahamas; *2,000. *1,400—MOCA.

Thompson INT, Bahamas; High Rock INT, Bahamas; *2,000. *1,200—MOCA.

8 Lima:

Pike INT, Bahamas; Akron INT, Bahamas; *2,000. *1,200—MOCA.

11 Lima:

Nassau, Bahamas, RBN; Morley INT, Bahamas; *2,000. *1,400—MOCA.

Morley INT, Bahamas; Abaco INT, Bahamas; *2,000. *1,200—MOCA.

Panama Routes

V–11:

Taboga, Republic of Panama, VOR; Chorrera INT, Republic of Panama; 2,700.

Chorrera INT, Republic of Panama; Mike–5; *3,600. *2,700—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

Van Nuys, Calif., VOR; Bowl INT, Calif.; 4,000.

Int, 349° M rad, Long Beach VOR and 096° M rad, Van Nuys VOR; Long Beach, Calif., VOR; 3,100.

Richmond INT, Calif.; Farallon Island, Calif., LF/RBN; 4,500.

Section 95.1001 *Direct routes—United States* is amended to delete:

Nashville, Tenn., VOR; Pleasant View INT, Tenn.; 3,000.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

*Starfish INT, Ga., Tybee INT, Ga.; **5,000. *3,000—MRA. **1,200—MOCA.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

*Seaweed INT, Wis., Muskegon, Mich., VOR; **2,500. *3,500—MRA. **1,900—MOCA.

Section 95.6004 *VOR Federal airway 4* is amended to read in part:

Salina, Kans., VOR; Fort Riley INT, Kans.; *3,000. *2,800—MOCA.

From, to, and MEA

Fort Riley INT, Kans.; Maple Hill INT, Kans.; *3,000. *2,700—MOCA.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

Fort Myers, Fla., VOR; Arcadia INT, Fla.; *2,000. *1,300—MOCA.

Arcadia INT, Fla.; Lakeland, Fla., VOR; *2,000. *1,500—MOCA.

Lafayette, Ind., VOR; Chicago Heights, Ill., VOR; *2,500. *2,000—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Chicago Heights, Ill., VOR; Goshen, Ind., VOR; *2,600. *2,100—MOCA.

Section 95.6015 *VOR Federal airway 15* is amended to read in part:

Sioux Falls, S. Dak., VOR via W alter.; Mitchell, S. Dak., VOR via W alter.; *3,300. *3,000—MOCA.

Mitchell, S. Dak., VOR via W alter.; Huron, S. Dak., VOR via W alter.; *3,000. *2,600—MOCA.

Sealy INT, Tex., via W alter.; Independence INT, Tex., via W alter.; *2,100. *1,700—MOCA.

Section 95.6017 *VOR Federal airway 17* is amended to read in part:

Bellaire INT, Tex.; Olmos INT, Tex.; *2,500. *2,400—MOCA.

Olmos INT, Tex.; San Antonio, Tex., VOR; *2,500. *2,200—MOCA.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Lafayette, La., VOR; Lulu INT, La.; *1,500. *1,400—MOCA.

Lulu INT, La.; Rond Lake INT, La.; *1,500. *1,000—MOCA.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

Eugene, Oreg., VOR; Turner INT, Oreg.; 3,000.

Turner INT, Oreg.; Aurora INT, Oreg.; 5,000.

Aurora INT, Oreg.; Portland, Oreg., VOR; 4,000.

Section 95.6025 *VOR Federal airway 25* is amended to read in part:

*Ellensburg, Wash., VOR; **Wenatchee, Wash., VOR; 8,600. *6,800—MCA Ellensburg VOR, northbound. **7,100—MCA Wenatchee VOR, southbound.

Section 95.6038 *VOR Federal airway 38* is amended to read in part:

Peotone, Ill., VOR; Monterey, Ind., VOR; *2,600. *2,200—MOCA.

Section 95.6051 *VOR Federal airway 51* is amended to read in part:

Lafayette, Ind., VOR; Chicago Heights, Ill., VOR; *2,500. *2,000—MOCA.

Miami, Fla., VOR; New River INT, Fla.; *2,000. *1,200—MOCA.

New River INT, Fla.; Pahokee, Fla., VOR; *2,000. *1,300—MOCA.

Key West, Fla., VOR; Hondo INT, Fla.; *2,000. *1,300—MOCA.

Hondo INT, Fla.; Harvey INT, Fla.; *2,500. *1,200—MOCA.

Section 95.6068 *VOR Federal airway 68* is amended to delete:

Corpus Christi, Tex., VOR; Pogo INT, Tex.; *1,600. *1,400—MOCA.

Pogo INT, Tex.; Solon INT, Tex.; *1,600. *1,100—MOCA.

From, to, and MEA

Solon INT, Tex.; Armstrong INT, Tex.; *4,000. *1,100—MOCA.

Armstrong INT, Tex.; Mina INT, Tex.; *4,000. *1,400—MOCA.

Mina INT, Tex.; Hargill INT, Tex.; *3,200. *1,400—MOCA. MAA—14,000.

Hargill INT, Tex.; McAllen, Tex., VOR; *1,600. *1,500—MOCA. MAA—14,000.

Armstrong, INT, Tex., via S alter.; Raymondville, INT., Tex., via S alter.; *4,000. *1,300—MOCA.

Raymondville INT, Tex., via S alter.; Harlingen, Tex., VOR via S alter.; *1,600. *1,300—MOCA.

Harlingen, Tex., VOR, via S alter.; McAllen, Tex., VOR, via S alter.; *1,600. *1,500—MOCA.

Section 95.6068 *VOR Federal airway 68* is amended by adding:

Corpus Christi, Tex., VOR; Pogo INT, Tex.; *1,600. *1,400—MOCA.

Pogo INT, Tex.; Solon INT, Tex.; *1,600. *1,500—MOCA.

Solon INT, Tex.; *Armstrong, INT, Tex.; **3,000. *3,000—MRA. **1,500—MOCA.

Armstrong INT, Tex.; Raymondville INT, Tex.; *1,500. *1,400—MOCA.

Raymondville INT, Tex.; Harlingen, Tex., VOR; *1,500. *1,300—MOCA.

Harlingen, Tex., VOR; McAllen, Tex., VOR; 1,900.

Section 95.6092 *VOR Federal airway 92* is amended to read in part:

Chicago Heights, Ill., VOR; Goshen, Ind., VOR; *2,600. *2,100—MOCA.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

Arcadia INT, Fla., via E alter.; Lakeland, Fla., VOR via E alter.; *2,000. *1,500—MOCA.

Bayport INT, Fla., via E alter.; *Richey INT, Fla., via E alter.; **3,000. *2,500—MRA. **1,200—MOCA.

Richey INT, Fla., via E alter.; *Shrimp INT, Fla., via E alter.; **4,000. *4,000—MRA. **1,200—MOCA.

Lafayette, Ind., VOR; Chicago Heights, Ill., VOR; *2,500. *2,000—MOCA.

Section 95.6120 *VOR Federal airway 120* is amended to read in part:

Pierre, S. Dak., VOR; Mitchell, S. Dak., VOR; *3,800. *3,400—MOCA.

Mitchell, S. Dak., VOR; Sioux Falls, S. Dak., VOR; *3,300. *3,000—MOCA.

Section 95.6126 *VOR Federal airway 126* is amended to read in part:

Chicago Heights, Ill., VOR; Goshen, Ind., VOR; *2,600. *2,100—MOCA.

Section 95.6138 *VOR Federal airway 138* is amended to read in part:

Neola, Iowa, VOR; Fort Dodge, Iowa, VOR; *3,300. *2,800—MOCA.

Section 95.6144 *VOR Federal airway 144* is amended to read in part:

Peotone, Ill., VOR; Monterey, Ind., VOR; *2,600. *2,200—MOCA.

Section 95.6152 *VOR Federal airway 152* is amended to read in part:

St. Petersburg, Fla., VOR via N alter.; Dade City INT, Fla., via N alter.; *2,000. *1,400—MOCA.

Dade City INT, Fla., via N alter.; Orlando, Fla., VOR via N alter.; *2,000. *1,900—MOCA.

From, to, and MEA

Section 95.6157 *VOR Federal airway 157* is amended to read in part:

Lakeland, Fla., VOR; Webster INT, Fla.; *2,000. *1,500—MOCA.
Webster INT, Fla.; Ocala, Fla., VOR; *2,000. *1,400—MOCA.
Key West, Fla., VOR; Hondo INT, Fla.; *2,000. *1,300—MOCA.
Hondo INT, Fla.; Harvey INT, Fla.; *2,500. *1,200—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Miami, Fla., VOR; New River INT, Fla.; *2,000. *1,200—MOCA.

Section 95.6163 *VOR Federal airway 163* is amended to read in part:

Bellaire INT, Tex., Olmos INT, Tex.; *2,500. *2,400—MOCA.
Olmos INT, Tex.; San Antonio, Tex. VOR; *2,500. *2,200—MOCA.
Brownsville, Tex., VOR; Rio Hondo INT, Tex.; *1,500. *1,200—MOCA.
Rio Hondo INT, Tex.; Mansfield INT, Tex.; *1,500. *1,100—MOCA.
Mansfield INT, Tex.; *Armstrong INT, Tex.; **3,000. *3,000—MRA. **1,400—MOCA.
Brownsville, Tex., VOR via W alter.; Harlingen, Tex., VOR via W alter.; *1,500. *1,300—MOCA.
Harlingen, Tex., VOR via W alter.; Raymondville INT, Tex. via W alter.; *1,500. *1,300—MOCA.
Raymondville INT, Tex., via W alter.; *Armstrong INT, Tex., via W alter.; **1,500. *3,000—MRA. **1,400—MOCA.
Armstrong INT, Tex.; Solon INT, Tex.; *3,000. *1,500—MOCA.
Solon INT, Tex.; Pogo INT, Tex.; *1,600. *1,500—MOCA.
Pogo INT, Tex.; Corpus Christi, Tex., VOR; *1,600. *1,400—MOCA.

Section 95.6191 *VOR Federal airway 191* is amended to read in part:

Northbrook, Ill., VOR; Int, 017° M rad, Chicago O'Hare VOR and 076° M rad, Northbrook VOR; *2,500. *2,000—MOCA.
Int, 017° M rad, Chicago O'Hare VOR and 076° M rad, Northbrook VOR; Taylor INT, Wis.; *3,000. *2,000—MOCA.

Section 95.6193 *VOR Federal airway 193* is amended to read in part:

Musky INT, Mich.; Pullman, Mich., VOR; *2,300. *1,900—MOCA.

Section 95.6225 *VOR Federal airway 225* is amended to read in part:

Key West, Fla., VOR; Stinger INT, Fla.; *1,500. *1,300—MOCA.
Stinger INT, Fla.; Rivet INT, Fla.; *2,000. *1,200—MOCA.
Rivet INT, Fla.; *Cape Romano INT, Fla.; **3,500. *4,500—MRA. **1,200—MOCA.

Section 95.6241 *VOR Federal airway 241* is amended to read in part:

Dothan, Ala., VOR via W alter.; *Edd INT, Ala., via W alter.; **2,000. *2,400—MCA Dothan VOR, northbound. **1,500—MOCA.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

Miami, Fla., VOR; New River INT, Fla.; *2,000. *1,200—MOCA.
New River INT, Fla.; Pahokee, Fla., VOR; *2,000. *1,300—MOCA.

From, to, and MEA

Section 95.6298 *VOR Federal airway 298* is amended by adding:

Yakima, Wash., VOR; Sunnyside DME Fix, Wash.; 5,000.
Sunnyside DME Fix, Wash.; Pasco, Wash., VOR; *5,000. *4,400—MOCA.

Section 95.6307 *VOR Federal airway 307* is amended by adding:

Pawnee City, Nebr. VOR; Alma INT, Kans.; *5,000. *2,700—MOCA.
Alma INT, Kans.; Emporia, Kans., VOR; *3,000. *2,600—MOCA.
Emporia, Kans., VOR; Chanute, Kans., VOR; *3,000. *2,600—MOCA.

Section 95.6310 *VOR Federal airway 310* is amended by adding:

Greensboro, N.C., VOR; Kimes INT, N.C.; *2,500. *2,100—MOCA.
Kimes INT, N.C.; Chapel Hill INT, N.C.; *2,600. *2,500—MOCA.
Chapel Hill INT, N.C.; Raleigh-Durham, N.C., VOR; *2,100. *2,000—MOCA.
Raleigh-Durham, N.C., VOR; Rocky Mount, N.C., VOR; 2,000.

Section 95.6317 *VOR Federal airway 317* is amended to read in part:

Yakutat, Alaska, VOR; *Malaspina DME Fix, Alaska; 2,000. *4,000—MCA Malaspina DME Fix, westbound.

Section 95.6403 *Hawaii VOR Federal airway 3* is amended to read in part:

Mynah INT, Hawaii, *Jacksons INT, Hawaii; 4,000. *5,200—MCA Jacksons INT, northeastbound.

Section 95.6422 *VOR Federal airway 422* is amended to read in part:

Chicago Heights, Ill.; Knox, Ind., VOR; *2,500. *2,000—MOCA.

Section 95.6430 *VOR Federal airway 430* is amended to read in part:

Minot, N. Dak., VOR; Devils Lake, N. Dak., VOR; *3,600. *3,000—MOCA.

Section 95.6441 *VOR Federal airway 441* is amended to read in part:

St. Petersburg, Fla., VOR via E alter.; Ocala, Fla., VOR via E alter.; *2,000. *1,400—MOCA.

Section 95.6465 *VOR Federal airway 465* is amended by adding:

Elko, Nev., VOR; *Wells, Nev., VOR; 12,000. *12,000—MCA Wells VOR, southwestbound.
Wells, Nev., VOR; Strevell INT, Utah; 12,000.
Strevell INT, Utah; Malad City, Idaho, VOR; southwestbound, 11,000. Northeastbound, 10,000.

Section 95.6494 *VOR Federal airway 494* is amended to read in part:

*Virginia City INT, Nev.; **Hazen, Nev., VOR; ***10,000. *11,000—MCA Virginia City INT, westbound. **9,000—MCA Hazen VOR, southwestbound. ***9,300—MOCA.

Section 95.6494 *VOR Federal airway 494* is amended to delete:

*Hazen, Nev., VOR; Mount Moses, Nev., VOR; **12,000. *9,000—MCA Hazen VOR, southwestbound. **10,700—MOCA.
Mount Moses, Nev., VOR; Elko, Nev., VOR; 12,000.
Elko, Nev., VOR; *Wells, Nev., VOR; 13,000. *12,000—MCA Wells VOR, southwestbound.
Wells, Nev., VOR; Strevell INT, Utah; 12,000.

From, to, and MEA

Strevell INT, Utah; Malad City, Idaho, VOR; southwestbound, 11,000. Northeastbound, 10,000.

Section 95.6520 *VOR Federal airway 520* is amended to read in part:

*Portland, Oreg., VOR; Groves INT, Wash.; eastbound, **7,000. Westbound, **6,500. *4,700—MCA Portland VOR, eastbound. **6,400—MOCA.

From, to, MEA, and MAA

Section 95.7082 *Jet route No. 82* is amended to read in part:

Portland, Oreg., VORTAC; McCall, Idaho, VORTAC; 22,000; 45,000.

Section 95.7096 *Jet route No. 96* is added to read:

Los Angeles, Calif., VORTAC; Ontario, Calif., VORTAC; 18,000; 45,000.
Ontario, Calif., VORTAC; Parker, Calif., VORTAC; 18,000; 45,000.
Parker, Calif., VORTAC; Prescott, Ariz., VORTAC; 18,000; 45,000.
Prescott, Ariz., VORTAC; Winslow, Ariz., VORTAC; 18,000; 45,000.
Winslow, Ariz., VORTAC; Gallup, N. Mex., VOR; 18,000; 45,000.
Gallup, N. Mex., VOR; Cimarron, N. Mex., VORTAC; #20,000; 45,000. #MEA is established with a gap in navigation signal coverage.
Cimarron, N. Mex., VORTAC; Garden City, Kans., VORTAC; 18,000; 45,000.
Garden City, Kans., VORTAC; Salina, Kans., VORTAC; 18,000; 45,000.
Salina, Kans., VORTAC; Kirksville, Mo., VORTAC; 18,000; 45,000.
Kirksville, Mo., VORTAC; Bradford, Ill., VORTAC; 18,000; 45,000.
Bradford, Ill., VORTAC; Joliet, Ill., VOR; 18,000; 45,000.

2. By amending subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

Airway segment: From; to—Changeover point:

Distance; from

V–465 is amended by adding:

Wells, Nev., VOR; Malad City, Idaho, VOR; 40; Wells.

V–494 is amended to delete:

Wells, Nev., VOR; Malad City, Idaho, VOR; 40; Wells.

J–16 is amended by adding:

Portland, Oreg., VORTAC; Pendleton, Oreg., VORTAC; 60; Portland.

J–56 is amended by adding:

Salt Lake City, Utah, VORTAC; Meeker, Colo., VORTAC; 47; Salt Lake City.

J–82 is amended by adding:

Portland, Oreg., VORTAC; McCall, Idaho, VORTAC; 90; Portland.

(Secs. 307, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on July 28, 1967.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-9162; Filed, Aug. 7, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8701]

PART 13—PROHIBITED TRADE PRACTICES

Cole National Corp.

Subpart—Acquiring corporate stock or assets:

§ 13.5 Acquiring corporate stock or assets:

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Cease and desist order, Cole National Corp., Cleveland, Ohio, Docket 8701, June 30, 1967]

Consent order prohibiting a Cleveland, Ohio, wholesaler of replacement keys, key blanks, and key duplicating machines from acquiring any competitor for a period of 10 years without prior Commission approval.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That respondent Cole National Corp., its subsidiaries and affiliates and any successor to substantially all of its assets, for a period of ten (10) years from the effective date of this order, cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole, or any part, of the assets, stock, or other share capital of any firm engaged in the manufacture, production, or wholesale distribution of replacement key blanks, replacements keys, and key duplicating machines, except for purchases in the ordinary course of business.

II. *It is further ordered*, That Cole National, within sixty (60) days from the effective date of this order and at other times as the Commission may require, file with the Commission a report, in writing, setting forth the manner and form in which it has complied with paragraph I of this order.

Issued: June 30, 1967.

By the Commission.

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

[F.R. Doc. 67-9210; Filed, Aug. 7, 1967; 8:45 a.m.]

[Docket No. 8548o.]

PART 13—PROHIBITED TRADE PRACTICES

National Dairy Products Corp.

Subpart—Discriminating in price under section 2, Clayton Act—Price discrimination under 2(a): § 13.737 *Localized price cutting.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, National Dairy Products Corp., New York, N.Y., Docket 8548, June 28, 1967]

Order requiring a major food distributing corporation with headquarters in New York City to cease discriminating in price on a regional basis in the sale of its jellies, preserves, and other food products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent National Dairy Products Corp., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate device, in connection with the sale or offering for sale of jellies, preserves, and any other food product in the product line of its Kraft Foods Division, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from: Discriminating, directly or indirectly, in the price of such products of like grade and quality by selling such products to any purchaser for resale at a price which is less than the price charged any other purchaser for resale at the same level of distribution when such lower price is either the result of a reduction from the regular list price of the products or is the result of a promotional offer involving a concession from regular list price: *Provided, however*, That in addition to the defenses set forth in sections 2(a) and 2(b) of the statute it shall be a defense in any enforcement proceeding instituted hereunder for respondent (1) to establish that its lower price was the result of a promotional offer involving a price concession which does not undercut the lowest net price and/or the terms and conditions resulting from a promotional offer made to the purchaser receiving the lower price by any seller of a competitive product within the previous 12 months or (2) to establish that such lower price does not undercut the lowest price concurrently offered generally throughout the same trading area by any other seller of a competitive product having a substantially smaller annual volume of sales of such products than respondent's annual volume of sales of the product on which the discriminatory price was granted.

It is further ordered, That Count II and Count III of the complaint be, and they hereby are, dismissed.

It is further ordered, That respondent, National Dairy Products Corp., shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist set forth herein.

Issued: June 28, 1967.

By the Commission.[1]

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

[F.R. Doc. 67-9211; Filed, Aug. 7, 1967; 8:45 a.m.]

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[1] Opinion by Commissioner Dixon, dissenting statement of Commissioner Elman, statement of Commissioner MacIntyre, and statement of partial concurrence and partial dissent by Commissioner Jones filed as part of original document.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

FATTY ACIDS

No comments were received in response to the notice published in the FEDERAL REGISTER of May 27, 1967 (32 F.R. 7777), proposing that the food additive regulation regarding fatty acids (21 CFR 121.1070) be amended (1) to provide for the use of an electron capture method as a screening method in lieu of the bioassay method prescribed for determining the presence of chick-edema factor in the identified fatty acids and (2) to delete reference to the gas chromatographic-microcoulometric method heretofore prescribed as a substitute for the bioassay method within certain limitations. The Commissioner of Food and Drugs concludes that the amendments should be adopted as proposed.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1070(b)(2)(ii) and (c)(3) is revised to read as follows:

§ 121.1070 Fatty acids.

* * * * *

(b) * * *

(2) * * *

(ii) As evidenced by the absence of chromatographic peaks with a retention time relative to aldrin (RA) between 10 and 25, using the gas chromatographic-electron capture method prescribed in paragraph (c)(3) of this section. If chromatographic peaks are found with RA values between 10 and 25, the food additive shall meet the requirements of the bioassay method prescribed in paragraph (c)(2) of this section for determining chick-edema factor.

(c) * * *

(3) The gas chromatographic-electron capture method for testing fatty acids for chick-edema shall be the method described in the Journal of the Association of Official Analytical Chemists, Volume 50 (No. 1), pages 216–218 (1967).

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections.

If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9239; Filed, Aug. 7, 1967; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.51—Procurement Authority and Responsibility

GENERAL RESPONSIBILITY OF CONTRACTING OFFICERS

In § 9-1.5103, *General responsibility of contracting officers,* a new paragraph (b) is added, as follows; and paragraphs (b) through (j) are relettered (c) through (k), respectively.

§ 9-1.5103 General responsibility of contracting officers.

* * * * *

(b) Advising the contractor by letter or other appropriate means:

(1) The name of any Contracting Officer's representative, the extent of such representative's authority and any limitations placed thereon;

(2) The name of any site representative or other technical representative designated to provide technical surveillance of the work being performed under the contract, the extent of such representative's authority and any limitations placed thereon.

* * * * *

(Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date: These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 27th day of July 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 67-9207; Filed, Aug. 7, 1967; 8:45 a.m.]

Title 29—LABOR

Chapter IV—Office of Labor-Management and Welfare-Pension Reports, Department of Labor

SUBCHAPTER B—WELFARE-PENSION REPORTS

PART 462—VARIATION FROM PUBLICATION REQUIREMENTS

Subpart B—Variations

RULE AND CONDITIONS OF VARIATION

Pursuant to section 5(a) of the Welfare and Pension Plans Disclosure Act (hereinafter, the Act) (72 Stat. 997, as amended; 29 U.S.C. 304(a)) and the provisions of 29 CFR Part 462, the American Life Convention, 230 North Michigan Avenue, Chicago, Ill., and the Life Insurance Association of America, 488 Madison Avenue, New York, N.Y., submitted a petition on behalf of certain insurance carriers required to certify information in Part III, section C of Annual Report Form D-2 (Revised 1965) pursuant to section 7(g) of the Act (29 U.S.C. 306(g)) and 29 CFR Part 461, and on behalf of administrators of pension benefit plans which utilize such carriers and are required to publish an Annual Report Form D-2 (Revised 1965) containing a completed Part III, section C, requesting that the Secretary of Labor grant a rule of variation for the period of reporting certain information required to be furnished in Part III, section C. The petition was submitted and considered in accordance with 29 CFR 462 and section 5(a) of the Act which permits the Secretary to grant a rule of variation from the reporting requirements of the Act if he finds, on the record after giving interested persons an opportunity to be heard, that specific information on plans of certain kinds "cannot, in the normal method of operation of such plans be * * * made available * * * for the period prescribed in any provision of [the] Act."

The petition noted that the instructions to Part III, section C of Annual Report Form D-2 (Revised 1965) state that the information required to be furnished in that section "must be furnished by the insurance carrier and should be for the period covered by the annual report. If the information is not available for such period, information for the latest completed policy year ending within the Plan year may be provided." It was further noted that Annual Report Form D-2 (Revised 1965) is required to be filed by all employee pension benefit plans covered under section 7 of the Act (29 U.S.C. 306) with calendar, policy or other fiscal years (i.e., plan years) ending on or after December 31, 1966. (See 29 CFR 460.6.) Moreover, pursuant to section 7(g) of the Act (29 U.S.C. 306(g)) and 29 CFR Part 461, insurance carriers are required to certify to the administrators of such plans, within 120 days after the end of the calendar, policy or other fiscal year (i.e., plan year), the information necessary to complete Part III, section C.

In support of the petition, it was asserted that because of the established practice of a great part of the industry, it is only practicable for many insurance carriers to certify much of the information necessary to complete items 3 through 6 of Part III, section C, on the basis of calendar year calculations. Thus, where plan years are not coincident with calendar years, it is not feasible for such insurance carriers to certify to plan administrators, much of the information necessary to complete the above-enumerated items of Part III, section C, on the basis of the period covered by the annual report or for the latest completed policy year ending within the plan year. Where a plan year is coincident with the calendar year or where a plan year overlaps calendar years but ends on or prior to June 30, a further difficulty arises. The insurance carriers involved do not customarily complete calculations for a given calendar year until sometime in the latter part of the succeeding calendar year. As a result, it was asserted that it is not feasible for such insurance carriers to certify within 120 days after the end of the plan year, information necessary to complete the above-enumerated items of Part III, section C, on the basis of the previous calendar year.

On April 26, 1967, notice was published in the FEDERAL REGISTER (32 F.R. 6460) of a proposed variation with respect to the period for the reporting and certification of certain information in Part III, section C of Annual Report Form D-2 (Revised 1965). Interested persons were invited to submit objections with respect to the proposal within 15 days from the date of its publication in the FEDERAL REGISTER. The period for filing objections having elapsed and no objections having been received, and upon consideration of the petition filed, I find that authorization of the variation is necessary and appropriate to carry out the purposes of the Act.

Therefore, pursuant to section 5(a) of the Welfare and Pension Plans Disclosure Act (72 Stat. 997, as amended; 29 U.S.C. 304(a)) and 29 CFR 462, Secretary's Order No. 24-63 (28 F.R. 9172), Secretary's Order No. 25-63 (28 F.R. 9173), Title 29 CFR, Chapter IV, Part 462 is hereby amended by adding new §§ 462.27 and 462.28 to Subpart B, to read as follows:

PERIOD FOR THE REPORTING AND CERTIFICATION OF CERTAIN INFORMATION IN PART III, SECTION C OF ANNUAL REPORT FORM D-2 (REVISED 1965)

§ 462.27 Rule of variation.

Administrators of employee pension benefit plans will no longer be required to report, nor will insurance carriers be required to certify to such administrators, the information necessary to complete items 3 through 6 of Part III, section C of Annual Report Form D-2 (Revised 1965) on the basis of the period covered by the annual report or for the latest completed policy year ending within the Plan year. Instead, the foregoing items of information may be furnished on the following basis:

(a) If the plan year is coincident with the calendar year or ends on or prior to

June 30 of the calendar year, items 3 through 6 of Part III, section C, shall be provided on the basis of the calendar year ending during the immediately preceding plan year;

(b) If the plan year ends on or after July 1 but on or prior to December 30, items 3 through 6 of Part III, section C, shall be provided on the basis of the calendar year ending within the plan year.

§ 462.28 Conditions of variation.

The foregoing variation shall apply:

(a) Only to reporting by plan administrators and certification by carriers of information necessary to complete items 3 through 6 of Part III, section C;

(b) Only where certain data required from the carrier, which is necessary to complete items 3 through 6 of Part III, section C, is calculated on the basis of the line experience for a calendar year, and is not available for certification as otherwise required by Part 461;

(c) Only if all of the information required in items 3 through 6 of Part III, section C, is provided on the basis of the appropriate calendar year and the calendar year for which these items are completed is identified clearly in a footnote on the page containing this information;

(d) Only if all the other information required to be furnished in Part III, section C (including item 2) is furnished on the basis of the period covered by the annual report or for the latest completed policy year ending within the plan year.

This amendment shall take effect on publication in the FEDERAL REGISTER.

Signed at Washington, D.C. this 2d day of August, 1967.

THOMAS R. DONAHUE,
Assistant Secretary of Labor for Labor-Management Relations.

[F.R. Doc. 67-9237; Filed, Aug. 7, 1967; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 121—GRANTS TO STATES FOR THE EDUCATION OF HANDICAPPED CHILDREN

Grants made pursuant to the regulations set forth below are subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (P.L. 88-352).

Part 121 reads as follows:

Subpart A—Definitions

Subpart B—State Plan—General Provisions

Subpart C—Federal Financial Participation

Subpart D—Payment Procedures

AUTHORITY: The provisions in this Part 121 issued under sec. 703, 79 Stat. 57, as renumbered by sec. 161, 80 Stat. 1204, 20 U.S.C. 883. Interpret or apply secs. 601-610, 80 Stat. 1204-1208, secs. 701, 703-705, 79 Stat. 55-58, 80 Stat. 1196, 1197; 20 U.S.C. 871, 881, 883-885.

Subpart A—Definitions

§ 121.1 Definitions.

As used in this part:

(a) "Acquisition" includes purchase, lease, or lease-purchase.

(b) "Act" means the Elementary and Secondary Education Act of 1965 (Public Law 89-10), as amended.

(c) "Commissioner" means the U.S. Commissioner of Education.

(d) "Construction" means (1) erection of new or expansion of existing school facilities, and the acquisition and installation of initial equipment therefor; or (2) acquisition of existing school facilities not owned by any agency or institution making application for assistance under Title VI of the Act; or (3) remodeling and alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing school facilities; or (4) a combination of any two or more of the foregoing.

(e) "Elementary school level" means the educational level at which elementary school education is provided under State law.

(f) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational and related services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include supplies which are consumed in use or which may not reasonably be expected to last longer than 1 year.

(g) "Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

(h) "Handicapped children" includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled or other health impaired children who by reason thereof require special education and related services.

(i) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(j) "Preschool level" means the educational level below that at which elementary education is provided under State law.

(k) "Private elementary or secondary schools" means schools which provide elementary or secondary education as determined under State law, but not including any education provided beyond grade 12, and which are controlled by other than a public authority.

(l) "Public agency" means a legally constituted organization of government under public administrative control and direction.

(m) "School facilities" means classrooms and related facilities (including initial equipment) for the provision of educational services and interests in land (including site grading and improvements) on which such facilities are constructed, except that such term does not mean gymnasiums or similar facilities intended primarily for use for exhibitions for which admission is to be charged to the general public.

(n) "Secondary school level" means the educational level, not beyond grade 12, at which secondary school education is provided under State law.

(o) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(p) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such agency or officer, an

agency or officer designated by the Governor or by State law.

Subpart B—State Plan—General Provisions

§ 121.2 State plan.

(a) *Purpose.* The basic conditions for the payment of Federal funds to a State under Title VI of the Act are (1) a State plan meeting the requirements of Title VI of the Act by providing a program under which funds paid to the State will be expended solely for initiation, expansion, or improvement of programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) for the education of handicapped children at the preschool and elementary and secondary school levels, for administration of the State plan (including State leadership activities and consultative services), and for planning on the State and local level and (2) an annual description of the projected activities to be carried out under the State plan during the forthcoming fiscal year.

(b) *Effect of State plan.* Each State plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made to that State, and the basis for determining the propriety of expenditures of those grant funds.

(c) *Amendments.* The administration of the program carried out under Title VI of the Act shall be kept in conformity with the approved State plan. Whenever there is any material change in the content or administration of the program or when there has been any change in pertinent State law or in the organization, policies, or operations of the State educational agency affecting the program under the plan, the plan shall be appropriately amended.

(d) *Submission.* Each State plan and all amendments thereto shall be submitted to the Commissioner by a duly authorized officer of the State educational agency. Each State plan shall indicate the official authorized to submit plan materials.

(e) *Certificate by the State educational agency.* Each State plan and each amendment thereto shall include as an attachment a certificate by the officer of the State educational agency authorized to submit the plan to the effect that the plan or amendment has been adopted by the State educational agency and that the plan, or plan as amended, will constitute the basis for operation and administration of the activities to be carried out in that State under Title VI of the Act.

(f) *Certificate by the State Attorney General or other appropriate State legal officer.* Each State plan shall also include, as an attachment, a certificate by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency has authority under State law to submit the plan and to administer or to supervise the administration of the plan; that such agency has authority under State law to carry out, directly or through local educational agencies, the activities described therein; and that all plan provisions are consistent with State law.

(g) *Approval by the Commissioner.* The Commissioner will approve each State plan, or amendment thereof, which he determines meets the requirements of Title VI of the Act and the regulations in this part, and will notify the State educational agency of the granting, conditioning, or withholding of approval in each such case. No final action with respect thereto, other than one of approval, will be taken by the Commissioner, however, unless he first notifies the State educational agency of his proposed action and, in connection therewith, affords such agency a reasonable opportunity for a hearing on whether the affected plan or amendment meets such requirements.

(h) *Withholding.* Whenever the Commissioner, after reasonable notice and opportunity for a hearing, finds (1) that the State plan fails to comply with the requirements of Title VI of the Act and the regulations in this part, or (2) that in the administration of the plan there is a failure to comply substantially with any such requirements, the Commissioner will notify the State educational agency that the State will not be regarded as eligible to participate in activities under Title VI of the Act until he is satisfied that there is no longer any such failure to comply.

(i) *Effective date of State plan.* The State plan shall indicate the date on which it shall become effective, which shall in no event be earlier than the date on which the State plan is received in substantially approvable form by the Commissioner.

§ 121.3 Administration by the State educational agency.

(a) *Designation of State educational agency as sole agency.* Each state plan shall give the official name of the State educational agency and provide that the State educational agency will be the sole agency for administering of supervising the administration of the plan.

(b) *Authority and organization.* Each State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer or supervise the administration of the plan and shall describe both the legal and functional relationships between and among the State educational agency, other State agencies, and local educational agencies for the purpose of carrying out the State plan. Citations to, or copies of, all directly pertinent statutes and interpretations of law made by appropriate State officials, whether done by regulation, policy statement, opinion of an appropriate State legal officer, or a court decision, shall be furnished as part of the plan or in the appendix thereto. All copies shall be certified as correct copies by an appropriate official.

(c) *Staff for administration.* The State plan shall describe, by chart or otherwise, the organization of the State educational agency for administration of the State plan. The lines of authority within the administrative unit or units responsible for the programs under the plan shall be shown, together with pertinent administrative arrangements or relationships of such unit or units to the rest of the State educational agency, and to other State and local public agencies utilized to carry out the State plan.

(d) *Duties and qualifications of professional personnel.* Each State plan shall describe the duties of State administrative and supervisory positions, existing and proposed, under the State plan. The plan shall also set forth the required qualifications for all professional administrative and supervisory positions under the State plan. If State statutes or regulations establish such positions and give such information, the plan shall so state.

(e) *Advisory committees.* If State advisory committees are used with respect to one or more aspects of the State plan, the plan shall describe the membership, method of establishment, and duties of such advisory committees.

(f) *Administration and supervision of programs and projects.* Each State plan shall provide that programs and projects initiated, expanded or improved under Title VI of the Act will be administered either (1) directly by the State educational agency to the extent consistent with he limitations in § 121.25, or (2) by local educational agencies with the approval and under the supervision of the State educational agency. These include interdistrict, intercounty, regional, State-local, and interstate projects or programs. The State plan shall describe the policies and procedures to be followed by the State educational agency in initiating, approving, and conducting its own programs and projects; in initiating, reviewing, and approving programs and projects to be administered by local educational agencies; and in assisting and supervising the administration of approved programs and projects. The State plan shall indicate the extent to which two or more local educational agencies may enter into agreements and submit applications for carrying out jointly operated programs and projects under Title VI of the Act.

§ 121.4 Needs of handicapped children.

(a) Each State plan shall provide that the programs and projects initiated, expanded, and improved with funds under Title VI of the Act will be designed to meet the special educational and related needs of handicapped children throughout the State.

(b) In order to meet the special educational and related needs of handicapped children, programs and projects under Title VI of the Act must provide (1) educational services to handicapped children which are in addition to, or distinct from, educational services provided to children who are not handicapped, or (2) other services which are directly related to the provision of educational services and are designed to overcome or ameliorate the handicaps of handicapped children, but only to the extent such other services are necessary to enable handicapped children to

benefit from the educational services available to them, or (3) both.

§ 121.5 Description of present program.

Each State plan shall include (a) a quantitative and qualitative description of present programs and projects for the education of handicapped children in the State, and (b) a quantitative and qualitative description of programs and projects which require initiation, expansion, and improvement in order to meet the special educational and related needs of all handicapped children in the State.

§ 121.6 Standards.

(a) Each State plan shall provide that the programs or projects initiated, expanded, and improved with Federal funds under Title VI of the Act will be of sufficient size, scope, and quality (taking into consideration the special educational and related needs of such children described in §§ 121.4 and 121.5) as to give reasonable promise of substantial progress toward meeting those needs.

(b) Each State plan shall set forth standards relating to the size, scope, and quality of programs and projects conducted in the State under Title VI of the Act and shall provide that all such programs and projects meet those standards.

§ 121.7 Provision of services to handicapped children enrolled in private schools.

(a) Each State plan shall contain an assurance that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision will be made for participation by such children in programs and projects assisted or carried out under Title VI of the Act.

(b) The special educational and related needs of handicapped children enrolled in private elementary and secondary schools, the number of such children who will participate in the programs and projects, and the types of services which will be provided for them shall be determined, after consultation with persons knowledgeable of the needs of those children, on a basis comparable to that used in providing for the participation in programs and projects assisted or carried out under Title VI of the Act by handicapped children enrolled in public elementary and secondary schools.

(c) Programs and projects assisted or carried out under Title VI of the Act shall be designed to include, to the extent consistent with the number of eligible handicapped children enrolled in private elementary and secondary schools in the geographical area served by the program or project, services which will aid in meeting the special educational and related needs of such children; those services may be provided through such arrangements as dual enrollment, educational radio and television, and mobile equipment, and may include professional and subprofessional services.

(d) Public school personnel may be made available in other than public school facilities only to the extent necessary to provide the special educational and related services required by the handicapped children for whose needs such services were designed, and only when such services are not normally provided at the private school. The State or local educational agency providing educational and related services to children in private schools shall maintain administrative control and direction over such services. The special educational and related services provided with funds under Title VI of the Act for eligible handicapped children enrolled in private schools shall not include the payment of salaries of teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall they include the use of equipment, other than mobile or portable equipment, on private school premises or the construction of private school facilities. Subject to the provisions of § 121.23, mobile or portable equipment may be used on private school premises for such period of time within the life of the current program or project for which the equipment is intended to be used as is necessary for the successful participation in that program or project by eligible handicapped children enrolled in private schools.

(e) Any program or project to be carried out in public facilities and involving joint participation by eligible handicapped children enrolled in private schools and handicapped children enrolled in public schools shall include such provisions as are necessary to avoid classes that are separated by the school enrollment or religious affiliations of such children.

§ 121.8 Measurement of educational achievement and evaluation of programs.

(a) *General.* Each State plan shall describe the procedures and techniques to be used in making at least annually an evaluation of the effectiveness of programs carried out under the State plan in meeting the special educational and related needs of handicapped children, including appropriate measurements of educational achievement.

(b) *Measurement of educational achievement and improvement.* The annual evaluation of the effectiveness of programs shall be made by measuring or estimating the educational achievement of the children who participated in the programs or projects. The type of measurement used should be based on some objective standard or norm and should give particular regard to the requirement that each State report to the Commissioner on the effectiveness of the programs in improving the educational achievement of handicapped children. This means that objective measurements shall be used wherever such measurements are appropriate. Where such measurements are not appropriate with respect to the specific goals of a given program, estimates of achievement and improvement shall be made.

(c) *Evaluation of effectiveness of programs.* The evaluation of the effectiveness of a program shall include an evaluation at the State level, as well as at the local level, of the increase in educational opportunities afforded handicapped children throughout the State, and shall, consistent with the nature and extent of participation by children enrolled in private schools, be extended to such children.

§ 121.9 Dissemination and utilization of results of educational research and demonstrations.

Each State plan shall describe the methods to be used by State and local educational agencies in reviewing, selecting, and disseminating to teachers and administrators of handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

§ 121.10 Coordination with other public and private programs and projects.

(a) *State level coordination:* Each State plan shall demonstrate that it was developed by the State educational agency so as to be in coordination with other public and private programs for the education of handicapped children or for similar purposes; and shall assure that the State educational agency will continue to coordinate its activities under the State plan with such other programs. Such other programs shall include, but not be limited to, those of State agencies which are directly responsible for providing free public education for handicapped children and, to the extent practicable, other programs such as community action programs under Title II of the Economic Opportunity Act of 1964.

(b) *Local level coordination:* Each State plan shall assure that the State educational agency will, before approving programs and projects of local educational agencies under Title VI of the Act, (1) determine that the local educational agency has developed its program or project in coordination with other public and private programs for the education of handicapped children or for similar purposes in the areas served by such local educational agencies, and (2) require that local educational agencies will, in the conduct of approved programs and projects, coordinate their activities under the State plan with such other programs.

(c) Interagency cooperation: Each State plan may provide that State and local educational agencies may enter into cooperative arrangements with other State and local educational agencies, including those in another State, to carry out joint programs, projects, or activities necessary and appropriate to carrying out the purposes of Title VI of the Act.

(d) In the coordination with other programs the commingling of funds under Title VI of the Act with funds under such other programs is not authorized, but the simultaneous use of funds under those programs to finance identifiable portions of a single project is permitted.

§ 121.11 Reports and records.

(a) Each State plan shall provide that the State educational agency will make such reports, in such form, and containing such information, as the Commissioner may reasonably require to carry out his functions under Title VI of the Act. Such reports shall include, but not necessarily be limited to, reports of the objective measurements required in § 121.8, the annual description of the projected activities of the State educational agency and local educational agencies required in § 121.2(a), and the financial reports required in § 121.41.

(b) Each State plan shall provide that the State educational agency and the local educational agencies will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports. Such records shall include, but not necessarily be limited to, those required in §§ 121.33, 121.27, 121.31, 121.33, and 121.34.

Subpart C—Federal Financial Participation

§ 121.21 General.

The State plan shall provide that funds allotted to a State pursuant to section 603 of the Act may be used only for the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool and elementary and secondary schools levels by State educational agencies pursuant to § 121.22(a)(1) and local educational agencies pursuant to § 121.22(b)(1), except that not more than 5 percent of the amount allotted to a State for any fiscal year or $75,000 ($25,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, may be expended by the State educational agency for planning and for proper and efficient administration of the State plan pursuant to § 121.22(a)(2) and by local educational agencies for planning at the local level pursuant to § 121.22(b)(2).

§ 121.22 Allowable expenditures.

(a) Funds under Title VI of the Act may be used by the State educational agency for such expenditures as are reasonably necessary (1) for the conduct by it of programs or projects for the education of handicapped children (including evaluation and dissemination of the results thereof), and (2), subject to the limitations in § 121.21, for administration of the State plan and for planning at the State level, including planning or assisting in the planning of programs or projects for the education of handicapped children; approval, supervision, and evaluation of local programs and projects for the education of handicapped children; technical assistance to local educational agencies with respect to the measurements of educational achievement and evaluation of the effectiveness of programs and projects pursuant to § 121.8; dissemination and utilization of the results of educational research and demonstrations pursuant to § 121.9; and other State leadership activities and consultative services.

(b) Funds made available under Title VI of the Act to local educational agencies may be used by those agencies for such expenditures as are reasonably necessary for activities directly related to (1) the conduct of programs and projects for the education of handicapped children which are approved by the State educational agency (including the evaluation and dissemination of the results thereof), and (2) the planning of such programs and projects.

(c) Categories of allowable expenditures referred to in paragraphs (a) and (b) of this section include the following:

(1) Salaries, wages, and other personal service costs of permanent and temporary staff employees and consultants for the performance of services reasonably necessary for the program under Title VI of the Act, including the costs of regular contributions of employers to retirement, workmen's compensation, and welfare funds, and payments for leave earned with respect to time so spent;

(2) Communications;

(3) Utilities;

(4) The purchase of consumable supplies, including stationery;

(5) Printing and acquisition of printed and published materials;

(6) Travel and transportation expenses;

(7) Acquisition (by purchase, lease or lease-purchase) and maintenance and repair of necessary equipment;

(8) Minor alterations in previously completed building space used or to be used in the program under Title VI of the Act when such alterations are needed to make effective use of equipment;

(9) The rental of space in privately and publicly owned buildings to the extent such space is in fact used for activities under Title VI of the Act, subject to the following provisions:

(i) The expenditures for the space are necessary and properly related to the activities of the programs;

(ii) The State or local educational agency will, during the period of occupancy, receive the benefits of the expenditures commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) Expenditures represent a current cost;

(v) In the case of publicly owned buildings, like charges are made to other State or local agencies occupying similar space for similar purposes;

(10) Subject to the limitations in § 121.24, the construction of school facilities essential to the successful carrying out of approved programs or projects.

(d) None of the funds under Title VI of the Act may be used for religious worship or instruction.

§ 121.23 Title to and control over property and funds.

(a) The State plan shall provide that control over the use of funds provided under Title VI of the Act, and title to and administrative control over property acquired with such funds, shall be in a public agency which will exercise such control. Such funds and property shall be used for the purposes of Title VI of the Act, and such a use shall not inure to the benefit of any private school. The incidental use of such property for other purposes is permitted only for related educational purposes on public premises and only so long as such a use does not interfere with the carrying out of a program or project under Title VI of the Act.

(b) The State plan shall provide that equipment acquired with funds under Title VI of the Act may be placed on private school premises for a limited period of time, but the title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising that administrative control, the public agency shall not only keep records of, and account for, the equipment but shall also assure itself that the equipment is being used solely for the purposes of the program or project, and remove the equipment from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the program or project.

(c) The State plan shall provide that the State educational agency will obtain from a local educational agency administering a program or project under Title VI of the Act a satisfactory assurance that the funds provided under Title VI of the Act, and property derived therefrom, will at all times be under the control of, and be administered by, a public agency in accordance with the provisions of the Act and the regulations in this part.

§ 121.24 Construction.

(a) *General.* Each State plan shall provide that a program or project for the education of handicapped children may not include the construction of school facilities unless such construction is demonstrated as being essential in order to assure the success of that program or project. If the construction of school facilities is so demonstrated as being essential for a program or project, that program or project must nevertheless comply with other requirements of Title VI of the Act and the regulations in this part, such as the requirements in this section with regard to labor standards and overall State construction planning and, in relation to the overall program, the requirements in § 121.7 with regard to participation by children enrolled in private schools.

(b) *Manner of construction.* Each State plan shall provide that the State educational agency will not approve or carry out a program or project involving the construction of school facilities unless the construction is functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with school facilities of a similar

type constructed in the State within recent years.

(c) *Consistency with overall State construction.* Each State plan shall provide that the State educational agency will not approve or carry out a program or project involving the construction of school facilities unless it determines that the construction is consistent with overall State plans for construction. It shall not approve such a program or project involving construction, other than minor remodeling, altering, or improving of school facilities, unless the approval is conditioned upon approval of the construction plans and specifications by the State educational agency, and further conditioned upon the award of a construction contract within a reasonable period of time taking into consideration the nature of the program or project to be served by the construction of the school facilities and the magnitude of the construction to be undertaken, which date shall in no event be later than June 30 of the following fiscal year. Such plans and specifications shall be approved only after due consideration has been given to the accessibility of the facilities to, and the usability of them by, handicapped persons and of their compliance with the minimum standards contained in "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" approved by the American Standards Association, Inc., with appropriate usable segments of "Building Standards of the University of Illinois Rehabilitation Center" and "Occupancy Guide-Department of Veterans Benefits, Regional Offices, Veterans Administration," and with such other standards in that regard as the Secretary of Health, Education, and Welfare may prescribe or approve.

(d) *Labor standards.* Each State plan shall provide that the State educational agency shall not approve a program or project involving the construction of school facilities, unless it assures that all laborers and mechanics employed by contractors or subcontractors on such construction will be paid wages at rates not less than those determined by the Secretary of Labor to be prevailing on similar construction in the locality in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); that such contractors and subcontractors will comply with the regulations in 29 CFR Part 3, and include all clauses required by 29 CFR 5.5 (a) and (c) and that the nondiscrimination clause prescribed by Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), will be incorporated in any contract for construction work, or modification thereof, as defined in said Executive order.

(e) *Avoidance of flood hazards.* Each State plan shall provide that, in the planning of the construction of school facilities involving the use of funds under Title VI of the Act, each State and local educational agency will, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 F.R. 10663) and such rules and regulations as may be issued by the Department of Health, Education, and Welfare to carry out those provisions, evaluate flood hazards in connection with such school facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(f) *Competitive bidding.* Each State plan shall provide that all contracts for construction shall be awarded to the lowest qualified bidder on the basis of open competitive bidding except that, if one or more items of construction are covered by an established alternate procedure, consistent with State and local laws and regulations, which is approved by the State educational agency as designed to assure construction in an economical manner consistent with sound business practice, such alternate procedure may be set forth in the State plan as the one to be followed.

§ 121.25 State-supported or State-operated schools for handicapped children.

The State plan shall contain an assurance that funds paid to the State under Title VI of the Act shall not be made available with respect to handicapped children who are eligible for assistance under section 203(a)(5) of Title II of Public Law 874, 81st Congress. Such handicapped children are all children who are in schools operated by a State agency which is directly responsible for providing free public education for handicapped children and those who are in other schools and for whom the schools receive support for their education from such a State agency.

§ 121.26 Use of Federal funds and liquidation of obligations by State or local educational agencies.

(a) Federal funds under Title VI of the Act made available to State and local educational agencies for programs and projects during a fiscal year shall remain available for use by such State and local educational agencies in accordance with paragraph (c) from September 1 of that fiscal year until August 31 following that fiscal year. Grants for construction of school facilities shall remain available for use for that purpose for a reasonable period of time as determined pursuant to § 121.24(c).

(b) Federal funds under Title VI of the Act made available to State and local educational agencies for administration of the State plan and for planning at the State and local levels will remain available for such use from September 1 of that fiscal year until August 31 following that fiscal year, except that fiscal year 1967 funds shall remain available for the term specified in the grant award documents.

(c) For the purposes of this section a use of funds under Title VI of the Act by a State or local educational agency will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property, for the construction of school facilities, or for the performance of work. However, the use of funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be determined on the basis of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(d) Federal funds under Title VI of the Act, except funds made available expressly for the development of State plans, shall not be available for use with respect to binding commitments (other than those relating to personal services, utility services, travel, or the rental of equipment or facilities) entered into, or with respect to personal services, utility services, travel, or the rental of equipment or facilities rendered or performed, by a State educational agency prior to the effective date of the State plan.

(e) Obligations entered into by State and local educational agencies and payable out of funds under Title VI of the Act shall be liquidated during the fiscal year following the fiscal year in which such funds are appropriated unless prior to the end of that following fiscal year the State educational agency reports to the Commissioner the reasons why certain obligations cannot be timely liquidated and, on the basis thereof, the Commissioner extends the time for so liquidating those obligations.

§ 121.27 State fiscal control and audit.

(a) Each State plan shall provide that the State educational agency will, for that agency and local educational agencies, provide for such fiscal control and fund accounting procedures as may be necessary for the proper disbursement of funds paid to the State, and by the State to local educational agencies, under Title VI of the Act.

(b) All expenditures by State and local educational agencies of Federal funds under Title VI of the Act shall be audited either by State auditors or by other appropriate auditors. The State educational agency shall, with due regard for Federal auditing requirements, provide for appropriate audit standards for that purpose. The results of such audits will be used to substantiate State agency records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to substantiate the results of such audits.

§ 121.28 Custody and expenditures of funds.

Each State plan shall designate the officer or officers who will receive and have custody of funds granted to the State under Title VI of the Act, who will pay to State and local educational agencies the amounts due them, and who will pay out the amounts expended by the State educational agency for the performance of its duties.

§ 121.29 Transfer of funds to local agencies.

Each State plan shall set forth the policies and procedures to be used in the payment of funds by the State educational agency to local educational agencies, either as reimbursement for actual

expenditures or as an advance prior to expenditures, for programs and projects for the education of handicapped children or for planning at the local level.

§ 121.30 Proration of costs.

Funds under Title VI of the Act are available only with respect to that portion of any expenditure which is attributable to an activity under the State plan. The State plan shall specify the basis for identifying and the method to be used in prorating expenditures in determining those attributable solely to State plan activities. The State agency shall include in the description of its projected program activities submitted to the Commissioner for each fiscal year its projected expenditures for salaries attributable to State plan activities. The State agency must also maintain records (documented on an after-the-fact basis) to substantiate the proration of expenditures for applicable items such as salaries, travel, rent, and equipment.

§ 121.31 Maintenance of level of support.

The State plan shall set forth policies and procedures which provide satisfactory assurance that funds made available under Title VI of the Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of handicapped children, and in no case supplant such State, local, and private funds. In developing such policies and procedures, the State educational agency shall take into consideration the total or per capita amount of State, local, and private school funds budgeted for expenditures in the current fiscal year for the education of handicapped children as compared with the total or per capita average amount of State, local, and private school funds actually expended for the education of handicapped children in the two most recent fiscal years for which the information is available, with allowances made for decreases in enrollment of handicapped children, contributions of large sums of money from outside sources on a short-term basis, and unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities.

§ 121.32 Retention of records.

(a) *General rule.* Each State and local educational agency receiving funds under Title VI of the Act shall provide for keeping accessible and intact all records supporting claims for Federal funds under Title VI of the Act or relating to the accountability of the grantee for the expenditure of such funds:

(1) For 3 years after the close of the fiscal year in which the expenditure was made; or

(2) Until the State educational agency is notified that such records are not needed for administrative review, whichever is the later.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and such adjustments have been reviewed and approved by the Department of Health, Education, and Welfare.

§ 121.33 Inventories of equipment.

(a) Each State and local educational agency shall maintain an inventory of all equipment acquired with funds under Title VI of the Act and placed in the temporary custody of persons in a private school. Such inventories shall be maintained until the equipment is discharged from such custody, and, if costing $100 or more per unit, for the expected useful life of the equipment or until its disposition.

(b) Each State educational agency and each local educational agency shall maintain inventories of all other equipment acquired by it with funds under Title VI of the Act, and costing $100 or more per unit, for the expected useful life of the equipment or until its disposition.

(c) The records of inventories required by this section shall be subject to the retention requirements of § 121.32.

(d) All proceeds from the sale of property for which an inventory is being maintained pursuant to the provisions of this section, and the net proceeds from the rental of such property, shall be credited to the Federal Government.

§ 121.34 Adjustments.

The State agency in its maintenance of program expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State agency's financial reports filed with the Commissioner.

§ 121.35 Financial interest of officials.

No board or staff member of a State or local educational agency may participate in an administrative decision with respect to a program or project under Title VI of the Act if such a decision can be expected to result in any benefit or remuneration, such as a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or any member of his immediate family.

§ 121.36 Copyrights and patents.

(a) Any material of a copyrightable nature produced with financial assistance under Title VI of the Act shall be subject to such copyright policy of the U.S. Office of Education as is in effect at the time.

(b) Any materials of a patentable nature produced through a project with financial assistance under Title VI of the Act shall be subject to the provisions of 45 CFR Parts 6 and 8.

Subpart D—Payment Procedures

§ 121.41 Financial reports.

Each State agency shall submit, in accordance with procedures established by the Commissioner:

(a) Following the end of the fiscal year, a report of the total expenditures made under the State plan during the fiscal year; and

(b) Such other reports as are needed.

§ 121.42 Payments of funds under Title VI of the Act.

Funds paid under Title VI of the Act for amounts expended by a State to carry out its State plan will be limited to the amount necessary to meet current needs for disbursement.

§ 121.43 Withholding of funds.

Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any Federal requirements.

§ 121.44 Reallotment.

(a) *General.* The amount of any State's allotment under Title VI of the Act for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment, from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under Title VI of the Act for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such years and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment by the Commissioner under Title VI of the Act, each State agency administering a program under Title VI of the Act shall, if requested, submit to the Commissioner by such date or dates as he may specify a statement or statements showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. The statement or statements shall contain such further information as the Commissioner may request for the purpose of making reallotments.

Dated: June 2, 1967.

[SEAL] J. GRAHAM SULLIVAN,
Acting U.S. Commissioner of Education.

Approved: August 2, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-9238; Filed, Aug. 7, 1967; 8:47 a.m.]

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Mississippi

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing," three additional places for filing in Mississippi:

MISSISSIPPI

County; place for filing; beginning date.
* * * * *
Marshall; Holly Springs—Post Office Building; August 8, 1967.
Wilkinson; Woodville—Post Office Building; August 8, 1967.

(Secs. 7 and 9 of the Voting Rights Act of 1965; P.L. 89–110)

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

[F.R. Doc. 67–9330; Filed, Aug. 7, 1967; 10:07 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Piedmont National Wildlife Refuge, Ga., and Chincoteague National Wildlife Refuge, Va.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

GEORGIA

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of wild turkey on the Piedmont National Wildlife Refuge, Georgia, is permitted only on the area designated by signs as open to hunting. This open area, comprising 31,500 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of wild turkey subject to the following special conditions:

(1) Turkeys of either sex may be taken during the open period October 21, 23, and 24, 1967.

(2) Bag limits: Only one turkey per hunter may be taken during the 3-day hunt.

(3) Dogs are prohibited.

(4) Hunters will be allowed on the portions of the refuge open for turkey hunting from 6:30 a.m. to 8 p.m., e.d.t. on hunting days only.

(5) Camping and fires are restricted to the designated camping area in Compartment 19. The camping area will be open October 20 through 25.

(6) Turkeys killed must be checked out at refuge headquarters before hunters leave the area.

(7) Hunters not having reached their 18th birthday must be accompanied by an adult.

(8) Submission of an individual's name more than one time for this hunt shall be cause for rejecting all his applications and is also a violation of these regulations.

(9) Hunt permits are nontransferable.

(10) Apprehension of permittee for any infraction of refuge regulations shall be cause for immediate revocation of this hunt permit by any officer authorized to enforce refuge regulations.

A Federal permit is required to enter the public hunting area. Permits will be limited to 1,000 for the hunt and shall be issued to hunters selected by an impartial drawing from applications received. Applications must be on the form obtainable from Piedmont Refuge Headquarters, Round Oak, Ga. 31080. Each application must bear the signature of the applicant.

Applications must be in office of the Piedmont National Wildlife Refuge, Round Oak, Ga. 31080 by 4:30 p.m. on September 11, 1967.

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 25, 1967.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

GEORGIA

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Piedmont National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. This open area, comprising 31,500 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 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) Season—(a) Bow and arrow—September 30 through October 11, 1967. (b) Gun and archery—November 4, 6, 7, and 27, 1967.

(2) Species and season limit—(a) Bow and arrow; two deer, either sex. (b) Gun and archery; two deer, bucks with antlers, except the season on November 27 is one deer of either sex.

(3) Weapons—Sidearms and buckshot may not be used or possessed.

(4) Additional species—Bobcats, foxes, and raccoons may be taken on the bow and arrow hunt September 30 through October 11, 1967.

(5) Dogs on leash may be used to track wounded game only on the bow and arrow hunt. Advance permission in writing must be obtained from the Refuge Manager prior to bringing a dog on the refuge. Dogs are not permitted on the gun and archery hunt.

(6) Camping and fires are restricted to the designated area in Compartment 19 during the period of September 22–25, September 29–October 12, October 27–November 9, and November 26–28, 1967.

(7) Hunters are allowed on the refuge only on hunting days from 6 a.m. to 7:30 p.m., e.d.t., during the archery hunt, September 30–October 11, 1967 and from 5:30 a.m. to 7 p.m., e.s.t., during the gun and archery hunt, November 4, 6, 7, and 27, 1967.

(8) All deer killed must be checked out at refuge headquarters on the day killed.

(9) Loaded firearms are prohibited in vehicles on refuge roads.

(10) Hunters not having reached their 18th birthday must be accompanied by an adult.

(11) Hunters shall furnish and wear red, orange, or yellow caps, coats, or hats while hunting on the refuge November 4, 6, 7, and 27, 1967.

(12) Apprehension for infraction of refuge regulations shall be cause for immediate revocation of refuge hunting privileges by any officer authorized to enforce these regulations.

(13) A Federal permit is required to enter the public hunting area on November 4, 6, 7, and 27, 1967. Permits will be limited to 4,000 for the hunt and will be issued to hunters selected by an impartial public drawing from applications received. Applications must be on form obtainable from Piedmont Refuge Headquarters, Round Oak, Ga. 31080. Each application must bear the signature of the applicant. Permits are nontransferable. Submission of an individual's name more than one time for this hunt shall be cause for rejecting all his applications and is also a violation of these regulations. Application must be in the office of the Piedmont National Wildlife Refuge, Round Oak, Ga. 31080 by 4:30 p.m., e.d.t., on October 9, 1967.

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 November 28, 1967.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Public hunting of Sika deer on the Chincoteague National Wildlife Refuge, Va., is permitted only on the area designated by signs as open to hunting. This open area, comprising 8,496 acres, is delineated on maps available at refuge headquarters, Chincoteague, Va., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of Sika deer subject to the following conditions:

(1) Species to be taken: (a) Sika deer, either sex; (b) free ranging goats.

(2) Bag limits: (a) Sika deer, one per license year, either sex; (b) goats, no limit, except that goat hunting prohibited after hunter takes his deer.

(3) Season: (a) Bow and arrow only—4 days, October 11–14, 1967. (b) Shotgun or bow and arrow—2 days, October 20–21, 1967.

(4) Weapons: Archers must use broadhead arrows with blades at least seven-eighths inch wide and bows having a minimum pull of 35 pounds at 27 inches draw. Archers may not have firearms in their possession during the 4-day bow and arrow hunt, October 11–14, 1967. Shotguns, 20 gage or larger and not capable of holding more than three shells will be permitted during the shotgun hunt, October 20–21. Slugs or buckshot no smaller than No. 1 buck will be permitted. Any weapon which is a combination rifle-shotgun is prohibited. 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: (a) Bow and arrow—6:45 a.m.–6:30 p.m., e.d.t. (b) Shotgun or bow and arrow—7 a.m.–6:15 p.m., e.d.t.

(7) All hunters must check out at the check station before leaving the refuge. Hunters must be checked out by 7:15 p.m., e.d.t.

(8) Carrying loaded firearms in or on or shooting from a vehicle is prohibited.

(9) Shooting within 100 yards of the public beach road or the deer check station is prohibited.

(10) Camping and fires are prohibited.

(11) Hunters must furnish and wear red, yellow, or orange caps, hats, coats, shirts, or vests on hunting areas at all times—except archers during the bow and arrow season, October 11–14.

(12) All hunters under 18 years old must be accompanied by an adult.

(13) All hunters must enter and leave the refuge by the Assateague Channel bridge. Entering and leaving the refuge by boat 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 October 22, 1967.

JAMES R. FIELDING,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 31, 1967.

[F.R. Doc. 67-9236; Filed, Aug. 7, 1967; 8:46 a.m.]

PART 32—HUNTING

Wheeler National Wildlife Refuge, Ala.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of raccoons, opossums, and foxes only is permitted on the entire land area of the refuge. This open area comprising approximately 13,850 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of raccoons, opossums, and foxes subject to the following conditions:

(1) The open season for hunting the game listed above extends from February 1, 1968 through February 10, 1968, Sunday excluded.

(2) Hunting during the above period shall be between the hours 7 p.m. and 5 a.m. each day only.

(3) A Federal permit is required to enter the refuge with firearms. Only the party leader of each hunting party will be allowed to carry a firearm. Five-Hundred permits will be issued on a first come, first serve basis. These may be obtained by writing the Wheeler National Wildlife Refuge Office, Post Office Box 1643, Decatur, Ala. 35601, prior to February 1 or by applying in person on or after February 1. Only one permit will be required per hunting party and the permittee may take with him as many others as he chooses.

(4) Shotguns only will be used and will be limited to one per hunting party. Gage size may not exceed 28.

(5) Axes, saws, and shotgun shells loaded with larger than No. 8 shot may not be brought on the area during this hunt. No live timber may be cut.

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 10, 1968.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of quail, crows, and foxes only is permitted on the entire land area of the refuge. This open area comprising approximately 13,850 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of quail, crows, and foxes subject to the following conditions:

(1) The open season for hunting this game will be February 17 and 19, 1968 only.

(2) During the above open season, hunting may take place only between the hours of 8 a.m. and 5 p.m.

(3) No shooting is allowed within 100 yards of private residences adjoining the refuge boundary.

(4) A Federal permit is required to enter the refuge with firearms. Three-hundred permits will be issued and a drawing will be held February 8 to determine successful applicants. To apply for a permit, write a single postcard requesting quail hunt permit and addressed to Wheeler National Wildlife Refuge, Post Office Box 1643, Decatur, Ala. 35601. To be eligible for drawing, postcard requests must be received by February 7. A single permit covers both hunt dates.

(5) Only shotguns may be used and these may be loaded with not larger than No. 7½ shot and no shells containing larger shot sizes will be permitted on the refuge area during this hunt.

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 20, 1968.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of rabbits, foxes, and crows is permitted on the entire land area of the refuge. This open area comprising approximately 13,850 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits, foxes, and crows subject to the following conditions:

(1) The open season for hunting the game listed above extends from February 20, 1968 through February 24, 1968.

(2) Hunting during the above period shall be between the hours of 8 a.m. and 5 p.m. only.

(3) A Federal permit is required to enter the refuge with firearms. A maximum of 600 permits will be issued. A drawing will be held on February 12 to determine successful applicants. To obtain permits, a single postcard requesting a rabbit hunt permit should be addressed to Wheeler National Wildlife Refuge, Post Office Box 1643, Decatur, Ala. 35601. To be included in the drawing, cards must be received by February 10. A single permit covers the entire hunt period.

(4) Only shotguns may be used and these must not be loaded with larger than No. 6 shot nor shells containing larger than No. 6 shot brought on the refuge during the hunt.

(5) No shooting is permitted within at least 100 yards of private homes 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 24, 1968.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of gray squirrels, foxes, and crows is permitted on the entire land area of the refuge. This open area comprising approximately 13,850 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Regulations governing the hunting of squirrels, foxes, and crows shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting the game listed above extends from October 16 through October 21, 1967.

(2) The use of dogs is not permitted.

(3) No shooting is allowed within 100 yards of private residences adjoining the refuge boundary.

(4) A Federal permit is required to enter the refuge with firearms. One-thousand permits will be issued, each covering the entire hunt period. Applications for these permits must be by postcard and must be received prior to October 4. A drawing will be held to determine successful applicants. Applications must be addressed to the Wheeler National Wildlife Refuge, Post Office Box 1643, Decatur, Ala. 35601.

(5) Shotgun shells loaded with larger than No. 6 shot may not be brought on the refuge during the hunt.

(6) Only gray squirrels, foxes, and crows may be shot on this hunt. 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 21, 1967.

JAMES R. FIELDING,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 31, 1967.

[F.R. Doc. 67-9212; Filed, Aug. 7, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Procedural Regulations

The Commissioner of Food and Drugs proposes that the procedural food additive regulations be revised as set forth below to obtain improvement in the quality and organization of food additive petitions submitted and to expedite their scientific review by the Food and Drug Administration. The need for such revision is based on the following:

A. Almost half of the food additive petitions as originally submitted to the Food and Drug Administration have been incomplete or have not adequately supported the regulation requested and, therefore, have required subsequent supplementation, amendment, withdrawal, or denial.

B. Scientific review of deficient and poorly organized petitions is an unnecessary burden that wastes the time and efforts of both Administration and industry scientists.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1786; 21 U.S.C. 348, 371(a)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), it is proposed that Part 121 be amended by revising §§ 121.7, 121.9, and 121.51 and by adding § 121.50, as follows:

§ 121.7 Food additives for use in feed and drinking water of animals and food additives that are also new drugs, certifiable antibiotic drugs, and/or pesticides.

(a) (1) A substance that is a new drug within the meaning of section 201(p) of the act or an antibiotic drug subject to the certification requirements of sections 502(l) and 507 of the act may also be a food additive within the meaning of section 201(s) of the act because the substance is to be used in the feed of an animal or because its intended use in or on the animal results or may reasonably be expected to result directly or indirectly in it or its conversion product(s) becoming a component of or otherwise affecting the characteristics of a food derived from the animal.

(2) An application for a new drug or an antibiotic drug which substance is also a food additive shall be submitted in the form prescribed by § 130.4 of this chapter (Form FD 356V) and processed in accordance with Parts 130 (new drug) or 146 (antibiotic drug) of this chapter, and the food additive aspects of such applications shall be processed simultaneously.

(3) An application for a new drug or an antibiotic drug which substance is also a food additive shall include a practical, chemical assay method for enforcement of any tolerance provided and, if edible products of food-producing animals are involved, data establishing the residues of the substance or its metabolites in such edible products.

(b) Petitions for food additives that are nondrug substances for use in the drinking water or feed of animals shall be submitted in the form described in § 121.50 and shall be processed in accordance with the procedures prescribed in this Part 121.

(c) Any pesticide chemical added to processed feed for animals for the purpose of affecting such animals will be considered a food additive and new drug subject to approval under sections 409 and 505 of the act. Petitions for such pesticide chemicals shall be submitted and processed in accordance with paragraph (a)(2) of this section.

(d) A new-drug application will not be approved for a use that results in the substance becoming a food additive until a regulation therefor is established under section 409 of the act. A food additive regulation under section 409 of the act will not be established if the additive results from the use of a new drug for which a new-drug application cannot be approved. The new-drug application and the establishment of a regulation regarding the food additive aspects will be acted on simultaneously.

(e) Applications for use of any drug substance in feed or for a drug or antibiotic substance intended to be administered to a food-producing animal shall be submitted to the Bureau of Veterinary Medicine of the Food and Drug Administration for evaluation.

§ 121.9 Food additive master files.

(a) Any person submitting or intending to submit a food additive petition may submit confidential information or information entitled to protection as a trade secret in the form of a "food additive master file." Such master file will be assigned a number and will be retained as available material that may be incorporated in any food additive petition upon request from the person submitting such file.

(b) The material in the master file shall be arranged and indexed by page numbers as if it were a portion of a petition so that specific material may be precisely referenced in any separate subsequent petition.

(c) The analytical methods and a summary of the toxicological basis on which a food additive regulation is based are not considered confidential or entitled to protection as trade secrets.

§ 121.50 Content and form of food additive petitions.

(a) Petitions to be filed under the provisions of section 409(b) of the act shall be submitted in triplicate, in the form described in paragraphs (c) and (d) of this section. Any material submitted in a foreign language shall be accompanied by an accurate English translation. Any published information used in support of the petition shall be submitted in reprint form. The petition must be signed by the petitioner or by an authorized attorney, agent, or official. If the petitioner or such authorized representative does not reside or have a place of business within the United States, the petition 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. All original, unpublished scientific studies supplied in the petition shall include identification of the scientists who did the work and their pertinent qualifications. The omission of any material required by this section shall be noted and the reasons therefor stated.

(b) Information previously submitted by the petitioner to the Food and Drug Administration may be incorporated in subsequent submissions provided specific reference to such information is made by giving the type of submission and the volume, page, and date submitted, and provided that the submission is in a food additive master file kept current by the petitioner, or is in another form of submission not over 10 years old. Confidential material entitled to protection as a trade secret, such as method of manufacture or process information, in food additive petitions or food additive master files furnished by a person other than the petitioner may also be incorporated provided use of such information is authorized in a written statement signed by the person who submitted the information or his successor in interest.

(c) Petitions shall be assembled in the manner prescribed in paragraph (e) of this section and submitted in a form suitable for binding, with all text double spaced on 8 x 10½-inch pages with a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch. The left-hand margin shall be punched for a standard two-hole fastener (2¾-inch span) vertically centered therein. Each section shall have a section divider with index tab thereon bearing the section heading. The pages in each section shall be identified with the letter designation for the section and consecutively numbered.

(d) Petitions shall be transmitted by a cover letter in triplicate in the following form:

Petitions Control Branch,
Food and Drug Administration,
Department of Health, Education, and Welfare,
Washington, D.C. 20204.

GENTLEMEN: The undersigned, _____, submits this petition pursuant to section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act with respect to _____
(Name of food additive and proposed use)

The petition is attached and is submitted in the form described in § 121.50 (21 CFR 121.50) of the food additive regulations.

Sincerely yours,

Petitioner

By _____
(Indicate authority)

Date _____

Countersigned by _____
(Indicate authority)

Post office address _____

_____

Date _____

(e) The food additive petition shall contain:

I. Introduction (on section tab).

A. A detailed table of contents listing all items contained in the petition and the page numbers where located.

B. A well-organized and coherent general summary of the data in the petition and the petitioner's conclusions, presenting a sound basis for the regulation requested and including the following information with references to the pages on which the detailed data in the petition may be found.

1. *Identity and composition.* The name of the additive and the specifications proposed to assure that the substance is of appropriate grade for the intended use and that it is of reproducible composition.

2. *Use.* The purpose which the additive is to serve including an estimate of the maximum as well as the average quantity of the food additive to be expected in the total daily diet of the consumer and including the basis on which the estimate is made.

3. *Technical effect.* Highlights of the data that have been developed to establish that the additive accomplishes the intended technical effect and that the amount sought to be used is no higher than that reasonably necessary to accomplish such intended technical effect.

4. *Methods.* Highlights of the data that establish that the analytical methods provided are practicable regulatory ones adequate to enforce the limitations considered necessary on the use of the additive.

5. *Toxicology.* Highlights of the studies provided to establish the safety of the proposed uses of the additive with an explanation of how the petitioner concludes that the proposed uses are safe, including summaries of any unfavorable results as well as the favorable. The highlights shall include the no-effect levels found in the several species of test animals and the maximum safe level in the diet of the consumer. The margins of safety between the no-effect level in the most sensitive species of test animals and the average level as well as the maximum level likely to occur in the total diet of the consumer should be stated, taking into consideration previously approved food additive uses for the substance and any comparable substances. Also included shall be a summary of the published literature dealing with the safety of the compound. If safety depends upon virtual lack of migration, the rationale shall be explained briefly.

II. Body of the petition.

A. Identity (on section tab).

This section shall identify the additive and the general use or combination of uses for which it is intended (i.e., direct additive, indirect additive, pesticide for food additive application, or radiation) and shall provide the following information, as applicable:

1. *Direct additive*—a. *Nomenclature and formulas.* i. Common or usual name: Unless the name is being proposed as the common or usual name, cite references to compendia that recognize the name as common or usual.

ii. Chemical name in accordance with the nomenclature rules of the Chemical Abstracts Service.

iii. Trade name(s) and other names used for the compound, including those used during experimental testing.

iv. Empirical formula(s).

v. Structural formula(s), if known or proposed.

vi. Molecular weight.

b. *Description of the additive.* i. Complete quantitative composition.

ii. Physical state at room temperature.

iii. Organoleptic characteristics.

iv. Manufacturing process(es), including raw materials and their specifications and the analytical techniques used to check the specifications.

v. Food grade specifications for the additive, including identity, minimum content of the desired component(s), and limitations on reaction byproducts and other impurities including specifically total heavy metals, ars ic, and lead. Each specification and limitation shall be supported by a description of the analytical methods used, including data establishing the accuracy and reliability of these methods. Data from a suitable number of representative production batches of the additive shall be included to establish the range of impurities and byproducts to be expected and to show that the proposed specifications can be met.

vi. Reproducibility of the additive, including the production controls and assays employed to assure that a reproducible product ill be manufactured.

vii. Stability data and, if indicated thereby, any expiration date to be shown on the labeling to assure the identity, strength, quality, or purity of the additive.

2. *Indirect additive*—a. *Nomenclature and formulas.* Indirect additives include substances incidentally present in a final product because of addition for functional use elsewhere in the production operation and substances that may reasonably be expected to become a component of food because of their presence in food-contact surfaces. The following shall be provided for each substance or its reaction product(s) incidentally present in the food from production use and for each substance in the food-contact surface, including polymeric materials, whether present because of addition in the manufacturing or as a result of a chemical reaction during the manufacturing, unless adequate reasons for omission are advanced for particular components.

i. Common or usual name: Unless the name is being proposed as the common or usual name, cite references to compendia that recognize the name as common or usual.

ii. Chemical name(s) in accordance with the nomenclature rules of the Chemical Abstracts Service.

iii. Trade name(s) and other names used for the compound, including those used during experimental testing.

iv. Empirical formula(s).

v. Structural formula(s), if known or proposed.

vi. Molecular weight, including for polymeric substances the molecular weight distribution in the basic resin and the average molecular weights and the methods used in making these determinations.

b. *Description of the additive.* i. Composition of the food-contact surface of packaging material or food-processing equipment.

ii. Physical description of the food-contact surface, packaging, or equipment material.

iii. Manufacturing process, including for food-contact surfaces the raw materials and their specifications that encompass the basic resin polymers and the adjuvents (such as, plasticizers, stabilizers, preservatives, fillers, coloranta, catalysts, etc.), along with the analytical technique used to check the specifications and including for other incidental additives where, how, and why the additive or its precursor has been incorporated into the process.

iv. Specifications for the additive(s) in food-contact surfaces, including their identities, the minimum content of the desired component(s), and limitations or impurities including total heavy metals, monomers, catalyst residues, etc. Each specification and limitation shall be supported by a description of the appropriate analytical methods used, including data establishing the accuracy and reliability of these methods. Data from a suitable number of representative production batches of the food-contact surfaces shall be included to establish the range of impurities and byproducts to be expected and to show that the proposed specifications can be met.

v. Reproducibility of the food-contact surfaces, including the production controls and tests employed to assure that a reproducible product will be manufactured.

3. *Radiation.* This may include radiation of any wavelength in the electromagnetic spectrum.

a. Radiation and radiation source(s) proposed:

i. If an isotope, its identity and the type of encapsulation used.

ii. If a machine source (including source tubes), its complete description.

b. Furnish engineering data providing complete information on the geometry of the radiating mechanism, including the speed of movement by the radiating head, the radioisotope, and the number of curies in the source used (if isotopes), the voltage and amperage used (if machine), and the total time of exposure. A statement of the radiation flux calculated therefrom shall be included.

c. Furnish data providing complete information on the means to be used to control the exposure.

i. In the case of machines, furnish data showing the sensitivity of the means of controlling the power sources and the way in which recorders are coupled to produce records of the operating voltages and amperages.

ii. In the case of isotopes and machines, describe the nature of dosimeter and the frequency of the dosimetry and furnish data showing the dosimetry and phantoms to be used, including those data that show that the dosimeter readings adequately reflect the dose absorbed by the food during exposure.

B. Use (on section tab).

This section shall include information on the amount of the food additive proposed for use and the purposes for which it is proposed together with all directions, recommendations, and suggestions regarding the proposed use. The petitioner shall furnish an estimate of the maximum as well as the average quantity of the food additive to be expected in the total daily diet of the consumer. Supporting assumptions and calculations shall be included. The petitioner shall describe the conditions of use that he concludes are in accordance with good manufacturing practice in any instance

wherein he proposes no stricter limitation. If the usage level is alleged to be without specific limitation, the levels of use under good manufacturing practice shall be supplied.

1. *Direct additives.* In the case of the additives intended to produce an effect in the food, data obtained by adequate methodology shall be submitted showing the fate of the food additive in the food, whether the food additive remains unchanged in such food, or whether it is converted to another substance by reason of oxidation, degradation, or reaction with components of the food or otherwise, and the degree of any such conversion. This section shall include specimens of all labels and labeling proposed for the direct food additive.

2. *Indirect additives.* If transfer to food results or may be reasonably expected to result from the use of a food additive in processing, in packaging material, or in food-processing and handling equipment, the petitioner shall describe the conditions of use in detail with respect to the individual foods or classes of foods contacted. Information on the conditions of use shall include such things as the temperature and period of contact and the ratio of weight of food to contact surface area. The petitioner shall furnish an estimate of the maximum as well as the average quantity of the food additive and its conversion products to be expected in the total daily diet of the consumer. This estimate shall be based on experimental migration data using the food itself or on extraction data using solvents that simulate various types of food. These data shall reflect the most severe conditions as well as the more usual conditions of the proposed usage. The food or the extracts are to be analyzed by methods of adequate sensitivity and reliability for the food additive components of the food-contact surface. Details of the analytical procedure must be furnished including sufficient data to verify the claimed sensitivity and reliability of the methods.

3. *Radiation.* In the case of radiation, this section shall include information on the dose ranges to be used and the purpose for which the radiation is proposed together with all directions, recommendations, and suggestions regarding the proposed use, including information on the Atomic Energy Commission licenses under which any isotopes are used. This section should also include specimens of labeling to be used on the radiation sources and any labeling to be used on the treated food.

C. Technical effect (on section tab).

This section shall be divided into the following subsections:

1. A detailed table of contents for this section. This may be reproduced from the original complete table of contents if the latter is sufficiently detailed.

2. A summary (an explanation) of what the petitioner claims this section shows.

3. An analysis and interpretation of the data provided by the use of tables, charts, graphs, pictures, statistical evaluation, or by whatever means is appropriate, including references to the page numbers of the raw data analyzed and interpreted.

4. The raw data as follows:

a. *Direct additives.* The raw data developed to establish that the food additive will have the intended physical or other technical effect for which it is being added to the food and to establish that the amount requested is not higher than the amount reasonably required to accomplish the intended physical or other technical effect. These data shall include control data in sufficient detail to permit an accurate evaluation of the technical effect of graduated levels of the additive when tested experimentally.

b. *Indirect additives.* If the food additive is a component of a food-contact article (food-packaging material or food-processing and handling equipment), data shall be furnished showing the level of migration. If its migration to food is a function of the concentration of the component in such food-contact article, data shall also be furnished showing that the proposed usage level of the substance in the food-contact article is the level reasonably required to accomplish the intended effect in such article. If residues of a food additive are present in processed food because the additive has been used in the production or processing of food and the residues do not accomplish an intended effect in such processed food, data shall be furnished showing that the proposed tolerance level reflects a reduction of such residues to the extent possible in good manufacturing practice.

c. *Radiation.* In the case of radiation, experimental data shall be submitted showing that the radiation dose proposed accomplishes the intended technical effect and does not exceed the amount reasonably required to accomplish the intended effect.

i. Information shall be included showing that there is no induced radioactivity in the food or packaging material or in the extractants therefrom. This can include a theoretical discussion, but some actual experimental data should be provided to support the theory advanced in the case of packaging materials, and in all cases where radiant energies exceed 10 million electron volts. If different radiation fluxes are to be used, those materials subject to the highest flux and dose contemplated shall be selected for testing for induced radioactivity. A description of the methodology and the sensitivity of the methods used to establish the absence of induced radioactivity in the treated foods or packaging materials shall be furnished.

ii. Data shall be provided to establish the extent, if any, to which the nutritive composition of the irradiated food has been altered by exposure of the food to the highest dose and under the highest fluxes expected. If any such changes are considered insignificant, they should be so designated and the reasons detailed for their claimed insignificance. The methodology employed shall be fully described, including data establishing the sensitivity and reliability of the methods.

iii. Data shall be provided to establish that the irradiated food has not been significantly altered in organoleptic or other physical characteristics so as to render the material otherwise unfit for food. In the case of a food ordinarily stored for a period of time at particular temperatures, data shall be included reflecting the results when the irradiated food is appropriately stored and/or shipped.

iv. Whenever the effect produced is related to a given dose of radiation, the basis upon which that dose is measured shall be included. If no actual dosimetry can be described, a full explanation shall be included detailing the way in which the reported dose has been calculated.

D. Methods (on section tab).

This section shall be divided into the following subsections:

1. The petitioner's evaluation of the analytical method(s) with respect to reliability, accuracy, precision, and practicability as a regulatory method shall be furnished.

2. If usage of the food additive requires a tolerance for the food additive or for a conversion product in order to protect the public health, a practicable regulatory method shall be furnished to enforce the tolerance. A practicable regulatory method is one that will provide satisfactory results within a reasonable period of time considering the rate at which the material sampled may be consumed or otherwise disposed of. It must be satisfactory for application to the raw, processed, and/or finished food; i.e., give consistent results when used by properly equipped and trained laboratory personnel. The method must be capable of quantitatively determining the food additive or the conversion product in the presence of the normal components of the food in which it is to be used and in the presence of any other chemicals, including food additives, that can be reasonably expected to be present in such food. Validation data must be included; i.e., blanks (untreated food) and recoveries (food with additive at various levels, including level of usage). The analytical method shall be written up in stepwise fashion with any critical steps indicated and explained.

3. In the case of an additive that is to be limited only to good manufacturing practice, the petitioner shall provide data on an analytical method suitable for determining the amount that has been added to the food, or provide information purporting to show that the good manufacturing practice level is not likely to be exceeded.

4. In the case of food-contact surfaces, the petitioner shall provide the tests to be used in checking the specifications proposed for the purpose of limiting to safe amounts the migration to food of the components of the food-contact surface.

E. Safety (on section tab).

This section shall contain the following subsections:

1. A detailed table of contents for this section. This may be reproduced from the original complete table of contents if the latter is sufficiently detailed.

2. An explanation of what the petitioner claims this section shows, including:

a. The petitioner's appraisal of the safety data.

b. The no-effect levels found in the several species of test animals.

c. The petitioner's conclusion on the maximum safe level in the diet of the consumer, stating the margin of safety.

3. An analysis and interpretation of the provided data by the use of tables, charts, graphs, statistical review, or any appropriate means. This shall include summaries of both the favorable and unfavorable data, with references to the page numbers of the raw data analyzed and interpreted.

4. The raw data upon which the safety conclusions are based. This section may be regarded as incomplete unless it includes full reports of adequate tests reasonably applicable to establish whether or not the food additive is safe for its intended use. The reports ordinarily shall include detailed data derived from appropriate animal and other biological experiments in which the methods used and the results obtained are clearly set forth. The petition shall not omit without explanation any reports of investigations conducted including any that would bias an evaluation of the safety of the additive.

F. Tolerances-regulation (on section tab).

This section shall contain a proposed regulation in the format established by the Food and Drug Administration, including proposed tolerances, if tolerances are required to assure that the contemplated use of the additive is safe.

G. Amendment (on section tab).

Full information on each proposed change of existing regulations shall be submitted with the changes to be made indicated by bracketing proposed deletions and italicizing revised or added material. Italics may be indicated by underlining.

(f) Data in a petition regarding any method or process entitled to protection as a trade secret will be held confidential and will not be revealed unless it is necessary to do so in a regulation, or in an administrative hearing preliminary to any

judicial proceedings under the act. The scientific bases of safety on which any food additive regulation rests including food additive analytical methods and a summary of the toxicological data are not considered confidential.

§ 121.51 Processing of food additive petitions.

(a) Within 15 days after receipt of three copies of the petition by Petitions Control Branch of the Food and Drug Administration, the petitioner will be notified of the assigned petition number and of the fact that his petition has been filed for scientific review, or will be notified that his petition has not been filed and why. During this period of 15 days, the new petition will be reviewed only for determining that data are present and suitably arranged for an efficient scientific evaluation. Unless otherwise indicated in the filing letter, the date of this notification letter becomes the date of filing of the petition for the purposes of section 409(b)(5) of the act.

(1) If the petition cannot be filed, two of the three copies of it will be returned to the petitioner. One copy of the submitted material will be retained as an official record. The extra copies of the unfiled petition are returned so that if the petitioner supplements the original material, the supplemented petition can be submitted as a completely rearranged and indexed document in triplicate for reconsideration by the Food and Drug Administration.

(2) The petitioner may, after receiving a letter refusing the filing of his petition, return the two copies to the Petitions Control Branch and state in writing that he is resubmitting the petition to be filed over protest. In this case, it will be filed and the petitioner so notified. The fact that the petition has been filed over the Food and Drug Administration's protest will be included in the published notice of filing.

(b) A notice of filing will be published in the FEDERAL REGISTER within 30 days following the petition's filing date. The notice of filing shall contain the name and post office address of the petitioner, the name of the additive(s), and a description of the proposed use(s) in general terms or as appropriate. A copy of the notice will be mailed to the petitioner when the original is signed and forwarded for publicaton in the FEDERAL REGISTER. The publication of the notice of filing is to give notice to interested parties and is required by section 409(b)(5) of the act. The notice of filing is not to be construed as the promulgation of a regulation or amendment to a regulation.

(c) If upon a complete evaluation of the petition the Commissioner determines that additional information or an examination of samples or both are required to resolve questions regarding safety of the use of the additive, or the physical or other technical effect it produces, he may request such information or samples of the food additive, including the food-contact article containing the food additive, substances used as components of the food additive, and the food with which the food additive is used or contacts. The Commissioner will specify in the requests for samples a quantity deemed adequate for any study or investigation reasonably required with respect to the safety of the use of the food additive, or the physical or other technical effect it produces. The date used for computing the 90- or 180-day limit for the purpose of section 409(c)(2) of the act shall be moved forward one day for each day taken by the petitioner to submit the samples requested, beginning with the mailing date of the request. If the information or sample is requested a reasonable time in advance of the 180 days, but is not submitted within such 180 days after filing of the petition, the petition will be considered withdrawn without prejudice. A copy of the notice of withdrawal will be mailed to the petitioner when the original is signed and forwarded for publication in the FEDERAL REGISTER.

(d) If upon completion of the scientific reviews the petition and other relevant data have been found to support a regulation, the Commissioner will forward for publication in the FEDERAL REGISTER, within 90 days of the filing of the petition (or 180 days if the time was extended pursuant to sec. 409(c)(2) of the act), a regulation or amendment to a regulation prescribing the conditions under which the food additive may be safely used including, but not limited to, identification of the particular food or class(es) of food in which or in contact with which such additive may be used, the maximum quantity that may be used or permitted to remain in such food, the manner in which such additive may be added to or used in contact with such food, and any directions or other labeling or packaging requirements for such additive deemed necessary by him to assure the safety of such use, and the Commissioner shall notify the petitioner of such order.

(e) If upon completion of the scientific reviews the petition and other relevant data have not been found to support a regulation, the petitioner will be so informed and given the reason therefor and will be offered an opportunity to withdraw the petition without prejudice to a future filing. If the petitioner does not withdraw the petition within 30 days of such notification, an order denying the regulation may be published in the FEDERAL REGISTER.

(f) If the Commissioner determines within 90 days of filing that additional time is needed to study and investigate the petition, he shall by written notice to the petitioner extend the original evaluation period for not more than 180 days after the filing of the petition.

Any interested person may, within 60 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: August 1, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-9240; Filed, Aug. 7, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AR 032224]

ARIZONA

Notice of Classification of Public Lands for Multiple Use Management

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the public lands described below are hereby classified for multiple use management. These public lands will be managed primarily for their resource values which would be lost if they passed from federal ownership. Publication of this notice has the effect of segregating all the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334); from sale under section 2455 of Revised Statues (43 U.S.C. 1171); from sale under the Act of September 19, 1964 (43 U.S.C. 1421–1427); from private exchange (43 U.S.C. 315g(b)); from state exchange (43 U.S.C. 315g(c)); from state selection (43 U.S.C. 851, 852); from Small Tracts (43 U.S.C. 682a) and from appropriation under the mining and mineral leasing laws. As used in this order, "public lands" mean any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections have been received as a result of the Notice of Proposed Classification (32 F.R. 5707). Therefore, no changes have been made in the list of lands included in this classification.

3. The lands in T. 11 N., R. 28 E., situated in Apache County, lie within the proposed Lyman Lake State Park and have an elevation of approximately 6,000 feet above sea level. The Arizona State Parks have evaluated these lands as having excellent recreation potential.

The remaining parcels are within the immediate vicinity of the Tucson urban area and have been identified by the city of Tucson and Pima County as needed to supplement their proposed park and school system. The lands affected by this classification are located in Pima and Apache Counties and are described as follows:

GILA AND SALT RIVER MERIDIAN

T. 12 S., R. 13 E.,
Sec. 19, lots 3 and 4, E½W½ and E½.
T. 15 S., R. 10 E.,
Sec. 30, lots 1 to 4, inclusive, E½W½ and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½ and E½.
T. 16 S., R. 10 E.,
Sec. 3, lots 1 to 3, inclusive, and lots 5 to 16, inclusive, and S½;
Sec. 4, lot 1 and S½;
Sec. 9, N½;
Sec. 10, N½.
T. 11 N., R. 28 E.,
Sec. 10, NE¼, E½NW¼, NE¼SE¼, and E½NW¼SW¼;
Sec. 14, E½E½, NW¼NE¼, SW¼SE¼, N½SW¼, and SW¼SW¼;
Sec. 15, NE¼NW¼;
Sec. 23, N½NE¼ and SE¼NE¼;
Sec. 26, NW¼, W½NE¼, E½SE¼, and SW¼SE¼;
Sec. 27, W½, NW¼NE¼, and SW¼SE¼.

The lands described aggregate 4,943.50 acres.

4. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721 Washington, D.C. 20240.

RILEY E. FOREMAN,
Acting State Director.

JULY 27, 1967.

[F.R. Doc. 67-9213; Filed, Aug. 7, 1967; 8:45 a.m.]

DEPARTMENT OF JUSTICE

Office of the Attorney General

MARSHALL COUNTY, MISS.

Certification of the Attorney General Pursuant to Section 6 of the Voting Rights Act of 1965 (Public Law 89–110)

In accordance with section 6 of the Voting Rights Act of 1965, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the 15th Amendment to the Constitution of the United States in Marshall County, Miss. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897).

RAMSEY CLARK,
Attorney General of the United States.

AUGUST 5, 1967.

[F.R. Doc. 67-9328; Filed, Aug. 7, 1967; 9:57 a.m.]

WILKINSON COUNTY, MISS.

Certification of the Attorney General Pursuant to Section 6 of the Voting Rights Act of 1965 (Public Law 89–110)

In accordance with section 6 of the Voting Rights Act of 1965, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the 15th Amendment to the Constitution of the United States in Wilkinson County, Miss. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897).

RAMSEY CLARK,
Attorney General of the United States.

AUGUST 5, 1967.

[F.R. Doc. 67-9329; Filed, Aug. 7, 1967; 9:57 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

ROBERTSON'S LIVESTOCK MARKET ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, Location of stockyard, and date of posting

Robertson's Livestock Market, Bethany, Missouri, June 16, 1959.
Harris Auction Company, Henderson, North Carolina, August 26, 1963.
Clinton Cattle Commission Co., Clinton, Oklahoma, April 9, 1959.
Aberdeen Livestock Sales Company, Inc., Aberdeen, South Dakota, November 30, 1949.
Hub City Livestock Sales, Inc., Aberdeen, South Dakota, November 29, 1949.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exception or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C. this 2d day of August 1967.

EDWARD L. THOMPSON,
Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 67-9256; Filed, Aug. 7, 1967; 8:49 a.m.]

Office of the Secretary

ARKANSAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Arkansas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ARKANSAS

Chicot.	Lonoke.
Clay.	Miller.
Craighead.	Mississippi.
Crittenden.	Monroe.
Cross.	Phillips.
Desha.	Poinsett
Drew.	Prairie.
Greene.	Pulaski.
Independence.	Randolph.
Jackson.	St. Francis.
Lawrence.	White.
Little River.	Yell.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 2d day of August 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-9226; Filed, Aug. 7, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0624) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, proposing the establishment of a tolerance of 0.1 part per million for residues of the insecticide *O,O*-diethyl *S*-2-(ethyl-thio)ethyl phosphorodithioate in or on the raw agricultural commodity soybeans.

The analytical method proposed for determining residues of the insecticide is a gas chromatographic technique using a potassium chloride thermionic-emission flame detector after oxidation of the insecticide and its metabolites to the corresponding sulfone.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9241; Filed, Aug. 7, 1967; 8:47 a.m.]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0626) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing a tolerance of 7 parts per million for residues of the herbicide diuron in or on the raw agricultural commodity Bermudagrass.

The analytical procedure proposed in the petition for determining residues of the herbicide is that of H. L. Pease published in the Journal of Agricultural and Food Chemistry, Volume 10 (1962), page 279.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9242; Filed, Aug. 7, 1967; 8:47 a.m.]

HERCULES, INC.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 7F0619) has been filed by Hercules Inc., Wilmington, Del. 19899, proposing the establishment of a tolerance of 0.5 part per million for residues of the of 0.5 part per million for residues of the herbicide norea (3-(hexahydro-4,7-methanoindan-5-yl)-1, 1-dimethylurea) in or on the raw agricultural commodities cottonseed, sorghum (cane, forage and grain), sugarcane, soybeans, and spinach.

The analytical method proposed for determining residues of the herbicide is a colorimetric procedure based on the formation of hexahydro-4,7-mathanoindan-5-amine by alkaline hydrolysis of the extracted residue. This amine is then reacted with 1-fluoro-2,4-dinitrobenzene to yield the corresponding 2,4-dinitrophenyl derivative of the amine, which is then determined colorimetrically by measuring the absorbance of the orange-red color produced in alkaline dimethylformamide.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9243; Filed, Aug. 7, 1967; 8:47 a.m.]

IMPERIAL CHEMICAL INDUSTRIES, LTD., MOND DIVISION

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8A2198) has been filed by Imperial Chemical Industries, Ltd., Mond Division, The Heath, Runcorn, Cheshire, England, proposing the issuance of a regulation to provide for the safe use in tea production of 1,1,1-trichloroethane as a flotation agent for the separation of leaf from stalk.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9244; Filed, Aug. 7, 1967; 8:47 a.m.]

MONSANTO CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7B2185) has been filed by Monsanto Co., Hydrocarbons and Polymers Division, 730 Worcester Street, Indian Orchard, Mass. 01105, proposing an amendment to § 121.2514 *Resinous and polymeric coatings* to provide for the safe use of vinyl acetate-dibutyl maleate copolymers, optionally containing acrylic acid or glycidyl methacrylate, as components of coatings applied to metal foil for use in contact with dry food.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9245; Filed, Aug. 7, 1967; 8:47 a.m.]

ROHM AND HAAS CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0625) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing the establishment of tolerances for residues

of a fungicide that is a coordination product of zinc ion and maneb (manganous ethylenebisdithiocarbamate), containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate), in or on the raw agricultural commodities: Hops at 65 parts per million; apricots, broccoli, brussels sprouts, cabbage, cauliflower, cherries, kohlrabi, peaches, plums, prunes, and nectarines at 12 parts per million; almonds (whole nut) at 10 parts per million of which not more than 0.5 part per million shall be present in the edible nut after the shell is removed; onions, garlic, leeks, and shallots at 7 parts per million; passion fruit at 5 parts per million; guava, mangoes, and persimmons at 3 parts per million; pecans at 0.5 part per million; and asparagus, pineapples, and potatoes at 0.1 part per million.

The analytical methods proposed in the petition for determining residues of the fungicide are based on the procedure of Pease in the Journal of the Association of Official Agricultural Chemists, Volume 40 (1957), page 1113.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9246; Filed, Aug. 7, 1967; 8:47 a.m.]

SHELL CHEMICAL CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8A2197) has been filed by Shell Chemical Co., a division of Shell Oil Co., 110 West 51st Street, New York, N.Y. 10020, proposing the issuance of a regulation to provide for the safe use of 1,3,5-trimethyl-2, 4, 6-tris(3,5-di-*tert*-butyl-4-hydroxybenzyl)benzene as an antioxidant alone or in combination with other permitted antioxidants in food whereby the total amount of all antioxidants added to such food shall not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9247; Filed, Aug. 7, 1967; 8:48 a.m.]

SHELL CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 7F0623) has been filed by Shell Chemical Co., a division of Shell Oil Co., 1700 K Street NW., Washington, D.C. 20006, proposing the establishment of a tolerance of 0.25 part per million for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on tomatoes from postharvest application.

The analytical method proposed in the petition for determining residues of the insecticide is a cholinesterase spectrophotometric method with measurement of the absorbance of the unhydrolyzed acetylcholine chloride remaining by means of the color formed with alkaline hydroxylamine and ferric chloride.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9248; Filed, Aug. 7, 1967; 8:48 a.m.]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 7F0621) has been filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of a tolerance of 0.1 part per million for negligible residues of the herbicide *S*-ethyl diisobutylthiocarbamate in or on fresh corn, including sweet corn (kernels plus cob with husk removed), corn grain (including popcorn), corn forage or fodder (including sweet corn, field corn, and popcorn).

Two analytical methods are proposed in the petition for determining residues of the herbicide: (1) Extraction from crop samples by direct steam distillation followed by determination using a microcoulometric gas chromatographic technique with a sulfur titration cell; and (2) extraction from crop samples by direct steam distillation followed by hydrolysis to diisobutylamine, which is converted to the cupric dithiocarbamate complex and determined spectrophotometrically at 440 millimicrons.

Dated: August 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-9249; Filed, Aug. 7, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Continuance of Hearing on Application for Provisional Construction Permit

The hearing to consider the issuance of a provisional construction permit in the captioned proceeding to Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), of which notice was given in 32 F.R. 9334 and 32 F.R. 10820 published June 30, and July 22, 1967, respectively, has been continued by order of this Atomic Safety and Licensing Board to September 6, 1967, said hearing to be reconvened on that date at 10 a.m., local time, at the Community Building (second floor), 207 Main Street, Brattleboro, Vt.

It is hereby ordered, That notice of this continuance shall be published in the FEDERAL REGISTER.

Issued August 4, 1967, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
VALENTINE B. DEALE,
Chairman.

[F.R. Doc. 67-9299; Filed, Aug. 7, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17353]

PACIFIC ISLANDS LOCAL SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 22, 1967, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Associate Chief Examiner Thomas L. Wrenn.

In order to facilitate the conduct of the conference interested parties are instructed to submit to the examiner and other parties on or before August 18, 1967, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., August 2, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-9229; Filed, Aug. 7, 1967; 8:46 a.m.]

[Docket No. 15574]

REOPENED UNITED-PACIFIC TRANSFER CASE

Notice of Hearing

Notice hereby is given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held September 6, 1967, at 10 a.m. in Room 284, U.S. Court of Appeals and Post Office, Seventh and Mission Streets, San Francisco, Calif.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on September 16, 1966, and other documents which are in the docket of

this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 2, 1967.

[SEAL] HERBERT K. BRYAN,
Hearing Examiner.

[F.R. Doc. 67-9230; Filed, Aug. 7, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-978]

ELECTRO-SCIENCE INVESTORS, INC.

Notice of Application for Order Declaring That Company Is No Longer Investment Company

AUGUST 2, 1967.

Notice is hereby given that Electro-Science Investors, Inc. ("ESI"), Post Office Box 30385, Dallas, Tex. 75230, a closed-end nondiversified investment company registered 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 ESI has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

ESI was organized in August 1960, as a registered closed-end investment company and a licensee under the Small Business Investment Act of 1958. Since September 1962, when it relinquished its license as a Small Business Investment Company, ESI operated as a venture capital company concentrating on the development of its portfolio companies. The application states that as of May 31, 1967, approximately 79 percent of the value of ESI's assets, excluding cash items, was composed of investment in majority-owned or wholly owned subsidiaries. The remaining 21 percent of its assets is comprised of investment securities, some of which ESI has represented will be disposed of in orderly fashion.

Of the 79 percent of ESI's assets comprised of a majority and wholly owned subsidiaries, 70 percent is represented by 52.3 percent of the voting stock and a $250,000 convertible debenture of Whitehall Electronics Corp., which is a manufacturer of electronic equipment and is engaged in aircraft remanufacture. The bulk of the remaining 9 percent is represented by approximately 64 percent of the voting stock of Staco, Inc., which is engaged in the manufacturing of electric equipment.

ESI's major investment security holding is 46.9 percent of the voting stock and $940,000 of notes of Tamar Electronics Industries, Inc., which manufactures electronic and radio equipment. ESI holdings in Tamar amount to 18.5 percent of ESI's assets at May 31, 1967.

At a special meeting held on March 28, 1967, shareholders of ESI voted 3,459,907 to 41,033, of a total of 4,500,000 shares, to approve a proposal to change the nature of ESI's business from that of an investment company to that of an operating company engaged through its majority-owned subsidiaries and controlled companies in manufacturing and other industrial activities.

Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Section 8(f) of the Act provides 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 that upon the effectiveness 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 August 23, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon ESI at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. 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 (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9215; Filed, Aug. 7, 1967; 8:45 a.m.]

[File No. 1-464]

JADE OIL & GAS CO.

Order Terminating Summary Suspension of Trading

AUGUST 1, 1967.

The 50 cents par value common stock and the 6½ percent convertible subordinated debentures due January 1, 1979, with or without warrants attached, listed and registered on the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Jade Oil & Gas Co., being traded otherwise than on a national securities exchange; and

The Commission having, on July 28, 1967, issued an order pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934 summarily suspending trading in said securities effective for the period July 29, 1967, through August 7, 1967, both dates inclusive; and

The Commission being of the opinion that the public interest does not require the continuance of said suspension of trading after August 2, 1967;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that the suspension of trading pursuant to said order of February 7, 1966, shall terminate effective at the opening of business on August 3, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9216; Filed, Aug. 7, 1967; 8:45 a.m.]

[812-2148]

MASSACHUSETTS INVESTORS GROWTH STOCK FUND, INC.

Notice of Filing of Application for an Order Exempting Sale by Open-End Company of Its Shares at Price Other Than Public Offering Price

AUGUST 2, 1967.

Notice is hereby given that Massachusetts Investors Growth Stock Fund, Inc. ("Applicant"), 200 Berkeley Street, Boston, Mass. 02116, a management open-end diversified investment company registered under the Investment Company Act of 1940, 15 U.S.C. section 80a-1, et seq., ("Act") 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 the proposed issuance and delivery of its redeemable securities to Lloyd S. Thornton Co. ("Thornton"), a Michigan corporation, in exchange for substantially all the assets of Thornton, pursuant to a certain Agreement and Plan of Reorganization ("Plan"). Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in its prospectus. Shares of Applicant are offered to the public at a price which includes a sales commission in addition to their net asset value. Since shares of Applicant will be issued to Thornton at net asset value, without a sales commission, an exemption is requested. Under section 6(c) of the Act the Commission may exempt any transaction from the provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of

investors and the purposes fairly intended by the policy and provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

Thornton is a personal holding company having two shareholders. It is not making and does not intend to make a public offering of its stock and is excepted from the Act by reason of the provisions of section 3(c)(1) thereof. There is no connection between Thornton and Applicant and no officer or shareholder of Thornton is an affiliated person of the Applicant.

Pursuant to the Plan, substantially all the assets of Thornton will be transferred to Applicant in exchange for shares of Applicant which will be distributed to Thornton's shareholders upon liquidation. Neither Thornton nor its shareholders have any present intention of redeeming shares of Applicant which will be received. The number of shares of Applicant to be delivered to Thornton will be determined on the basis of the net value of Applicant's shares and the value of Thornton's assets to be transferred, subject to certain adjustments set forth in the Plan, as of the close of business on the New York Stock Exchange on the day preceding the date of closing. If the valuation under the Plan had taken place on May 11, 1967, no adjustment would have been necessary and the value of Thornton's total assets of $946,652 to be exchanged would have equaled 73,371 of Applicant's shares at a net asset value per share of $12.90.

Applicant represents that the price was arrived at by arms-length bargaining and that the consummation of the transaction will be beneficial to its shareholders in that certain of its expenses, which will not rise proportionately with an increase in size of its portfolio, will be spread over a larger number of shares and it will be able to acquire a large block of securities without paying brokerage commissions or affecting the market in such securities.

Notice is further given that any interested person may, not later than August 22, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (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 postponents thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9217; Filed, Aug. 7, 1967; 8:45 a.m.]

UNDERWATER STORAGE, INC.

Order Terminating Summary Suspension of Trading

AUGUST 2, 1967.

The common stock of Underwater Storage, Inc., being traded otherwise than on a national securities exchange; and

The Commission having, on July 31, 1967, issued an order pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934 summarily suspending trading in said security in the over-the-counter market effective for the period August 1, 1967, through August 10, 1967, inclusive; and

The Commission being of the opinion that the public interest does not require the continuance of said suspension of trading after August 3, 1967;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that the suspension of trading pursuant to said order of June 9, 1967, including the applicability to said security of section 15(c)(5) under the Securities Exchange Act of 1934, shall terminate at the close of business on August 3, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9218; Filed, Aug. 7, 1967; 8:45 a.m.]

CIVIL SERVICE COMMISSION

MEDICAL TECHNOLOGIST, BALTIMORE, MD., AREA

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has increased the minimum rates and rate ranges for positions of Medical Technologist, GS-644-5/9. The revised rate ranges are:

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-5	$6,387	$6,563	$6,739	$6,915	$7,091	$7,267	$7,443	$7,619	$7,795	$7,971
GS-6	6,659	6,857	7,055	7,253	7,451	7,649	7,847	8,045	8,243	8,441
GS-7	7,090	7,303	7,516	7,729	7,942	8,155	8,368	8,581	8,794	9,007
GS-8	7,538	7,773	8,008	8,243	8,478	8,713	8,948	9,183	9,418	9,653
GS-9	7,957	8,218	8,479	8,740	9,001	9,262	9,523	9,784	10,045	10,306

[1] Corresponding statutory rate: GS-5—Seventh; GS-6—Fifth; GS-7—Fourth; GS-8—Third; GS-9—Second.

Geographic coverage: Baltimore, Md., Standard Metropolitan Statistical Area which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties, and Baltimore City.

The effective date of the above rate ranges will be the first day of the first pay period beginning on or after July 30, 1967.

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the rates of the statutory rate range shall receive basic compensation at the corresponding numbered rate authorized by this notice on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

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

[F.R. Doc. 67-9231; Filed, Aug. 7, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI68-37 etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JULY 28, 1967.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A below.

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.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before September 15, 1967.

By the Commission.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-37	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221, Attn: Robert E. Wade, Esq.	158	[2] 19	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (West Delta Area, Plaquemine Parish, La.) (Offshore Louisiana).	$24,330	[3] 6-30-67	[4] 8-1-67	1-1-68	[7] 20.0	[5] [6] [7] 20.5	RI64-809.
	do	185	18	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (East and West Cameron, and Vermilion Parishes, La.) (Offshore Louisiana).	192,120	[3] 6-30-67	[4] 8-1-67	1-1-68	[7] 19.0	[6] [7] [8] 20.5	RI64-809.
	do	230	[9] 14	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Grand Isle Area, Jefferson, and Lafourche Parishes, La.) (Offshore Louisiana).	50,367	[3] 6-30-67	[4] 8-1-67	1-1-68	[7] [11] 19.0	[6] [7] [10] 20.5	
		230	[12] 15		2,005	6-30-67	[4] 7-31-67	12-31-67	[7] 19.5	[6] [7] [10] 20.5	
RI68-38	Shell Oil Co., 50 West 50th St., New York, N.Y., Attn: Mr. F. C. Sweat.	215	5	Consolidated Gas Supply Corp. (Bayou Pigeon Field, Iberia Parish, La.) (South Louisiana).	106,763	7-3-67	[14] 8-3-67	1-3-68	[7] 20.625	[6] [7] [13] 23.55	
RI68-39	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	176	16	Transcontinental Gas Pipe Line Corp. (West Cameron Block 110, et al., Cameron, St. Mary, and Terrebonne Parishes, La.) (Offshore Louisiana).	193,582 53,699	7-3-67	[14] 8-3-67	1-3-68	[15] [16] 19.0 [16] [17] 20.625	[6] [17] [18] 21.5 [17] [21] 22.500	
	do	177	4	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (East Cameron Block 62, Cameron Parish, La.) (Offshore Louisiana).	50,735	7-3-67	[14] 8-3-67	1-3-68	[24] 19.0	[6] [25] 21.5	
	do	203	5	Consolidated Gas Supply Corp. (East Cameron Block 4, Cameron Parish, La.) (Offshore Louisiana).	4,921	7-3-67	[14] 8-3-67	1-3-68	[26] [27] 20.625	[6] [21] [24] 22.500	
	do	292	3	Transcontinental Gas Pipe Line Corp. (Pointe Au Fer Field, Terrebonne Parish, La.) (South Louisiana).	6,481	7-3-67	[14] 8-3-67	1-3-68	[26] [27] 20.625	[6] [21] [24] 22.500	
	do	309	[24] [28] 4	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (East Cameron Block 64 and Vermilion Block 46, Cameron and Vermilion Parishes, La.) (Offshore, Louisiana).	345,414 54,078	7-3-67	[14] 8-3-67	1-3-68	[29] [31] 19.0 [31] [32] [33] 20.625	[6] [28] [30] 21.5 [6] [31] [29] [33] 22.500	
	do	374	[30] 2	Transcontinental Gas Pipe Line Corp. (Eugene Island Block 126, St. Mary Parish, La.) (Offshore Louisiana).	7,227 15,899	7-3-67	[14] 8-3-67	1-3-68	[30] 19.0	[6] [37] [38] 20.0 [40] [41] 22.3	

[1] Pertaining to basic acreage and acreage dedicated under Supplement No. 1 thereto upon which a gas severance tax is levied by the State of Louisiana only.

[2] Considered as being filed on July 1, 1967, the expiration date of the moratorium provided in Atlantic's settlement approved by the Commission in Docket Nos. G-11024 et al.

[3] Upon expiration of statutory notice from July 1, 1967, the expiration of the moratorium provided in Atlantic's settlement approved by Commission in Docket No. G-11-24 et al.

[4] Increase to contractually due rate.

[5] Pressure base is 15.025 p.s.i.a.

[6] Subject to a downward B.t.u. adjustment.

[7] "Fractured" rate. Atlantic contractually due periodic rate of 25.4 cents per Mcf.

[8] Pertains only to basic acreage and gas reserves added by Supplement No. 3 thereto.

[9] "Fractured" rate. Atlantic contractually due periodic rate of 22.5 cents per Mcf.

[10] Settlement rate as approved by Commission order issued Dec. 21, 1962, in Docket Nos. G-11024 et al. Moratorium on filing rate increases expired on July 1, 1967.

[11] Pertains only to acreage dedicated under Supplement No. 9.

[12] Initial service rate under conditioned temporary issued Sept. 30, 1966, in Docket No. G-20020, providing for refund obligation to a floor of 18.5 cents.

[13] The stated effective date is the first day after expiration of the statutory notice.

[14] "Fractured" rate. Shell contractually due 24.55 cents per Mcf.

[15] Settlement rate as approved by Commission order issued Mar. 13, 1963, in Docket No. G-17500. Moratorium on filing rate increases expired on July 1, 1967.

[16] "Fractured" rate increase. Seller contractually due 26.0 cents per Mcf plus applicable tax reimbursement.

[17] As to production from acreage under Federal Domain; i.e. not subject to Louisiana tax.

[18] Settlement rate provided for by order issued July 30, 1962, in Docket Nos. G-13746 et al., as amended. Moratorium on filing rate increases expired on July 1, 1962.

[19] As to production from acreage not covered by footnote 18 (that is, gas produced within the taxing jurisdiction of the State of Louisiana).

[20] Inclusive of tax reimbursement.

[21] Inclusive of 1.625 cents tax reimbursement.

[22] "Fractured" rate. Contractually due 25.4 cents per Mcf plus applicable tax reimbursement.

[23] Settlement rate provided by Commission's order issued Aug. 7, 1963, in Docket Nos. G-17625 et al., as amended. Moratorium on filing rate increases expired on June 30, 1967.

[24] "Fractured" rate. Seller contractually due 24.55 cents per Mcf (22.5 cents base plus 2.05 cents tax reimbursement).

[25] Inclusive of 2.05 cents tax reimbursement.

[26] Settlement rate provided for by Commission order issued July 30, 1962, in Docket No. G-13169 et al. Moratorium on filing rate increases expired on July 1, 1967.

[27] "Fractured" rate. Seller contractually due 27.55 cents per Mcf (25.5 cents base plus 2.05 cents tax reimbursement).

[28] "Fractured" rate. Seller contractually due 25.4 cents per Mcf plus applicable tax reimbursement.

[29] As to gas produced from East Cameron Block 64 Area. Not subject to Louisiana taxes.

[30] Settlement rate provided for by Commission's order issued Jan. 2, 1963, in Docket Nos. G-14562 et al., as amended. Moratorium on filing rate increases expired June 30, 1967.

[31] As to gas produced from Vermilion Block 46 Area.

[32] Inclusive of 1.625 cents tax reimbursement.

[33] Applicable to all acreage except acreage by Supplement No. 3.

[34] As amended by filing submitted on July 17, 1967.

[35] Rate increase applicable to acreage dedicated under Supplement No. 1 only.

[36] Periodic rate increase.

[37] As to production from acreage under Federal Domain; i.e. not subject to Louisiana tax.

[38] Initial rate provided by temporary certificate issued Feb. 9, 1967, in Docket No. CI65-833.

[39] Includes 2.3 cents tax reimbursement.

[40] As to production from acreage not covered under footnote 38 above (that is, gas produced within the taxing jurisdiction of the State of Louisiana.

All of the Respondents herein request effective dates for which adequate notice has not been given. Atlantic and Shell also request waiver of the 30-day notice requirements to permit their rates to become effective July 1, 1967. In support, Atlantic states that since its increases are based on periodic not indefinite pricing provisions and three of its increases are fractured rate filings, it should be allowed a July 1, 1967, effective date. Atlantic also contends, in the alternative, that a one day suspension would be appropriate. Shell claims that in view of the moratorium contained in its settlement precluding it from filing its rate increase such increase should become effective July 1, 1967, and if suspended, it should be suspended for only 1 day. Good cause has not been shown for authorizing the requested effective dates, or for waiving the 30-day notice period, or for limiting the suspension period to 1 day, and such requests are therefore denied.

All of the 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)

[F.R. Doc. 67-9175; Filed, Aug. 7, 1967; 8:45 a.m.]

[Docket No. CS67-25 etc.]

PARKER & PARSLEY ET AL.

Findings and Order After Statutory Hearing

JULY 28, 1967.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, severing, and terminating rate proceeding,[1] canceling FPC gas rate schedules, granting relief, and requiring filing of refund assurance.

Each Applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, as more fully set forth in the applications.

Each Applicant is presently authorized to make sales from the Permian Basin area. Therefore, all certificates issued herein shall be effective as of the date of this order.

The certificates heretofore issued to Applicants for sales of natural gas from the Permian Basin area will be terminated, and, where appropriate, the related rate schedules will be canceled. The suspension proceeding in Docket No. RI64-304 will also be terminated inasmuch as it involves a below ceiling rate.

Applicants in many instances are presently authorized to collect rates in excess of the applicable area base rates, which are effective subject to refund in outstanding suspension proceedings. Applicant in Docket No. CS67-95 has filed for an increased rate of 14.69575 cents per Mcf which was suspended in Docket No. RI60-83, but has not made such rate effective subject to refund.

Some of the Applicants have not indicated whether they wish to continue the collection of above ceiling rates in accordance with the principles set forth in the Rodman and Late, et al., Docket No. CS66-48 et al., order issued February 6, 1967. It has been our experience, however, that most small producers desire such relief. Accordingly, Applicants who have above-ceiling rates on file will be allowed to continue collection of rates in excess of the applicable area base rate prescribed in Opinion No. 468, 34 FPC 159, subject to the provisions of this order.[2] Applicant in Docket No. CS67-95 will be allowed to collect the suspended 14.69575-cent rate in Docket No. RI60-83 effective as of the date of this order if Applicant files appropriate refund assurance as hereinafter ordered. However, Applicants are advised that in lieu of their above-ceiling rates, they may collect, upon notification to the Commission within 30 days of this order, a rate not in excess of the applicable area base rate as provided in the small producer certificates.

The above-ceiling rates mentioned above will be subject to rejection as of the date of this order in the event the Permian court stay is dissolved or the moratorium provisions in Opinion Nos. 468 and 468-A are upheld ultimately upon judicial review. The collection of such rates will also be subject to the refund provisions of paragraph (D) of Opinion No. 468, as well as the refund provisions of the applicable suspension proceeding.

The Commission staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice no petition to intervene, notice of intervention, or protest to the granting of the application has been received.

At a hearing held on July 20, 1967, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Applicants are engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and each is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants, together with the construction and operation of any facilities necessary therefor will be subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each Applicant is an independent producer of natural gas who is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with the sales of affiliated producers, were not in excess of 10 million Mcf of natural gas at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants be terminated and, where appropriate, the related rate schedules canceled.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and the delivery of natural gas in interstate commerce by Applicants from the Permian Basin area of Texas and New Mexico, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as the Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(a) The subject certificates shall be applicable only to all present and future "small producer sales", as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area;

(b) Except where otherwise stated herein, sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act; however, Applicants may collect the rates set forth in paragraphs (G) and (I) and for sales authorized prior to September 1, 1965, may file notices of changes in rate for any contractually authorized rates in excess of the ceiling rates, which increased rates shall be subject to suspension pursuant to section 4(e) of the Natural Gas Act and subsequently may be rejected as of the date of filing as provided by the Order Granting Relief, issued February 6, 1967, in Docket No. CS66-48 et al.;

[1] Docket No. RI64-304 is to be severed from the show cause order in Docket No. AR61-1 et al., and terminated.

[2] All of the suspension proceedings listed in the appendix with the exception of Docket No. RI64-304, involve above-ceiling rates.

(c) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the Commission's Regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular producers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provision of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificates issued in paragraph (A) above are effective as of the date of this order.

(F) The certificates heretofore issued to Applicants for sales of natural gas from the Permian Basin area are terminated, Docket No. RI64-304 is severed from the show cause order issued August 5, 1965, in Docket No. AR61-1 et al. and terminated, and, where appropriate, the related FPC gas rate schedules are cancelled as set forth in the appendix below.

(G) Applicant in Docket No. CS67-95 may charge and collect a rate of 14.69575 cents per Mcf under his FPC Gas Rate Schedule No. 1 effective as of the date of this order, subject to refund in Docket No. RI60-83 and to the provisions of paragraph (J), upon compliance with paragraph (H) hereof.

(H) Applicant in Docket No. CS67-95 shall file within 30 days of the issuance of this order in the attached form as refund assurance an agreement and undertaking in Docket No. RI60-83 to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. Applicant shall also comply with the refunding and reporting procedures set forth in § 157.102 of the regulations under the Natural Gas Act.

(I) Applicants in Docket Nos. CS67-25, CS67-79, CS67-92, and CS67-94 shall continue to charge and collect the above ceiling rates involved in the suspension proceedings listed in the appendix subject to refund in such proceedings and to the provisions in paragraph (J) herein.

(J) The rates allowed to be collected under paragraphs (G) and (I) above are subject to rejection as of the date of the issuance of this order in the event the Permian court stay is dissolved or the moratorium provision in Opinion Nos. 468 and 468-A is upheld ultimately upon judicial review. The collection of such rates is also subject to the refund provisions of paragraph (D) of Opinion No. 468 as well as the refund provisions of the appropriate suspension proceedings.

(K) Applicants may collect, in lieu of the rates authorized in paragraphs (G) and (I) upon notification to the Commission within 30 days of this order, a rate not in excess of the applicable area base rates as provided in the small producer certificates.

By the Commission.

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

APPENDIX

Docket No. (1)	Applicant (2)	FPC gas rate schedule to be canceled (3)	FPC gas rate schedule not to be canceled (4)	Certificate docket No. to be terminated (5)	Suspension docket No. not to be terminated (6)	Suspension docket No. to be terminated (7)
CS67-25	Parker & Parsley et al		1	CI65-520	RI65-11 [1]	
CS67-79	Jack Markam et al		1	G-17455	RI60-222 [2]	
CS67-92	Elliott Oil, Inc		2	G-3693	RI64-332 [1]	
					RI60-228 [1]	
		3		G-3693		
CS67-93	Elliott & Hall	1		G-3698		
CS67-94	Elliott Production Co		1	G-14378	RI64-331 [1]	
					RI60-212 [2]	
		2		G-18703		RI64-304 [1]
CS67-95	Fred Turner, Jr		1	G-9129	RI60-83 [2 3]	
		2		G-17981		

[1] Consolidated in the "Order to Show Cause," issued Aug. 5, 1965, in Docket No. AR61-1 et al.
[2] Consolidated in Opinion No. 468.
[3] Rate of 14.69575 cents per Mcf suspended July 4, 1960, but not heretofore made effective subject to refund.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent ----------)

Docket No. ------

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ------ (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto [1]) this ------ day of ---------, 196---.

(Name of Respondent)

By----------

Attest:

[F.R. Doc. 67-9178; Filed, Aug. 7, 1967; 8:45 a.m.]

[1] If a corporation.

[Docket No. CS67-21 etc.]

W. C. TYRRELL, JR. ET AL.

Findings and Order After Statutory Hearing

JULY 28, 1967.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, amending order issuing certificates, terminating proceedings, and canceling FPC Gas Rate Schedules.

Each Applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications.

All Applicants, except those in Docket Nos. CS67-98, CS67-100, and CS67-101, are presently authorized to sell natural gas from the Permian Basin area. The small producer certificates issued to presently authorized Applicants will be effective as of the date of this order. Applicant in Docket No. CS67-100 has filed for future sales to be made from the Permian Basin area but has requested that his interest in sales presently being made

under Alexander G. Kasper & Frank Kell Cahoon (Operator), et al., FPC Gas Rate Schedule No. 1 and related certificate, Docket No. CI62–36, be excluded from the small producer authorization. The certificate issued to Applicant in Docket No. CS67–100 will be effective on the date of initial delivery and Applicant's interest in Docket No. CI62–36 will be excluded from the small producer authorization. The small producer certificates issued to Applicants in Docket Nos. CS67–98 and CS67–101 will also be effective on the date of initial delivery. Applicant in Docket No. CS67–21 has succeeded to the interest of W. C. Tyrrell, Trust. The certificate heretofore issued in Docket No. CS67–21 will be amended to designate W. C. Tyrell, Jr. as certificate holder with the effective date of that designation the date of the transfer of the interest involved.

In accordance with the principles set forth in the order issued February 6, 1967, in Rodman and Late, et al., Docket No. CS66–48 et al., Applicants herein, pending judicial review of Opinion No. 468, 34 FPC 159, will be permitted to file for above-ceiling rates for sales authorized under permanent or temporary certificates prior to September 1, 1965. However, before collecting an above-ceiling rate each Applicant contractually authorized to do such will be required to file a notice of change in rate relating to such sale, as well as requesting reinstatement of the related rate schedule. Any such notice of change in rate will be subject to suspension pursuant to section 4(e) of the Natural Gas Act.

Applicants in Docket Nos. CS67–78, CS67–80, CS67–81, CS67–86, CS67–87, and CS67–88 are presently effecting sales through their (operator's, Pan American Petroleum Corp.) Docket No. G–11564, which docket will be amended to delete the "et al." interest of Applicants and the related rate schedules will be canceled. These Applicants are presently collecting without refund 14.5 cents per Mcf which is equal to the applicable area base rate. Two underlying rates of 13.0504 cents and 14.0552 cents per Mcf were, however, collected subject to refund in Pan American Docket Nos. G–17059 and RI64–293, respectively. Since the present rate is equal to the area base rate, the abovementioned rate proceedings will be terminated insofar as they pertain to the "et al." interests of the subject applications and the Applicants will be relieved of any refund obligations pertaining thereto.

The Commission staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice no petition to intervene, notice of intervention, or protest to the granting of the applications has been received.

At a hearing held on July 20, 1967, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant is engaged in the sale of natural gas in interstate commence for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and each is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants, together with the construction and operation of any facilities necessary therefor will be subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Applicants are independent producers of natural gas who are not affiliated with natural gas pipeline companies and whose total jurisdictional sales on a nationwide basis, together with the sales of affiliated producers, were not in excess of 10,000,000 Mcf of natural gas at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued in Docket Nos. G–3697, G–7228, and G–10363 to Applicants in Docket Nos. CS67–89, CS67–90, and CS67–97, respectively, should be terminated and the related rate schedules canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate heretofore issued in Docket No. CS67–21 should be amended to show W. C. Tyrrell, Jr., et al., as the certificate holder.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate heretofore issued in Docket No. G–11564 should be amended to delete the interests of Applicants in Docket Nos. CS67–78, CS67–80, CS67–81, CS67–86, CS67–87, and CS67–88, and the related rate schedules should be canceled.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by Applicants from the Permian Basin area of Texas and New Mexico, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission, and particularly:

(a) The subject certificates shall be applicable only to all previous and all future "small producer sales", as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area.

(b) Sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act; however, for sales authorized under permanent or temporary certificates prior to September 1, 1965, Applicants may file notices of changes in rate for any contractually authorized rates in excess of the ceiling rates, which increased rates shall be subject to suspension pursuant to section 4(e) of the Natural Gas Act and subsequently may be rejected as of the date of filing, as provided by the order granting relief issued February 6, 1967, in Docket No. CS66–48, et al.

(c) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of

the terms of the contracts, particular as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid to be construed to preclude the imposition of any sanction pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificates issued to Applicants in Docket Nos. CS67–67, CS67–80, CS67–81, CS67–86, CS67–87, CS67–88, CS67–89, CS67–90, and CS67–97 are effective as of the date of this order; the certificates issued to Applicants in Docket Nos. CS67–98, CS67–100, and CS67–101 are effective as of the date of initial delivery. The certificate issued to Applicant in Docket No. CS67–100 does not cover Applicants interest in sales presently being made under Alexander G. Kasper & Frank Kell Cahoon (Operator), et al., FPC Gas Rate Schedule No. 1 and the related certificate, Docket No. CI62–36.

(F) The certificate heretofore issued in Docket No. CS67–21 is amended to show W. C. Tyrrell, Jr., et al., as the certificate holder, effective the date of the transfer of the interest from W. C. Tyrrell, Trust.

(G) The certificates heretofore issued in Docket Nos. G–3697, G–7228, and G–10363 to Applicants in Docket Nos. CS67–89, CS67–90, and CS67–97, respectively, are terminated and the related rate schedules as set forth in the appendix below, are canceled.

(H) The certificate heretofore issued in Docket No. G–11564 is amended to delete the interests of Applicants in Docket Nos. CS67–78, CS67–80, CS67–81, CS67–86, CS67–87, and CS67–88, and the related rate schedules, as set forth in the appendix, are canceled.

(I) Inasmuch as Applicants in paragraph (H) above are collecting a rate which is equal to the applicable area base rate, the suspension proceedings of their operator, Pan American Petroleum Corp., in Docket Nos. G–17059 and RI64–293 are terminated insofar as they pertain to the "et al." interests of said Applicants.

By the Commission.

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

APPENDIX

(1) Docket No.	(2) Applicant	(3) Rate schedule to be canceled	(4) Terminated certificate	(5) Suspension proceedings to be terminated
CS67–21 [1]	W. C. Tyrrell, Jr. et al	1	CS67–21 [2]	
CS67–78 [3]	J. M. Welborn	1	G–11564 [4] [5]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–80 [3]	John J. Christmann	1	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–81 [3]	J. D. Hunter, Trustee	1	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
		2	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–86 [3]	Clifford E. Payne	1	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–87 [3]	George P. Livermore	1	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–88 [3]	Ladenburg, Thalman & Co	1	G–11564 [4]	G–17059 [4] [6] RI64–293 [4] [7]
CS67–89 [3]	Sunshine Royalty Co	1	G–3697	
CS67–90 [3]	King, Warren & Dye	3 and 4	G–7228	
CS67–97 [3]	P. R. Rutherford, Operator et al	4	G–10363	
CS67–98 [8]	W. A. Monerief et al	[9]		
CS67–100 [8]	Alexander G. Kasper	[9]		
CS67–101 [8]	Greathouse, Pierce & Davis			

[1] Effective the date of transfer from W. C. Tyrrell, Trust.
[2] Amended to show new certificate-holder.
[3] Effective date of this order.
[4] Amended to delete the "et al." interest of Applicant.
[5] Consolidated in Opinion No. 468.
[6] Terminated only insofar as it pertains to Applicants herein.
[7] Consolidated in "Order to Show Cause" issued Aug. 5, 1965, in AR61–1 et al.
[8] Effective date of initial delivery.
[9] Applicants interest in sales presently being made under Alexander G. Kasper & Frank Kell Cahoon (Operator) et al., FPC rate schedule No. 1 and related certificate, Docket No. CI62–36, are not covered by this small producer.

[F.R. Doc. 67–9180; Filed, Aug. 7, 1967; 8:45 a.m.]

[Docket No. CP68–27]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

JULY 31, 1967.

Take notice that on July 24, 1967, Florida Gas Transmission Co. (Applicant), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. CP68–27 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of volumes of natural gas in interstate commerce for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate a line tap and meter station, together with necessary appurtenances, at a point adjacent to its 16-inch Jacksonville Lateral pipeline near Marietta, Duval County, Fla. Applicant also seeks authorization to sell and deliver, through the facilities proposed above, volumes of natural gas to Ocean Highway and Port Authority (Authority) for resale and distribution in the communities of city of Fernandina Beach, Yulee, Callahan, Hilliard, Oceanway, San Mateo Subdivision, Garden City, Highlands Subdivision, Dinsmore, Marietta, and their environs, all in the State of Florida, and the city of Folkston, Ga.

Applicant estimates the third year peak daily and annual natural gas requirements of Authority at 6,069 Mcf and 425,365 Mcf, respectively.

Applicant estimates the total cost of the proposed facilities at approximately $32,500, said cost to be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before August 28, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–9208; Filed, Aug. 7, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 3, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41087—*Clay from points in Alabama.* Filed by O. W. South, Jr., agent (No. A5050), for interested rail carriers. Rates on clay, kaolin, or pyrophyllite, in carloads, from Letohatchie and Montgomery, Ala., to Bridgeton, N.J., and points grouped therewith in National Rate Basis tariff 1–A.

Grounds for relief—Market competition.

Tariff—Supplement 267 to Southern Freight Association, agent, tariff I.C.C. S–40.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–9233; Filed, Aug. 7, 1967; 8:46 a.m.]

[Notice 429]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 3, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31389 (Sub-No. 88 TA), filed July 31, 1967. Applicant: McLEAN TRUCKING COMPANY., 617 Waughtown Street, Post Office Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), serving the Hamilton mine site of Island Creek Coal Co. at or near Morganfield, Union County, Ky., as an off-route point in connection with applicant's regular routes extending between Cincinnati, Ohio, and Fulton, Ky.; for 180 days. NOTE: Applicant states that it intends to tack authority sought with that presently held. Supporting shipper: Island Creek Coal Co., West Kentucky Division, Madisonville, Ky. 42431 (R. Y. Welch). Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 206, 327 North Tryon Street, Charlotte, N.C. 28202.

No. MC 40270 (Sub-No. 6 TA), filed July 31, 1967. Applicant: A. J. CRABBS, Route No. 2, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from points in Grady County, Okla., to points in Tex.; for 180 days. Supporting shipper: Farmland Industries, Inc., Transit and Feed Traffic, Post Office Box 7305, Kansas City, Mo. 64116 (C. H. DeKesel, Supervisor). Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 52579 (Sub-No. 79 TA), filed July 31, 1967. Applicant: GILBERT CARRIER CORP., 441 Ninth Avenue, New York, N.Y. 10001. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, from Pearson, Ga., to points in the New York, N.Y., Commercial zone, as defined by the Commission; for 150 days. Supporting shipper: C & H Sportswear Factory, Post Office Box 516, Pearson, Ga. 31642. Send protests to: Stephen P. Tomany, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 66650 (Sub-No. 7 TA), filed July 27, 1967. Applicant: STUART M. SMITH, INC., 3511 East North Avenue, Baltimore, Md. 21213. Applicant's representative: Craig M. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Baltimore, Md., and Hanover, Pa., to Montgomery, Ala.; Branford, Bridgeport, Fairfield, Hartford, Providence, and Wolcott, Conn.; Milford and Wilmington, Del.; Miami and Tampa, Fla.; Atlanta, Decatur, Rockmart, Savannah, and Thomson, Ga.; Evansville and Muncie, Ind.; Lexington and Somerset, Ky.; Lockport, Monroe, New Orleans, Rayne, Shreveport, and Thibodeaux, La.; Abingdon, Annapolis, Baldwin, Brentwood, Cambridge, Cumberland, Hagerstown, Hancock, Ocean City, Paramount, Salisbury, Secretary, Severn, and Westernport, Md.; Boston, Braintree, Brockton, Cambridge, Everett, Fall River, Lynn, Somerville, Westfield, and Worcester, Mass.; Detroit, Flint, Garden City, Jackson, Livonia, and Royal Oak, Mich.; Bedford and Manchester, N.H.; Absecon, Atlantic City, Bellmaur, Brooklawn, Camden, Clifton, East Orange, Elizabeth, Freehold, Fort Lee, Garfield, Garden City, Gloucester, Kearney, Linden, and Little Silver, N.J.; Newark, New Brunswick, Newton, North Wildwood, Paterson, Pennsauken, South River, Spotswood, Trenton, and Wildwood, N.J.; Albany, Brooklyn, Bronx, Buffalo, Canastota, Cheektowaga, Hartsdale, Long Island, Queens Village, Mahopac, Manhasset, Long Island, Mechanicsville, Mount Vernon, Newberg, Newburgh, Newark, New York, Rochester, Syracuse, Utica, and Westbury, N.Y.; Asheville, Carthage, Charlotte, Concord, Durham, East Allendale, Fayetteville, Garner, Greensboro, Hickory, High Point, Merry Hill, Mount Airy, North Belmont, Raleigh, Reidsville, Rocky Mount, Sanford, Washington, Whiteville, and Winston-Salem, N.C.; Akron, Blanchester, Canton, Cincinnati, Cleveland, Columbus, Dayton, Elyria, Findlay, Hamilton, Lorain, Maddilion, Marion, Martin's Ferry, Massilion, Middletown, Minerva, Mingo Junction, North Jackson, Norwalk, Norwood, Springfield, Tallmadge, Toledo, and Youngstown, Ohio; Akron, Allentown, Altoona, Ashland, Ashley, Bedford, Berlin, Camp Hill, Carbondale, Carlisle, Coatesville, Columbia, Downingtown, Dunmore, Egypt, Elizabethtown, Elysburgh, Ephrata, Erie, Gilbertville, Greenburg, Hanover, Harrisburg, Hazelton, Hummelstown, Johnstown, Lancaster, Lykens, McKeesport, Middletown, Monesson, Myerstown, Norristown, Oakmont, Philadelphia, Pittsburgh, Pottstown, Quakerstown, Reading, Scottdale, Scranton, Sharon, Wilkes Barre, and York, Pa.; Cranston, R.I.; Allendale, Anderson, Camden, Cayce, North Charleston, Charlestown Heights, Clinton, Columbia, Conway, Darlington, East Artex, Florence, Greenville, Greer, Kershaw, Kingstree, North Shelby, and Spartanburg, S.C.; Bristol, Elizabethtown, Knoxville, and Nashville, Tenn.; Abingdon, Alexandria, Arlington, Bluefield, Charlottesville, Covington, Danville, Edinbury, Fredericksburg, Grundy, Hampton, Harrisonburg, Lebanon, Lexington, Lorten, Lynchburg, Marion, Martinsville, New Church, Newport News, Norfolk, Norton, Petersburg, Portsmouth, Richmond, Roanoke, Salem, Staunton, Tazewell, Virginia Beach, Winchester, and Woodbridge, Va.; and Beckley, Bluefield, South Charleston, Elkins, Huntington, Parkersburg, Welch, and Wheeling, W. Va.; and the District of Columbia; for 150 days. NOTE: Applicant states that it intends to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Tasty Baking Co., 2801 Hunting Park Avenue, Philadelphia, Pa. 19129. Send protests to: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1125 Federal Building, Hopkins Plaza, Charles Center, Baltimore, Md. 21201.

No. MC 103880 (Sub-No. 400 TA), filed July 28, 1967. Applicant: PRODUCERS TRANSPORT, INC., 215 East Waterloo Road, Post Office Box 7211, Akron, Ohio 44306. Applicant's representative: T. J. Bird, Producers Transport, Inc., 215 East Waterloo Road, Akron, Ohio 44306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Flint, Mich., to Toledo, Ohio, for 150 days. Supporting shipper: E. I. Du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. Send protests to: District Supervisor Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio.

No. MC 107107 (Sub-No. 383 TA), filed July 31, 1967. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Post Office Box 458, Allapattah Station, Miami, Fla. 33142. Applicant's representative: Ford W.

Sewell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Impregnated broadgoods*, in vehicles equipped with mechanical refrigeration, from Dallas, Tex., to Hagerstown, Md.; for 180 days. NOTE: Applicant states that it proposes to interline at Dallas, Tex., with Frozen Food Express, certificate MC 108207. Supporting shipper: U.S. Polymeric, Inc., 700 East Dyer Road, Santa Ana, Calif. 92707. Send protests to: Joseph B. Teichert, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1621, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 111302 (Sub-No. 41 TA), filed July 28, 1967. Applicant: HIGHWAY TRANSPORT, INC., Post Office Box 79, Powell, Tenn. 37849. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chocolate syrup*, in bulk, in tank vehicles, from the facilities of the Van Leer Chocolate Corp. at Jersey City, N.J., to Memphis, Tenn.; for 150 days. Supporting shipper: Van Leer Chocolate Corp., 110 Hoboken Avenue, Jersey City, N.J. 07302. Sent protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn. 37203.

No. MC 113855 (Sub-No. 165 TA), filed July 28, 1967. Applicant: INTERNATIONAL TRANSPORT, INC., U.S. Highway 52 South, Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rollers, compactors, mobile aerial lifts, asphalt pavers, and truck hitches for asphalt pavers*, from Salem, Oreg., to points in the United States (except Hawaii, Oregon, Washington, California, and Nevada); for 180 days. Supporting shipper: Layton Manufacturing Co., 4725 Turner Road, Post Office Box 7336, Salem, Oreg. 97302. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 114284 (Sub-No. 35 TA), filed July 28, 1967. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, Post Office Box 82307, 1700 South Portland, Oklahoma City, Okla. 73108. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Oklahoma City, to Brownwood and Ballinger, Tex.; for 180 days. Supporting shipper: Cudahy Co., Suite 1800, 100 West Clarendon, Phoenix, Ariz. (V. Langenberg, General Transportation Manager). Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 114364 (Sub-No. 142 TA), filed July 28, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Panguitch, Utah, to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas; for 180 days. Supporting shipper: Kaibab Lumber Co., Keith Runyon, Post Office Box 12196, Phoenix, Ariz. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 117375 (Sub-No. 3 TA), filed July 31, 1967. Applicant: BRANSON TRUCK LINE, INC., 1309 Highway 56 East, Lyons, Kans. 67554. Applicant's representative: Leland M. Spurgeon, 308 Casson Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay products*, from Sergeant Bluff, Iowa, and points within 10 miles thereof, to points in Kansas and Missouri; for 150 days. Supporting shipper: Ballou Brick Co., 207–212 Benson Building, Sioux City, Iowa. Send Protests to: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 124328 (Sub-No. 29 TA), filed July 31, 1967. Applicant: BRINK'S, INCORPORATED, 234 East 24th Street, Chicago, Ill. 60616. Applicant's representative: D. R. Hoagland (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, and securities*, between Cleveland, Ohio, and Erie, Pa.; for 180 days. Supporting shippers: Central National Bank of Cleveland, Cleveland, Ohio; and First National Bank of Erie, Erie, Pa. 16512. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, Interstate Commerce Commission, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 128521 (Sub-No. 1 TA), Amendment, filed July 24, 1967, published in FEDERAL REGISTER, issue of August 1, 1967, amended, and republished as amended, this issue. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., 515 Nashville Bank & Trust Building, Nashville, Tenn. 37201. Applicant's representative: Walter Harwood (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment), between Nashville, Tenn., and Birmingham, Ala., over U.S. Highway 31 and Interstate Highway 65, serving all intermediate points in Alabama, using any and all segments of said routes in conjunction with each other, and serving the plantsite of the Tennessee Valley Authority, known as Brown Ferry Project, located at or near Brown's Ferry, near Athens, Ala., as an off-route point; for 180 days. Supporting shippers: There are 46 shippers' supporting statements attached to application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or at the field office named below. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn. 37203. NOTE: Applicant proposes to interline traffic with other carriers at Nashville, Tenn., Decatur, Ala., and Birmingham, Ala. The purpose of this amendment is to set forth applicant's intention to interline.

No. MC 129252 (Sub-No. 1 TA), filed July 28, 1967. Applicant: HEAVY MACHINERY MOVERS CO., 948 Leader Building, Cleveland, Ohio 44114. Applicant's representative: George S. Maxwell (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calenders, mixers, mixing mills, presses, extruders, slitters*, used in the manufacture of rubber and/or plastic products and the *machine tools, including but not limited to lathes, milling machines, drill presses, shapers, grinders* used in the manufacture of the products of the shipper when purchased at the liquidation of competitors or other manufacturers, *sheet steel, castings, and gears* used in the manufacture of the shipper's products, (1) from Erie, Pa., to points in Pennsylvania, Maine, Vermont, New Hampshire, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, Missouri, Tennessee, Kentucky, Indiana, Illinois, Wisconsin, Michigan, Ohio; and (2) between points in the above listed States; for 180 days. Supporting shipper: Erie Engine & Manufacturing Co., Erie, Pa. Send protests to: District Supervisor Baccei, Bureau of Operations, Interstate Commerce Commission, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio.

No. MC 129265 (Sub-No. 1 TA), filed July 28, 1967. Applicant: VINCENT P. FONTANELLI AND LOIS A. FONTANELLI, doing business as RAPID TRANSFER, 4 Dewey Street, Albany, N.Y. 12205. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Luggage and such personal property usually carried by airline passengers* having a prior or subsequent movement by airline, between the Albany County

Airport in Colonie, Albany County, N.Y., on the one hand, and on the other, points in Rutland, Windsor, Bennington, and Windham Counties, Vt.; Berkshire, Franklin, Hampshire, and Hampden Counties, Mass.; Albany, Columbia, Essex, Delaware, Dutchess, Fulton, Greene, Hamilton, Herkimer, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schoharie, Schenectady, Sullivan, Ulster, Warran, and Washington Counties, N.Y.; for 150 days. Supporting shippers: Mohawk Airlines, Albany Airport, Albany, N.Y.; and American Airlines, Albany Airport, Albany, N.Y. Send protests to: Jack G. Takakjian, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Albany, N.Y., 12207.

No. MC 129271 (Sub-No. 1 TA), filed July 27, 1967. Applicant: LOGENCO, 2920 Columbia Street, Torrance, Calif. 90503. Applicant's representative: Warren H. Grossman, Law Offices, Knapp, Gill, Hibbert & Stevens, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane*, in bulk, in specially designed cryogenic trailers, from San Diego and Ontario, Calif., to West Palm Beach, Fla., for 180 days. Supporting shipper: Pratt & Whitney Aircraft, Florida Research & Development Center, West Palm Beach, Fla. Send protests to: William J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 129272 TA, filed July 26, 1967 Applicant: THE FERGUSON MOVING & STORAGE CO., 607 West McMicken Avenue, Cincinnati, Ohio 45214. Applicant's representative: Patrick H. Haynes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Indiana, Kentucky, and Ohio, within a 100-mile radius of Cincinnati, Ohio; restricted to shipments moving on the through bill of lading of a forwarder operating under section 402(b)(2) exemption, and having an immediate, prior or subsequent line-haul movement by rail, motor, water, or air; service to be limited to providing a local service for a forwarder of used household goods; for 180 days. Supporting shipper: Trans Ocean Van Service, Post Office Box 7331, Long Beach, Calif. 90807. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 129274 TA, filed July 28, 1967. Applicant: ULTRA ENTERPRISES, INC., 94 Cutler Parkway, Akron, Ohio 44305. Applicant's representative: Paul F. Beery, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and advertising displays and materials* used in connection with the sale and distribution thereof, from Milwaukee, Wis., to Akron, Ohio, and empty bottles and kegs on return; for 180 days. Supporting shipper: Bonner & Buzzelli Distributing Co., 238 Kenmore Boulevard, Akron, Ohio. Send protests to: District Supervisor Baccei, Bureau of Operations, Interstate Commerce Commission, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 129275 TA, filed July 28, 1967. Applicant: JACK ROBERTS, doing business as F & H TRUCKING CO., 6029 Gifford, Huntington Park, Calif. 90255. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New, uncrated cafe store fixtures* requiring installation on delivery, from points in the Los Angeles, Calif., commercial zone, to points in Nevada, Texas, Illinois, and Pennsylvania; for 180 days. NOTE: Applicant states that it intends to interline with other carriers. Supporting shipper: Marco Restaurant Equipment Co., 5526 Soto Street, Vernon, Calif. Send protests to: John E. Nance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9234; Filed, Aug. 7, 1967; 8:46 a.m.]

[Notice 19]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 3, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), 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-69755. By order of July 31, 1967 the Transfer Board approved the transfer to Gebeke Transport, Inc., Melrose, Minn., of the operating rights in certificate No. MC-114048, issued February 25, 1955, to Edward C. Gebeke, doing business as "Gebeke", Melrose, Minn., authorizing the transportation, over irregular routes, of petroleum products, in bulk, in tank vehicles, from Alexandria and Minneapolis, Minn., to points in La Moure, Dickey, Ransom, Sargent, and Richland Counties, N. Dak. Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn., attorney for applicants.

No. MC-FC-69804. By order of July 31, 1967, the Transfer Board approved the transfer to Alfred Paolillo, doing business as Kiraly Moving & Storage Co., Midland Park, N.J., of the operating rights of Mary Kiraly, doing business as Joe Kiraly, New York, N.Y., in certificate No. MC-102529, issued October 14, 1958, authorizing the transportation of household goods, as defined, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, New York, and Pennsylvania, and between New York, N.Y., on the one hand, and, on the other, points in Rhode Island, Massachusetts, Delaware, Maryland, and the District of Columbia. Alvin Altman, 1776 Broadway, New York, N.Y. 10019, attorney for applicants.

No. MC-FC-69811. By order of July 31, 1967, the Transfer Board approved the transfer to Blanche Vidas, Henry Vidas, and Joseph Vidas, Jr., doing business as Acme Piano Moving Co., Philadelphia, Pa., of the operating rights in certificate No. MC-85002 issued June 4, 1959, to Joseph Vidas, Henry Vidas, and Joseph Vidas, Jr., doing business as Acme Piano Moving Co., Philadelphia, Pa., authorizing the transportation of: Pianos and electric refrigerators, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey within 30 miles of Philadelphia. Edward Marcu, 604 Penn Square Building, Juniper and Filbert Streets, Philadelphia, Pa. 19107, attorney for applicants.

No. MC-FC-69814. By order of July 31, 1967, the Transfer Board approved the transfer to Carlyle Transfer, Inc., Carlyle, Ill., of certificate No. MC-17526, issued April 21, 1966, to Ernest J. Brooks and James F. Brooks, a partnership, doing business as Trenton Motor Service, Trenton, Ill., and authorizing the transportation of general commodities, with usual exceptions, over regular routes, between Shattuc, Ill., and St. Louis, Mo., serving intermediate and off-route points within 10 miles of Shattuc; and between Trenton, Ill., and St. Louis, Mo., and between Bartelso, Ill., and St. Louis, Mo., serving named intermediate and off-route points, including points in the St. Louis, Mo., East St. Louis, Ill., commercial zone, and dairy products, groceries, and agricultural implements, between Boulder and Hoffman, Ill., and St. Louis, Mo., serving named intermediate and off-route points. Delmar O. Koebel, 107 West Street, Louis Street, Lebanon, Ill. 62254, attorney for applicants.

No. MC-FC-69824. By order of July 31, 1967, the Transfer Board approved the transfer to Trans World, Inc., Tacoma, Wash., of the operating rights in certificate No. MC-127184 issued December 14, 1966, to Oregon-Washington Transfer & Storage, Inc., Seattle, Wash., authorizing the transportation of: Household goods, between Seattle, Wash., and Portland, Oreg. Frank R. Kitchell, 1309 Hoge Building, Seattle, Wash. 98104, attorney for applicants.

No. MC-FC-69825. By order of July 31, 1967, the Transfer Board approved the transfer to Leonard Bros. Van & Storage Co., a corporation, Detroit,

Mich., of certificate in No. MC-47247, issued January 17, 1963, to Arrow Moving, Inc., Livonia, Mich., authorizing the transportation of: Household goods, between Detroit, Mich., and points within 3 miles of Detroit, on the one hand, and, on the other, points in Pennsylvania, New York, Illinois, Indiana, New Jersey, and Ohio. Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226, attorney for applicants.

No. MC-FC-69826. By order of July 31, 1967, the Transfer Board approved the transfer to Leo Booth, doing business as Booth Trucking Service, Vivian, S. Dak., of certificate in No. MC-103076, issued July 6, 1967, to Richard Cleland, doing business as Cleland Trucks, Chamberlain, S. Dak., authorizing the transportation of: Livestock, agricultural commodities, farm machinery and implements, feed, household goods and emigrant movables, between points in South Dakota, Nebraska, Iowa, and Minnesota. Frank D. Brost, Presho, S. Dak. 57568, attorney for applicants.

No. MC-FC-69827. By order of July 31, 1967, the Transfer Board approved the transfer to Iowa Steel Express, Inc., Cedar Rapids, Iowa, of certificate in No. MC-128544, issued April 12, 1967, to Glen R. Frenzen, doing business as Iowa Steel Express, Cedar Rapids, Iowa, authorizing the transportation of: Iron and steel, fencing material, hardware, and agricultural implements, from Chicago, Ill., to La Porte City, Iowa, and points within 40 miles of La Porte City. William A. Landau, 1307 East Walnut Street, Des Moines, Iowa 50306, representative for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9235; Filed, Aug. 7, 1967; 8:46 a.m.]

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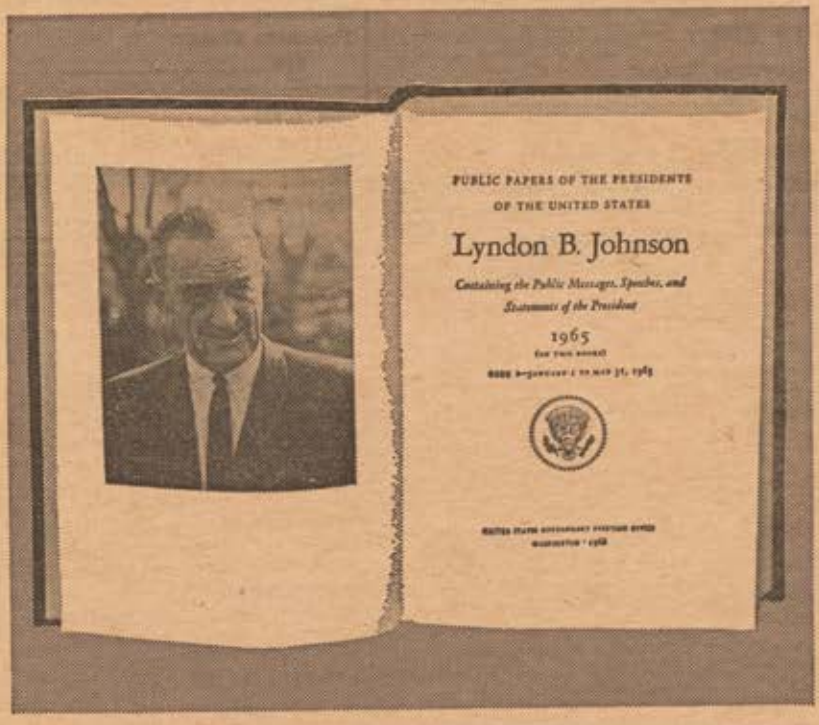

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