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Chapter I—Atomic Energy Commission

PART 31—GENERAL LICENSES FOR CERTAIN QUANTITIES OF BYPRODUCT MATERIAL AND BYPRODUCT MATERIAL CONTAINED IN CERTAIN ITEMS

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT EXEMPTED AND GENERALLY LICENSED ITEMS CONTAINING BYPRODUCT MATERIAL

General License for Use of Iodine-125 or Iodine-131 for in Vitro Clinical or Laboratory Testing

On April 26, 1968, the Atomic Energy Commission published in the FEDERAL REGISTER (33 F.R. 6375) proposed amendments to 10 CFR Parts 31 and 32 of its regulations which would, respectively, (a) issue a general license to physicians, clinical laboratories, and hospitals for the possession and use of iodine-125 or iodine-131 for in vitro clinical or laboratory tests not involving administration to human beings or animals; and (b) establish requirements for specific licenses to manufacture or distribute these radioiodines for use in such tests.

Interested persons were invited to submit written comments and suggestions for consideration within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments and other factors involved, the Commission has adopted the proposed amendments. The text of the amendments set out below is identical with that of the proposed amendments published April 26, 1968, except that § 32.71(c)(1) has been modified to provide for labeling to indicate that the amount of radioactivity per prepackaged unit does not exceed 10 microcuries; and the number of the registration form required to be filed by the general licensee has been inserted.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to title 10, Chapter I, Code of Federal Regulations, Parts 31 and 32, are published as documents subject to codification, to be effective sixty (60) days after publication in the FEDERAL REGISTER.

1. A new § 31.11 is added to 10 CFR Part 31 to read as follows:

§ 31.11 General license for use of iodine-125 or iodine-131 for in vitro clinical or laboratory testing.

(a) A general license is hereby issued to any physician, clinical laboratory or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section, the following byproduct materials in prepackaged units:

(1) Iodine-125, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

(2) Iodine-131, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

(b) No person shall receive, acquire, possess, use, or transfer byproduct material pursuant to the general license established by paragraph (a) of this section until he has filed Form AEC–483, "Registration Certificate—In Vitro Testing with Byproduct Material Under General License", with the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545, and received from the Commission a validated copy of Form AEC–483 with registration number assigned. The registrant shall furnish on Form AEC–483 the following information and such other information as may be required by that form:

(1) Name and address of the registrant;

(2) The location of use; and

(3) A statement that the registrant has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with byproduct materials as authorized under the general license in paragraph (a) of this section, and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the byproduct materials.

(c) A person who receives, acquires, possesses, or uses byproduct material pursuant to the general license established by paragraph (a) of this section shall comply with the following:

(1) The general licensee shall not possess at any one time, pursuant to the general license in paragraph (a) of this section, at any one location of storage or use a total amount of iodine-125 and/or iodine-131 in excess of 200 microcuries.

(2) The general licensee shall store the byproduct material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(3) The general licensee shall use the byproduct material only for the uses authorized by paragraph (a) of this section.

(4) The general licensee shall not transfer the byproduct material to a person who is not authorized to receive it pursuant to a license issued by the Commission or an Agreement State, nor transfer the byproduct material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(d) The general licensee shall not receive, acquire, possess, or use byproduct material pursuant to paragraph (a) of this section:

(1) Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued under the provisions of § 32.71 of this chapter or in accordance with the provisions of a specific license issued by an Agreement State, which authorizes manufacture and distribution of iodine-125 or iodine-131 for distribution to persons generally licensed by the Agreement State.

(2) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

> This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.
>
> ---
> Name of manufacturer

(e) The registrant possessing or using byproduct materials under the general license of paragraph (a) of this section shall report in writing to the Director, Division of Materials Licensing, any changes in the information furnished by him in the "Registration Certificate—In Vitro Testing With Byproduct Material Under General License". Form AEC–483. The report shall be furnished within 30 days after the effective date of such change.

(f) Any person using byproduct material pursuant to the general license of paragraph (a) of this section is exempt from the requirements of Part 20 of this chapter with respect to byproduct materials covered by that general license.

2. A new § 32.71 is added to 10 CFR Part 32 to read as follows:

§ 32.71 Manufacture and distribution of byproduct materials for certain in vitro clinical or laboratory testing under general license.

An application for a specific license to manufacture or distribute byproduct material for use under the general license of § 31.11 of this chapter will be approved if:

(a) The applicant satisfies the general requirements specified in § 30.33 of this chapter.

(b) The byproduct material is to be prepared for distribution in prepackaged units of:

(1) Iodine-125 in units not exceeding 10 microcuries each.

(2) Iodine-131 in units not exceeding 10 microcuries each.

(c) Each prepackaged unit bears a durable, clearly visible label:

(1) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries; and

(2) Displaying the radiation caution symbol described in § 20.203(a)(1) of this chapter and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals."

(d) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Atomic Energy Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

(e) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such byproduct material.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 6th day of November 1968.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 68-13714; Filed, Nov. 13, 1968; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 22,240]

PART 545—OPERATIONS

Loans and Other Investments

NOVEMBER 6, 1968.

Resolved that, notice and public procedure having been duly afforded (33 F.R. 12966) and all revelant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, hereby amends Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545) for the purpose of implementing recent amendments to section 5(c) of the Home Owners' Loan Act of 1933, as amended, contained in Public Law 90-448, 82 Stat. 518, 608, 609, to authorize—

(a) Federal savings and loan associations with a Charter K (rev.) or Charter N form of charter to invest—

(1) Subject to certain conditions, in housing project loans and interests therein payable in U.S. dollars and guaranteed by the President under section 221 of the Foreign Assistance Act of 1961, as amended;

(2) Subject to certain conditions, in loans which take the form of a purchase of securities by a Federal savings and loan association under an agreement that the association will release and the borrower will reacquire the same securities at a specified price;

(3) Without any percentage of assets limitation, in loans, obligations, or interests therein guaranteed under the New Communities Act of 1968.

(b) Federal savings and loan associations, subject to certain conditions, to invest in time deposits of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

Accordingly, said Part 545 is hereby amended as follows, effective November 14, 1968:

1. Paragraph (a) of § 545.6-20 is amended to read as follows:

§ 545.6-20 Loans and investments guaranteed under the Foreign Assistance Act of 1961.

(a) *General provisions.* Without regard to any other provision of this part except §§ 545.6-8 and 545.8-2, a Federal association which has a Charter in the form of Charter K (rev.) or Charter N may invest in loans and interests in loans payable in U.S. dollars and guaranteed by the President under section 224 of the Foreign Assistance Act of 1961, as amended, and in housing project loans and interests therein so payable and guaranteed by the President under section 221 of that Act, subject to the provisions of this section. The aggregate principal amount of such investments outstanding at any one time shall not exceed 1 percent of the assets of the association.

* * * * *

2. A new § 545.6-21 is added after § 545.6-20 to read as follows:

§ 545.6-21 Loans on securities.

A Federal association which has a Charter in the form of Charter K (rev.) or Charter N may invest in loans secured by obligations of, or fully guaranteed as to principal and interest by, the United States, or by obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, a Bank or Banks for Cooperatives, including the Central Bank for Cooperatives, a Federal Land Bank or Banks, a Federal Home Loan Bank or Banks, a Federal Intermediate Credit Bank or Banks, the Tennessee Valley Authority, or the Export-Import Bank of Washington, subject to the following conditions:

(a) The borrower is a financial institution the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or is a broker or dealer registered with the Securities and Exchange Commission;

(b) The market value of the securities for each such loan is at least equal to the amount of such loan at the time it is made; and

(c) The loan takes the form of a purchase of securities by the Federal association with an agreement by the association to release the securities, and by the borrower to reacquire the securities at a specified price.

3. A new § 545.6-22 is added after § 545.6-21 to read as follows:

§ 545.6-22 Loans and investments guaranteed under the New Communities Act of 1968.

(a) *General.* Without regard to any other provision of this part, a Federal association which has a Charter in the form of Charter K (rev.) or Charter N may invest in loans or obligations, or interests therein, guaranteed, in whole or in part, or as to which a commitment or agreement for any such guarantee has been made under the New Communities Act of 1968.

(b) *Percentage of assets.* Investments made under this section shall not be subject to any percentage of assets limitations.

4. A new § 545.9-3 is added after § 545.9-2 to read as follows:

§ 545.9-3 Investment in time deposits.

A Federal association may invest in any deposits in any Federal Home Loan Bank. A Federal association may invest in time deposits, including time certificates of deposit, in any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, subject to the following conditions:

(a) The sum of all time deposits of the association in the same bank does not exceed the greater of one-fourth of 1 percent of the total deposits of such bank (calculated as of the date the deposit is made on the basis of total deposits of such bank as shown by its last published statement of condition preceding the date of deposit) or $15,000;

(b) No consideration is received from a third party in connection with the making of the deposit; and

(c) The maturity of each such deposit does not exceed 1 year or, in the case of a time deposit which may not be withdrawn without notice, the notice period does not exceed 90 days.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the amendments made hereby relieve restriction, publication of said amendments for the period specified in § 508.14 of the general regulations of the Federal Home Loan Bank Board and 5 U.S.C. 533(d) prior to the effective date of said amendments is unnecessary, and the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 68-13725; Filed, Nov. 13, 1968; 8:50 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[22,241]

PART 561—DEFINITIONS

Scheduled Items, Specified Assets, and Guaranteed Loan and Obligation

NOVEMBER 6, 1968.

Resolved that, notice and public procedure having been duly afforded (33 F.R. 12966) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, hereby amends Part 561 of the rules and regulations for Insurance of Accounts (12 CFR Part 561) as hereinafter set forth, effective January 1, 1969, said amendments being made for the purpose of: (1) Recognizing in certain definitions the additional lending authority authorized for Federal savings and loan associations in the concurrent rule making action dealing with the implementation of recent amendments to section 5(c) of the Home Owners' Loan Act of 1933, as amended, contained in Public Law 90-448; and (2) recognizing in those definitions the comparable lending authority which State-chartered insured institutions may now have or hereafter acquire:

1. Paragraph (b) of § 561.15 is amended to read as follows:

§ 561.15 **Scheduled items.**

The term "scheduled items" means:

* * * * *

(b) 20 percent of slow loans which are insured or guaranteed and 20 percent of guaranteed obligations upon which one or more interest payments due has not been paid,

* * * * *

2. Paragraph (a) of § 561.17 is amended to read as follows:

§ 561.17 **Specified assets.**

(a) The term "specified assets" means the total assets of an insured institution less the institution's cash, Government obligations and accrued interest thereon, loans secured by Government obligations, Federal Home Loan Bank stock, prepaid Federal Savings and Loan Insurance Corporation premiums, loans in process, loans on the security of the institution's share accounts, investments (other than in capital stock) in other institutions insured by the Federal Savings and Loan Insurance Corporation and in institutions insured by the Federal Deposit Insurance Corporation, and less 80 percent of the institution's actual investments in insured and guaranteed loans and guaranteed obligations.

* * * * *

3. Section 561.21 is amended to read as follows:

§ 561.21 **Guaranteed loan.**

The term "guaranteed loan" means a loan that is guaranteed, including a guarantee to repurchase, in whole or in part, or as to which a commitment to guarantee has been made under the provisions of the Servicemen's Readjustment Act of 1944, chapter 37 of title 38, United States Code, section 221 or section 224 of the Foreign Assistance Act of 1961, as amended, or the New Communities Act of 1968.

4. A new § 561.21a is added after § 561.21 to read as follows:

§ 561.21a **Guaranteed obligation.**

The term "guaranteed obligation" means an obligation that is guaranteed, in whole or in part, or as to which a commitment to guarantee has been made under the provisions of the New Communities Act of 1968.

(Sec. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-1948 Comp., p. 1071)

Resolved further that, since the Board believes it would be more efficient from a reporting standpoint for the amendments made hereby to become effective at the beginning of the next accounting period for most insured institutions, the Board determines to make said amendments effective on January 1, 1969, as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 68-13726; Filed, Nov. 13, 1968; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 68-EA-123; Amdt. 39-681]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Helicopters

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to publish an airworthiness directive which will specify a service life for certain rotary wing hub hinge pins installed in Sikorsky S-61 type helicopters.

Investigation, including the completion of a new series of fatigue tests, has resulted in the development of new engineering data on the main rotor horizontal hinge pins of Sikorsky S-61 helicopters. This data indicates that a service life should be specified to preclude fatigue failures of the end section of the pin to which the main rotor damper is attached. The failure of this section of a pin would result in the separation of the main rotor blade from the damper and the elimination of lead-lag damping of the blade. The damper with one end free could cause damage to other main rotor hub components. This condition exists in all similar type helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended as follows:

Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following Airworthiness Directive:

SIKORSKY. Applies to S-61 Type Helicopters. Compliance required as indicated.

To prevent fatigue failures of the Rotary Wing Hub Horizontal Hinge Pins, P/N S6110-23020 and P/N S6110-23320, accomplish the following:

(a) Within the next 25 hours time in service, remove pins from service which have 4,975 or more hours time in service on the effective date of this AD.

(b) Remove all other pins from service before the accumulation of 5,000 hours time in service.

Sikorsky Service Bulletin No. 61B10-6 covers this same subject.

This amendment is effective November 14, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-13658; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-SO-79]

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

Alteration of Control Zone

On October 3, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 14785), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the San Juan, P.R. (International Airport), control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 9, 1969, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the San Juan, P.R. (International Airport), control zone (33 F.R. 9599) is amended to read:

SAN JUAN, P.R. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Puerto Rico International Airport (lat. 18°26'45" N., long. 66°00'05" W.); within a 3-mile radius of Isla Grande Airport (lat. 18°27'30" N., long. 66°05' 55" W.); within 2 miles each side of the San Juan VORTAC 058° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC; within 2 miles each side of the San Juan VORTAC 086° radial, extending from the 5-mile radius zone to 11 miles east of the VORTAC; within 2 miles each side of the Isla Grande Airport Runway 9/27 extended centerline, extending from the 3-mile radius zone to 5 miles west of the airport.

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

Issued in East Point, Ga., on October 31, 1968.

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

[F.R. Doc. 68-13659; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-SW-63]

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

Alteration of Control Zone and Transition Area

On September 20, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 14237) stating that the Federal Aviation Administration was considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Harrison, Ark., terminal area.

Interested persons were given 30 days in which to submit written data, views, or arguments.

No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 9, 1969.

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

Issued in Fort Worth, Tex., on October 29, 1968.

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

The above amendment reads as follows:

(1) In § 71.171 (33 F.R. 2088) the Harrison, Ark., control zone is amended to read:

HARRISON, ARK.

Within a 5-mile radius of the Boone County Airport (lat. 36°15'55" N., long. 93°09'20" W.) and within 2 miles each side of the Harrison VOR 140° radial extending from the 5-mile radius zone to the VOR.

(2) In § 71.181 (33 F.R. 2192) the Harrison, Ark., transition area is amended to read:

HARRISON, ARK.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Boone County Airport (lat. 36°15'55" N., long. 93°09'20" W.), within 2 miles each side of the Harrison VOR 320° radial extending from the 6-mile radius area to 8 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 8 miles northeast and 5 miles southwest of the Harrison VOR 320° and 140° radials extending from 12 miles northwest to 2 miles southeast of the VOR.

[F.R. Doc. 68-13660; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-SW-43]

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

Designation of Federal Airway

On September 11, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 12853) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal airway between Dallas, Tex., and Memphis, Tenn.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 9, 1969, as hereinafter set forth.

Section 71.123 (33 F.R. 2009) is amended by adding the following:

V-124 from Dallas, Tex., 12 AGL Paris, Tex.; 12 AGL Greeson Lake, Ark.; 12 AGL Hot Springs, Ark.; 12 AGL Little Rock, Ark.; 12 AGL Memphis, Tenn.

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

Issued in Washington, D.C., on November 7, 1968.

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

[F.R. Doc. 68-13661; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-CE-99]

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

Alteration of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the segment of VOR Federal airway No. 2 south alternate between Grand Rapids, Mich., and Lansing, Mich. The Federal Aviation Administration is taking action herein to reduce the width of V-2S between Grand Rapids and Lansing from 8 miles to 7 miles. The reduction of 1 mile on the north side of this segment of V-2S will provide lateral spacing of en route traffic on the airway segment with aircraft operating within the Grand Rapids LOM holding pattern.

Since this airway alteration is minor in nature and causes no additional burden, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 9, 1969, as hereinafter set forth.

In § 71.123 (33 F.R. 2009) V-2 is amended by deleting "Grand Rapids, Mich., 284° radials and Grand Rapids;" and substituting "Grand Rapids, Mich., 284° radials and Grand Rapids (7 miles wide, 3 miles north and 4 miles south of centerline Grand Rapids to Lansing);" therefor.

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

Issued in Washington, D.C., on November 7, 1968.

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

[F.R. Doc. 68-13662; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-89]

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

Revocation of Federal Airway Segment

On September 12, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 12917) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke the segment of VOR Federal airways No. 123 between Carmel, N.Y., and Westfield, Mass.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 9, 1969, as hereinafter set forth.

In § 71.123 (33 F.R. 2009) V-123 is amended by deleting all after "Carmel N.Y., 188° radials;" and substituting "12 AGL Carmel." therefor.

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

Issued in Washington, D.C., on November 6, 1968.

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

[F.R. Doc. 68-13663; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-81]

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

Alteration of Transition Area

On page 14415 of the FEDERAL REGISTER for September 25, 1968, the Federal Aviation Administration published a proposed regulation which would alter the 700-foot Springfield, Vt., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., January 9, 1969.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Springfield, Vt., transition area and insert in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center (48°20'40" N., 72°31'15" W.) of Hartness Municipal Airport, Springfield, Vt., within 5 miles northwest and 8 miles southeast of a 214° bearing from the Hartness RBN (43°16'12" N., 72°35'12" W.) extending from the RBN to 12 miles southwest of the RBN and within 2 miles each side of a 034° bearing from the Hartness RBN extending from the 6-mile radius area to the RBN.

[F.R. Doc. 68-13664; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-94]

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

Alteration of Transition Area

On page 14602 of the FEDERAL REGISTER for September 28, 1968, the Federal Aviation Administration published a proposed amendment which would alter the Latrobe, Pa., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., January 9, 1969.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Latrobe, Pa., transition area and insert in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 40°16'35" N., 79°23'56" W. of Westmoreland-Latrobe Airport, Latrobe, Pa.; within 5 miles Southeast and 8 miles Northwest of the 046° bearing from the Latrobe RBN 40°22'32" N., 79°16'19" W., extending from the RBN to 12 miles Northeast of the RBN and within 5 miles Southeast and 7 miles Northwest of the 226° bearing from the Latrobe RBN extending from the RBN to 6 miles Southwest of the RBN.

[F.R. Doc. 68-13665; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-83]

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

Alteration of Transition Area

On page 14415 of the FEDERAL REGISTER for September 25, 1968, the Federal Aviation Administration published a proposed amendment which would alter the Madisonville, Ky., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed amendment is hereby adopted, effective 0901 G.m.t., January 9, 1969.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Madisonville, Ky., transition area, "Madisonville Airport" and insert "Madisonville Municipal Airport" in lieu thereof; Delete "said area effective from sunrise to sunset daily".

[F.R. Doc. 68-13666; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-110]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Emporia, Va., transition area.

The purpose of the alteration is to reflect a refinement in the coordinates of the Emporia, Va., non-Federal radio beacon as it appears in the description. Since the amendment is clarifying in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, the Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Emporia, Va., the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Emporia, Va., transition area the coordinates 36°40'56" N., 77°29'33" W., and insert in lieu thereof 36°40'58" N., 77°28'57" W.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on October 30, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-13667 Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-92]

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

Designation of Transition Area

On page 14416 of the FEDERAL REGISTER for September 25, 1968, the Federal Aviation Administration published a proposed amendment which would designate a part time 700-foot transition area over Westminster Airport, Westminster, Md.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., January 9, 1969.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Westminster, Md., transition area described as follows:

WESTMINSTER, MD.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 39°36'10" N., 77°00'05" W. of Westminster Airport, Westminster, Md., and within 2 miles each side of the Westminster VOR 350° radial extending from the 6-mile radius area to the VOR. This transition area is effective from sunrise to sunset, daily.

[F.R. Doc. 68-13668; Filed, Nov. 13, 1968; 8:45 a.m.]

[Airspace Docket No. 68-EA-95]

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

Designation of Transition Area

On page 14603 of the FEDERAL REGISTER for September 28, 1968, the Federal Aviation Administration published a proposed amendment which would designate a 700-foot transition area over Ebensburg Airport, Ebensburg, Pa.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., January 9, 1969, but to include the following editorial change.

In paragraph 1 under the description of the Ebensburg, Pa., transition area, delete the proper name "Carrolltown, Pa." and insert in lieu thereof the name "Revloc, Pa.".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 1, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Ebensburg, Pa., transition area described as follows:

EBENSBURG, PA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°27'40" N., 78°46'25" W., of Ebensburg Airport, Ebensburg, Pa.; within 2 miles each side of the Runway 24 centerline extended from the 6-mile radius area to 6 miles southwest of the end of the runway; within 2 miles each side of the Runway 28 centerline extended from the 6-mile radius area to 7 miles west of the end of the runway and within 2 miles each side of the Revloc, Pa., VORTAC 014° and 194° radials extending from the 6-mile radius area to 12 miles north of the VORTAC, excluding the portion that coincides with the Johnstown, Pa., transition area.

[F.R. Doc. 68-13669; Filed, Nov. 13, 1968; 8:46 a.m.]

[Airspace Docket No. 68-SO-74]

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

Designation of Transition Area

On September 27, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 14547), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Athens, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 9, 1969, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the following transition area is added:

ATHENS, GA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Athens Municipal Airport (lat. 33°56'54" N., long. 83°19'37" W.).

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

Issued in East Point, Ga., on November 1, 1968.

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

[F.R. Doc. 68-13670; Filed, Nov. 13, 1968; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-285]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Transportation of Passengers Between U.S. Ports on Foreign Vessels

Part 4 of the Customs Regulations amended to indicate when passengers on foreign vessels are landed within the meaning of section 289, title 46, United States Code.

On March 19, 1968, a notice of a proposal to amend Part 4 of the Customs Regulations concerning the transportation of passengers between U.S. ports on foreign vessels was published in the FEDERAL REGISTER (33 F.R. 4679). Due consideration has been given to all relevant matter presented in response to that notice. It has been decided to modify the proposed rule to adopt certain of the suggestions made.

Accordingly, Part 4 of the Customs Regulations is amended by adding a new section to read as follows:

§ 4.80a Passengers on foreign vessels taken on board and landed in the United States.

(a) A foreign vessel which takes a passenger on board at a port in the United States, its territories, or possessions embraced within the coastwise laws ("coastwise port") will be deemed to have landed that passenger in violation of the coastwise laws (46 U.S.C. 289) if:

(1) The passenger goes ashore, even temporarily, at another coastwise port on a voyage solely to one or more coastwise ports, regardless of whether the passenger ultimately severs his connection with the voyage at the port at which he embarked;

(2) The passenger goes ashore, even temporarily, at another coastwise port on a voyage to one or more coastwise ports but touching at a nearby foreign port or ports (but at no other foreign port) if during the course of the voyage the vessel remains in any coastwise port (other than the port of embarkation) for more than 24 hours (or not to exceed 48 hours if the district director of customs concerned is satisfied that the failure to depart within the 24-hour period is necessitated for reasons connected with the loading or unloading of cargo or the safety or safe navigation of the vessel) without regard to whether the passenger ultimately severs his connection with the voyage at the port at which he embarked;

(3) The passenger severs his connection with the voyage at another coastwise port on a voyage which touches no foreign port other than a nearby foreign port; or

(4) The passenger goes ashore at any port other than the port at which he embarked if coastwise transportation is the primary object of the voyage.

(b) In the absence of evidence that coastwise transportation is the primary object, a foreign vessel engaged on a voyage touching or originating at any foreign port other than a nearby foreign port shall not be deemed to be engaged in the coastwise trade and may, without penalty, disembark a passenger at any coastwise port: *Provided*, That that passenger has proceeded or will proceed with the vessel to a foreign port other than a nearby foreign port.

(c) For the purposes of this section a nearby foreign port is defined as any foreign port in North America, Central America, the West Indies (including the Bahama Islands), or the Bermuda Islands. A port in the Virgin Islands shall be treated as a nearby foreign port for the purposes of this section. (Sec. 8, 24 Stat. 81, as amended; 46 U.S.C. 289.)

(80 Stat. 379, R.S. 251; 5 U.S.C. 301, 19 U.S.C. 66)

Effective date. This amendment shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

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

Approved: November 5, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-13718; Filed, Nov. 13, 1968; 8:49 a.m.]

[T.D. 68-283]

USE OF VARIOUS CUSTOMS FORMS

Procedure in notifying importers of increases in duties in certain cases, requesting samples, and giving notices of appraisement.

To provide for the use of new customs Form 5561, Notice of Action and/or Request for Information, which consolidates customs Forms 4301, 5555, 6313, and 6525, the Customs Regulations are amended as follows:

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Paragraph (c) of § 8.29 is amended by substituting "district director of customs" for "examiner" and "customs Form 5561" for "customs Form 5555" in the first sentence and by substituting "district director of customs" for "appraiser" in the last sentence so that the paragraph will read:

§ 8.29 Release of packages.

* * * * *

(c) If the district director of customs believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the

entered quantity, and the estimated aggregate of the increase in duties in the shipment exceeds $15, he shall promptly notify the importer of record on every shipment on customs Form 5561, specifying the nature of the difference on the notice. The report of appraisement shall not be withheld unless in the judgment of the district director of customs there are compelling reasons that would warrant such action.

* * * * *

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 14—APPRAISEMENT

Paragraph (h) of § 14.2 is amended by substituting "district director of customs" for "appraiser" and "customs Form 5561" for "customs Form 6525" and by deleting that portion of the paragraph which reads "and execute the certificate on the reverse side of customs Form 6525." As amended the paragraph will read:

§ 14.2 Examination of merchandise; procedure.

* * * * *

(h) If the district director of customs requires samples from packages not designated for examination, he shall request the importer, on customs Form 5561, to submit them.

* * * * *

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 17—PROTESTS AND APPRAISEMENTS

Section 17.6 is amended by changing the section heading to "Notice of Appraisement; Reappraisement," by substituting "district director of customs" for "collector at the headquarters port, or the deputy collector in charge at any other port" and by deleting "on customs Form 4301." As amended the section will read:

§ 17.6 Notice of appraisement; reappraisement.

The district director of customs shall promptly give notice of appraisement when such notice is required by section 501, Tariff Act of 1930, as amended.[6] The notice shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be securely attached to the invoice. (Sec. 501, 46 Stat. 730, as amended; 19 U.S.C. 1501.)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

These amendments shall become effective on the date of their publication in the FEDERAL REGISTER.

[SEAL] DAVID C. ELLIS,
Acting Commissioner of Customs.

Approved: November 5, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-13719; Filed, Nov. 13, 1968; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

[Directive No. 7]

PART 330—SEIZURE, FORFEITURE, AND DISPOSITION OF VESSELS, VEHICLES, AND AIRCRAFT FOR DOMESTIC NARCOTIC AND MARIHUANA VIOLATIONS

Under and by virtue of the authority vested in the Attorney General by sections 509 and 510 of Title 28 and section 301 of Title 5 of the United States Code, and by the authority delegated to the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611), which has been delegated to the Director of the Bureau of Narcotics and Dangerous Drugs (28 CFR 0.200, 33 F.R. 5580); Part 153 of Title 26 of the Code of Federal Regulations is hereby revoked, and in lieu thereof Title 21 of the Code of Federal Regulations is amended by adding new §§ 330.1 through 330.11 as follows:

Sec.
330.1 Definitions.
330.2 Officers who will make seizures.
330.3 Custody and other duties.
330.4 Appraisement.
330.5 Advertisement.
330.6 Requirements as to claim and bond.
330.7 Summary forfeiture.
330.8 Judicial forfeiture.
330.9 Petitions for remission or mitigation of forfeiture.
330.10 Time for filing petitions.
330.11 Handling of petitions.

AUTHORITY: The provisions of this Part 330 issued under sec. 8, 53 Stat. 1293, 49 U.S.C. 788; 5 U.S.C. 301; 28 U.S.C. 509, 510; and Reorganization Plan No. 1 of 1968—33 F.R. 5611. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 330.1 Definitions.

As used in the regulations in §§ 330.1 through 330.11, except as otherwise indicated by the content:

(a) The term "Act" means the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. 781–788).

(b) The term "custodian" means the officer required under § 330.3 to take custody of particular property which has been seized pursuant to the Act.

(c) The term "property" means a vessel, vehicle, or aircraft within the scope of the Act.

(d) The terms "seizing officer," "officer seizing," etc., mean any officer, authorized and designated by § 330.2 to carry out the provisions of the Act, who initially seizes property or adopts a seizure initially made by any other officer or by a private person.

(e) The term "regional director" means the regional director of the Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice.

§ 330.2 Officers who will make seizures.

For the purpose of carrying out the provisions of the Act, all special agents of the Bureau of Narcotics and Dangerous Drugs of the Department of Justice are authorized and designated to seize such property as may be subject to seizure.

§ 330.3 Custody and other duties.

An officer seizing property under the Act shall store the property in a location designated by the custodian in the judicial district of seizure. The regional directors of the Bureau of Narcotics and Dangerous Drugs are designated as custodians to receive and maintain in storage all vessels, vehicles, and aircraft seized pursuant to the Act. The regional directors are also authorized to dispose of any property pursuant to the Act, and any other applicable statutes or regulations relative to disposal, and to perform such other duties regarding such seized property as are imposed on the collectors of customs and appraisers with respect to seizures under the customs laws.

(Sec. 605, 46 Stat. 754, 19 U.S.C. 1605; Sec. 609, 46 Stat. 755, 19 U.S.C. 1609)

§ 330.4 Appraisement.

The custodian shall appraise the property to determine the domestic value at the time and place of seizure. The domestic value shall be considered the retail price at which such or similar property is freely offered for sale. If there is no market for the property at the place of seizure, the domestic value shall be considered the value in the principal market nearest the place of seizure.

(Sec. 606, 46 Stat. 754, 19 U.S.C. 1606)

§ 330.5 Advertisement.

(a) If the appraised value does not exceed $2,500, the custodian shall cause a notice of the seizure and of the intention to forfeit and sell or otherwise dispose of the property to be published once a week for at least three (3) successive weeks in a newspaper of general circulation in the judicial district in which the seizure occurred.

(b) The notice shall: (1) Describe the property seized and show the motor and serial numbers, if any; (2) state the time, cause, and place of seizure; and (3) state that any person desiring to claim the property may, within 20 days from the date of first publication of the notice, file with the custodian a claim to the property and a bond with satisfactory sureties in the sum of $250.

(Sec. 607, 46 Stat. 754, as amended, 19 U.S.C. 1607)

§ 330.6 Requirements as to claim and bond.

(a) The bond shall be rendered to the United States, with sureties to be approved by the custodian, conditioned that in the case of condemnation of the property the obligor shall pay all costs and expenses of the proceedings to obtain such condemnation. When the claim and bond are received by the custodian, he shall, after finding the documents in proper form and the sureties satisfactory, transmit the documents, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure, to the United States Attorney for the judicial district in which the seizure was made for the purpose of proceeding to a

condemnation of the property in the manner prescribed by law. If the documents are not in satisfactory condition when first received, a reasonable time for correction may be allowed. If correction is not made within a reasonable time the documents may be treated as nugatory, and the case shall proceed as though they had not been tendered.

(b) The filing of the claim and the posting of the bond does not entitle the claimant to possession of the property, however, it does stop the summary forfeiture proceedings. The bond posted to cover costs may be in cash, certified check, or on Treasury Department Form 171 with satisfactory sureties. The costs and expenses secured by the bond are such as are incurred after the filing of the bond, including storage cost, safeguarding, court fees, marshal's costs, etc.

(Sec. 608, 46 Stat. 755, 19 U.S.C. 1608)

§ 330.7 Summary forfeiture.

If the appraised value does not exceed $2,500, and a claim and bond are not filed within the 20 days hereinbefore mentioned, the custodian shall declare the property forfeited. The custodian shall prepare the Declaration of Forfeiture and forward it to the Director of the Bureau of Narcotics and Dangerous Drugs as notification of the action he has taken. Thereafter, the property shall be retained in the custodian's district or delivered elsewhere for official use, or otherwise disposed of, in accordance with official instructions received by the custodian.

(Sec. 609, 46 Stat. 755, as amended, 19 U.S.C. 1609)

§ 330.8 Judicial forfeiture.

If the appraised value is greater than $2,500 or a claim and satisfactory bond have been received for property appraised at $2,500 or less, the custodian shall transmit a description of the property and a complete statement of the facts and circumstances surrounding the seizure to the U.S. Attorney for the judicial district in which the seizure was made for the purpose of instituting condemnation proceedings. The U.S. Attorney shall also be furnished the newspaper advertisements required by § 330.5.

(Sec. 610, 46 Stat. 755, 19 U.S.C. 1610)

§ 330.9 Petitions for remission or mitigation of forfeiture.

(a) Any person interested in any property within the scope of the Act and the regulations in §§ 330.1 through 330.11 which has been seized, or forfeited either summarily or by court proceedings, may file a petition for remission or mitigation of the forfeiture. Such petition shall be filed in triplicate with the regional director for the judicial district in which the seizure occurred. It shall be addressed to the Director of the Bureau of Narcotics and Dangerous Drugs and executed and sworn to by the person alleging interest in the property.

(b) The petition shall include the following: (1) A complete description of the property, including motor and serial numbers, if any, and the date and place of seizure; (2) the petitioner's interest in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and, (3) the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

(c) Where the petition is for restoration of the proceeds of sale, or for value of the property placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of condemnation of forfeiture and was in such circumstances as prevented him from knowing of the same.

(Secs. 613, 618, 46 Stat. 756, 757, as amended, 19 U.S.C. 1613, 1618)

§ 330.10 Time for filing petitions.

(a) In order to be considered as seasonably filed, a petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. If a petition for remission or mitigation of forfeiture has not been received within 30 days of the notice of seizure, the property will either be placed in official Government service or sold as soon as it is forfeited. Once property is placed in official use, or is sold, a petition for remission or mitigation of forfeiture can no longer be accepted.

(b) A petition for restoration of proceeds of sale, or for the value of property placed in official use, must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

(Secs. 613, 618, 46 Stat. 756, 757, as amended; 19 U.S.C. 1613, 1618)

§ 330.11 Handling of petitions.

Upon receipt of a petition, the custodian shall request an appropriate investigation. The petition and the report of investigation shall be forwarded to the Director of the Bureau of Narcotics and Dangerous Drugs. If the petition involves a case which has been referred to the U.S. Attorney for the institution of court proceedings, the custodian shall transmit the petition to the U.S. Attorney for the judicial district in which the seizure occurred. He shall notify the petitioner of this action.

(Sec. 618, 46 Stat. 757, as amended, 19 U.S.C. 1618)

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

Dated: October 29, 1968.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 68-13688; Filed, Nov. 13, 1968; 8:47 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

PART 204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

The national uniform standards for State highway safety programs were issued on June 27, 1967, pursuant to section 402(a) of title 23, United States Code. Thereafter, they were reported to Congress in conformity with section 203 of title II of the Highway Safety Act of 1966, 80 Stat. 731, 736, and printed as House Document No. 138, 90th Congress, 1st Session.

The purpose of this amendment is to amend Part 204 of Title 23, CFR to add the initial national uniform standards for State highway safety programs to provide for their codification and to accomplish widespread dissemination of the standards. Accordingly, in consideration of the foregoing, Chapter II of Title 23 of the Code of Federal Regulations is amended by adding the initial Uniform Standards for State Highway Safety Programs, numbers 1 through 13 as set forth below, effective November 2, 1968.

This amendment is made under authority of sections 315, 401, and 402 of title 23, United States Code and section 6(a)(6)(B) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931).

Issued in Washington, D.C., on November 2, 1968.

JOHN E. ROBSON,
Acting Secretary of Transportation.

Subpart A [Reserved]

Subpart B—Standards

§ 204.4 Highway Safety Program Standards.

The Uniform Standards for State Highway Safety Programs are set forth in this subpart.

HIGHWAY SAFETY PROGRAM STANDARD NUMBERS AND TITLES

1 Periodic Motor Vehicle Inspection.
2 Motor Vehicle Registration.
3 Motorcycle Safety.
4 Driver Education.
5 Driver Licensing.
6 Codes and Laws.
7 Traffic Courts.
8 Alcohol in Relation to Highway Safety.
9 Identification and Surveillance of Accident Locations.
10 Traffic Records.
11 Emergency Medical Services.
12 Highway Design, Construction and Maintenance.
13 Traffic Control Devices.

HIGHWAY SAFETY PROGRAM STANDARD No. 1

PERIODIC MOTOR VEHICLE INSPECTION

Each State shall have a program for periodic inspection of all registered vehicles or other experimental, pilot, or

demonstration program approved by the Secretary, to reduce the number of vehicles with existing or potential conditions which cause or contribute to accidents or increase the severity of accidents which do occur, and shall require the owner to correct such conditions.

I. The program shall provide, as a minimum, that:

A. Every vehicle registered in the State is inspected either at the time of initial registration and at least annually thereafter, or at such other time as may be designated under an experimental, pilot, or demonstration program approved by the Secretary.

B. The inspection is performed by competent personnel specifically trained to perform their duties and certified by the State.

C. The inspection covers systems, subsystems, and components having substantial relation to safe vehicle performance.

D. The inspection procedures equal or exceed criteria issued or endorsed by the National Highway Safety Bureau.

E. Each inspection station maintains records in a form specified by the State, which include at least the following information:

1. Class of vehicle.
2. Date of inspection.
3. Make of vehicle.
4. Model year.
5. Vehicle identification number.
6. Defects by category.
7. Identification of inspector.
8. Mileage or odometer reading.

F. The State publishes summaries of records of all inspection stations at least annually, including tabulations by make and model of vehicle.

II. The program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 2

Motor vehicle registration

Each State shall have a motor vehicle registration program, which shall provide for rapid identification of each vehicle and its owner; and shall make available pertinent data for accident research and safety program development.

I. The program shall be such that every vehicle operated on public highways is registered and the following information is readily available for each vehicle:

A. Make.
B. Model year.
C. Identification number (rather than motor number).
D. Type of body.
E. License plate number.
F. Name of current owner.
G. Current address of owner.
H. Registered gross laden weight of every commercial vehicle.

II. Each program shall have a records system that provides at least the following services:

A. Rapid entry of new data into the records or data system.

B. Controls to eliminate unnecessary or unreasonable delay in obtaining data.

C. Rapid audio or visual response upon receipt at the records station of any priority request for status of vehicle possession authorization.

D. Data available for statistical compilation as needed by authorized sources.

E. Identification and ownership of vehicle sought for enforcement or other operation needs.

III. This program shall be periodically evaluated by the State, and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 3

Motorcycle safety

For the purposes of this standard a motorcycle is defined as any motor-driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride within an enclosed cab.

Each State shall have a motorcycle safety program to insure that only persons physically and mentally qualified will be licensed to operate a motorcycle; that protective safety equipment for drivers and passengers will be worn; and that the motorcycle meets standards for safety equipment.

I. The program shall provide as a minimum that:

A. Each person who operates a motorcycle:

1. Passes an examination or reexamination designed especially for motorcycle operation.

2. Holds a license issued specifically for motorcycle use or a regular license endorsed for each purpose.

B. Each motorcycle operator wears an approved safety helmet and eye protection when he is operating his vehicle on streets and highways.

C. Each motorcycle passenger wears an approved safety helmet, and is provided with a seat and footrest.

D. Each motorcycle is equipped with a rear-view mirror.

E. Each motorcycle is inspected at the time it is initially registered and at least annually thereafter, or in accordance with the State's inspection requirements.

II. The program shall be periodically evaluated by the State for its effectiveness in terms of reductions in accidents and their end results, and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 4

Driver education

Each State, in cooperation with its political subdivisions, shall have a driver education and training program. This program shall provide at least that:

I. There is a driver education program available to all youths of licensing age which:

A. Is taught by instructors certified by the State as qualified for these purposes.

B. Provides each student with practice driving and instruction in at least the following:

1. Basic and advanced driving techniques including techniques for handling emergencies.

2. Rules of the road, and other State laws and local motor vehicle laws and ordinances.

3. Critical vehicle systems and subsystems requiring preventive maintenance.

4. The vehicle, highway and community features:

a. That aid the driver in avoiding crashes,

b. That protect him and his passengers in crashes,

c. That maximize the salvage of the injured.

5. Signs, signals, and highway markings, and highway design features which require understanding for safe operation of motor vehicles.

6. Differences in characteristics of urban and rural driving including safe use of modern expressways.

7. Pedestrian safety.

C. Encourages students participating in the program to enroll in first aid training.

II. There is a State research and development program including adequate research, development and procurement of practice driving facilities, simulators, and other similar teaching aids for both school and other driver training use.

III. There is a program for adult driver training and retraining.

IV. Commercial driving schools are licensed and commercial driving instructors are certified in accordance with specific criteria adopted by the State.

V. The program shall be periodically evaluated by the State, and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 5

Driver licensing

Each State shall have a driver licensing program: (a) To insure that only persons physically and mentally qualified will be licensed to operate a vehicle on the highways of the State, and (b) to prevent needlessly removing the opportunity of the citizen to drive. The program shall provide, as a minimum, that:

I. Each driver holds only one license, which identifies the type(s) of vehicle(s) he is authorized to drive.

II. Each driver submits acceptable proof of date and place of birth in applying for his original license.

III. Each driver:

A. Passes an initial examination demonstrating his:

1. Ability to operate the class(es) of vehicle(s) for which he is licensed.

2. Ability to read and comprehend traffic signs and symbols.

3. Knowledge of laws relating to traffic (rules of the road) safe driving procedures, vehicle and highway safety features, emergency situations that arise in the operation of an automobile, and other driver responsibilities.

4. Visual acuity, which must meet or exceed State standards.

B. Is reexamined at an interval not to exceed 4 years, for at least visual acuity and knowledge of rules of the road.

IV. A record on each driver is maintained which includes positive identification, current address, and driving history. In addition, the record system shall provide the following services:

A. Rapid entry of new data into the system.

B. Controls to eliminate unnecessary or unreasonable delay in obtaining data which is required for the system.

C. Rapid audio or visual response upon receipt at the records station of any priority request for status of driver license validity.

D. Ready availability of data for statistical compilation as needed by authorized sources.

E. Ready identification of drivers sought for enforcement or other operational needs.

V. Each license is issued for a specific term, and must be renewed to remain valid. At time of issuance or renewal each driver's record must be checked.

VI. There is a driver improvement program to identify problem drivers for record review and other appropriate actions designed to reduce the frequency of their involvement in traffic accidents or violations.

VII. There is:

A. A system providing for medical evaluation of persons whom the driver licensing agency has reason to believe have mental or physical conditions which might impair their driving ability.

B. A procedure which will keep the driver license agency informed of all licensed drivers who are currently applying for or receiving any type of tax, welfare or other benefits or exemptions for the blind or nearly blind.

C. A medical advisory board or equivalent allied health professional unit composed of qualified personnel to advise the driver license agency on medical criteria and vision standards.

VIII. The program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary. The evaluation shall attempt to ascertain the extent to which driving without a license occurs.

Highway Safety Program Standard No. 6

CODES AND LAWS

Each State shall develop and implement a program to achieve uniformity of traffic codes and laws throughout the State. The program shall provide at least that:

I. There is a plan to achieve uniform rules of the road in all of its jurisdictions.

II. There is a plan to make the State's unified rules of the road consistent with similar unified plans of other States. Toward this end, each State shall undertake and maintain continuing comparisons of all State and local laws, statutes and ordinances with the comparable provisions of the Rules of the Road section of the Uniform Vehicle Code.

Highway Safety Program Standard No. 7

TRAFFIC COURTS

Each State in cooperation with its political subdivisions shall have a program to assure that all traffic courts in it complement and support local and Statewide traffic safety objectives. The program shall provide at least that:

I. All convictions for moving traffic violations shall be reported to the State traffic records system.

II. Program Recommendations

In addition the State should take appropriate steps to meet the following recommended conditions:

A. All individuals charged with moving hazardous traffic violations are required to appear in court.

B. Traffic courts are financially independent of any fee system, fines, costs, or other revenue such as posting or forfeiture of bail or other collateral resulting from processing violations of motor-vehicle laws.

C. Operating procedures, assignment of judges, staff and quarters insure reasonable availability of court services for alleged traffic offenders.

D. There is a uniform accounting system regarding traffic violation notices, collection of fines, fees and costs.

E. There are uniform rules governing court procedures in traffic cases.

F. There are current manuals and guides for administration, court procedures, and accounting.

Highway Safety Program Standard No. 8

ALCOHOL IN RELATION TO HIGHWAY SAFETY

Each State, in cooperation with its political subdivisions, shall develop and implement a program to achieve a reduction in those traffic accidents arising in whole or in part from persons driving under the influence of alcohol. The program shall provide at least that:

I. There is a specification by the State of the following with respect to alcohol related offenses:

A. Chemical test procedures for determining blood-alcohol concentrations.

B. (1) The blood-alcohol concentrations, not higher than .10 percent by weight, which define the terms "intoxicated" or "under the influence of alcohol," and

(2) A provision making it either unlawful, or presumptive evidence of illegality, if the blood-alcohol concentration of a driver equals or exceeds the limit so established.

II. Any person placed under arrest for operating a motor vehicle while intoxicated or under the influence of alcohol is deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcohol content of his blood.

III. To the extent practicable, there are quantitative tests for alcohol:

A. On the bodies of all drivers and adult pedestrians who die within 4 hours of a traffic accident.

B. On all surviving drivers in accidents fatal to others.

IV. There are appropriate procedures established by the State for specifying:

A. The qualifications of personnel who administer chemical tests used to determine blood, breath, and other body alcohol concentrations.

B. The methods and related details of specimen selection, collection, handling, and analysis.

C. The reporting and tabulation of the results.

V. The program shall be periodically evaluated by the State, and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 9

IDENTIFICATION AND SURVEILLANCE OF ACCIDENT LOCATIONS

Each State, in cooperation with county and other local governments, shall have a program for identifying accident locations and for maintaining surveillance of those locations having high accident rates or losses.

I. The program shall provide, as a minimum, that:

A. There is a procedure for accurate identification of accident locations on all roads and streets.

1. To identify accident experience and losses on any specific sections of the road and street system.

2. To produce an inventory of:

a. High accident locations.

b. Locations where accidents are increasing sharply.

c. Design and operating features with which high accident frequencies or severities are associated.

3. To take appropriate measures for reducing accidents.

4. To evaluate the effectiveness of safety improvements on any specific section of the road and street system.

B. There is a systematically organized program:

1. To maintain continuing surveillance of the roadway network for potentially high accident locations.

2. To develop methods for their correction.

II. The program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 10

TRAFFIC RECORDS

Each State, in cooperation with its political subdivisions, shall maintain a traffic records system. The Statewide system (which may consist of compatible subsystems) shall include data for the entire State. Information regarding drivers, vehicles, accidents, and highways shall be compatible for purposes of analysis and correlation. Systems maintained by local governments shall be compatible with, and capable of furnishing data to the State system. The State system shall be capable of providing summaries, tabulations and special analyses to local governments on request.

The record system shall include: (a) Certain basic minimum data and (b) procedures for statistical analyses of these data.

The program shall provide as a minimum that:

I. Information on vehicles and system capabilities includes (conforms to Motor Vehicle Registration standard):

A. Make.
B. Model year.
C. Identification number (rather than motor number).
D. Type of body.
E. License plate number.
F. Name of current owner.
G. Current address of owner.
H. Registered gross laden weight of every commercial vehicle.
I. Rapid entry of new data into the records or data system.
J. Controls to eliminate unnecessary or unreasonable delay in obtaining data.
K. Rapid audio or visual response upon receipt at the records station of any priority request for status of vehicle possession authorization.
L. Data available for statistical compilation as needed by authorized sources.
M. Identification and ownership of vehicles sought for enforcement or other operational needs.

II. Information on drivers and system capabilities includes (conforms to Driver Licensing standard):

A. Positive identification.
B. Current address.
C. Driving history.
D. Rapid entry of new data into the system.
E. Controls to eliminate unnecessary or unreasonable delay in obtaining data which is required for the system.
F. Rapid audio or visual response upon receipt at the records station of any priority request for status of driver license validity.
G. Ready availability of data for statistical compilation as needed by authorized sources.
H. Ready identification of drivers sought for enforcement or other operational needs.

III. Information on types of accidents includes:

A. Identification of location in space and time.
B. Identification of drivers and vehicles involved.
C. Type of accident.
D. Description of injury and property damage.
E. Description of environmental conditions.
F. Causes and contributing factors, including the absence of or failure to use available safety equipment.

IV. There are methods to develop summary listings, cross tabulations, trend analyses and other statistical treatments of all appropriate combinations and aggregations of data items in the basic minimum data record of drivers and accident and accident experience by specified groups.

V. All traffic records relating to accidents collected hereunder shall be open to the public in a manner which does not identify individuals.

VI. The program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 11

Emergency Medical Services

Each State, in cooperation with its local political subdivisions, shall have a program to ensure that persons involved in highway accidents receive prompt emergency medical care under the range of emergency conditions encountered. The program shall provide, as a minimum, that:

I. There are training, licensing, and related requirements (as appropriate) for ambulance and rescue vehicle operators, attendants, drivers, and dispatchers.

II. There are requirements for types and number of emergency vehicles including supplies and equipment to be carried.

III. There are requirements for the operation and coordination of ambulances and other emergency care systems.

IV. There are first aid training programs and refresher courses for emergency service personnel, and the general public is encouraged to take first aid courses.

V. There are criteria for the use of two-way communications.

VI. There are procedures for summoning and dispatching aid.

VII. There is an up-to-date, comprehensive plan for emergency medical services, including:

A. Facilities and equipment.
B. Definition of areas of responsibility.
C. Agreements for mutual support.
D. Communications systems.

VIII. This program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary.

Highway Safety Program Standard No. 12

Highway Design, Construction and Maintenance

Every State in cooperation with county and local governments shall have a program of highway design, construction, and maintenance to improve highway safety. Standards applicable to specific programs are those issued or endorsed by the Federal Highway Administrator.

I. The program shall provide, as a minimum that:

A. There are design standards relating to safety features such as sight distance, horizontal and vertical curvature, spacing of decision points, width of lanes, etc., for all new construction or reconstruction, at least on expressways, major streets and highways, and through streets and highways.

B. Street systems are designated to provide a safe traffic environment for pedestrians and motorists when subdivisions and residential areas are developed or redeveloped.

C. Roadway lighting is provided or upgraded on a priority basis at the following locations:

1. Expressways and other major arteries in urbanized areas.
2. Junctions of major highways in rural areas.
3. Locations or sections of streets and highways having high ratios of night-to-day motor vehicle and/or pedestrian accidents.
4. Tunnels and long underpasses.

D. There are standards for pavement design and construction with specific provisions for high skid resistance qualities.

E. There is a program for resurfacing or other surface treatment with emphasis on correction of locations or sections of streets and highways with low skid resistance and high or potentially high accident rates susceptible to reduction by providing improved surfaces.

F. There is guidance, warning and regulation of traffic approaching and traveling over construction or repair sites and detours.

G. There is a systematic identification and tabulation of all rail-highway grade crossings and a program for the elimination of hazards and dangerous crossings.

H. Roadways and the roadsides are maintained consistent with the design standards which are followed in construction, to provide safe and efficient movement of traffic.

I. Hazards within the highway right-of-way are identified and corrected.

J. There are highway design and construction features wherever possible for accident prevention and survivability including at least the following:

1. Roadsides clear of obstacles, with clear distance being determined on the basis of traffic volumes, prevailing speeds, and the nature of development along the street or highway.
2. Supports for traffic control devices and lighting that are designed to yield or break away under impact wherever appropriate.
3. Protective devices that afford maximum protection to the occupants of vehicles wherever fixed objects cannot reasonably be removed or designed to yield.
4. Bridge railings and parapets which are designed to minimize severity of impact, to retain the vehicle, to redirect the vehicle so that it will move parallel to the roadway, and to minimize danger to traffic below.
5. Guardrails, and other design features which protect people from out-of-control vehicles at locations of special hazard such as playgrounds, schoolyards and commercial areas.

K. There is a post-crash program which includes at least the following:

1. Signs at freeway interchanges directing motorists to hospitals having emergency care capabilities.
2. Maintenance personnel trained in procedures for summoning aid, protecting others from hazards at accident sites, and removing debris.
3. Provisions for access and egress for emergency vehicles to freeway sections

where this would significantly reduce travel time without reducing the safety benefits of access control.

II. This program shall be periodically evaluated by the State for its effectiveness in terms of reductions in accidents and their end results, and the National Highway Safety Bureau shall be provided with an evaluation summary.

HIGHWAY SAFETY PROGRAM STANDARD No. 13

TRAFFIC CONTROL DEVICES

Each State, in cooperation with its county and local government, shall have a program relating to the use of traffic control devices (signs, markings, signals, etc.) and other traffic engineering measures to reduce traffic accidents.

I. The program shall provide, as a minimum, that:

A. There is a method:

1. To identify needs and deficiencies of traffic control devices.

2. To assist in developing current and projected programs for maintaining, upgrading, and installing traffic control devices.

B. Existing traffic control devices on all streets and highways are upgraded to conform with standards issued or endorsed by the Federal Highway Administrator.

C. New traffic control devices are installed on all streets and highways, based on engineering studies to determine where devices are needed for safety. Such devices conform with standards issued or endorsed by the Federal Highway Administrator.

D. There are programs for preventive maintenance, repair, and daytime and nighttime inspection of all traffic control devices.

E. Fixed or variable speed zones are established, at least on expressways, major streets and highways, and through streets and highways, based on engineering and traffic regulations.

II. This program shall be periodically evaluated by the State and the National Highway Safety Bureau shall be provided with an evaluation summary.

[F.R. Doc. 68-13697; Filed, Nov. 13, 1968; 8:48 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 405-68]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart K—Criminal Division

ASSIGNING RESPONSIBILITY FOR APPROVAL OF CERTAIN APPLICATIONS BY U.S. ATTORNEYS TO FEDERAL COURTS FOR ORDERS COMPELLING TESTIMONY OR PRODUCTION OF EVIDENCE BY WITNESSES

NOVEMBER 4, 1968.

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of Title 5 of the United States Code, Subpart K of Part 0 of Chapter I of Title 28 of the Code of Federal Regulations is amended by inserting immediately after § 0.58 a new § 0.59 as follows:

§ 0.59 Delegation respecting the approval of certain applications by U.S. Attorneys to Federal Courts for orders compelling testimony or the production of evidence by witnesses.

The Assistant Attorney General in charge of the Criminal Division is authorized to exercise the power and authority vested in the Attorney General by sections 895 and 2514 of Title 18 of the United States Code, to approve the application by a U.S. Attorney to a Federal Court for an order compelling testimony or the production of evidence by a witness; but only where the subject matter of the case or proceeding for which such an order is sought involves a violation or a conspiracy to violate a Federal law general supervision of which is assigned to the Criminal Division, under § 0.55.

The amendment made by this order shall be effective upon publication in the FEDERAL REGISTER.

RAMSEY CLARK,
Attorney General.

NOVEMBER 4, 1968.

[F.R. Doc. 68-13687; Filed, Nov. 13, 1968; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 206—FISHING AND HUNTING REGULATIONS

Atlantic Ocean, Chesapeake Bay and Tributaries

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), §§ 206.35 and 206.40 are hereby amended changing the captions of certain maps applicable to these sections and making minor revisions to paragraphs (a)(4) and (b)(10) of § 206.40, and § 206.50 is hereby amended with respect to paragraphs (e) and (f) changing the positions and numbers of aids to navigation and making other minor revisions to meet existing conditions, effective on publication in the FEDERAL REGISTER, since the changes are already in effect, as follows:

§ 206.35 [Amended]

Section 206.35 *Atlantic Ocean between Montauk Point, N.Y., and Cape Charles, Va.; fishing* is amended as follows: The second line of the caption for the maps on pages 83 and 84 of the Code of Federal Regulations (revised as of Jan. 1, 1968) is changed to read "Atlantic Coast of Baltimore and Norfolk Districts" and "Atlantic Coast of Norfolk District", respectively.

§ 206.40 [Amended]

Section 206.40 *Bays and estuaries tributary to the Atlantic Ocean between Montauk Point, N.Y., and Cape Charles, Va., and in the State of New York, tributary to Long Island Sound; fishing* is amended as follows:

1. Paragraphs (a)(4) and (b)(10) are revised to read as follows:

(a) * * *

(4) Any person desiring to place and operate fish traps, weirs, or pounds in the approved areas in the waters of the bays and estuaries tributary to the Atlantic Ocean between Montauk Point, N.Y., and Cape Charles, Va., and of the bays and estuaries in the State of New York tributary to Long Island Sound, should make application to the District Engineer, Corps of Engineers in charge of the locality as indicated at the end of this section.

* * * * *

(b) * * *

(10) That there shall be installed and maintained on the structure covered by this permit, by and at the expense of the permittee, such additional lights and signals, if any, as may be prescribed by the U.S. Coast Guard.

2. The second line of the captions for the map on page 92 of the Code of Federal Regulations (Revised as of January 1, 1968) is changed to read "Atlantic Coast of Baltimore and Norfolk Districts" and the maps on pages 93 through 98 to read "Atlantic Coast of Norfolk District".

§ 206.50 Chesapeake Bay, Md. and Va., and its navigable tributaries; fishing structures.

* * * * *

(e) *Baltimore District—(1) West side of Chesapeake Bay north from Cove Point to Middle River.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
"1B"	38 26 33.6	76 26 00.0
"3B"	38 31 07.8	76 28 38.8
"5B"	38 35 43.2	76 28 43.2
* * *	* * *	* * *
"7B"	* * *	* * *
C "69"	38 43 34.8	76 29 57.6
"8B"	* * *	* * *
* * *	* * *	* * *
"10B"	* * *	* * *
"32B"	38 49 56.4	76 27 45.6
"73"	38 51 50.1	76 27 01.1
"1"	38 52 11.7	76 28 54.2
No limit line.		
* * *	* * *	* * *
"11B"	* * *	* * *
C "75"	38 53 39.0	76 25 53.4
Following line of 25-foot depth to point 1,700 yards northerly of Sandy Point Light. (No limit line for a distance of 200 feet on either side of approach channel to Severn River.)		
* * *	* * *	* * *
No limit line. Point bearing 329°45′ true, 1,000 yards, from (Qk, Fl. R) "28C".		
"19B"	* * *	* * *
"21B"	* * *	* * *
"40B"	* * *	* * *
"2B"	39 16 15.6	76 20 02.4

(2) *Fishing area southeast of mouth of Patapsco River.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
	* * *	* * *
"15B"	39 08 03.0	76 20 22.0
"14B"	39 05 43.0	76 20 54.0
"13B"	* * *	* * *
"12B"		
Thence to point of beginning.		

(3) *Fishing area east of mouth of Patapsco River.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
"25B"	39 14 52.0	76 14 46.5
"26B"	39 12 45.0	76 15 48.0
	* * *	* * *

* * * * *

(6) *East side of Chesapeake Bay south from Howell Point to Maryland-Virginia boundary line.*

	Latitude	Longitude
	° ′ ″	° ′ ″
Howell Point Light	* * *	* * *
N "20"	39 20 23.2	76 10 45.6
Bell (Fl.R) R "18"	39 19 46.2	76 11 33.0
"42B"		
* * *	* * *	* * *
Following line of 20-foot depth.		
"58B"	39 11 00.0	76 16 47.4
"59B"	39 09 37.2	76 18 11.4
"60B"	39 07 37.2	76 18 47.6
"27B"	* * *	* * *
No limit line.		
Point on line of 25-foot depth in vicinity of Bell R "2" northeast of Love Point Light.		
Following line of 25-foot depth to its intersection with north range line of measured nautical mile course at Brickhouse Bar.		
Unmarked Point	38 56 07.6	76 22 54.0
Bloody Point Bar Light	38 50 00.0	76 23 30.0
No limit line.		
Point on line of 30-foot depth 4,500 yards northerly of N "70".		
Following line of 30-foot depth.		
N "70"	38 45 27.0	76 25 07.8
"28B"	* * *	* * *
Unmarked Point	38 38 25.8	76 20 25.2
Following line of 21-foot depth.		
Unmarked Point	38 39 25.2	76 18 05.4
No limit line.		
"61B"	38 39 59.0	76 17 26.0
Following line of 21-foot depth.		
"62B"	38 39 51.0	76 16 27.0
No limit line.		
"63B"	38 39 46.0	76 15 30.0
Following line of 21-foot depth.		
"64B"	38 39 44.0	76 12 28.0
No limit line.		
Unmarked Point	38 38 40.0	76 18 41.0
"4B"	38 36 35.4	76 20 13.8
"33B"	38 33 55.2	76 20 28.8
No limit line.		
Point on line of 30-foot depth approximately 3,400 yards west of "33B".		
* * *		
On a line between Holland Island Bar Light and N 2 beginning at the southerly Red Sector line approximately 3,100 yards south from Holland Island Bar Light, and ending at Maryland-Virginia boundary line.		

(7) *Fishing area in vicinity of Sharps Island.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
C	* * *	* * *
"6"	* * *	* * *
C "3"	38 36 38.4	76 21 04.2
Thence due west to point of beginning.	* * *	* * *

(8) *Pocomoke Sound.*

	Latitude	Longitude
	° ′ ″	° ′ ″
White N "A"	37 54 45.0	75 48 03.6
Unmarked Point	* * *	* * *
White N "G"	37 57 00.0	75 43 33.0
Unmarked Point	* * *	* * *
* * *	* * *	* * *

(9) *Potomac River.*

	Latitude	Longitude
	° ′ ″	° ′ ″
Unmarked point at the intersection of the Maryland-Virginia boundary line and a line between Smith Point Light and C1.		
C 1	37 54 12.0	76 11 48.0
* * *	* * *	* * *
No limit line.		
Beacon (Fl. R) "6"	37 59 37.0	76 27 11.3
Unmarked Point	* * *	* * *
* * *	* * *	* * *
Unmarked Point	38 02 06.8	76 29 55.3
Beacon (Fl.) "3"	38 01 51.0	76 32 12.7
No limit line.		
Unmarked Point	* * *	* * *
Beacon (Fl.) "2"	38 02 24.0	76 30 06.0
* * *	* * *	* * *
Unmarked Point	38 12 12.3	76 43 40.0
C "1"	38 12 36.0	76 43 42.0
No limit line.		
Unmarked Point	* * *	* * *
Do	* * *	* * *
Do	* * *	* * *
N (RB)	38 12 42.0	76 42 12.0
No limit line.		
Unmarked Point	38 13 23.8	76 41 43.9
* * *	* * *	* * *
Unmarked Point	38 05 27.2	76 24 43.0
No limit line.		
Unmarked Point	38 05 27.1	76 24 21.0
Do	38 03 39.5	76 24 09.7
Do	38 01 25.9	76 19 23.4
"57B"	38 02 19.7	76 17 26.2

(10) *West side of Chesapeake Bay north from Point Lookout to Cove Point.*

	Latitude	Longitude
	° ′ ″	° ′ ″
"57B"	* * *	* * *
Point No Point Light	38 07 42.0	76 17 24.0
Unmarked Point	* * *	* * *
* * *	* * *	* * *
No limit line.		
Drum Point Light	38 19 06.0	76 25 18.0
"31B"	* * *	* * *
* * *	* * *	* * *

* * * * *

(f) *Norfolk District—(1) South side of Chesapeake Bay between Cape Henry and Willoughby Spit.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
Unmarked Point 5	* * *	* * *
Unmarked Point 5A	36 58 05.9	76 10 27.0
"C15"	* * *	* * *
* * *	* * *	* * *

(2) *Hampton Roads and James River—(i) From Craney Island Light to Jamestown Island (south side of river).*

	Latitude	Longitude
	° ′ ″	° ″ ′
* * *	* * *	* * *
C "1"	* * *	* * *
"H15"	36 59 06.9	76 27 56.1
Unmarked Point 8	* * *	* * *
* * *	* * *	* * *

(3) *West side of Chesapeake Bay north from Old Point Comfort to York River, including Back River.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
"B7"	* * *	* * *
Bell (Fl. W) "1"	37 05 33.9	76 14 57.0
"B9"	* * *	* * *
* * *	* * *	* * *
Unmarked Point 50	* * *	* * *
(Fl. W) "13"	37 06 29.3	76 17 42.4
Unmarked Point 51	* * *	* * *
* * *	* * *	* * *
"Q3"	* * *	* * *
No limit line		
Poquoson River Entrance Lighted Buoy 6	37 10 43.3	76 22 27.9
Poquoson River Entrance Lighted Buoy 4	37 12 28.0	76 20 48.9
Poquoson River Entrance Lighted Buoy 2	37 13 31.3	76 19 30.3
"Y9"	* * *	* * *

* * * * *

(6) *York River, above King Creek.*

	Latitude	Longitude
	° ′ ″	° ′ ″
* * *	* * *	* * *
"Y15"	* * *	* * *
York River Channel Buoy 47	37 28 48.3	76 44 57.1
York River Light 51	37 29 44.6	76 46 55.1
"Y17"	* * *	* * *
* * *	* * *	* * *

* * * * *

(9) *West side of Chesapeake Bay north from York River to Wolf Trap Light, including Mobjack Bay.*

	Latitude	Longitude
	° ′ ″	° ′ ″
Unmarked Point 79	37 15 07.0	76 22 42.0
"Y8"	* * *	* * *
* * *	* * *	* * *
"M18"	* * *	* * *
East River Entrance Light 1	37 21 16.9	76 21 08.5
East River Light 3	37 22 13.2	76 20 41.1
No limit line		
Unmarked Point 80	37 22 05.8	76 20 21.4
East River Daybeacon 2	37 21 32.5	76 20 34.0
"M16A"	37 19 56.2	76 20 41.7
"M16"		
* * *	* * *	* * *
"C51"		
"C51A"		
"C51B"	37 23 29.6	76 10 27.9

(10) *West side of Chesapeake Bay north from Wolf Trap Light to Maryland-Virginia State border.*

	Latitude	Longitude
	° ′ ″	° ′ ″
"C51B"	37 23 29.6	76 10 27.9
"C53"		
* * *	* * *	* * *
"C61"	* * *	* * *
Piankatank River Lighted Buoy 1	37 33 34.8	76 13 25.0
"P1"		
* * *	* * *	* * *
"P4"		
Piankatank River Lighted Buoy 4		
"R3"	* * *	* * *
"R5"		
Rappahannock River Daybeacon 7	37 35 10.0	76 19 45.0
No limit line		
N "2"	37 36 06.8	76 21 20.6
Rappahannock River Entrance Buoy 6		
Unmarked Point 83	* * *	* * *
* * *	* * *	* * *
Unmarked Point 93	* * *	* * *
Dividing Creek Light 3	37 42 53.0	76 16 57.0
No limit line		
* * *	* * *	* * *

(11) *Chesapeake Bay, fishing area east of mouth of Rappahannock River.*

	Latitude	Longitude
Rappahannock River Entrance Buoy 4	37 34 45.7	76 14 30.1
"R7"		
"C65"	37 36 58.3	76 11 38.7
Rappahannock River Entrance Buoy 2	37 34 12.8	76 11 44.9
Thence to Rappahannock River Entrance Buoy 4.		

* * * * *

(13) *Chesapeake Bay, fishing area in vicinity of Tangier Island.*

	Latitude	Longitude
	° ′ ″	° ′ ″
Unmarked Point 107 on Maryland-Virginia State border	37 56 17.1	76 05 44.8
Tangier Island Shoal Point Buoy 2	37 47 03.6	76 05 42.0
"C34"	37 44 24.0	76 02 42.0
Tangier Sound Light	37 47 16.6	75 58 26.7
Prohibited Area		
A circle 1,000 yards in radius with its center at	37 47 54.0	76 03 48.0

* * * * *

[Regs., Oct. 21, 1968, 1507-32 (Atlantic Ocean-Chesapeake Bay)-ENGCW-ON] (sec. 10, 30 Stat. 1151; 33 U.S.C. 403)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Office of Comptroller, TAGO.

[F.R. Doc. 68-13621; Filed, Nov. 13, 1968; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

PART 153—SEIZURES INVOLVING CONTRABAND ARTICLES COVERED BY SECTION 1(b)(1) OF THE ACT OF AUGUST 9, 1939

CROSS REFERENCE: For a document revoking Part 153 of Title 26, see F.R. Doc. 68-13688, Title 21, Chapter II, Part 330, *supra*.

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Additional Standards: Diphtheria Toxin for Schick Test

On June 18, 1968, a notice of rule making was published in the FEDERAL REGISTER (33 F.R. 8849-8850) proposing to amend Part 73 of the Public Health Service Regulations, by prescribing specific standards of safety, purity, and potency for Diphtheria Toxin for Schick Test.

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective 60 days after the date of their publication in the FEDERAL REGISTER.

After consideration of the one comment submitted, the following amendment to Part 73 of the Public Health Service Regulations is hereby adopted to become effective 60 days after the date of publication in the FEDERAL REGISTER.

1. Part 73 is hereby amended by adding the following to the Table of Contents after "73.502 Tests."

ADDITIONAL STANDARDS: DIPHTHERIA TOXIN FOR SCHICK TEST

2. Part 73 is hereby amended by adding the following after § 73.502 *Tests.*

ADDITIONAL STANDARDS: DIPHTHERIA TOXIN FOR SCHICK TEST

§ 73.600 Proper name and definition.

The proper name of this product shall be Diphtheria Toxin for Schick Test, which shall be a preparation of a diphtheria toxin obtained from the growth of *Corynebacterium diphtheriae.*

§ 73.601 U.S. Standard preparation.

The U.S. Standard Diphtheria Toxin for Schick Test shall be used to determine the Schick test dose of the product. The Schick test dose of the standard is that amount of the standard, when mixed with 0.001 unit of the U.S. Standard Diphtheria Antitoxin and injected intradermally in a guinea pig, will induce an erythematous reaction of 10 mm. in diameter.

§ 73.602 Production of Diphtheria Toxin for Schick Test.

(a) *Propagation of bacteria.* The culture medium for propagation of the *Corynebacterium diphtheriae* for preparation of the parent toxin shall not contain ingredients known to be capable of producing allergenic effects in human subjects.

(b) *The parent toxin.* Diphtheria Toxin for Schick Test shall be prepared from a parent toxin which has been demonstrated to be stable and which contains no less than 400 minimum lethal doses per milliliter or 400,000 minimum reaction doses per milliliter. A minimum lethal dose is the smallest amount of toxin that will kill a guinea pig weighing approximately 250 gm. on the fourth day after its subcutaneous injection. A minimum reaction dose is that amount of toxin which when injected intradermally into a guinea pig induces an erythematous reaction 10 mm. in diameter.

§ 73.603 Potency test.

The dermal reactivity of each lot of the product shall be determined from the results of simultaneous guinea pig intradermal potency tests of the product under test and of the standard. The test shall be performed as follows:

(a) *Guinea pigs.* At least four healthy female guinea pigs shall be used, all of the same strain and each of a size that will permit a random distribution of eight intradermal injections. The hair shall be removed from the back and both sides of each guinea pig without producing abrasions of the skin. The denuded skin of each animal shall be sectioned into four equal areas at right angles to the vertebral column to provide two injection sites in each of the four areas, one on each side of the vertebra. The test is not valid if the guinea pigs do not show a graded response to the graded dilutions of the Schick test dose of the standard toxin.

(b) *Preparation of the test doses.* Four dilutions, two of the product under test and two of the U.S. Standard Diptheria Toxin for Schick Test, shall be prepared in sterile buffered saline pH 7.4 containing 0.2 percent gelatin. The low and high dilutions of the standard shall be those amounts of a Schick test dose of the standard which in a dose of 0.1 ml. are capable of eliciting graded erythematous dermal reactions between 10 mm. and 20 mm. in diameter. The low and high dilutions of the Schick test dose of the toxin under test shall be the same as those of the standard toxin and estimated to have the same dermal reactivity.

(c) *Inoculation.* The low and high dilutions of the product (chart designation P_L and P_H) and the low and high dilutions of the standard (chart designations S_L and S_H) shall be injected intradermally in a volume of 0.1 ml. into each of the four guinea pigs according to either the following scheme, or in another scheme, provided it will permit comparable randomization of injection sites:

Area	Guinea Pig Number							
	1		2		3		4	
	Left	Right	Left	Right	Left	Right	Left	Right
A	S_L	S_L	S_H	S_H	P_L	P_L	P_H	P_H
B	S_H	S_H	S_L	S_L	P_H	P_H	P_L	P_L
C	P_L	P_L	P_H	P_H	S_L	S_L	S_H	S_H
D	P_H	P_H	P_L	P_L	S_H	S_H	S_L	S_L

(d) *Calculation of test results.* Between 40 and 66 hours following injection, a diameter of the reaction for each injection site shall be calculated by averaging two diameters of the reaction measured at right angles to each other. The average reaction for each dilution for each animal shall be determined, then the average diameters of the reactions of all of the guinea pigs for each dilution shall be calculated. The ratios of the reactions are determined by dividing the average diameter of the low dilution of the product under test by the average diameter of the low dilution of the standard and by dividing the average diameter of the high dilution of the product by the average diameter of the high dilution of the standard.

(e) *Potency requirement.* The potency of the product under test is satisfactory if each calculated ratio of the reactions of the product under test and of the standard is 1.0. The potency of the lot under test is considered to be equal to that of the standard if the ratios are not lower than 0.77 or higher than 1.30, provided that in a single test the ratios are substantially the same.

§ 73.604 Stability test.

A sample of each lot of the product shall be held at 37° C. for not less than 24 hours and then tested for potency as prescribed in § 73.603. The stability of the product is satisfactory if test results of the sample meet the potency requirement prescribed in § 73.603(e).

§ 73.605 Samples; protocols; official release.

For each lot of the product, the following material shall be submitted to the Director, Division of Biologics Standards:

(a) A protocol which consists of a summary of the history of manufacture of each lot including all results of all tests for which test results are requested by the Director, Division of Biologics Standards.

(b) A sample of no less than 20 ml. of the product.

No lot of the product shall be issued by the manufacturer until notification of official release is received from the Director, Division of Biologics Standards.

§ 73.606 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Diphtheria Toxin for Schick Test, shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the product that are equal to or greater than the assurances provided by such standards, and the Director, National Institutes of Health, so finds and makes such findings a matter of official record.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: September 10, 1968.

[SEAL] ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: November 7, 1968.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 68-13723; Filed, Nov. 13, 1968; 8:50 a.m.]

Title 45—PUBLIC WELFARE

Chapter X—Office of Economic Opportunity

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Part 1069, reading as follows:

Subpart—Employee Participation in Direct Action

Sec.
1069.1-1 Applicability of this subpart.
1069.1-2 Definition of "direct action".
1069.1-3 Policy.
1069.1-4 Permissible direct action.
1069.1-5 Unallowable direct action.
1069.1-6 Distinction between staff actions and private actions of employees.
1069.1-7 Responsibilities of community action agencies.
1069.1-8 Enforcement.

AUTHORITY: The provisions of this Part 1069 issued under sec. 213, 81 Stat. 695; 42 U.S.C. 2796.

Subpart—Employee Participation in Direct Action

§ 1069.1-1 Applicability of this subpart.

This subpart applies to all full-time and part-time employees and volunteers of grantees and delegate agencies while engaged in carrying out a program financially assisted under the provisions of Title II or III-B of the Economic Opportunity Act of 1964, as amended.

§ 1069.1-2 Definition of "direct action."

As used in this subpart, "direct action" means a group activity designed to communicate collective grievances and to request decision or remedial action—e.g. picketing, parades or marches, sit-ins, rallies, or assemblies.

(NOTE: The above is a definition of all direct action, including forms of direct action which are legal and are permissible under this subpart.)

§ 1069.1-3 Policy.

(a) One of the premises of the Community Action Program is that poverty can be overcome as the poor gain the capability to play an effective role in the community processes which so vitally affect them. Maximum feasible participation of the poor is both a mandate of the Economic Opportunity Act and a focal point of OEO policy. The community action agency's duties of advocacy on behalf of the poor stem from those factors.

(b) In the course of carrying out their advocacy responsibilities, community action agencies may sometimes determine that the best available (or the only apparent) means for self-help involvement of the poor lead to such direct action activities as peaceful and lawful assembly to obtain redress of grievances from those believed capable of alleviating them.

(c) However, to recognize the legitimacy and importance of direct action is not to say that any and all direct action activities, under all circumstances, are either appropriate or desirable. Thus, employees and volunteers of community action agencies and other Title II and III-B grantees and delegate agencies are prohibited, in connection with the performance of their duties, from participating in, planning, or otherwise assisting in any unlawful picketing or protest or other form of direct action which is unlawful. Community action grantees and delegate agencies have the responsibility of preventing such illegal actions on the part of their staff. Toleration by agency officials of such behavior may be considered cause for suspending or terminating the grant.

(d) The rules set forth in this subpart are not intended to represent a redirection of the Community Action Program or a change in its mission. It is very difficult to establish general rules which clearly distinguish between legal and illegal forms of direct action or which determine the extent and limits of an individual's responsibility when participating in a group activity during which some illegal acts are committed. The rules of this subpart are a general guide, but each agency will have to interpret the rules with good judgment and enforce them fairly and with full knowledge of the facts. Agencies should avoid an interpretation which in any way restricts constitutionally-protected activities or an individual's constitutional rights. Grantees and delegate agencies may consult the appropriate OEO Regional or Headquarters office for advice as to whether a certain activity would be permissible under this subpart. It is the primary responsibility of the local agency, however, to enforce this subpart in a manner which prevents illegal direct action but which also insures that community action, which encompasses a variety of legal direct action, is not stifled.

§ 1069.1-4 Permissible direct action.

(a) Lawful direct action is permissible, and often necessary, as an intermediate step in promoting institutional changes that can lead to permanent improvements in the community's efforts to eliminate the causes and consequences of poverty.

(b) Community action personnel must seek to channel feelings of frustration among the poor into constructive efforts that will improve their conditions without encouraging illegal or destructive actions. Community action agencies may

play an effective role by bringing the needs, concerns and grievances of the poor to the attention of responsible public and private officials or groups.

(c) Such forms of direct action as a public rally to demonstrate for the adoption of a more stringent housing code, picketing in support of sewage facilities in a poor neighborhood, or publicizing a selective buying campaign against merchants who discriminate may sometimes be necessary. However, such direct action must meet the following tests of permissibility in order for a community action employee or volunteer to participate while in performance of his duties:

(1) It must not be forbidden under § 1069.1–5.

(2) It must be directly related to the program objectives of the grantee or delegate agency.

(3) It must have been planned as a result of a decision by a neighborhood or other representative group or by program beneficiaries, not solely by staff workers. Direct action activities are a legitimate part of community action only to extent that they present a genuine expression of the needs, desires, and formulated demands of the neighborhood itself, determined in a democratic fashion after consideration of the ends to be achieved and of the advantages and disadvantages of the various alternative courses of action. In this process, program staff members can provide assistance and information but must not seek to impose their own views.

§ 1069.1–5 Unallowable direct action.

(a) No employee or volunteer engaged in carrying out the program of an agency financially assisted under Title II or III–B shall, while in performance of his duties:

(1) Plan, participate in, or provide assistance to others in carrying out any form of direct action which is in violation of Federal, State, or local law or an outstanding injunction of any Federal, State, or local court.

(2) Plan, participate in, or provide assistance to others in carrying out any form of direct action which is designed with the intent to involve physical violence, destruction of property, or physical injury to persons. On the contrary, local agency staff should affirmatively do what they can to prevent such activities and to discourage any direct action that is violent in manner or purpose or is calculated to incite civil disorders.

(3) Commit any actions in connection with riots, political activity, or lobbying which are prohibited by Community Action Memo 66 or OEO Instructions 6907–1 or 6907–2.[1]

(b) Any employee who participated in a form of direct action which as planned and initially carried out is legal and permissible under § 1069.1–4, but during which some illegal acts are committed by individuals, is responsible only for his individual actions.

[1] Not filed with the Office of the Federal Register.

§ 1069.1–6 Distinction between staff actions and private actions of employees.

(a) Whether in a particular instance an employee may be considered to be acting in his capacity as a private citizen, and therefore to be generally exempt from the limitations of this subpart, depends less on the question of whether the person is formally on duty (i.e., whether the unlawful direct action takes place during his regular working hours), than on the question of the employee's relationship to the group which is engaged in the activity. Where this relationship is such that the participants or the public might reasonably conclude that he is acting as an employee (for example, because as part of his job he has been working with the participating group, or in the neighborhood with which they are identified), he should consider himself subject to the restrictions on involvement in illegal direct action; and any doubt should be resolved in this direction. This is so regardless of the time at which the event occurs, or whether the employee is, as a formal matter, on or off duty. It follows that no employee may avoid the limitations by simply taking leave time, or relying upon the fact that a given activity occurs in the evening or on a weekend.

(b) Although volunteers are not included in the discussion in paragraph (a) of this section, they must take reasonable precautions against identifying their off-duty activities with a grantee or delegate agency.

§ 1069.1–7 Responsibilities of community action agencies.

(a) Section 213(a) of the Economic Opportunity Act requires each community action agency to adopt rules for itself and its delegate agencies which define staff responsibilities in regard to advocacy on behalf of the poor in such a way as to prohibit participation in unlawful direct action. This requirement will be considered to be met by the agency's adoption of the provisions of this subpart and by making these rules available to all employees in writing.

(b) If, however, the agency wishes to adopt its own rules it may do so, providing that the provisions of this subpart are included in those rules and that none of these provisions are contradicted by the agency's additional rules.

(c) In either case, the agency must specifically inform employees and volunteers of the provisions contained in such rules and of the possible sanctions for noncompliance.

§ 1069.1–8 Enforcement.

(a) The initial and primary responsibility for enforcement of this subpart in connection with projects assisted under Title II and III–B is with the local grantees and delegate agencies responsible for those projects. Each such agency will be expected to investigate and to take appropriate action in response to any specific information which comes to its attention concerning possible violation of the requirements of this subpart. Any personnel actions against employees resulting from such investigation are subject to the grievance procedures required under CA Memorandum 23–A[1] affording the employee a prompt and fair consideration of his grievance.

(b) Each grantee or delegate agency shall promptly inform the OEO Regional or appropriate grant approval office of any allegation charging a person within its jurisdiction with violating the provisions of this subpart indicating the action that the agency is taking regarding the matter.

Effective date. This subpart shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

THEODORE M. BERRY,
Director,
Community Action Program.

[F.R. Doc. 68–13713; Filed, Nov. 13, 1968; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1013]

PART 1033—CAR SERVICE

Illinois Central Railroad Co. and Louisville and Nashville Railroad Co. Not To Furnish Boxcars for Loading by Buckeye Cellulose Corp. at Memphis, Tenn.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of November 1968.

It appearing, that there is a critical shortage of boxcars throughout the United States; that numerous shippers are unable to receive boxcars required for transportation of their traffic; that the Buckeye Cellulose Corp., Cotton Seed & Soybean Division, located at 2782 Chelsea Avenue, Memphis, Tenn., loads substantial numbers of boxcars in advance of the dates that shipping instructions are furnished to the carriers designated by it to transport its products, thus preventing the immediate use of such cars by other shippers. It is the opinion of the Commission that because the existing rules, regulations and practices of the railroads are inadequate an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

[1] Not filed with the Office of the Federal Register.

§ 1033.1013 Service Order No. 1013.

Illinois Central Railroad Co. and Louisville and Nashville Railroad Co. shall not furnish boxcars for loading by Buckeye Cellulose Corp. at Memphis, Tenn.:

(a) The Illinois Central Railroad Co. and the Louisville and Nashville Railroad Co. shall not:

(1) Furnish, deliver, or place in an accessible position, any empty boxcar for loading by Buckeye Cellulose Corp., Cotton Seed & Soybean Division, 2782 Chelsea Avenue, Memphis, Tenn.

(2) Shall not remove unbilled loaded boxcars from tracks serving the Buckeye Cellulose Corp.

(3) Shall not permit the Buckeye Cellulose Corp. to appropriate and reload empty boxcars after release from inbound load. Such cars must be returned to the carrier empty.

(b) In the event any boxcar is appropriated by the Buckeye Cellulose Corp. and loaded contrary to the order, such car shall be subject to demurrage charges of $100 per calendar day, for each day or fraction of a day from actual date and hour of appropriation to date of release, without free time, and including all Saturdays, Sundays, and holidays.

(c) Rules and regulations suspended: The operation of all rules, and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) Effective date: This order shall become effective at 12:01 a.m., November 8, 1968.

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., November 30, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4) and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–13702; Filed, Nov. 13, 1968; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Sprague-Mather Pool of the Necedah National Wildlife Refuge, Necedah, Wis., an area comprising approximately 2,500 acres is permitted from December 15, 1968, through March 15, 1969. The open area is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable state regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1969.

DAVID J. BROWN,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

NOVEMBER 6, 1968.

[F.R. Doc. 68–13693; Filed, Nov. 13, 1968; 8:47 a.m.]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 156]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.456 Navel Orange Regulation 156.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, 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 Navel Orange 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 Navel oranges, 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 section 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 section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 12, 1968.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 15, 1968, through November 21, 1968, are hereby fixed as follows:

(i) District 1: 1,000,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 125,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: November 13, 1968.

F. L. SOUTHERLAND,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–13794; Filed, Nov. 13, 1968; 10:05 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1070, 1078, 1079]

[Docket Nos. AO–229–A21, AO–272–A16, AO–295–A18]

MILK IN CEDAR RAPIDS-IOWA CITY, NORTH CENTRAL IOWA, AND DES MOINES, IOWA, MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

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), notice is hereby given of a public hearing to be held at the Roosevelt Hotel, 200 First Avenue NE., Cedar Rapids, Iowa, beginning at 9:30 a.m., local time, on December 3, 1968, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modification thereof, to the tentative marketing agreements and to the orders.

The proposals relative to a redefinition of the marketing areas raises the issue whether the provisions of the present orders or the provisions herein proposed would tend to effectuate the declared policy of the Act, if they are applied to the marketing areas as proposed to be redefined and, if not, what modifications of the provisions of the orders would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 1.

DEFINITIONS

§ 1079.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1079.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1079.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1079.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1079.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1079.6 Central Iowa marketing area.

"Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the counties enumerated below, all within the State of Iowa, together with all territory within the boundaries so designated which is occupied by government (municipal, State, or Federal) reservations or installations:

ZONE I

Adair.	Mahaska.
Appanoose.	Marion.
Boone.	Marshall.
Clarke.	Monroe.
Dallas.	Polk.
Decatur.	Poweshiek.
Greene.	Story.
Guthrie.	Union.
Jasper.	Warren.
Lucas.	Wapello.
Madison.	Wayne.

ZONE II

Benton.	Hamilton.
Blackhawk.	Humboldt.
Bremer.	Iowa.
Buchanan.	Johnson.
Butler.	Linn.
Franklin.	Tama.
Grundy.	Webster.
Hardin.	Wright.

§ 1079.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(a) Received at a pool plant, or

(b) Diverted as producer milk pursuant to § 1079.14.

§ 1079.8 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which fluid milk products are disposed of on routes in the marketing area during the month.

§ 1079.9 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1079.10 Pool plant.

"Pool plant" means:

(a) Any distributing plant, other than that of a producer-handler or one described in § 1079.61, which:

(1) Disposes of through route disposition fluid milk products in an amount equal to 50 percent or more during the month of such plants total receipts of Grade A milk from dairy farmers including producer milk diverted pursuant to § 1079.14, supply plants and cooperative associations in their capacity as a handler pursuant to § 1079.12(d) and has route disposition in the marketing area in an amount equal to 15 percent or more of such receipts: *Provided*, That a plant may use one-half of its cottage cheese disposition on routes in computing the route disposition requirement of this paragraph; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in subparagraph (1) of this paragraph;

(b) Any supply plant from which during the month not less than 50 percent of the Grade A milk received from dairy farmers and cooperative associations in their capacity as a handler pursuant to § 1079.12(d) is shipped to a plant(s) described in paragraph (a) of this section during all months of the year: *Provided*, That any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the month of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) Any plant which is operated by a cooperative association and 60 percent or more of the milk delivered during the previous 12 months by producers who are members of such association is delivered directly or is transferred by the association to pool plants as described in paragraph (a) of this section, unless such a plant qualifies for the month as a "pool plant" under another order issued pursuant to the Act by delivering 50 percent

or more of its Grade A receipts from dairy farmers to plants which qualified as "pool plants" under such other order; and

(d) Any plant operated by or under contract to a cooperative association or a federation of cooperatives if members of such cooperative association or federation deliver 60 percent of total producer milk received at pool plants described in paragraph (a) of this section during the previous 12 months.

§ 1079.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has route disposition of fluid milk products labeled Grade A in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1079.12 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such association;

(d) Any cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association, if the cooperative association, prior to assuming the function as the handler, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered, that it will be the handler for the milk; and

(e) A producer-handler, or any person who operates an other order plant described in § 1079.61.

§ 1079.13 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who received no milk during the month from other dairy farmers or from sources other than pool plants and not more than 5,000 pounds of milk and fluid milk products (including the milk equivalent of nonfluid products which are reconstituted into fluid milk products) during the month from any source. Such person must provide proof satisfactory to the market administrator that:

(a) The care and management of all the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person; and

(b) The operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

§ 1079.14 Producer milk.

"Producer milk" shall be that skim milk and butterfat for each handler's account in the following milk from producers:

(a) With respect to the operations of a pool plant:

(1) Received directly from such producers;

(2) Diverted by the operator of such pool plant to a nonpool plant, subject to the condition of paragraph (c) of this section; and

(3) Which is received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1079.12(d) for all purposes other than those specified in paragraph (b)(2)(i) of this section.

(b) With respect to receipts by a cooperative association in addition to those pursuant to paragraph (a) of this section:

(1) For which such cooperative association is the handler pursuant to § 1079.12(c), subject to the condition of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 1079.12(d) to the following extent:

(i) For purposes of reporting pursuant to §§ 1079.30(c) and 1079.31(a) and making payments to producers pursuant to § 1079.80(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler; and

(c) Diverted pursuant to the following conditions:

(1) By the operator of a pool plant or by a cooperative association as a handler pursuant to § 1079.12(c) to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act as follows:

(i) A handler pursuant to § 1079.12(c) may divert for its account without limit during the other days of the month the milk of any member producer whose milk is received at a pool distributing plant for at least 6 days' production during the month. The total quantity of milk so diverted may not exceed 50 percent in September through February and 100 percent in March through August of the larger of the following amounts: (*a*) The total quantity of its member producer milk received at all pool distributing plants during the current month, or (*b*) the average daily quantity of its member producer milk received at all pool distributing plants during the previous month multiplied by the number of days in the current month;

(ii) A handler in his capacity as the operator of a pool distributing plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, whose milk is received at his pool distributing plant for at least 6 days' production during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 50 percent in September through February and 100 percent in March through August of the larger of the following amounts: (*a*) The total quantity of producer milk received at such plant during the current month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, or (*b*) the average daily quantity of producer milk received at such plant during the previous month multiplied by the number of days in the current month from producers who are not members of a cooperative association which has diverted milk in the current month pursuant to paragraph (a) of this section; and

(2) Any milk so diverted by the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1079.12(c) in excess of the limits prescribed pursuant to subparagraph (1) of this paragraph shall not be producer milk and if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk;

(3) For pricing purposes, milk diverted pursuant to subparagraph (1) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1079.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, milk drinks (plain or flavored) "modified or fortified," including "dietary milk products" and reconstituted milk or skim milk, sour cream and sour mixtures of milk, skim milk or cream products labeled Grade A, cream or any mixture in fluid form of milk or skim milk and cream, including all skim milk or nonfat milk solids which may be combined with vegetable fats and sold in the resemblance of any fluid milk products (except frozen or aerated cream, ice cream or frozen dessert mixes, eggnog and sterilized milk and milk products hermetically sealed in a container and so processed either before or after sealing so as to prevent microbial spoilage).

§ 1079.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts of fluid milk products during the month except:

(1) Fluid milk products received from pool plants;

(2) Producer milk;

(3) Inventory of fluid milk products on hand at the beginning of the month; and

(b) Products, other than fluid milk products from any source (including

those produced at the plant) which are reprocessed or converted to another product in the plant during the month and any disappearance of nonfluid milk products not otherwise accounted for.

§ 1079.17 Route disposition.

"Route disposition" or disposed of on routes means any delivery of a fluid milk product from a distributing plant to a retail or wholesale outlet (including any delivery by a vendor, from a plant store or through a vending machine) except any delivery of a fluid milk product to any milk processing plant or to commercial food establishments pursuant to § 1079.41(b)(4).

§ 1079.18 Chicago butter price.

"Chicago butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1079.25 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1079.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1079.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1079.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1079.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directly by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1079.30 and 1079.31 or payments pursuant to §§ 1079.62, 1079.80, 1079.84, 1079.86, 1079.87, and 1079.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(i) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(j) Publicly announce and notify each handler in writing on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 1079.51(a) and the Class I butterfat differential pursuant to § 1079.52(a), both for the current month; and the minimum prices for Class II milk pursuant to § 1079.51(b) and Class III milk pursuant to § 1079.51(c) and the Class II and Class III butterfat differentials pursuant to § 1079.52(b) all for the preceding month; and

(2) The 10th day after the end of each month, the uniform price pursuant to § 1079.72, and the butterfat differential pursuant to § 1079.81;

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant of each handler during the month that was utilized in each class. For the purpose of this report the milk so delivered shall be allocated to each class in the same ratio as all producer milk received at such plant during the month.

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b), the market administrator shall estimate and publicly announce the combined utilization (to the nearest whole percentage) in Class II and Class III during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1079.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS AND FACILITIES

§ 1079.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month, reporting separately for each of his approved plants, in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in or represented by fluid milk products received from pool plants;

(c) The quantities of skim milk and butterfat contained in or represented by other source milk;

(d) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 1079.14(c);

(e) Inventories of fluid milk products on hand at the beginning and end of the month;

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk on routes in the marketing area; and

(g) Such other information with respect to receipts and utilization as the market administrator may request.

§ 1079.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer;

(iii) The number of days, if less than the entire month, for which milk was received from such producer;

(iv) The average butterfat content of such milk; and

(v) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(2) Such other information with respect to the utilization or butterfat and skim milk as the market administrator may prescribe.

§ 1079.32 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to approved dairy farmers and cooperative associations including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1079.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1079.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1079.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1079.41 to 1079.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44 the classes of utilization shall be as follows:

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

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

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

(ii) As classified pursuant to paragraph (c) (2) and (3) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce or added to cottage cheese and cottage cheese curd except cottage cheese and cottage cheese curd disposed of as livestock feed or dumped after prior notification to and opportunity for verification by the market administrator: *Provided*, That Class II classification shall not include the weight of water associated with nonfat milk solids (as computed pursuant to § 1079.40) used to fortify fluid milk products used to produce or added to cottage cheese or cottage cheese curd.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce:

(i) Any product other than those products designated as Class I or Class II pursuant to paragraphs (a) and (b) of this section; and

(ii) Cottage cheese and cottage cheese curd which is disposed of as livestock feed or dumped after prior notification to and opportunity for verification by the market administrator;

(2) Skim milk and butterfat in fluid milk products disposed of for livestock feed;

(3) Skim milk and butterfat dumped after prior notification to and opportunity for verification by the market administrator;

(4) In the weight of fortified fluid milk products which is not classified as Class I pursuant to paragraph (a)(1) of this section or as Class II pursuant to paragraph (b) of this section;

(5) Skim milk and butterfat in inventory of fluid milk products at the end of the month;

(6) Skim milk and butterfat, respectively, in shrinkage allocated pursuant to § 1079.42(b)(1) but not in excess of:

(i) Two percent of receipts of producer milk;

(ii) Plus 1.5 percent of milk received in bulk tank lots from other pool plants;

(iii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1079.12(d), except that if the handler operating the pool plant files notice with the market administrator that the purchase of such milk is on the basis of farm tests and weights determined by farm bulk tank calibrations, the applicable percentage shall be 2 percent;

(iv) Plus 1.5 percent of milk received in bulk tank lots from other order plants, exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of milk in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler;

(vi) Less 1.5 percent of milk in bulk tank lots transferred from pool plants to other plants; and plus

(vii) In the case of milk received by a cooperative in its capacity as a handler pursuant to § 1079.12 (c) and (d), 0.5 percent of such receipts from producers as determined by farm tests and weights measured by farm bulk tank calibrations, unless the exception in subdivision (iii) of this subparagraph applies; and

(7) Skim milk and butterfat in shrinkage allocated pursuant to § 1079.42(b)(2).

§ 1079.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) Prorate the resulting amounts between receipts of skim milk and butterfat in:

(1) The net quantity of producer milk and other milk specified in § 1079.41(c)(6); and

(2) Bulk fluid milk products in other source milk exclusive of that specified in § 1079.41(c)(6).

§ 1079.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1079.44 Transfers.

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

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

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1079.46(a) (7) and (8) and the corresponding steps of § 1079.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

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

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Creston, Fort Dodge, Iowa City, Mason City, Ottumwa, and Waterloo, Iowa;

(d) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the Post Offices of Creston, Fort Dodge, Iowa City, Mason City, Ottumwa, and Waterloo, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1079.30 for the month within which such transaction occurred;

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

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

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

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

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

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

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

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

(2) If transferred in bulk form, classification shall be in Class I if allocated as a fluid milk product to Class I under the other order, in Class II if allocated to Class II under an order that provides three classes and in Class III if allocated to Class III under the other order, or if allocated to Class II under an order that provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1079.41.

§ 1079.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for each pool plant and shall compute the pounds of butterfat and skim milk in each class at each such plant.

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator shall determine the classification of approved milk received at each approved plant each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1079.41(c)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(3) Subtract successively from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

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

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

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

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II milk or Class III milk:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II or Class III utilization, but not in excess of the pounds of skim milk remaining in Class II and Class III;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products

from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II and Class III which is in excess of the pounds of skim milk remaining in Class II and Class III, the pounds of skim milk in Class II and Class III shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II and Class III milk, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure;

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk:

(*a*) The estimated combined Class II and Class III utilization of skim milk, by all handlers, as announced for the month pursuant to § 1079.27(l); or

(*b*) The pounds of skim milk in Class II and Class III milk remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II and Class III at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II and Class III at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1079.44;

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

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

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

MINIMUM PRICES

§ 1079.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall not be less than $4.33.

§ 1079.51 Class prices.

Subject to the provisions of §§ 1079.52 and 1079.53, the class prices per hundredweight shall be as follows:

(a) *Class I milk price.* The Class I price shall be the basic formula price for the preceding month plus $1.25, and plus 20 cents through April 1969.

(b) *Class II milk price.* The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III milk price.* The Class III price shall be the basic formula price for the month.

§ 1079.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class price for the month calculated pursuant to § 1079.51 shall be increased or decreased respectively, for each one-tenth percent butterfat at the appropriate rate rounding to the nearest one-tenth cent, determined as follows:

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

(b) *Class II and Class III price.* Multiply the Chicago butter price for the current month by 0.110.

§ 1079.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant which is classified as Class I milk, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1079.51(a) shall be determined as follows:

(1) For plants located in Zone I as specified in § 1079.6 the price shall be that specified in § 1079.51(a).

(2) For plants located in Zone II as specified in § 1079.6 the price shall be that specified in § 1079.51(a) minus 15 cents.

(3) For plants located in the Iowa counties of Adams, Audubon, Carroll, Cass, Davis, Jefferson, Keokuk, Ringgold, Taylor, Van Buren, and Washington, the price shall be that specified in § 1079.51(a).

(4) For plants located in the Iowa counties of Cedar, Delaware, Jones, and Muscatine the price shall be that specified in § 1079.51(a) minus 15 cents.

(5) For plants located in the Iowa counties of Cerro Gordo, Chickasaw, Fayette, Floyd, and Hancock the price shall be that specified in § 1079.51(a) minus 20 cents.

(6) For plants located in the Iowa county of Howard and the Minnesota counties of Freeborn and Mower the price shall be that specified in § 1079.51 (a) minus 25 cents.

(b) For producer milk which is received at a pool plant and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (c) of this section and for other source milk for which a location adjustment is

applicable and such plant is located outside the area specified in paragraph (a) of this section, and located 60 miles or more from the nearer of the post offices of Cedar Rapids, Creston, Humboldt, Jefferson, Mason City, Ottumwa, and Waterloo, Iowa, the zone price applicable to such nearest city shall be reduced 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles.

(c) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the tranferee plant after computations pursuant to § 1079.46 (a)(8) and the corresponding step of § 1079.46(b) in excess of 95 percent of receipts of approved milk at such plant, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1079.54 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1079.60 Producer-handler.

Sections 1079.40 to 1079.46, 1079.50 to 1079.53, and 1079.80 to 1079.88 shall not apply to a producer-handler.

§ 1079.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant pursuant to §1079.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Central Iowa marketing area than in the marketing area regulated pursuant to such other order: *Provided*, That the operator of a distributing plant or a supply plant which is exempt from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 1079.30) and allow verification of such reports by the market administrator.

§ 1079.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1079.30 and 1079.31(b)(1) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section.

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1079.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1079.70(e) and a credit in the amount specified in § 1079.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1079.30 and 1079.31(b)(1) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1079.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class III price).

DETERMINATION OF UNIFORM PRICE

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.52 and 1079.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1079.46(a)(10) and the corresponding step of § 1079.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and:

(1) The Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(5) and the corresponding step of § 1079.46(b); and

(2) The Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1079.46(a)(5) and the corresponding step of § 1079.46(b);

§ 1079.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1079.70 for all handlers who filed the reports prescribed by § 1079.30 for the month and who made the payments pursuant to §§ 1079.80 and 1079.84 for the preceding month;

(b) Add the amount of the minus differentials which are applicable pursuant to § 1079.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1079.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.70(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

PAYMENT FOR MILK

§ 1079.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, for producer milk received during such month, an amount computed at not less than the uniform price pursuant to § 1079.71 adjusted pursuant to §§ 1079.81, 1079.82, and 1079.87, and less the payment paid pursuant to subparagraph (1) of this paragraph.

(b) Each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 13th day after the end of each month for milk received during such month.

(c) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1079.81 Butterfat differentials to producers.

The uniform price pursuant to § 1079.71 shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I, Class II, and Class III milk pursuant to § 1079.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resulting figure to the nearest one-tenth cent.

§ 1079.82 Location differentials to producers.

(a) The uniform price pursuant to § 1079.71 for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1079.53 (a) and (b).

(b) For purposes of computations pursuant to §§ 1079.84 and 1079.85 the uniform price shall be adjusted at the rates set forth in § 1079.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1079.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 1079.62, 1079.84, 1079.85, and 1079.86: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1079.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1079.70 for such handler; and

(b) The sum of:

(1) The amount of the obligation pursuant to § 1079.80 of such handler for producer milk received during the month; and

(2) The value at the weighted average price applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1079.70(e).

§ 1079.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.84(b) exceeds the amount computed pursuant to § 1079.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1079.86 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1079.84 and 1079.85, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 15 days of such billing, make payments to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or to a cooperative association discloses payment of an amount less than is required by § 1079.80 the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

§ 1079.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1079.80 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1079.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1079.46 (a) (3) and (7) and the corresponding steps of § 1079.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1079.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator received the handler's utilization report on milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files pursuant to section 8c(15)(a) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1079.90 Effective time.

The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1079.91 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. The part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1079.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1079.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1079.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1079.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Proposed by Marigold Foods, Inc., as a modification of Proposal No. 1:

Proposal No. 2.

§ 1079.6 Central Iowa Marketing Area.

"Central Iowa Marketing Area" (hereinafter called the "marketing area") means all of the territory in the marketing areas now defined in Order Nos. 1070, 1078, and 1079.

Proposal No. 3.

§ 1079.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, milk drinks (plain or flavored) "modified or fortified," and reconstituted milk or skim milk, sour cream and sour mixtures of milk, skim milk or cream products labeled Grade A, cream or any mixture in fluid form of milk or skim milk and cream (except frozen or aerated cream, ice cream or frozen dessert mixes, eggnog and sterilized milk and milk products hermetically sealed in a container and so processed either before or after sealing so as to prevent microbial spoilage).

Proposal No. 4.

§ 1079.30 Reports of receipts and utilization.

Change the due date for reports to on or before the 10th day after the end of each month.

Proposal No. 5.

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44 the classes of utilization shall be as follows:

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

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

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

(ii) As classified pursuant to paragraph (b) of this section; and

(2) Not accounted for as Class II.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than those products designated as Class I;

(2) Skim milk and butterfat in fluid milk products disposed of for livestock feed;

(3) Skim milk and butterfat dumped after prior notification to and opportunity for verification by the market administrator;

(4) In the weight of fortified fluid milk products which is not classified as Class I pursuant to paragraph (a)(1) of this section;

(5) Skim milk and butterfat in inventory of fluid milk products at the end of the month;

(6) Skim milk and butterfat, respectively, in shrinkage allocated pursuant to § 1079.42(b)(1) but not in excess of:

(i) Two percent of receipts of producer milk;

(ii) Plus 1.5 percent of milk received in bulk tank lots from other pool plants;

(iii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1079.12(d), except that if the handler operating the pool plant files notice with the market administrator that the purchase of such milk is on the basis of farm tests and weights determined by farm bulk tank calibrations, the applicable percentage shall be 2 percent;

(iv) Plus 1.5 percent of milk reecived in bulk tank lots from other order plants, exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of milk in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler;

(vi) Less 1.5 percent of milk in bulk tank lots transferred from pool plants to other plants; and

(vii) Plus, in the case of milk received by a cooperative in its capacity as a handler pursuant to § 1079.12 (c) and (d), 0.5 percent of such receipts from producers as determined by farm tests and weights measured by farm bulk tank calibrations, unless the exception in subdivision (iii) of this subparagraph applies; and

(7) Skim milk and butterfat in shrinkage allocated pursuant to § 1079.42(b)(2).

Proposal No. 6.

§ 1079.51 Class prices.

Subject to the provisions of §§ 1079.52 and 1079.53, the class prices per hundredweight shall be as follows:

(a) *Class I milk price.* The Class I price shall be the basic formula price for the preceding month plus $1.25, and plus 20 cents through April 1969.

(b) *The Class II milk price.* The Class II price shall be the basic formula price for the month.

Proposal No. 7.

§ 1079.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant which is classified as Class I milk, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1079.51 (a) shall be determined as follows:

(1) Zone I—adjustment rate—none. Zone I shall consist of all of the territory located within the boundaries of the area designated as the Des Moines—Iowa Order No. 79 marketing area.

(2) Make such other appropriate conforming modifications in the location differential to handler's provisions of the proposed order as are required to maintain proper price alignment with the Minneapolis-St. Paul and proposed Dairyland marketing orders.

Proposed by the Borden Co. as a modification of Proposal No. 1:

Proposal No. 8.

§ 1079.6 Central Iowa marketing area.

"Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the counties and/or cities enumerated below, all within the State of Iowa, together with all territory within the boundaries so designated which is occupied by government (municipal, State, or Federal) reservations or installations:

ZONE I

Adair.	Mahaska.
Appanoose.	Marion.
Boone.	Marshall.
Clarke.	Monroe.
Dallas.	Polk.
Decatur.	Poweshiek.
Greene.	Story.
Guthrie.	Union.
Jasper.	Warren.
Lucas.	Wapello.
Madison.	Wayne.

ZONE II

Benton.	Hancock.
Blackhawk.	Hardin.
Bremer.	Humboldt.
Buchanan.	Iowa.
Butler.	Johnson.
Cerro Gordo.	Linn.
Chickasaw.	Mitchell (city of Osage only)
Fayette.	Tama.
Floyd.	Webster.
Franklin.	Wright.
Grundy.	
Hamilton.	

Proposal No. 9.

§ 1079.8 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

Proposal No. 10.

§ 1079.9 Supply plant.

"Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1079.10.

Proposal No. 11.

§ 1079.10 Pool plant.

"Pool plant" means a plant described in paragraph (a), (b), or (c) of this section except as provided in § 1079.60 and 1079.61: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) A distributing plant from which:

(1) The volume of Class I packaged fluid milk products disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products from other pool distributing plants, is not less than 40 percent of the total Grade A fluid milk products received at such plant, exclusive of receipts of packaged fluid milk products from other pool distributing plants and receipts from other order plants which are assigned pursuant to § 1079.46.

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in subparagraph (1) of this paragraph and for the second month: *Provided,* That notification on or before the 12th day of the month after failure to meet performance standards described in subparagraph (1) of this paragraph shall cancel continued qualification for the second month.

(b) Any supply plant from which during the month not less than 50 percent of the Grade A milk received from dairy farmers and cooperative associations in their capacity as a handler pursuant to § 1079.12(d) is shipped to a plant(s) described in paragraph (a) of this section during all months of the year: *Provided,* That any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the months of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month, or during the 12-month period immediately preceding such month, are more than the total pounds of Grade A milk received at its plant from dairy farmers during the corresponding period: *Provided,* That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months.

Proposal No. 12.

§ 1079.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has disposition of fluid milk products labeled Grade A in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

Proposal No. 13.

§ 1079.14 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1079.12(d): *Provided,* That milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk; and

(2) By a cooperative association as a handler pursuant to § 1079.12(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1079.41(b)(6) or as Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 14 days of production of producer milk by such producer;

(3) Milk of a producer diverted as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provision of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 14 days of production of producer milk by such producer: *Provided,* That the milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order;

(4) For pricing purposes milk diverted pursuant to subparagraphs (2) and (3) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant from which diverted;

(5) For pricing purposes milk diverted pursuant to subparagraph (1) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

Proposal No. 14.

§ 1079.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except aerated cream products, sour cream and sour mixtures, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

Proposal No. 15.

§ 1079.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) approved milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

Proposed by Beatrice Foods Co. as a modification of Proposal No. 1:

Proposal No. 16. Add to the counties included in the marketing area of Proposal No. 1:

A. The following Iowa counties:

Davis.	Keokuk.
Henry.	Van Buren.
Jefferson.	Washington.

B. The following Missouri counties:

Adair.	Putnam.
Macon.	Schuyler.
Marion.	Shelby.

Proposed by Federated Milk Producers whose members are: Albert Lea Cooperative Creamery, Cedar Valley Cooperative Milk Association, Clinton Cooperative Milk Producers Association, Farmers Butter and Dairy Cooperative, Farmers Cooperative Creamery Association, Waukon Cooperative Creamery, Maquoketa Valley Cooperative Creamery, Mississippi Valley Milk Producers Association, North Iowa Cooperative Milk Association, Preston Creamery Association, Rice County Cooperative Dairy Association, and Spring Valley Creamery Association.

Proposal No. 17. As a modification of Proposal No. 1, add the following counties to the marketing area proposed in § 1079.6: Cerro Gordo, Chickasaw, Davis, Fayette, Floyd, Hancock, Henry, Jefferson, Keokuk, and Van Buren in the State of Iowa; and the counties of Putnam and Schuyler in the State of Missouri.

Proposal No. 18. The proponents of Proposal No. 17 submit the following as an alternative to Proposal No. 1.

DEFINITIONS

§ 1078.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1078.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

§ 1078.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1078.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1078.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of, or marketing, milk or its products for its members;

(c) Has its entire activities under the control of its members.

§ 1078.6 North Central Iowa marketing area.

"North Central Iowa Marketing Area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the city of Osage and the counties of Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Marshall, Tama, Webster, and Wright, all in the State of Iowa, including territory within such boundaries which is occupied by governmental (municipal, State, or Federal) reservations, installations, or institutions.

§ 1078.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (inculding this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection of a duly constituted health authority and whose milk is received at a pool plant or by a cooperative association in its capacity as a handler, or is diverted as producer milk pursuant to § 1078.14.

§ 1078.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant. In case a corporation with recognized divisions which are operated as separate business units operates two or more pool plants, each such division shall be the handler with respect to the pool plant(s) it operates;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such association;

(d) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The milk shall be deemed to have been received from producers by the cooperative association at the location of the plant to which it is delivered;

(e) A producer-handler, or any person who operates an other order plant described in § 1078.61.

§ 1078.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1078.10 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes in the marketing area.

§ 1078.11 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1078.12.

§ 1078.12 Pool plant.

"Pool plant" means a plant, other than that of a producer-handler or a handler partially exempt pursuant to § 1078.61, described in paragraph (a), (b), or (c) of this section. If a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and cooperative associations pursuant to § 1078.8(d), is disposed of during the month on routes and not less than 15 percent of such receipts are so disposed of in the marketing area; and

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 25 percent of the Grade A milk received at such plant from dairy farmers and cooperative associations pursuant to § 1078.8(d) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of August through November shall be a pool plant for the succeeding months of December through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association if, during the month, 51 percent or more of the producer milk of members of the association is received at a pool distributing plant(s) of another handler(s), or is transferred to such plant(s) from the association's supply plant.

§ 1078.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1078.14 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers which is:

(a) Receive from producers at a pool plant;

(b) Received from producers by a cooperative association which is a handler pursuant to § 1078.8 (c) or (d);

(c) Moved from the farm to a nonpool plant (other than a plant of a producer-handler) pursuant to subparagraph (1) or (2) of this paragraph, subject to the conditions set forth in subparagraphs (3) and (4) of this paragraph:

(1) For any month, a cooperative association handler pursuant to § 1078.8(c) may divert for its account the milk of any member-producer whose milk has been received at a pool plant(s) for at least 3 days during the month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but shall not exceed 50 percent of its member producer milk received at all pool plants during any other month of the year.

(2) A handler in his capacity as the operator of a pool plant may divert for his account the milk of any producer, other than a member of a cooperative association, whose milk has been received at his pool plant(s) for at least 3 days during the month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but during any other month of the year shall not exceed 50 percent of the milk received from producers who are not members of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph.

(3) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to subparagraphs (1) and (2) of this paragraph, the diverting handler shall designate the dairy farmers whose milk was overdiverted. If the handler fails to make such designation, only the milk of dairy farmer(s) which is physically received at the pool plant of such handler during the month shall be producer milk for such month; and

(4) For the purposes of location adjustments pursuant to §§ 1078.53 and 1078.73, milk so diverted shall be priced at the location of the plant to which diverted.

§ 1078.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products, except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products (except cottage cheese from pool plants) other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted into or combined with another product in the plant during the month, and any disappearance of products, other than fluid milk products, which are in a form in which they may be converted into fluid milk products and which are not otherwise accounted for pursuant to § 1078.33.

§ 1078.16 Fluid milk product.

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

milk drinks (plain or flavored), concentrated milk (frozen or fresh), cream, cultured or sour cream or any mixture in fluid form of milk or skim milk and cream, including all skim milk or nonfat milk solids which may be combined with vegetable fats and sold in the resemblance of any fluid milk products (except frozen cream, aerated cream products, ice cream mix, frozen dessert mixes, eggnog, evaporated or condensed milk, sterilized products packaged in hermetically sealed metal or glass containers, and cultured sour mixtures of cream and milk or skim milk to which cheese or any other food substance other than a milk product has been added and not labeled as Grade A).

§ 1078.17 Route.

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) to a food processing plant pursuant to § 1078.41(c)(4).

§ 1078.18 Butter price.

"Butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month.

MARKET ADMINISTRATOR

§ 1078.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1078.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1078.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with satisfactory surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1078.86 the cost of his bond and the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1078.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records and facilities of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the 12th day after the end of the month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(k) Publicly announce and notify each handler in writing on or before: (1) The 5th day of each month, the Class I milk price pursuant to § 1078.51(a) and the Class I butterfat, differential pursuant to § 1078.52(a) for the current month, and the Class II and Class III prices pursuant to § 1078.51 (b) and (c) and the Class II and Class III butterfat differential pursuant to § 1078.52(b) for the preceding month; and (2) the 10th day after the end of each month, the uniform price pursuant to § 1078.71, and the butterfat differential to be paid pursuant to § 1078.72;

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1078.46(a)(8) and the corresponding step of § 1078.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1078.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1078.30 Reports of receipts and utilization.

On or before the 7th day, excluding holidays, after the end of each month each handler shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler operating pool plants shall report the quantities of skim milk or butterfat in:

(1) Receipts at each such plant in:

(i) Producer milk;

(ii) Milk received from cooperative associations pursuant to § 1078.8(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk.

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported; and

(4) Such other information with respect to receipts and utilization as the market administrator may request.

(b) Each handler specified in § 1078.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk;

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1078.8 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1078.8(c);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1078.8(d); and

(4) Such other information as the market administrator may require.

§ 1078.31 Payroll reports.

On or before the 20th day of each month, each handler, except one exempt pursuant to § 1078.61 or one making payments pursuant to § 1078.62(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1078.62(a), his payroll for dairy farmers delivering Grade A milk) which shall show for each producer:

(a) The name and address of the producer, dairy farmer or cooperative association;

(b) The total pounds of milk received, the average butterfat content thereof, and the number of days on which milk was received from such producer;

(c) The location at which received and, for each producer whose milk was diverted to a nonpool plant, the total pounds of milk diverted and the location of the nonpool plant; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1078.32 Other reports.

Each producer-handler and each handler exempt from regulation pursuant to §§ 1078.61 and 1078.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 1078.33 Records and facilities.

Each handler shall maintain and make available to the market administrator, or his representative, during the usual hours of business, such accounts and records of his operations, and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The receipts and utilization in whatever form of all skim milk and butterfat required to be reported pursuant to § 1078.30;

(b) The weights and tests for butterfat and other contents of all milk and milk products received or utilized; and

(c) Payments to producers or cooperative associations.

§ 1078.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such 3-year period the market administrator notifies the handler in writing that the retention of such records or of specific books and records if necessary in connection with the proceedings under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1078.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1078.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1078.41 through 1078.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1078.41 Classes of utilization.

Subject to the conditions set forth in §§ 1078.43 through 1078.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

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

(ii) As classified pursuant to paragraph (c) (2), (3), and (4) of this section; or

(2) Not specifically accounted for as Class II or as Class III.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese except as classified pursuant to paragraph (c) (2) and (3) of this section.

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

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

(2) In fluid milk products or cottage cheese disposed of in bulk form for livestock feed;

(3) In fluid milk products or cottage cheese dumped after prior notification to and opportunity for verification by the market administrator;

(4) Used to produce frozen cream;

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

(6) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1078.42(b) (1), but not to exceed the following:

(i) Two percent of milk received directly from producers; plus

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

(iii) One and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1078.8(d), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be two percent; plus

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

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

(vi) One and one-half percent of milk disposed of in bulk tank lots to plants of other handlers (except that in the case of a cooperative association which is a handler pursuant to § 1078.8(d) when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be 2 percent) and to nonpool plants; and

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1078.42(b) (2).

§ 1078.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amount between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1078.41(c) (7); and (2) skim milk and butterfat in other source milk received in the form of fluid milk products, exclusive of that specified in § 1078.41(c) (7).

§ 1078.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who received such skim milk or butterfat from producers or cooperative associations can establish to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1078.44 Transfers.

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

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

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1078.46(a) (8) and the corresponding step of § 1078.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a) (3)

and the corresponding step of § 1078.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I or Class II utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a) (7) or (8) and the corresponding steps of § 1078.46(b), the skim milk and butterfat, so transferred up to the total of such receipts shall not be classified as Class I milk or Class II milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

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

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the city halls of Fort Dodge, Marshalltown, Mason City, and Waterloo, Iowa, and more than 50 miles from the pool plant from which transferred or diverted, except that cream so transferred may be classified as Class III if notice is given to the market administrator at least 24 hours prior to shipment, each container is labeled by the transferor as "ungraded cream for manufacturing only," and such shipment is so invoiced;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the city halls of Fort Dodge, Marshalltown, Mason City, and Waterloo, Iowa, or within 50 miles of the pool plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1078.30 for the month within which such transaction occurred;

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

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

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

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

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

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class III milk;

(e) Skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is the handler of such milk pursuant to § 1078.8(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such month in the pool plant of the receiving handler after the computation pursuant to § 1078.46 (a)(9) and the corresponding step of § 1078.46(b); and

(f) As follows, if transferred to another order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

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

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

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

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

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1078.41.

§ 1078.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1078.30 by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class at all pool plants of such handler. Allocation pursuant to § 1078.46 and computation of obligations pursuant to § 1078.70 shall be based upon the combined utilization so computed.

§ 1078.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1078.45, the market administrator shall determine the classification of producer milk for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1078.41(c)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

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

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

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

(ii) Receipts of fluid milk products for which Grade A certification is not established or which are from unidentified sources; and

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

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

(i) Receipts of fluid milk products from an unregulated supply plant;

(*a*) For which the handler requests Class II or Class III utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such a plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1078.22(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1078.44(a);

(10) Subtract pro rata from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from a cooperative association in its capacity as a handler pursuant to § 1078.8(d); and

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

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

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

MINIMUM PRICES

§ 1078.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall not be less than $4.33.

§ 1078.51 Class prices.

Subject to the provisions of §§ 1078.52 and 1078.53 the class prices per hundredweight shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $1.10, and from the effective date through April 1969 plus an additional 20 cents, for pool plants located in Zone I. Zone I means all the territory in the counties of Humboldt, Wright, Franklin, Butler, Bremer, Webster, Hamilton, Hardin, Grundy, Black Hawk, and Buchanan.

(b) *Class II milk.* The basic formula price for the month plus 15 cents.

(c) *Class III milk.* The basic formula price for the month.

§ 1078.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1078.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

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

(b) *Class II and Class III milk.* Multiply the butter price for the current month by 0.110.

§ 1078.53 Location adjustment to handlers.

(a) For producer milk which is received at a pool plant which is classified as Class I milk, and for other source milk for which a location adjustment is applicable, the price shall be the Zone I price specified in § 1078.51(a) plus or minus the following amounts:

(1) Zone 2 amount, plus 5 cents. Zone 2 means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

(2) Zone 3 amount, minus 5 cents. Zone 3 means all the territory in the Iowa counties of Hancock, Cerro Gordo, Fayette, Floyd, and Chickasaw, and the city of Osage, Iowa.

(3) Zone 4 amount, minus 10 cents. Zone 4 means all the territory in Howard County, Iowa, and the Minnesota counties of Freeborn and Mower.

(b) For producer milk received at a pool plant (or diverted to a nonpool plant) located outside Zones 1, 2, 3, and 4, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (c) of this section, and for other source milk for which a location adjustment is applicable, the Class I price shall be that effective pursuant to § 1078.51(a) at the nearest of the pricing zones as set forth in § 1078.6, subject to a reduction of 1.5 cents for each 10 road miles or fraction thereof that such plant is located more than 65 miles from the nearest of the city halls in Fort Dodge, Marshalltown, Mason City, and Waterloo, Iowa.

(c) For the purpose of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather roads, as determined by the market administrator; and

(2) Transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1078.8(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least adjustment would apply.

§ 1078.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1078.60 Producer-handler.

Sections 1078.40 through 1078.46, 1078.50 through 1078.53, 1078.70 through 1078.73, and 1078.80 through 1078.87 shall not apply to a producer-handler.

§ 1078.61 Plants subject to other Federal orders.

Except for §§ 1078.32 through 1078.34, the provisions of this part shall not apply to a handler with respect to the operation of plants described as follows:

(a) A plant qualified pursuant to § 1078.12(a) from which a lesser volume of fluid milk products is disposed of in the North Central Iowa marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order; and

(b) Any plant qualified pursuant to § 1078.12(b) for any portion of the period of December through July, inclusive, that producer milk at such plant is subject to the classification and pricing

provisions of another order issued pursuant to the Act.

§ 1078.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1078.30(b) and 1078.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1078.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1078.70(e) and a credit in the amount specified in § 1078.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph;

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1078.30(b) and 1078.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1078.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class III price).

DETERMINATION OF PRICES TO PRODUCERS

§ 1078.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1078.46(c), by the applicable class prices (adjusted pursuant to §§ 1078.52 and 1078.53).

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1078.46(a)(11) and the corresponding step of § 1078.46(b) by the applicable class prices;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1078.46(a)(5) and the corresponding step of § 1078.46(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The pounds of skim milk and butterfat subtracted from Class II pursuant to § 1078.46(a)(5) and the corresponding step of § 1078.46(b) for the current month; or

(ii) The pounds of skim milk and butterfat remaining in Class III milk after the calculations pursuant to § 1078.46(a)(8) and the corresponding step of § 1078.46(b) for the preceding month, less the pounds used in computation pursuant to subparagraph (1) of this paragraph;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1078.46(a)(3) and the corresponding step of § 1078.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1078.46(a)(7) and the corresponding step of § 1078.46(b).

§ 1078.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1078.70 for all handlers who filed the reports prescribed by § 1078.30 for the month and who made the payments pursuant to §§ 1078.80 and 1078.82 for the preceding month;

(b) Subtract an amount equal to the total value of the plus location differentials computed pursuant to § 1078.73(a);

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1078.73 (a) and (b);

(d) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1078.72 and multiplying the result by the total hundredweight of such milk;

(e) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight for which a value is computed pursuant to § 1078.70(e);

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the uniform price for milk received from producers.

§ 1078.72 Butterfat differential to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 1078.52, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

§ 1078.73 Location differentials to producers and on nonpool milk.

(a) The uniform price computed pursuant to § 1078.71 shall be increased 5 cents per hundredweight for producer milk received at a pool plant located in

Zone 2, decreased 5 cents per hundredweight at pool plants located in Zone 3, and decreased 10 cents per hundredweight at pool plants located in Zone 4.

(b) For producer milk received at a pool plant or diverted to a nonpool plant located outside the marketing area the uniform price shall be that effective at the nearest of the pricing zones as set forth in § 1078.6, subject to a reduction at the rates set forth in § 1078.53.

(c) For purposes of computations pursuant to §§ 1078.82 and 1078.83 the uniform price shall be adjusted at the rates set forth in § 1078.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1078.74 Notification of handlers.

On or before the 10th day of each month the market administrator shall notify each handler of:

(a) The amount and value of his milk in each class computed pursuant to §§ 1078.46 and 1078.70;

(b) The uniform price computed pursuant to § 1078.71;

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The total amounts to be paid by such handler pursuant to §§ 1078.82, 1078.85, and 1078.86.

PAYMENTS

§ 1078.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 14th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price pursuant to §§ 1078.71, 1078.72, and 1078.73 and less the following amounts:

(1) The payments made pursuant to paragraph (b) of this section;

(2) Marketing service deductions pursuant to § 1078.85; and

(3) Any proper deductions authorized by the producer:

Provided, That if by such date such handler has not received full payment for such month pursuant to § 1078.83, he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month to each producer:

(1) For whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section; and

(2) Who had not discontinued shipping milk to such handler, an advance payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1078.8 (c) or (d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1078.71, 1078.72, and 1078.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1078.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(f) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

§ 1078.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1078.62 (a) and (b), 1078.82 and 1078.84 and out of which he shall make all payments to handlers pursuant to §§ 1078.83 and 1078.84.

§ 1078.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1078.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1078.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1078.70(e).

§ 1078.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1078.82(b) exceeds the amount computed pursuant to § 1078.82(a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1078.84 Adjustment of accounts.

Adjustments of accounts shall be made as follows:

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 1078.82 and 1078.83, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the account so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler; and

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payments of less than is required by § 1078.80, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 1078.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1078.80 shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to producer milk received by such handler (except such handler's own farm

production) during the month and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such service shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1078.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including that classified pursuant to § 1078.44(e)) and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1078.46(a) (3) and (7) and the corresponding steps of § 1078.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1078.87 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on milk involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service if such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producer(s) or association of producers, the names of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies the handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1078.90 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1078.91.

§ 1078.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1078.92 Continuing obligations.

If, upon suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 1078.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 1078.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1078.95 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 19. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, E. H. McGuire, Post Office Box 691, Rock Island, Ill. 61201, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 8, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-13699; Filed, Nov. 13, 1968; 8:48 a.m.]

[7 CFR Part 1124]

[Docket No. AO-368]

MILK IN OREGON-WASHINGTON MARKETING AREA

Notice of Hearing on Proposed Marketing Agreement and Order

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), notice is hereby

given of a public hearing to be held at the Cosmopolitan Motor Hotel, 1030 Northeast Union Avenue, Portland, Oreg., beginning at 9:30 a.m. on December 3, 1968, and continuing at the Sheraton Motor Inn, Northeast 11th and Multnomah, Portland, Oreg., at 9:30 a.m. on December 4, 1968, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Oregon-Washington marketing area.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof; and for the purpose of determining (1) whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce, (2) whether there is need for a marketing agreement or order regulating the handling of milk in the area, and (3) whether provisions specified in the proposals or some other provisions appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the Act.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mayflower Farms; Farmers Cooperative Creamery; Mt. Angel Cooperative Creamery; Eugene Farmers Creamery; Tillamook County Creamery Association; Portland Independent Milk Producers Association; and Southern Oregon Farm Tanks, Inc.:

Proposal No. 1.

DEFINITIONS

§ 1124.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1124.2 Department.

"Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this order.

§ 1124.3 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States authorized to exercise the powers, and to perform the duties of the Secretary of Agriculture.

§ 1124.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1124.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1124.6 Oregon-Washington marketing area.

"Oregon-Washington marketing area" hereinafter called the "marketing area", means all territories within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

OREGON COUNTIES

Benton.	Lane.
Clackamas.	Lincoln.
Clatsop.	Linn.
Columbia.	Marion.
Coos.	Marrow.
Deschutes.	Multnomah.
Douglas.	Polk.
Gilliam.	Sherman.
Hood River.	Tillamook.
Jackson.	Umatilla.
Jefferson.	Wasco.
Josephine.	Washington.
Klamath.	Yamhill.

WASHINGTON COUNTIES

Benton.	Pacific (outside Puget Sound marketing area).
Clark.	Skamania.
Cowlitz.	Wahkiakum.
Franklin.	Walla Walla.
Klickitat.	Yakima.
Lewis (the town of Vader only).	

§ 1124.7 Handler.

"Handler" means:

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

(b) Any person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association.

(d) A cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered; or

(e) A producer-handler or any person who operates an other order plant described in § 1124.61.

§ 1124.8 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a producer-handler or the plant of a handler exempt pursuant to § 1124.60 or § 1124.61.

(a) Any plant hereinafter referred to as a "distributing pool plant," in which during the month fluid milk products are processed or packaged, and from which (1) an amount equal to 30 percent or more of the total receipts of Grade A milk (except receipts from distributing poll plants) is disposed of as fluid milk products on routes, and (2) 15 percent or more of such receipts, or 10,000 pounds per day, whichever is less, are disposed of on routes in the marketing area; and

(b) Any plant hereinafter referred to as a "supply pool plant" from which during the month 30 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s). Any supply plant which has qualified as a supply pool plant in each of the months of August through February (or would have qualified had the order been in effect) shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through July unless it fulfills the shipping requirements of this paragraph for such month.

§ 1124.9 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products are moved during the month to a pool plant qualified pursuant to § 1124.8.

§ 1124.10 Producer.

"Producer" means any person (other than a producer-handler as defined in any Federal order including this order) who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in paragraphs (a) and (b) of this section. The term shall not include such person with respect to milk diverted to a pool plant from an other order plant if the operator of both the transferor plant

and the transferee plant have requested Class III milk classification in the reports of receipts and utilization filed with their respective market administrators:

(a) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July, and 20 percent in other months of its member-producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning overdiverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, from whom at least three deliveries of milk are received during the month at his distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(c) For the purposes of the requirements of § 1124.8, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted.

(d) For purposes of location adjustments pursuant to § 1124.52 and § 1124.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

§ 1124.11 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a milk processing plant which distributes fluid milk products on routes in the marketing area and who receives no skim milk, including skim milk recombined from nonfat dry milk from other sources, or milk solids, and butterfat from any source for use in fluid milk products, distributed during the month. Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1124.12 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer. This definition shall not include milk diverted to an other order plant if such milk is fully subject to the pricing and pooling provisions of the other order.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1124.70:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1124.10.

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1124.7(c), subject to the limitations and conditions provided in § 1124.10; and

(2) For which the cooperative association is the handler pursuant to § 1124.7(d).

§ 1124.13 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products from any source except (1) producer milk; (2) fluid milk products received from other pool plants; and (3) receipts from a cooperative association pursuant to § 1124.7(d); and

(b) Products (except Class II milk products, received from pool plants) other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month, and any disappearance of nonfluid milk products not otherwise accounted for pursuant to § 1124.33.

§ 1124.14 Fluid milk product.

"Fluid milk product" means skim milk and butterfat in Class I milk.

§ 1124.15 Route.

"Route" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery to a pool plant or a nonpool plant: *Provided*, That packaged fluid milk products that are transferred to a distributing pool plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1124.44(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1124.8(a)(1).

§ 1124.16 Oregon Base Plan.

"Oregon Base Plan" means the applicable provisions of Oregon Revised Statutes, Chapter 583.510 (1) and (2); 583.512; 583.515; 583.516; 583.525(2); 583.530(1)(c) and related provision of Oregon Administrative Rules, Chapter 603–65–035; 65–040; 65–045; 65–050; 65–055; 65–060; 65–070; 65–075; 65–080; and 65–085.

MARKET ADMINISTRATOR

§ 1124.20 Designation.

The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1124.21 Powers.

The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary, complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1124.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties; in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such person as may be necessary to enable him to administer the terms and provisions of this order;

(c) Obtain a bond in a reasonable amount and with satisfactory surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received by § 1124.88, the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1124.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this order, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments of each handler, by audit of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office, and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1124.30, and 1124.31; or (2) payments pursuant to §§ 1124.80 through 1124.88;

(i) Publicly announce by posting in a conspicuous place in his office, and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the 6th day of each month, the Class I milk price and Class I butterfat differential for the month, computed pursuant to §§ 1124.51(a) and 1124.53(a), respectively;

(2) On or before the 6th day of each month, the Class II milk and Class III milk prices, and the Class II and Class III butterfat differentials for the preceding month, computed pursuant to §§ 1124.51 (b) and (c), and 1124.53 (b) and (c), respectively; and

(3) On or before the 12th day of each month, the uniform price for all producer milk, computed pursuant to § 1124.71, and the butterfat differential computed pursuant to § 1124.82 for the preceding month;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be pro-rated to each class in accordance with the total utilization of producer milk by such handler;

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this order, and which do not reveal confidential information;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.46(a)(9), and the corresponding step of § 1124.46 (b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month, of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimates shall be based upon the most current available data and shall be final for such purposes;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1124.46, pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant, who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS AND FACILITIES

§ 1124.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, the following handlers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s) shall report for each such plant:

(1) The receipts of milk and the pounds of butterfat contained therein:

(i) From producers, including that diverted pursuant to § 1124.10(b); and

(ii) From cooperative association handlers pursuant to § 1124.7(d); and

(2) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other pool plants;

(3) The quantities of skim milk and butterfat contained in receipts of other source milk;

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand, both in bulk and in packages, at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(6) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmers so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted.

(iv) The number of days milk of the dairy farmer was received at a pool plant of the diverting order; and

(7) Such other information with respect to receipts and utilization as the market administrator may prescribe; and

(b) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1124.7 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants;

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler; and

(4) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmer so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted;

(iv) The number of days milk of the dairy farmer was received at a pool plant of the diverting order; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

§ 1124.31 Payroll reports.

On or before the 20th day of each month, the following handlers shall report as follows to the market administrator:

(a) Each handler who operates a pool plant(s) shall submit to the market administrator his payroll for receipts of milk at each of his pool plants during the preceding month which shall show:

(1) The name and the days of delivery of each producer from whom milk was received during the month with the address of any producer for whom such information was not furnished previously;

(2) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer, identifying separately those producers for which a cooperative association is authorized to collect payments pursuant to § 1124.80(b);

(3) The amount of payment to each producer, to each cooperative association on behalf of its producer members and to each cooperative association handler; and

(4) The nature and amount of any deductions or charges involved in such payments.

(b) Each handler who operates a partially regulated distributing plant and elects to make payments pursuant to § 1124.62(a), shall report as required in paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; and

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1124.7 (c) and (d) the name and the number of days of delivery, with the address of any producers not previously reported, the total pounds of milk and the average butterfat content thereof which was received from each producer.

§ 1124.32 Other reports.

Each producer-handler, each handler required to report pursuant to § 1124.61, and each handler making payments pursuant to § 1124.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1124.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions, and the disbursement of money so deducted.

§ 1124.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1124.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1124.30 shall be classified by the market administrator pursuant to the provisions of §§ 1124.41 through 1124.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk solids contained in such product, plus all the water originally associated with such solids.

§ 1124.41 Classes of utilization.

Subject to the conditions set forth in §§ 1124.42 through 1124.46, the classes of utilization shall be as follows:

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

(1) Disposed of in fluid form except as provided in paragraphs (b) and (c) of this section: *Provided*, That any fluid products fortified with added nonfat milk solids shall be Class I milk in an amount equal to the weight of an equal volume of milk, skim milk or cream of the same butterfat content;

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

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

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese except as classified pursuant to paragraph (c) (2) and (3) of this section, and all skim milk and butterfat used to produce frozen cream, ice cream, ice cream mix, frozen desserts, and frozen dessert mixes.

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

(1) Used to produce aerated cream, butter, butteroil, anhydrous butterfat, plain or sweetened condensed milk, plain or sweetened condensed skim milk, condensed buttermilk, cheese, except cottage cheese, sterilized fluid products in hermetically sealed metal containers, frozen cream, nonfat dried milk, dried whole milk, dried buttermilk, dried whey, blends of dried milk products, bakery products, candy, meat products, animal feed, prepared foods in hermetically sealed metal containers, and prepared foods in dried or nonfluid form;

(2) Dumped after prior notification to and opportunity for verification by the market administrator;

(3) Contained in any fortified fluid milk product in excess of the pounds of milk so classified pursuant to paragraph (a) (1) of this section;

(4) In inventory of bulk milk, skim milk, or cream on hand at the end of the month; and

(5) In shrinkage at each pool plant allocated pursuant to § 1124.42(b)(1) not to exceed the following:

(i) Two percent of receipts of producer milk described in § 1124.12(a); plus

(ii) One and one-half percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1124.7(d), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tanks samples, the applicable percentage shall be 2 percent; plus

(iii) One and one-half percent of receipts in bulk tank lots from other pool plants; plus

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

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

(vi) One and one-half percent of disposition in bulk tank lots to other milk plants either by transfers or diversions;

(6) In shrinkage allocated pursuant to § 1124.42(b)(2); and

(7) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1124.7 (c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts, exclusive of those for which farm weights and tests are used as the basis of receipt at the plant to which delivered.

§ 1124.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between;

(1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1124.41(c)(5); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of that specified in § 1124.41(c)(5).

§ 1124.43 Responsibility of handlers and reclassification of milk.

(a) Except as provided in paragraphs (b) and (c) of this section, all skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1124.41 through 1124.46, §§ 1124.50 through 1124.54, and §§ 1124.70 through 1124.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1124.7(d), and milk delivered in bulk to a pool plant from a pool plant operated by a cooperative association shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligations pursuant to § 1124.70;

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1124.7(d), the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I milk and the operator of a pool plant receiving skim milk and butterfat from a cooperative

association handler pursuant to § 1124.7 (d) shall be responsible for proving that such skim milk and butterfat shall be classified other than as Class I milk; and

(d) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1124.44 Transfers.

Skim milk and butterfat disposed of in the form of a fluid milk product (or a Class II milk product moved between pool plants) by a handler, including a handler pursuant to § 1124.7(c), either by transfers or diversions, shall be classified as follows:

(a) At the utilization indicated by the operator of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant except as provided in § 1124.43(b), subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1124.46(a)(4), and the corresponding step of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I milk utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1124.46(a)(8) or (9) and the corresponding steps of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants.

(b) As Class I milk, if transferred or diverted in bulk to a nonpool plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph, except that cream so transferred may be classified as Class III if the handler claims classification of such cream in Class III in his report pursuant to § 1124.30, the handler tags the container of such cream as for manufacturing purposes, and the handler gives the market administrator sufficient notice to allow him to verify the shipment:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1124.30 for the month within which such transaction occurred;

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

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

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

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

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

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

(v) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification, and allocation shall apply;

(c) If transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

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

(2) If transferred or diverted in bulk form, classification shall be in Class I milk, if allocated as a fluid milk product under the other order to Class I milk, in Class II milk, if allocated to Class II milk under an order which provides three classes, and in Class III milk, if allocated to Class III milk under the other order, or if allocated to Class II milk under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1124.41.

§ 1124.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1124.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1124.7 (c) and (d) and was not received at a pool plant. Producer milk for which a cooperative association is the responsible handler pursuant to § 1124.7 (c) or (d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1124.46, and computation of obligation pursuant to § 1124.70.

§ 1124.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1124.45, the market administrator shall determine each month the classification of milk received from producers by each cooperative association handler pursuant to § 1124.7 (c) and (d) which was not received at a pool plant and the classification of milk received from producers, from a pool plant operated by a cooperative association, and from cooperative association handlers pursuant to § 1124.7(d) at a pool plant(s) for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk classified as Class III milk pursuant to § 1124.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the

pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

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

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

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

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

(5) Subtract, in sequence beginning with Class III milk in the order specified below, from the pounds of skim milk remaining in Class III milk and Class II milk;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class III milk utilization, but not in excess of the pounds of skim milk remaining in Class III milk and Class II milk;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

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

(*b*) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts from pool plants of other handlers and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III milk (and Class II milk), if Class III milk utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the other order;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of bulk fluid milk products (and, for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) or (ii) of this paragraph. (For purposes of this subtraction at a pool plant(s) operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class pro rata to the market average utilization announced pursuant to § 1124.22(l));

(9) Subtract, beginning with Class III milk, from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case, of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5)(iii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk and Class II milk combined;

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1124.22(l); or

(*b*) The pounds of skim milk remaining in each class at a pool plant(s) of the handler. (For purposes of such computation at a pool plant(s) of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to subparagraph (8) of this paragraph);

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers according to the classification assigned pursuant to § 1124.44 (a); and

(11) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, from pool plants operated by cooperative associations, and from cooperative associations pursuant to § 1124.7(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III milk. Any amount so subtracted shall be known as overage.

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

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

Minimum Prices

§ 1124.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall not be less than $4.33.

§ 1124.51 Class prices.

Subject to the provisions of §§ 1124.52 and 1124.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk.* The Class I price shall be the basic formula price for the preceding month plus $1.90, plus 20 cents through April 1969;

(b) *Class II milk.* The class II price shall be the basic formula price for the month plus 25 cents; and

(c) *Class III milk.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound, nonfat dry milk, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 65 cents and round to the nearest cent.

§ 1124.52 Location adjustment to handlers.

(a) For milk received from producers and from cooperative association handlers pursuant to § 1124.7(d), at a pool plant located without the marketing area or diverted to a nonpool plant located without the marketing area, and not more than 100 miles from the Lane County Court House, Eugene, Oreg., by shortest hard-surfaced highway distance as determined by the market administrator, and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1124.51(a) shall be reduced by 15 cents, and by an additional cent for each 10 miles or fraction thereof that such distance exceeds 100 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1124.7(d), and the

pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1124.53 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1124.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the butter price specified in § 1124.50 for the preceding month by 1.25 and divide the result by 10;

(b) *Class II milk.* Multiply the butter price specified in § 1124.50 by 1.15 and divide the result by 10; and

(c) *Class III milk.* Multiply the butter price specified in § 1124.50 by 1.15 and divide the result by 10.

§ 1124.54 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price required.

APPLICATION FOR PROVISIONS

§ 1124.60 Producer-handler.

Sections 1124.40 through 1124.46, 1124.50 through 1124.54, 1124.70 through 1124.72, and 1124.80 through 1124.88 shall not apply to a producer-handler.

§ 1124.61 Exempt plants.

The provisions of this order shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1124.8(a) which also meets the pooling requirements of another Federal order and from which the Secretary determines, a greater quantity of Class I milk was disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I milk disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1124.8(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines a greater quantity of Class I milk is disposed of during the month on routes in this marketing area than is so disposed of in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) Any distributing plant from which less than an average of 300 pounds of Class I milk per day is disposed of on routes in the marketing area during the month.

§ 1124.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1124.30 and 1124.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section.

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1124.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III (or Class II) milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1124.70(e) and a credit in the amount specified in § 1124.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph;

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1124.30 and 1124.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1124.8(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing areas;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price).

DETERMINATION OF UNIFORM PRICE

§ 1124.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler and of each cooperative association handler pursuant to § 1124.7 (c) and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1124.46(c), by the applicable class prices (adjusted pursuant to §§ 1124.52 and 1124.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1124.46(a)(11) and the corresponding step of § 1124.46(b), by the applicable class prices;

(c) Add the amounts computed under subparagraphs (1), (2), and (3) of this paragraph;

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(6) and the corresponding step of § 1124.46(b), for the current month;

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1124.46(a)(6) and the corresponding step of § 1124.46(b), for the

current month, or the hundredweight of skim milk and butterfat remaining in Class III milk after the calculation pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b), for the preceding month, less the hundredweight used in the computation pursuant to subparagraph (1) of this paragraph, whichever is less; and

(3) Multiply the difference between the appropriate Class I price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(3) and the corresponding step of § 1124.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount.

(d) Add an amount equal to the difference between the value at the Class I price applicable to the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I milk pursuant to § 1124.46(a)(4) and the corresponding step of § 1124.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(8) and the corresponding step of § 1124.46(b).

§ 1124.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1124.70 for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to §§ 1124.80 and 1124.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1124.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1124.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) the total hundredweight of producer milk; and

(2) the total hundredweight for which a value is computed pursuant to § 1124.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1124.72 Oregon Base Plan.

Notification shall be given by the market administrator to producers and cooperative associations of intent to distribute returns to producers under the Oregon Base Plan under the following conditions:

(a) The Oregon Base Plan shall be applicable to any producer whose farm is located in Oregon unless such producer notifies the market administrator in writing before the first day of any month that he elects to receive payment at the uniform price.

(b) The Oregon Base Plan shall be applicable to any member of any cooperative association unless such cooperative association notifies the market administrator in writing before the first day of any month that it elects to receive payment for its members' milk at the uniform price.

(c) The Oregon Base Plan will be applicable to any producer whose farm is located outside Oregon if such producer notifies the market administrator in writing before the first day of any month that he elects to receive payment pursuant to such base plan rather than at the uniform price.

PAYMENTS

§ 1124.80 Payments to producers.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the base price for base milk and the excess price for excess milk, as prescribed under the Oregon Base Plan or at the uniform price pursuant to § 1124.71, whichever is applicable, subject in either event to the butterfat differential pursuant to § 1124.82, the location adjustment pursuant to § 1124.81, plus or minus adjustments for errors made in previous payments to such producers, minus;

(1) Marketing service deductions pursuant to § 1124.87; and

(2) Proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1124.85 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(c) For milk received:

(1) From a pool plant operated by a cooperative association, each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative associations for such milk a settlement equal to the value of such milk in accordance with its classification pursuant to § 1124.44(a) adjusted by the applicable differentials pursuant to §§ 1124.52 and 1124.81;

(2) Received by bulk tank delivery from a cooperative association pursuant to § 1124.7(d), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk a settlement equal to the value of such milk at the uniform price, adjusted by the applicable differentials pursuant to §§ 1124.81 and 1124.82;

(d) In making the payments to producers pursuant to paragraphs (a) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show each month:

(1) The month and the identity of the handler and producer;

(2) The total pounds of milk and the average butterfat content of milk received from such producer;

(3) The minimum rates at which payments to such producer are required pursuant to this order;

(4) The rates used in making the payments if such rates are other than the applicable minimum rates;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1124.81 Location differentials to producers and on nonpool milk.

(a) The prices to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from cooperative association handlers pursuant to § 1124.7(d) may be reduced by the amount of the location differential applicable at the location of the pool plant at which such milk was first physically received from producers, and the prices for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1124.52; and

(b) For the purposes of computations pursuant to §§ 1124.84 and 1124.85, the prices shall be adjusted at the rates set forth in § 1124.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1124.82 Butterfat differential to producers.

The applicable prices to be paid producers pursuant to § 1124.80 shall be increased or decreased for each one-tenth of 1 percent which the butterfat content of milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 1124.53, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 1124.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund, into which he shall deposit all payments made by handlers, pursuant to §§ 1124.62, 1124.84, and 1124.86 and out of which he shall make all payments pursuant to §§ 1124.85 and 1124.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1124.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section.

(a) The sum of:

(1) The net pool obligation computed pursuant to § 1124.70 for such handler; and

(2) In the case of a cooperative association which is a handler the minimum amounts due from other handlers pursuant to § 1124.80(c).

(b) The sum of:

(1) The value of milk received by such handler from producers at the uniform price, adjusted by the applicable differentials pursuant to §§ 1124.81 and 1124.82;

(2) The amount to be paid to cooperative associations pursuant to § 1124.80 (c); and

(3) The value at the uniform price at the location of the plants from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1124.70(e).

§ 1124.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount (for each pool plant, if applicable), if any by which the amount computed pursuant to § 1124.84(b) exceeds the amount computed pursuant to § 1124.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1124.86 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer, a cooperative association or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

(b) Any unpaid obligation of a handler pursuant to § 1124.84 or paragraph (a) of this section relative to payments to the producer-settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 1124.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk other than milk of his own production, pursuant to § 1124.80, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

§ 1124.88 Expense of administration.

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

(a) Producer milk (including that classified pursuant to § 1124.43(b) but excluding, in the case of a cooperative association which is a handler pursuant to § 1124.7(d), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a) (4) and (8) and the corresponding steps of § 1124.46(b); and

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

§ 1124.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section terminate 2 years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The months during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the names of such producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of

such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud, or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed or 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8(c)(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1124.90 Effective time.

The provisions of this order or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1124.91 Suspension or termination.

The Secretary shall, whenever he finds that this order or any provision of this order obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend this order or such provision of this order. This order shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1124.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this order, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1124.93 Liquidation.

(a) Upon the suspension or termination of any or all provisions of this order, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(b) If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1124.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this order.

§ 1124.101 Separability of provisions.

If any provision of this order or its application to any person or circumstances, is held invalid, the application of such provisions, and of the remaining provisions of this order, to other persons or circumstances shall not be affected thereby.

Proposed by Klamath Falls Creamery:

Proposal No. 2. Revise § 1124.8(a)(2) of proposal No. 1 to read as follows: "10 percent or more of such receipts, or 1,000 pounds per day, whichever is less, are disposed of on routes in the marketing area:"

Proposed by the Carnation Co.:

Proposal No. 3. Add to the counties specified in § 1124.6 of proposal No. 1 the following: Baker, Union, and Wallowa counties in Oregon, and Asotin, Columbia, and Garfield counties in Washington.

Proposed by Brookmead Dairy, Inc.:

Proposal No. 4. Add Curry County, Oreg., to the list of counties specified in § 1124.6 of proposal No. 1.

Proposed by Spokane Milk Producers Association:

Proposal No. 5. Add Grant County, Wash., to the list of counties specified in § 1124.6 of proposal No. 1.

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 12, 1968.

G. R. GRANGE,
Acting Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-13769; Filed, Nov. 13, 1968; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Exploration and Development Expenditures

Notice is hereby given that the Office of Foreign Direct Investments proposes to promulgate various amendments to the Foreign Direct Investment Regulations (the "regulations") (15 CFR Part 1000).

Proposed Subpart L (Exploration and Development Expenditures) when published in final form in the FEDERAL REGISTER will become effective as of the effective date of the regulations and its provisions will govern foreign exploration and development costs since that date.

The principal purpose of proposed Subpart L is to establish limitations on the amount of foreign exploration and development expenditures which may be expensed by direct investors engaged in certain extractive industries. This is accomplished by treating a portion of the exploration and development expenditures in such industries which are expensed under generally accepted accounting principles reflected in the accounting practices consistently followed by the direct investor as an addition to the net transfer of capital when an unincorporated affiliated foreign national is involved and as an addition to the direct investor's share in reinvested earnings when an incorporated affiliated foreign national is involved.

Although accounting practices with respect to such expenditures may vary widely, Subpart L contemplates the continued use of all present accounting practices which are in accordance with accounting principles generally accepted in the United States and applied on a consistent basis.

The principal provisions of proposed Subpart L are as follows:

1. *Section 1000.1201 is a definitional section.* Paragraph (a) of § 1000.1201 defines "exploration and development expenditures", which are calculated on a schedular basis, as the direct investor's share of expenditures incurred by or on behalf or for the benefit of affiliated foreign nationals which are properly allocable to the cost of ascertaining the existence, quantity or quality of gas, oil or other mineral resources abroad. These expenditures include, in the case of gas or oil, costs of acquiring exploration rights, leasing costs, bonuses, rentals, option costs, and related legal or other costs; costs of geological and geophysical surveys and core drilling; tangible and intangible costs of drilling both nonproductive wells and of completing productive wells; costs of artificial lift

equipment, gathering lines, field stabilization and treating equipment, field storage tanks, oil delivery pumps and gas compression equipment for gas delivery pumps and gas compression equipment for gas delivery to pipelines, supplementary recovery facilities and other facilities required to produce the field at an efficient rate; and in the event there is no existing trunkline, the cost of a transportation line to a terminal. In the case of other minerals, such expenditures include pre-production stripping, sinking of shafts and the driving of other underground workings, the construction of concentration plants, smelters, refineries, and all necessary transportation and community facilities, as well as expenditures analogous to those itemized with respect to gas and oil.

Paragraph (b) of § 1000.1201 defines "expensed exploration and development expenditures" as that portion of such expenditures which, in accordance with generally accepted accounting principles, are deducted from revenues in the computation of earnings (losses) for the accounting period in which such expenditures were incurred. The term does not include, however, deductions from revenues in respect of depreciation or amortization of capitalized expenditures, reserves for future contingencies, or reserves for deferred depreciation and similar charges.

Paragraph (c) of § 1000.1201 introduces the concept of a "base amount." For 1968, the base amount (which is calculated on a schedular basis) is an amount equal to 133⅓ percent of total expensed exploration and development expenditures incurred during the first three calendar quarters of 1968. Subsequent to 1968, the base amount is the greater of (i) 100 percent of the expensed exploration and development expenditures during 1967 and (ii) 120 percent of all expensed exploration and development expenditures incurred during the first three calendar quarters of 1968. Paragraph (d) of § 1000.1201 defines "additional investment" as the excess of expensed exploration and development expenditures in any year over the base amount. The additional investment, like the base amount, is computed on a schedular basis.

2. *Calculation of direct investment under Subpart L.* Section 1000.1202 states that the additional investment must be added into the computation of the direct investor's share of the reinvested earnings of its incorporated affiliated foreign nationals or its net transfer of capital to unincorporated affiliated foreign nationals under §§ 1000.306 and 1000.313 of the regulations. In each year the direct investor must calculate, for each scheduled area, its share of the reinvested earnings of incorporated affiliated foreign nationals as provided in § 1000.306 (b) of the regulations, and its net transfer of capital to unincorporated affiliated foreign nationals as provided in § 1000.313(b) of the regulations. The amount of additional investment in each scheduled area which is attributable to incorporated affiliated foreign nationals in each such area is then added to the direct investor's share in the reinvested earnings of such incorporated affiliated foreign nationals. Similiary, the amount of the additional investment attributable to unincorporated affiliated foreign nationals in that scheduled area is added to the net transfer of capital to such unincorporated affiliated foreign nationals.

When a direct investor has both incorporated and unincorporated affiliated foreign nationals in a scheduled area in respect of which there is additional investment, the additional investment is apportioned between such affiliated foreign nationals. The amount of additional investment attributable to incorporated affiliated foreign nationals in any scheduled area is the product obtained by multiplying the total additional investment by a fraction, the numerator of which is the total expensed exploration and development costs incurred with respect to all incorporated affiliated foreign nationals in that scheduled area and the denominator of which is the total expensed exploration and development costs incurred with respect to all AFNs in that scheduled area. The difference between the additional investment and such product is the amount of additional investment attributable to unincorporated affiliated foreign nationals.

The following examples are illustrative of the above principles:

Example (1). During 1968 a direct investor (DI) establishes a branch in Libya which is drilling for oil under a concession granted by the Libyan government. During 1968 DI transfers $3 million to the branch to be used for salaries and other current expenses at the project site. On September 30, 1968, $1,500,000 of expensed exploration and development expenditures had been incurred by or for the benefit of the branch. As of December 31, 1968, the aggregate net assets of the branch were $700,000 and expensed exploration and development expenditures of $2,300,000 had been incurred by the branch. In this instance, the base amount (§ 1000.1201(c)) is $2 million (133⅓ percent of $1,500,000), the additional investment is $300,000 ($2,300,000 less $2 million), the positive net transfer of capital before giving effect to § 1000.1202 is $700,000 and the positive net transfer of capital to the branch after giving effect to § 1000.1202 is $1 million ($700,000 positive net transfer of capital calculated under § 1000.313 plus the additional investment of $300,000).

Example (2). Direct investor (DI) has a wholly owned subsidiary (X) in Iran engaged in oil exploration operations. It also has a wholly owned subsidiary in the Bahamas (Y) which operates a hotel. During 1968, DI loaned $500,000 to Y and Y earned $250,000 and paid $50,000 in dividends. DI also loaned $1,500,000 to X which X used to finance the exploratory phase of its operation. By September 30, 1968, $400,000 of expensed exploration and development expenditures had been incurred by X and by December 31, 1968, there were $750,000 of such expenditures. X incurred a loss of $600,000 during 1968. In this instance, the base amount is $533,333 (133⅓ percent of $400,000), the additional investment is $216,667 ($750,000 less $533,333). DI had a positive net transfer of capital to Schedule B of $2 million ($500,000 loaned to Y and $1,500,000 loaned to X), and its share in the reinvested earnings of its incorporated AFNs was $183,000 (negative) computed as follows:

Total earnings (loss) of incorporated affiliated foreign nationals in Schedule B ($250,000 less $600,000)	$350,000
Less dividends paid to DI	50,000
Reinvested earnings (negative)	400,000
Plus additional investment	216,667
Reinvested earnings (negative)	183,333

DI's positive direct investment in Scheduled Area B during 1968 was $1,816,667.

Example (3). In 1968 direct investor (DI) established a branch in Venezuela (X) engaged in oil exploration operations and loaned $3 million to the branch. On September 30, 1968, the branch had incurred $1,800,000 of exploration and development expenditures of which $300,000 were capitalized and $1,500,000 were expensed exploration and development expenditures. As of December 31, 1968, the aggregate net assets of the branch were $500,000, consisting of $300,000 of capitalized expenditures and $200,000 cash on hand, and expensed exploration and development expenditures were $2,500,000. In this case, the base amount (§ 1000.1201(c)) is $2 million (133⅓ percent of $1,500,000), the additional investment is $500,000 ($2,500,000 less $2 million), the positive net transfer of capital to X before giving effect to § 1000.1202 is $500,000 and the positive net transfer of capital after giving effect to § 1000.1202 is $1 million ($500,000 positive net transfer of capital calculated under § 1000.313 plus the additional investment of $500,000).

Example (4). In 1968 direct investor (DI) organized a corporation in Algeria (X) engaged in oil exploration operations and loaned it $3 million. On September 30, 1968 X had incurred $1,800,000 of exploration and development expenditures of which $600,000 were capitalized and $1,200,000 were expensed exploration and development expenditures. As of December 31, 1968, the expensed exploration and development expenditures were $2,400,000. X incurred a loss of $2,400,000. In this case, the base amount (§ 1000.1201(c)) is $1,600,000 (133⅓ percent of $1,200,000), the additional investment is $800,000 ($2,400,000 less $1,600,000). DI had a positive net transfer of capital to X of $3 million and its share in the reinvested earnings of X was $1,600,000 (negative) computed as follows:

Total earnings (loss) of incorporated affiliated foreign nationals in Scheduled Area A (negative reinvested earnings)	$2,400,000
Plus additional investment	800,000
Reinvested earnings (negative)	$1,600,000

DI's positive direct investment in Scheduled Area A during 1968 is $1,400,000. Had X been an Algerian branch, the transactions would have resulted in the same amount of positive direct investment (i.e. $600,000 positive net transfer of capital under § 1000.313 resulting from an increase in net branch assets plus the additional investment of $800,000).

Note that in computing earnings of its affiliated foreign nationals, DI may make a deduction from revenues in respect of depreciation or amortization of those exploration and development expenditures which were capitalized. Such deductions have been disregarded for the purpose of the above example. No deduction for depreciation or amortization may be taken, however, in respect of the additional investment.

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to the Chief Counsel, Legal

Division, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. Such communications concerning the proposed amendments will be considered if received within 20 days after publication of this notice in the FEDERAL REGISTER. Subsequent to such time, the proposed amendments, if adopted, will be published in the FEDERAL REGISTER in final form either as proposed or as they may be changed in light of comments received.

The texts of the proposed revisions are as follows:

Subpart L—Exploration and Development Expenditures

Sec.
1000.1201 Definitions.
1000.1202 Calculation of direct investment.

AUTHORITY: The provisions of this Subpart L issued under sec. 5, Act of October 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47.

Subpart L—Exploration and Development Expenditures

§ 1000.1201 Definitions.

(a) *Exploration and development expenditures.* The term "exploration and development expenditures" means, with respect to any scheduled area, a direct investor's share of all expenditures incurred by or on behalf or for the benefit of all affiliated foreign nationals of the direct investor in such scheduled area which are properly allocable to ascertaining the existence, location, extent or quality of gas, oil or other mineral resources located in a foreign country, or on the continental shelf under the regime of a foreign country, or to establishing facilities for the extraction of such resources: *Provided*, That, for purposes of determining a direct investor's share of exploration and development expenditures with respect to Schedule B countries, there shall be included only such costs incurred by or on behalf of or for the benefit of non-Canadian Schedule B affiliates of the direct investor (as defined in § 1000.1101(b)).

(b) *Expensed exploration and development expenditures.* The term "expensed exploration and development expenditures" means that portion of all exploration and development expenditures properly charged to the profit and loss account in the computation of earnings and losses for the period in which incurred. Expensed exploration and development expenditures do not include depreciation or amortization of expenditures which have been capitalized, reserves for future contingencies, or reserves for deferred depreciation, casualty and like charges.

(c) *Base amount.* The term "base amount" for a scheduled area means:

(1) With respect to the year 1968, 133⅓ percent of total expensed exploration and development expenditures incurred in the scheduled area during the period January 1, 1968 to and including September 30, 1968; or

(2) With respect to 1969 and succeeding years, the greater of (i) 100 percent of all expensed exploration and development expenditures incurred in the scheduled area during 1967, or (ii) 120 percent of all expensed exploration and development expenditures incurred in the scheduled area during the period January 1, 1968 to and including September 30, 1968.

(d) *Additional investment.* The term "additional investment" in a scheduled area means, with respect to any year, the amount by which all expensed exploration and development expenditures incurred during such year in such scheduled area exceed the base amount of the direct investor for such scheduled area.

§ 1000.1202 Calculation of direct investment.

(a) For purposes of §§ 1000.201 and 1000.306:

(1) During any year commencing with the year 1968, a direct investor shall add to its share in the total reinvested earnings of its incorporated affiliated foreign nationals in the scheduled area (determined as provided in § 1000.306(b)) the amount of additional investment for such year in such scheduled area as is attributable to such incorporated affiliated foreign nationals: *Provided*, That, for purposes of § 1000.506, the additional investment shall not increase earnings of incorporated or unincorporated affiliated foreign nationals of the direct investor.

(2) During any year commencing with the year 1968, a direct investor shall add to its net transfer of capital to unincorporated affiliated foreign nationals in the scheduled area (determined as provided in § 1000.313(b)) the amount of additional investment for such year in such scheduled area as is attributable to such unincorporated affiliated foreign nationals.

(b) The amount of the additional investment attributable to incorporated affiliated foreign nationals in a scheduled area during any year shall be the product obtained by multiplying the total additional investment in such scheduled area during such year by a fraction, the numerator of which is the expensed exploration and development expenditures incurred by or on behalf or for the benefit of all incorporated affiliated foreign nationals in such scheduled area during such year and the denominator of which is the total expensed exploration and development expenditures incurred by or on behalf or for the benefit of all affiliated foreign nationals in such scheduled area during such year. The difference between the additional investment and such product is the amount of additional investment to be attributed to unincorporated affiliated foreign nationals.

CHARLES E. FIERO,
Director, Office of Foreign Direct Investments.

NOVEMBER 12, 1968.

[F.R. Doc. 68-13770; Filed, Nov. 13, 1968; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 68-EA-117]

AIRWORTHINESS DIRECTIVE

General Electric Aircraft Engines

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive which will require replacement of the 12th, 13th, and 14th stage compressor discs on the General Electric type CJ805 aircraft engine.

There have been instances of fatigue cracks found at overhaul and failures of 13th and 14th stage compressor discs. General Electric has redesigned discs for the 12th, 13th, and 14th stages of the compressor in the CJ805 engine. The new parts have a localized thickening of the disc web above and below the torque cone bolt pad, in the area where the cracks were occurring.

Since this condition is likely to exist in other engines of the same type design, the proposed airworthiness directive is necessary.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to amend Part 39 of the Federal Aviation Regulations as follows:

Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding a new airworthiness directive as follows:

GENERAL ELECTRIC. Applies to Type CJ805-3, -3A, -3B, -23, -23B, and -23C Turbojet Engines.

Compliance required as indicated.

Within the next 6,000 hours' time in service after the effective date of this AD or at the next compressor disassembly, whichever occurs first, unless already accomplished, replace the 12th, 13th, and 14th stage compressor discs with new ones as indicated below:

Disc stage	G.E. P/N's to be replaced	New P/N
12	106R686P1 or 108R627P1	111R232P2.
13	106R687P1 or 108R628P1	111R233P2.
14	106R688P1 or 108R629P1	111R234P2.

The information in this AD is similar to that contained in General Electric Service Bulletins (880) 72-253 and (990) 72-260 and Revisions Nos. 1 and 2.

This amendment is made under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423].

Issued in Jamaica, N.Y., on November 5, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-13671; Filed, Nov. 13, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-SW-74]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Houston, Tex., terminal area. Additional controlled airspace will be required to accommodate aircraft executing proposed new instrument approach/departure procedures at the Clear Lake City Stolport, Clear Lake City, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Worth, Tex. An informal Docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (33 F.R. 2090), the Houston, Tex. (Ellington AFB), control zone is amended to read:

HOUSTON, TEX. (ELLINGTON AFB)

Within a 5-mile radius of Ellington AFB (lat. 29°36'25" N., long. 95°09'20" W.), within a 3-mile radius of Clear Lake City Stolport (lat. 29°33'27" N., long. 95°08'21" W.), within 2 miles each side of the Ellington VOR 209° radial extending from the 5-mile radius zone to 7 miles southwest of the VOR, within 2 miles each side of the Ellington TACAN 213° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN, within 2 miles each side of the Houston VORTAC 142° radial extending from the William P. Hobby Airport (lat. 29°38'40" N., long. 95°16'30" W.) 5-mile radius zone to 11.5 miles southeast of the VORTAC, and within 2 miles each side of the Houston VORTAC 126° radial extending from the William P. Hobby Airport 5-mile radius zone to 13.5 miles southeast of the VORTAC, excluding the portions within the Houston, Tex. (William P. Hobby), control zone.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on October 30, 1968.

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

[F.R. Doc. 68-13672; Filed, Nov. 13, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-SW-75]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Del Rio, Tex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal Docket will also be available for examination at the Office of the Chief, Air Traffic Division.

On March 14, 1968, a final rule was published in the FEDERAL REGISTER [(33 F.R. 4509), F.R. Doc. 68-3120], which amended Part 71 by amending in § 71.171 (33 F.R. 2076) the Del Rio, Tex., control zone, in part, effective May 23, 1968 [Airspace Docket No. 67-SW-95].

On September 25, 1968, a final rule was published in the FEDERAL REGISTER [(33 F.R. 14402), F.R. Doc. 68-11602], which amended Part 71 by amending in § 71.181 (33 F.R. 2170) the Del Rio, Tex., transition area 4,500-foot portion effective November 14, 1968 [Airspace Docket No. 68-SW-41].

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (33 F.R. 2076, 4509), the Del Rio, Tex., control zone is amended to read:

DEL RIO, TEX.

Within a 5-mile radius of Laughlin AFB (lat. 29°21'35" N., long. 100°46'35" W.), within 2 miles each side of the Laughlin ILS NW course extending from the 5-mile radius zone to the OM, within 2 miles each side of the Laughlin TACAN 305° radial extending from the 5-mile radius zone to 8 miles northwest of the TACAN, within 2 miles each side of the Laughlin TACAN 149° radial extending from the 5-mile radius zone to 8 miles southeast of the TACAN, within 2 miles each side of the Laughlin VOR 148° radial extending from the 5-mile radius zone to 12 miles southeast of the VOR, within 2 miles each side of the Laughlin VOR 330° radial extending from the 5-mile radius zone to 8 miles northwest of the VOR, and within 2 miles each side of the Laughlin VOR 295° radial extending from the 5-mile radius zone to 12 miles northwest of the VOR.

(2) In § 71.181 (33 F.R. 2170, 14402), the Del Rio, Tex., transition area is amended to read:

DEL RIO, TEX.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of lat. 29°23'00" N., long. 100°50'15" W., within 5 miles southwest and 8 miles northeast of the Laughlin VOR 148° radial extending from the 12-mile radius area to 12 miles southeast of the VOR, and within 8 miles northeast of the Laughlin VOR 330° radial extending from the 12-mile radius area to 12 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Laughlin AFB (lat. 29°21'35" N., long. 100°46'35" W.); and that airspace extending upward from 4,500 feet MSL bounded by a line beginning at lat. 30°00'00" N., long. 100°30'00" W., thence south along long. 100°30'00" W. to and counterclockwise along the arc of a 35-mile radius circle centered at Laughlin AFB to the United States-Mexico border, thence northwest along the United States-Mexico border to the arc of a 60-mile radius circle centered at Laughlin AFB, thence clockwise along this arc to lat. 30°10'40" N. east of long. 100°30'00" W., thence to point of beginning, excluding the portions outside of the United States.

The alterations as proposed, will provide airspace protection for aircraft executing new and amended instrument approach procedures at Laughlin AFB.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on October 31, 1968.

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

[F.R. Doc. 68-13673; Filed, Nov. 13, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-EA-114]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Wrightstown, N.J., transition area.

A new VOR instrument approach procedure has been developed for Lakewood Airport, Lakewood, N.J., and will require alteration of the Wrightstown, N.J., 700-foot transition area to provide airspace protection for aircraft executing the approach and departure procedures at Lakewood Airport.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Wrightstown, N.J., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to insert in the description of the Wrightstown, N.J., 700-foot transition area description following the words "above the surface" the words, "within a 5-mile radius of the center, 40°04'00" N. 74°10'40" W. of Lakewood Airport, Lakewood, N.J.;".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348].

Issued in Jamaica, N.Y., on October 30, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-13674; Filed, Nov. 13, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-SW-76]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Pine Bluff, Ark., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal Docket will also be available for examination at the Office of the Chief, Air Traffic Division.

AL-901-VOR/DME RWY 35 and AL-901-VOR RWY 17 instrument approach procedures to Grider Field, Pine Bluff, Ark., have been amended. The transitions, procedure turns, missed approaches and holding patterns will be at 1,800 feet MSL; therefore, portions of the 700-foot transition area established to encompass these procedures are no longer required and may be deleted. The Little Rock, Ark., transition area 1,200-foot portion encompasses this area and is to be retained. Alteration of the transition area as proposed would provide air space protection for aircraft executing the amended approach procedures.

The Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (33 F.R. 2238), the Pine Bluff, Ark., transition area is amended to read:

PINE BLUFF, ARK.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Grider Field (lat. 34°10'35" N., long. 91°55'55" W.), within 2 miles each side of the Pine Bluff VORTAC 007° radial extending from the 7-mile radius area to 14 miles north of the VORTAC, and within 2 miles each side of the Pine Bluff VORTAC 185° radial extending from the 7-mile radius area to 18.5 miles south of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on October 31, 1968.

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

[F.R. Doc. 68-13675; Filed, Nov. 13, 1968; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 30, 31, 32]

BYPRODUCT MATERIAL

Exemption of Electron Tubes

By letter dated July 26, 1967, General Laboratory Associates, Inc., of Norwich, N.Y., filed a petition (PRM 30-37) with the Atomic Energy Commission requesting an amendment of the Commission's regulation, "Rules of General Applicability to Licensing of Byproduct Material," 10 CFR Part 30, to exempt from licensing requirements spark gap tubes which contain up to 30 microcuries of krypton-85, and by letter dated January 3, 1968, Westinghouse Electric Corp. of Pittsburgh, Pa., filed a petition (PRM 30-40) with the Commission requesting an amendment of 10 CFR Part 30 to exempt from licensing requirements spark gap tubes containing up to 10 millicuries of tritium.

Section 31.3 of 10 CFR Part 31, "General Licenses for Certain Quantities of Byproduct Material and Byproduct Material Contained in Certain Items," presently establishes a general license for spark gap tubes and electronic tubes containing not more than 5 microcuries per tube of cesium-137 or nickel-63 or krypton-85 gas or not more than 1 microcurie per tube of cobalt-60.

The Commission has given careful consideration to the petitions and other factors, and is considering a finding that exemption from licensing requirements for the receipt, possession, use, transfer, export, ownership, and acquisition of electron tubes containing not more than 10 millicuries of tritium, 1 microcurie of cobalt-60, 5 microcuries of nickel-63, 30 microcuries of krypton-85, or 5 microcuries of cesium-137 under the conditions set forth below will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public. The proposed amendment to 10 CFR Part 30 which follows would accomplish this by amending existing § 30.15(a)(8), 10 CFR Part 30, which presently provides an exemption for spark gap tubes containing 30 microcuries of promethium-147. (The term "electron tubes" includes spark gap tubes.) The general license for spark gap and electronic tubes in § 31.3(b) of 10 CFR Part 31 would be revoked.

The exemption would not apply to the manufacture or import for sale or distribution of the electron tubes. Certain criteria for the issuance of a specific license to conduct such activities and certain quality control and reporting requirements are set forth in §§ 32.14, 32.15,

32.16, and 32.110, 10 CFR Part 32, "Specific Licenses to Manufacture, Distribute, or Import Exempted and Generally Licensed Items Containing Byproduct Material." Under normal conditions of use and disposal, the hazard represented by a defective tube containing byproduct material in the small amounts involved here is so low that it is not considered necessary to impose all the quality control requirements provided by § 32.15, 10 CFR Part 32. Therefore, § 32.15(c), 10 CFR Part 32, would be amended so that electron tubes containing byproduct material would not be subject to visual inspection requirements.

Amendments to 10 CFR Part 32 are also proposed which would add a requirement that persons licensed under § 32.14 to apply byproduct material to, or to incorporate byproduct material into, the products specified in § 30.15 for exempt use[1] label or mark each unit and its container so that the manufacturer or importer of the product and the byproduct material used in the product can be identified (§§ 32.14(b) and 32.15(d)). This labeling or marking is not intended as a caution or warning since such exempt products present no significant hazard to the user. Rather, the label or marking would provide a means for persons who so desire to identify those products which contain byproduct material, in the event they wish to keep them out of certain areas such as low-level radiation counting rooms, etc. For these purposes, the manufacturer or the importer of the product would be clearly identified, as by corporate name or trademark; and the byproduct material would be clearly identified such as by its name or chemical symbol and its mass number (e.g., H–3, Kr–85, Pm–147). These requirements would not apply to timepieces or hands or dials.[2]

The proposed exemption would be limited to electron tubes containing specified small quantities of tritium, cobalt-60, nickel-63, krypton-85, cesium-137, and promethium-147, in which the level of radiation from each electron tube containing byproduct material does not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber (§ 30.15(a)(8)). (This restriction would also apply to tubes containing promethium-147, which are presently exempt, subject to a similar restriction.)

Based on the quantity limits and limits on levels of radiation on each tube, it is estimated that doses to individuals expected to be most highly exposed to radiation or radioactive material from such tubes would not exceed more than a few hundredths of the dose limits recommended by the Federal Radiation Council and the International Commission on Radiological Protection.

An exemption for electron tubes containing the specified byproduct material would be consistent with the consumer product criteria published in the FEDERAL REGISTER on March 16, 1965 (30 F.R. 3462), which set out the essential terms of the Commission's policy with respect to the approval of the use of byproduct and source material in products intended for use by the general public without the imposition of regulatory controls on the user.

Under the provisions of § 150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," the transfer of possession or control by the manufacturer, processor, or producer of electron tubes distributed for use under the proposed exemption would be subject to the Commission's licensing and regulatory requirements even if the product is manufactured pursuant to an Agreement State license.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 30, 31, and 32 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within thirty (30) days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Section 30.15 of 10 CFR Part 30 is amended as follows:

§ 30.15 Certain items containing byproduct material.

(a) Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who import for sale or distribution the following products containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 20 and 30–36 of this chapter to the extent that such person receives, possesses, uses, transfers, exports, owns, or acquires the following products:

* * * * *

(8) Electron tubes: *Provided*, That each tube does not contain more than one of the following specified quantities of byproduct material:

(i) 10 millicuries of tritium;
(ii) 1 microcurie of cobalt-60;
(iii) 5 microcuries of nickel-63;
(iv) 30 microcuries of krypton-85;
(v) 5 microcuries of cesium-137;
(vi) 30 microcuries of promethium-147:

And provided further, That the levels of radiation from each electron tube containing byproduct material do not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.

(b) Any person who desires to apply byproduct material to, or to incorporate byproduct material into, the products exempted in paragraph (a) of this section, or who desires to import for sale or distribution such products containing byproduct material, should apply for a specific license pursuant to § 32.14 of this chapter, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to paragraph (a) of this section.

§ 31.3 [Amended]

2. Paragraph (b) of § 31.3 of 10 CFR Part 31 is revoked.

3. In § 32.14 of 10 CFR Part 32, the section heading, the introductory paragraph, paragraphs (b) and (c), and the first sentence of paragraph (d)(1) are amended to read as follows:

§ 32.14 Certain items containing byproduct material; requirements for license to apply or import.

An application for a specific license to apply byproduct material to, or to incorporate byproduct material into, the products specified in § 30.15 of this chapter or to import such products containing byproduct material for use pursuant to § 30.15 of this chapter will be approved if:

* * * * *

(b) The applicant submits sufficient information regarding the product pertinent to evaluation of the potential radiation exposure, including:

(1) Chemical and physical form and maximum quantity of byproduct material in each product;

(2) Details of construction and design of each product;

(3) The method of containment or binding of the byproduct material in the product;

(4) Procedures for and results of prototype testing to demonstrate that the material will not become detached from the product and that the byproduct material will not be released to the environment under the most severe conditions likely to be encountered in normal use of the product;

[1] Timepieces, hands or dials, and automobile lock illuminators containing tritium or promethium-147 and balances of precision, automobile shift quadrants, marine compasses, thermostat dials and pointers, and glow lamps containing tritium, as well as the electron tubes containing promethium-147 and the byproduct materials which are the subject of this notice.

[2] Self-luminous wrist watches, pocket watches, and other timepieces containing radioactive material have been available and in use for many years. An international standard adopted by the International Atomic Energy Agency in 1966 (IAEA Safety Series No. 23, "Radiation Protection Standards for Radioluminous Timepieces." Vienna, 1967) does not require special marking of ordinary self-luminous timepieces. Because of the vast number of timepieces already in circulation, the fact that so many people are familiar with them, and the existence of the international standard which does not require the marking of ordinary timepieces, the Commission proposes to exempt timepieces, hands, and dials from the labeling or marking requirement.

(5) Quality control procedures to be followed in the fabrication of production lots of the product to demonstrate that the product will meet the specifications established by the Commission for such product;

(6) The proposed method of labeling or marking each unit, except timepieces or hands or dials containing tritium or promethium-147, and its container with the identification of the manufacturer or importer of the product and the byproduct material in the product;

(7) Any additional information, including experimental studies and tests, required by the Commission to facilitate a determination of the safety of the product.

(c) Each product will contain no more than the quantity of byproduct material specified for that product in § 30.15 of this chapter. The levels of radiation from each product containing byproduct material will not exceed the limits specified for that product in § 30.15 of this chapter.

(d) The Commission determines that:

(1) The method of containment or binding of the byproduct material in the product is such that the radioactive material will not be released or be removed from the product under the most severe conditions which are likely to be encountered in normal use and handling. * * *

* * * * *

4. In § 32.15 of 10 CFR Part 32, the section heading and paragraph (c) are amended, and a new paragraph (d) is added, to read as follows:

§ 32.15 Same: quality control and labeling.

Each person licensed under § 32.14 shall:

* * * * *

(c) Visually inspect each unit, except glow lamps containing tritium and electron tubes containing byproduct material, in production lots and reject any unit which has an observable physical defect that could affect containment of the byproduct material.

(d) Label or mark each unit, except timepieces or hands or dials containing tritium or promethium-147, and its container so that the manufacturer or importer of the product and the byproduct material in the product can be identified.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 6th day of November 1968.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 68-13715; Filed, Nov. 13, 1968; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18345; RM-1329]

FM BROADCAST STATIONS

Table of Assignments, Waverly, Tenn.; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202 *Table of assignments,* FM Broadcast Stations. (Bay Shore, N.Y., Lake Havasu City, Ariz., Eupora, Miss., Sledge, Miss., South Haven, Mich., Marksville, La., Waverly, Tenn., Livermore and Hayward, Calif., North East, Pa., Lawrenceburg, Ky., and Bradstown, Ky.), Docket No. 18345, RM-1236, RM-1320, RM-1321, RM-1322, RM-1325, RM-1327, RM-1328, RM-1329, RM-1331, RM-1333, RM-1334, RM-1336.

1. In a notice of proposed rule making, released October 4, 1968, in this proceeding (FCC 68-995), the Commission invited comments on a number of proposals to amend the FM Table of Assignments, including the reassignment of Channel 285A from Centerville, Tenn., to Waverly, Tenn. The time for filing comments was specified as November 12, 1968, and that for replies as November 22, 1968.

2. On November 6, 1968, R. M. McKay, Jr., trading as Humphreys County Broadcasting Co., Waverly, Tenn. (the petitioner for the requested reassignment of Channel 285A), filed a request for an additional 3 weeks in which to file comments in this matter. Petitioner states that shortly after the Commission issued its notice of proposed rule making in this proceeding, Trans-Aire Broadcasting Corp., filed an application for Channel 285 at Centerville. Thus, one of the premises for requesting the change—the fact that the channel had been allocated to Centerville for about 5 years without an applicant requesting its use—has been somewhat diluted, and the Commission's decision on this proposal has become more difficult. Therefore, petitioner is having a comprehensive study made to show the extent of other aural broadcast services to each of the areas involved so that this information will be available to the Commission when making a decision under section 307(b) of the Communications Act. Petitioner states that an additional 3 weeks will be necessary for the preparation of this study. We believe that the requested additional time is warranted and would serve the public interest.

3. In view of the foregoing: *It is ordered,* That the time for filing comments in this proceeding in the matter of RM-1329 only is extended to December 3, 1968, and the time for filing replies thereto is extended to December 13, 1968.

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

Adopted: November 7, 1968.

Released: November 8, 1968.

Federal Communications Commission,

[SEAL] George S. Smith,
Chief, Broadcast Bureau.

[F.R. Doc. 68-13729; Filed, Nov. 13, 1968; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 68-281]

ASSISTANT DIRECTOR (PROCUREMENT), FACILITIES MANAGEMENT DIVISION, OFFICE OF ADMINISTRATION

Designation as Contracting Officer for Certain Types of Contracts

NOVEMBER 6, 1968.

By virtue of the authority vested in me by Customs Delegation Order No. 33 (T.D. 68-280, 33 F.R. 16529) and subject to the requirements and limitations of such Order, I hereby designate the Assistant Director (Procurement), Facilities Management Division, Office of Administration, as contracting officer with authority to enter into and administer contracts for the procurement of personal property and nonpersonal services (not including construction).

[SEAL] KENNETH KNIGHT,
Director, Facilities Management Division, Office of Administration.

[F.R. Doc. 68-13720; Filed, Nov. 13, 1968; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-2508]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 6, 1968.

The Department of Agriculture has filed an application, Serial Number I-2508 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for an administrative site for the Intermountain Forest and Range Experiment Station at Boise, Idaho.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 3 N., R. 2 E.,
Sec. 27, SE¼NW¼NE¼SW¼.

Containing 2.5 acres.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 68-13676; Filed, Nov. 13, 1968; 8:46 a.m.]

NEW MEXICO

Modification of Grazing District No. 1

NOVEMBER 7, 1968.

Under and pursuant to the authority vested in the Secretary of the Interior by the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, and in accordance with the authority delegated in 235 DM 1.1 (30 F.R. 4645), it is ordered as follows:

The following described lands are hereby excluded from New Mexico Grazing District No. 1:

NEW MEXICO PRINCIPAL MERIDIAN

T. 17 N., R. 5 W.,
Secs. 5 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 33, inclusive.
T. 18 N., R. 5 W.,
Sec. 6;
Sec. 18, SE¼SW¼, S½SE¼;
Sec. 19, W½NE¼, W½, SE¼;
Sec. 20, S½SW¼;
Secs. 29 to 32, inclusive;
Sec. 33, W½NW¼.
T. 19 N., R. 5 W.,
Secs. 19, 29, 30, 31.
T. 17 N., R. 6 W.,
Secs. 8 to 11, inclusive;
Secs. 14 to 36, inclusive.
T. 18 N., R. 6 W.,
Secs. 1 to 11, inclusive;
Sec. 12, N½SW¼;
Sec. 13, W½W½;
Secs. 14 to 26, inclusive.
T. 19 N., R. 6 W.
T. 20 N., R. 6 W.,
Sec. 15, S½;
Secs. 16 to 23, inclusive;
Secs. 26 to 36.
T. 18 N., R. 7 W.,
Secs. 1 to 18, inclusive;
Sec. 24.
T. 19 N., R. 7 W.
T. 20 N., R. 7 W.,
Secs. 3 to 10, inclusive;
Secs. 13 to 36, inclusive.
T. 21 N., R. 7 W.,
Sec. 6, W½;
Sec. 7, W½;
Sec. 18, W½, SE¼;
Sec. 19;
Sec. 20, NW¼, S½;
Sec. 26, SW¼;
Sec. 27, S½;
Sec. 28, NW¼, S½;
Secs. 29 to 34, inclusive;
Sec. 35, W½.
T. 18 N., R. 8 W.,
Secs. 1 to 12, inclusive.
T. 19 N., R. 8 W.,
Secs. 1 to 4, inclusive;
Secs. 7 to 36, inclusive.
T. 20 N., R. 8 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 21 N., R. 8 W.,
Sec. 1;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 19 N., R. 9 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15 inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 23 N., R. 12 W.,
Secs. 6 and 7;
Sec. 8, Lots 1 to 12, inclusive, S½SW¼;
Sec. 17, Lots 3 to 6, inclusive, Lot 11, W½SW¼, SE¼SW¼;
Sec. 18.
T. 24 N., R. 12 W.,
Sec. 17, Lots 1 to 16, inclusive;
Sec. 18, Lots 5, 6, 11 to 20, inclusive;
Sec. 19, Lots 5 to 20, inclusive;
Sec. 20, Lots 2 to 6, inclusive;
Sec. 30, Lots 5 to 20, inclusive;
Sec. 31, Lots 5 to 20, inclusive.
T. 23 N., R. 13 W.,
Secs. 1 to 13, inclusive;
Sec. 14, N½N½;
Secs. 15 to 22, inclusive.
T. 24 N., R. 13 W.,
Secs. 2 to 11, inclusive;
Sec. 13, S½;
Secs. 14 to 36, inclusive.
T. 25 N., R. 13 W.,
Secs. 6, 7, 18, and 19;
Secs. 26 to 34, inclusive.
T. 26 N., R. 13 W.,
Sec. 7, Lots 1 to 12, inclusive;
Sec. 18, Lots 1 to 12, inclusive;
Secs. 19, 30, and 31.
T. 30 N., R. 16 W.,
Secs. 1 to 4, inclusive;
Secs. 9, 10, and 11;
Sec. 12, NW¼;
Secs. 16 and 21.

The areas described aggregate 273,166.55 acres of which 49,145.79 acres are unappropriated public lands, and 42,365.14 acres are public lands withdrawn for Indian use under administration of the Bureau of Indian Affairs.

JOHN O. CROW,
Associate Director.

[F.R. Doc. 68-13716; Filed, Nov. 13, 1968; 8:49 a.m.]

[Utah 7146]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 6, 1968.

The Post Office Department has filed the above application for the withdrawal of the lands described below, from all forms of appropriation. The applicant desires the land for the construction and maintenance of a Post Office Building.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 11505, Salt Lake City, Utah 84111.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN

T. 1 S., R. 1 E.,
Parcel No. 5 of Tract "D".

The area described contains two acres. It was formerly in the Fort Douglas Military Reservation.

ED. D. COX,
Acting State Director.

[F.R. Doc. 68-13677; Filed, Nov. 13, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

GENERAL SALES MANAGER, DEPUTY ASSISTANT ADMINISTRATOR FOR PROGRAM DEVELOPMENT AND OPERATIONS, AND MANAGER, OFFICE OF BARTER AND STOCKPILING

Delegation of Authority To Collect, Settle, and Adjust Certain Claims By or Against Commodity Credit Corporation

Pursuant to the authority vested in the Vice President, Commodity Credit Corporation, who is the Administrator, Foreign Agricultural Service, by the Board of Directors of the Commodity Credit Corporation, there is hereby delegated the authority and responsibility to collect, adjust, compromise, terminate collection activity, and refer for litigation claims by or against CCC not in excess of $20,000, subject to and in accordance with applicable rules and regulations promulgated by CCC, as follows:

1. To the Manager, Office of Barter and Stockpiling, all claims arising under the barter program, other than claims arising solely under sales announcements and claims against banks and other financing institutions.

2. To the General Sales Manager, all claims arising under the programs administered by him under Title I, Public Law 480, as amended, other than claims against banks and other financing institutions.

3. To the Deputy Assistant Administrator for Program Development and Operations, all claims arising under the programs administered by him under Title I, Public Law 480, as amended, other than claims against banks and other financing institutions.

The foregoing delegations of authority shall not be redelegated.

Effective date. This delegation of authority shall be effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 7, 1968.

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

[F.R. Doc. 68-13698; Filed, Nov. 13, 1968; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF VIRGINIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00072-01-10100. Applicant: University of Virginia School of Medicine, Department of Biochemistry, Charlottesville, Va. 22901. Article: Temperature-Jump Pulse Generator and Accessories, Model 24. Manufacturer: Messanlagen Studiengesellschaft M.B.H., West Germany. Intended use of article: The article will be used to measure the very fast chemical reactions, ranging from 10^{-6} to 10^{0} seconds in solution. Application received by Commissioner of Customs: July 29, 1968.

Docket No. 69-00207-33-46040. Applicant: The Johns Hopkins University, Department of Biology, 34th and Charles Streets, Baltimore, Md. 21218. Article: 2 Each Electron Microscopes, JEM-30B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in teaching undergraduates in biology and premedicine, basic techniques of modern microscopy. It should be emphasized that the instrument is greatly simplified, compact and portable, requiring no permanent installation and demanding little skill in its operation. Only such an instrument is suitable for introductory instruction of some 120 students with no previous experience in electron microscopy. Application received by Commissioner of Customs: October 2, 1968.

Docket No. 69-00209-33-54500. Applicant: Institute for Medical Research of Santa Clara County, 751 South Bascom Avenue, San Jose, Calif. 95128. Article: Light Coagulator, Model 5000 complete with Spare Parts. Manufacturer: Carl Zeiss, Jena, West Germany. Intended use of article: The article will be used for experimental surgery within the vitreous (or back portion of the eye), and for continuous viewing of this work. It will free-

both hands to perform intricate maneuvers in photographing selected sights and actions to illustrate to others what can only be seen by the surgeon. This equipment is unique in that no other instrument permits continuous viewing with both hands available to do the actual surgery. Application received by Commissioner of Customs: October 3, 1968.

Docket No. 69-00211-33-46040. Applicant: Children's Orthopedic Hospital and Medical Center, 4800 Sand Point Way NE., Seattle, Wash. 98105. Article: Electron Microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for education, research, and acute diagnostic work. In education, it will be used for teaching residents and fellows in pediatric pathology; teaching of medical students; teaching fellows in clinical virology and microbiology, and fellows in clinical oncology, as well as students in medical technology. For research, it will be used to study sudden death syndrome in infants, studies on neuroblastoma of infancy and research in application of electron microscopy to surgical pathology. In acute diagnostic work, it will be utilized for rapid examination of clinical specimens for suspect diseases of highly contagious nature.

Application received by Commissioner of Customs: October 7, 1968.

Docket No. 69-00214-33—46040. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used in a variety of studies on the morphology of oncogenic and other viruses and their components. In these studies thin sectioning and negative staining will be used in connection with morphologic studies. In addition, ultrastructural cytochemistry will be used as well as radioautography when necessary. The studies range from quantitative analysis of viral content of fluids and tissues as related to potency, to radio-active tracer studies to determine the movement of viral protein and nucleic acid within infected cells. Application received by Commissioner of Customs: October 8, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-13692; Filed, Nov. 13, 1968; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 68-119]

GREAT FALLS, MONT.

Proposed Revocation of Port of Documentation Designation

1. The Commandant, U.S. Coast Guard, is considering a proposal to revoke the designation of Great Falls, Mont., as a port of documentation and to conduct at and from the office of the Officer in Charge, Marine Inspection, U.S. Coast Guard, 618 Second Avenue, Seattle, Wash. 98104, and the office of the Officer in Charge, Marine Inspection, U.S. Coast Guard, 511 NW. Broadway, 496 Federal Building, Portland, Oreg. 97209, such documentation activities as have been performed at Great Falls.

2. Accordingly, notice is given that, under the authority contained in 14 U.S.C. 633, section 2 of Act of July 5, 1884, as amended (46 U.S.C. 2), section 1 of Act of February 16, 1925, as amended (46 U.S.C. 18), and subsection 6(b) of Department of Transportation Act (49 U.S.C. 1655(b)) and the delegation of authority of the Secretary of Transportation in 49 CFR 1.4(a)(2), it is proposed to:

(a) Revoke the designation of Great Falls, Mont., as a port of documentation; and

(b) Transfer the documentation records at Great Falls for those vessels with owners residing or doing business in the Seattle Marine Inspection Zone to the office of the Officer in Charge, Marine Inspection, U.S. Coast Guard, Seattle, Wash., and the documentation records for vessels with owners residing or doing business in the Portland Marine Inspection Zone to the office of the Officer in Charge, Marine Inspection, Portland, Oreg.; and

(c) Make Seattle the home port of all vessels whose owners reside in the Seattle Marine Inspection Zone and Portland the home port of all vessels whose owners reside in the Portland Marine Inspection Zone now having Great Falls as home port.

3. Interested persons may submit such written data, views, or arguments as they may desire regarding the proposals set forth in this document. All communications should be submitted in duplicate to the Commandant (CMC), U.S. Coast Guard, Washington, D.C. 20591, as soon as possible. Each communication shall identify the subject to which it is directed, the reason or basis for views expressed, and the name, address, and business firm or organization (if any) of the submitter. Each communication received on or before January 1, 1969, by the Commandant (CMC) will be considered and evaluated before taking final actions on the proposals in this document. Copies of all written comments received by the Commandant (CMC) will be available for examination and reading by interested persons in Room 4211, Coast Guard Headquarters, Washington, D.C., both before and after the closing date (Jan. 1, 1969). The acknowledgment of the communications received by the Commandant (CMC) or the furnishing of reasons why suggested actions were or were not adopted will not be furnished in all cases since personnel are not available to handle necessary correspondence. The proposals contained in this document may be changed in the light of comments received.

4. At this time no hearing is contemplated on the proposals in this document, but arrangements may be made for informal conferences with cognizant Coast Guard officials by contacting the Executive Secretary, Merchant Marine Council, Room 4211, Coast Guard Headquarters, Washington, D.C. 20591. Any data or views presented during such informal conferences must be submitted in writing to the Commandant (CMC) in accordance with this notice in order that it may become part of the record.

Dated: November 5, 1968.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 68-13690; Filed, Nov. 13, 1968; 8:47 a.m.]

Federal Aviation Administration

[Notice 68-RD-4]

CATEGORY I APPROACH LIGHTING SYSTEM

Notice of Proposed Selection

The Federal Aviation Administration is considering adopting a Selection Order for the Category I Approach Lighting System. A Selection Order is the method used by the Federal Aviation Administration for selecting new systems, equipments, facilities, or devices for incorporation in the National Airspace System in order to insure proper operation and compatibility between elements of the common civil-military system of air traffic control and air navigation facilities. A notice of proposed selection is issued, as a matter of policy, in those instances where invitation of public comments is considered to be in the public interest. It is not a notice of proposed rule making or other rule-making action.

Interested persons are invited to submit such written data and comments as they may desire. Communications should identify the notice number and be submitted in duplicate to: Director, Systems Research and Development Service, Attention: RD-54, Federal Aviation Administration, Department of Transportation, 800 Independence Avenue SW., Washington, D.C. 20590, on or before January 8, 1969. All comments submitted will be available for examination, both before or after the closing date for comments, in Room 720, 800 Independence Avenue SW., Washington, D.C.

The text of the proposed Selection Order is as follows:

1. *Purpose.* This order provides for the incorporation of the modernized Category I Approach Lighting System into the National Airspace System.

2. *Requirement.* The present National Airspace System includes a standard configuration "A" approach lighting system designed as the primary visual approach aid for Category I approaches by all types of aircraft. These systems have been installed in accordance with International Civil Aviation Organization standards and technical standard order TSO N24A.

a. Experience over the years indicates that flashers installed between the threshold and the 1,000-foot crossbar are blinding under certain approach visibility conditions and should be eliminated. Elimination of the flashers within this area will result in a consistent flasher requirement for all approach lighting systems and at the same time provide a substantial cost reduction for the Category I ALS.

b. The approach lighting threshold has long been considered as one of the most valuable portions of the system. The emphasis over the years has been placed on methods of improving its conspicuity. Presently, flush approach lighting units are required between the rows of the runway edge lights. These units are expensive, do not provide the light output of the above ground lights, and are very difficult to maintain. Replacement of flush lights with low profile frangible mounted lights will provide a more conspicuous threshold with fewer light units. This will substantially reduce maintenance difficulties existing in the present system.

3. *Selection decision.* The Category I Approach Lighting System described in this order will provide a system overcoming the deficiencies of the existing systems, provide consistency with other approved lighting systems, and provide substantial cost reduction. Accordingly, it is hereby selected for incorporation in the National Airspace System, pursuant to section 312(c) of the Federal Aviation Act.

4. *Description*—a. *General.* The Category I Approach Lighting System is comprised of a combination of steady burning lights and sequence flashers oriented to clearly define the extended centerline of the runway. The configuration of lights is symmetrical about the extended centerline, and, in plain view, has the appearance of a horizontal ladder. The system originates at the landing threshold and extends outward in the approach direction to a distance of 3,000 feet. A 1,000-foot crossbar provides distance to threshold information. A red terminating bar 200 feet from threshold, two red wing bars 100 feet from threshold and the green threshold bar provide unmistakable identification of the landing threshold. A series of sequence flashers provides instant identification of the approach lighting system.

b. *System details.* (1) The configuration of the Category I ALS conforms to the requirements of Annex 14 of ICAO and shall be as shown on the attached Figure 1.

(2) Installation and clearance criteria shall conform to the requirements of Agency Order 6910.2.

(3) Flashers are required at the 1,000-foot station and beyond.

(4) An all frangible threshold shall be installed at all locations not having displaced thresholds or overrun areas.

(5) Semiflush threshold lights on a five foot spacing shall be installed in the portion of the threshold bar that is between the rows of runway edge lights at locations having displaced thresholds or overrun areas.

(6) All other lights installed in paved areas for aircraft operations shall be semiflush type.

5. *Implementation criteria.* a. A Category I Approach Lighting System will be installed at locations qualifying for a Category I ILS under Airways Planning Standard No. 1 where it has been determined that neither a MALSR or SSALR installation would be adequate.

b. Flashers presently installed on existing approach lighting systems at stations 3^{+00} to 9^{+00} inclusive shall be extinguished.

c. Flush threshold lights may be replaced with frangible units to comply with this order at locations having a history of excessive maintenance difficulties, subject to availability of funds.

6. *Directed action.* a. TSO-N24a is hereby canceled.

b. Subject to applicable rule making, programing, and budgetary procedures, action shall be taken by the elements of the agency concerned to implement this selection in accordance with the foregoing implementation criteria or such modifications thereof as may be hereinafter approved by or on behalf of the Administrator.

This notice is issued under sections 307(b) and 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b) and 1353(c)).

Issued in Washington, D.C., on October 30, 1968.

JOE D. CONERLY,
Acting Director, Systems Research and Development Service.

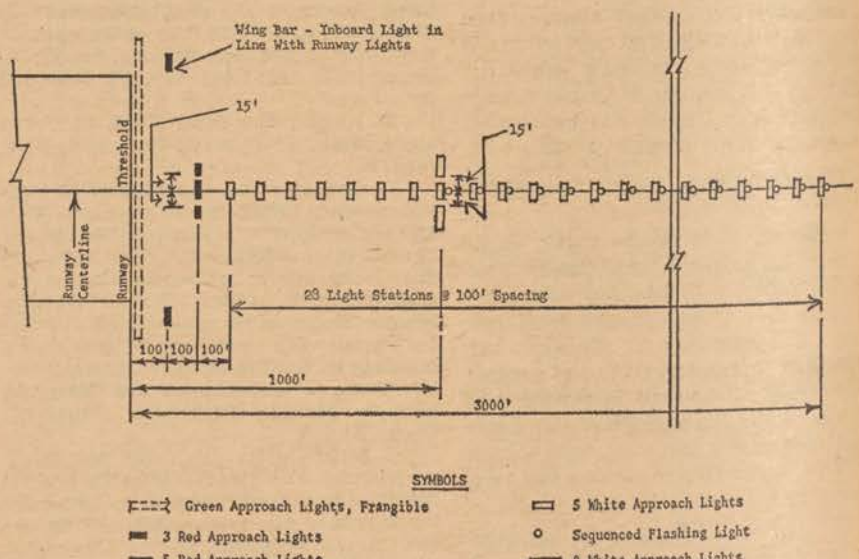

FIGURE 1 - CATEGORY I APPROACH LIGHTING SYSTEM

[F.R. Doc. 68-13548; Filed, Nov. 13, 1968; 8:45 a.m.]

INTERNATIONAL FIELD OFFICE AT MANILA, REPUBLIC OF THE PHILIPPINES

Notice of Relocation

Notice is hereby given that on or about November 4, 1968, the International Field Office at Manila, Republic of the Philippines, will be relocated from the Menzi Building, Manila, Republic of the Philippines, to the fourth floor of the American Embassy office building, Manila, Republic of the Philippines. No change in services to the aviation public will result. The mailing address will remain the same.

W. C. MOORE,
Captain, U.S. Navy,
Acting Director, Pacific Region.

[F.R. Doc. 68-13678; Filed, Nov. 13, 1968; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20211]

KUEHNE & NAGEL AIR FREIGHT, INC.

Notice of Prehearing Conference

Application of Kuehne & Nagel doing business as Kuehne & Nagel Air Freight, Inc., for a foreign air carrier permit under section 402 of the Federal Aviation Act of 1958, as amended, to engage indirectly in foreign air transportation of property from any point or points in the United States to any point or points outside the United States.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on November 25, 1968, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. before Examiner E. Robert Seaver.

In order to facilitate the conduct of the conference interested parties are instructed to submit to the Examiner and other parties on or before November 18, 1968, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; and (4) statements of positions of parties.

Counsel for Kuehne & Nagel has asked that the hearing be held the same day as the conference if feasible, and the parties are hereby notified that this request may be granted by the Examiner if decided appropriate at or before the conference.

Dated at Washington, D.C., November 7, 1968.

[SEAL] RALPH L. WISER,
Associate Chief Examiner.

[F.R. Doc. 68-13722; Filed, Nov. 13, 1968; 8:50 a.m.]

FEDERAL HOME LOAN BANK BOARD

ELECTRONICS CAPITAL CORP.

Notice of Receipt of Application for Permission To Acquire Control of St. Clair Savings Association

NOVEMBER 8, 1968.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Electronics Capital Corporation, New York, N.Y., for permission to acquire control of the St. Clair Savings Association, Cleveland, Ohio, an insured institution, under the provisions of section 408 (e) of the National Housing Act, as amended (12 U.S.C. 1730(a)) and § 584.4 of the Regulations for Savings and Loan Holding Companies (12 CFR 584.4). The proposed acquisition would be effected by the exchange of common stock of Electronics Capital Corp. for at least 80 percent of the common shares of Capital Bancorporation, Cleveland, Ohio, a savings and loan holding company which owns 98 percent of the outstanding stock of said St. Clair Savings Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 68-13727; Filed, Nov. 13, 1968; 8:50 a.m.]

TANGER INDUSTRIES

Notice of Receipt of Application for Permission To Acquire Control of Constitution Savings and Loan Association

NOVEMBER 8, 1968.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Tanger Industries, South El Monte, Calif., for permission to acquire control of the Constitution Savings and Loan Association, Monterey Park, Calif., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)) and § 584.4 of the Regulations for Savings and Loan Holding Companies (12 CFR 584.4). The proposed acquisition would be effected by the exchange of stock of Tanger Industries for at least 80 percent of the outstanding stock of the Constitution Savings and Loan Association, Monterey Park, Calif. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 68-13728; Filed, Nov. 13, 1968; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

TRANS-ATLANTIC LAKES LINE

Notice of Agreement Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Thomas K. Roche, Haight, Gardner, Poor & Havens, 80 Broad Street, New York, N.Y. 10004.

Agreement No. 9687-1 between French Line, The Cunard Steam-Ship Co., Ltd., Oranje Lijn and Fjell Line, modifies the terms of the basic agreement which established a joint service in the trades between Great Lakes of the United States and Canada and ports of eastern Canada, on the one hand, and ports of the United Kingdom and the Bordeaux/Hamburg Range on the other, to provide for a cooperative working arrangement in these trades. In accordance therewith all references in the agreement to a joint service have been deleted and the word "parties" has been substituted in lieu thereof. Provision is also made for the participation of the carriers parties thereto in the freight conferences operating in these trades in their individual capacity, and the trade name of "Trans-Atlantic Lakes Line" has been changed to "Trans-Atlantic Lakes Line-Tacline."

Dated: November 7, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-13686; Filed, Nov. 13, 1968; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-19534, etc.]

CRA, INC., AND BROOKS GAS CORP.

Order Amending Order

NOVEMBER 6, 1968.

Order amending order issuing certificates of public convenience and necessity. Redesignating FPC gas rate schedules, accepting notices of succession and supplements to FPC gas rate schedules for filing, making successor co-respondent, redesignating proceedings, and accepting agreements and undertakings for filing.

On July 24, 1968, CRA, Inc. (Petitioner), filed petitions to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to Brooks Gas Corp. (Brooks), by substituting Petitioner in lieu of Brooks as certificate holder, all as more fully set forth in the petitions to amend.

Petitioner proposes to continue the sale of natural gas to Northern Natural Gas Co. from the Mertzon Plant in Irion County, Tex., pursuant to the gas purchase contracts presently on file with the Commission as the Brooks Gas Corp. FPC gas rate schedules 4, 2, 3, and 5. Said rate schedules will be redesignated as Petitioner's FPC gas rate schedules No. 48, 49, 50, and 51, respectively. Petitioner has submitted notices of succession to

Brooks' FPC gas rate schedules and instruments of assignment and supplemental agreements as supplements to said rate schedules.

The presently effective rates under Brooks Gas Co. FPC gas rate schedules Nos. 4 and 2 (basic contract and Supplement Nos. 1 and 2) are in effect subject to refund in Docket Nos. RI65–325 and RI68–416, respectively. Petitioner has filed agreements and undertakings in Docket Nos. RI65–325 and RI68–416 to assure the refunds of any amounts collected by it in excess of the amounts determined to be just and reasonable in said proceedings. Therefore, Petitioner will be made a co-respondent in said proceedings; the proceedings will be redesignated accordingly; and the agreements and undertakings will be accepted for filing.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petitions to amend has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity to Brooks should be amended as hereinafter ordered, that the related rate schedules should be redesignated and that the notices of succession and rate schedule supplements should be accepted for filing.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Petitioner should be made a co-respondent with Brooks Gas Corp. in the proceedings pending in Docket Nos. RI65–325 and RI68–416, that said proceedings should be redesignated accordingly, and that the agreements and undertakings submitted by Petitioner in said proceedings should be redesignated accordingly, and that the agreements and undertakings submitted by Petitioner in said proceedings should be accepted for filing.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity in Docket Nos. G–19534, CI63–708,[1] CI65–700, and CI66–1106 are amended by substituting Petitioner in lieu of Brooks as certificate holder, and in all other respects said orders shall remain in full force and effect.

(B) The orders issuing temporary certificates of public convenience and necessity in Docket No. CI63–708[2] are amended by substituting Petitioner in lieu of Brooks as certificate holder, and in all other respects said orders shall remain in full force and effect.

(C) Petitioner is made co-respondent with Brooks in the proceedings pending in Dockets Nos. RI65–325 and RI68–416, said proceedings are redesignated accordingly,[3] and the agreements and undertaking submitted by Petitioner in said proceedings are accepted for filing.

(D) Petitioner shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by it in Dockets Nos. RI65–325 and RI68–416 shall remain in full force and effect until discharged by the Commission.

(E) Petitioner shall file within 45 days from the date of this order rate schedule quality statements in the form prescribed in opinion No. 468–A for those rate schedules herein redesignated as Petitioner's FPC gas rate schedule Nos. 49 and 51.

(F) Sales made pursuant to those rate schedules herein redesignated as Petitioner's FPC gas rate schedule Nos. 48, 49, and 51 are subject to the same refund obligations imposed on Brooks by the orders accompanying opinion No. 468, as modified by opinion No. 468–A, and the Commission order issued August 9, 1968, implementing said orders. The interest on refunds shall be computed through October 31, 1968, and the refund report shall be submitted on or before November 30, 1968.

(G) The notices of succession submitted by Petitioner to the FPC gas rate schedules of Brooks are accepted for filing, the rate schedules are redesignated accordingly, and the rate schedule supplements submitted by Petitioner are accepted for filing effective as of August 1, 1968, all as follows:

Certificate Docket No.	Date and description of instrument and/or former designation	CRA, Inc., FPC gas rate schedule No.	CRA, Inc., FPC gas rate schedule Supplement
G–19534	Brooks Gas Corp., FPC gas rate schedule No. 4.	48	
	Supplement Nos. 1–4	48	1–4
	Notice of succession 7–22–68.		
	Supplemental agreement [4] 7–3–68.	48	5
	Assignment [5] 8–1–68	48	6
CI63–708	Brooks Gas Corp., FPC gas rate schedule No. 2.	49	
	Supplement Nos. 1–9	49	1–9
	Notice of succession 7–22–68.		
	Supplemental agreement [4] 7–3–68.	49	10
	Assignment [5] 8–1–68	49	11
CI65–700	Brooks Gas Corp., FPC gas rate schedules No. 3.	50	
	Notice of succession 7–22–68.		
	Supplemental agreements [4] 7–3–68.	50	1
	Assignment [5] 8–1–68	50	2
CI66–1106	Brooks Gas Corp., FPC gas rate schedule No. 5.	51	
	Notice of succession 7–22–68.		
	Supplemtal agreement [4] 7–3–68.	51	1
	Assignment [5] 8–1–68	51	2

[1] Basic contract and Supplement No. 1.

[2] Supplement Nos. 2 through 7.

[3] Brooks Gas Corp., and CRA, Inc.

[4] Sets forth conditions of sale from Brooks to CRA, Inc.

[5] From Brooks to CRA, Inc.

By the Commission.

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

[F.R. Doc. 68–13679; Filed, Nov. 13, 1968; 8:46 a.m.]

[Docket No. E–7453]

IOWA-ILLINOIS GAS & ELECTRIC CO. Notice of Application

NOVEMBER 6, 1968.

Take notice that on October 23, 1968, Iowa-Illinois Gas & Electric Co. (Applicant), a public utility incorporated and doing business in the State of Illinois, with its principal place of business office at Davenport, Iowa, filed an application with the Federal Power Commission seeking authorization pursuant to section 204 of the Federal Power Act to issue up to $35 million in unsecured promissory notes.

According to the application the notes will be issued from time to time to evidence short-term borrowing, but no note will mature more than 12 months after the date of issuance, subject in some cases to renewal for periods aggregating up to 2 years, but in no case beyond December 31, 1970. Applicant states that some of the notes will be issued to banks and the remainder will be issued, as commercial paper, to commercial dealers, and those who purchase commercial paper for their own accounts.

The interest rate for notes issued to banks will not exceed the prime rate for commercial loans at the date of issuance but may, if the terms of the note so provide, be adjusted from time to time to match increases or decreases in such prime rate. The notes in the nature of commercial paper will bear interest at not more than the market rate or discount rate at the date of issuance.

The proceeds from the issuance of the notes will be used to add funds to working capital for ultimate application toward the cost of gross additions to Applicant's utility properties and nuclear fuel inventory. The principal item in Applicant's construction program is related to its agreement with Commonwealth Edison Co. whereby Commonwealth Edison is constructing a nuclear generating station in which Applicant is to have a one-fourth ownership interest. The station is known as the Quad-Cities Station and is to be located near Cordova, Ill. Applicant's share of the project cost over the period extending from June 30, 1968, through 1969 is estimated to be $27,170,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 25, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68–13680; Filed, Nov. 13, 1968, 8:46 a.m.]

[Docket No. CP69–122]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 6, 1968.

Take notice that on October 28, 1968, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in Docket No. CP69–122 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7 (b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1969 and operation of various gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct during the calendar year 1969 and operate the various gas purchase facilities in order to augment its ability to act with reasonable dispatch in connecting with its transmission system new sources of natural gas in areas coextensive with its certificated systems.

The total estimated cost of the proposed facilities is $500,000 to be financed from funds on hand. The cost of any single project would be limited to $125,000.

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 December 4, 1968.

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. 68–13681; Filed, Nov. 13, 1968; 8:47 a.m.]

[Docket No. E–7454]

NIAGARA MOHAWK POWER CORP.

Notice of Application

NOVEMBER 6, 1968.

Take notice that on October 25, 1968, Niagara Mohawk Power Corp. (Applicant) filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing the acquisition of all the outstanding common stock of Canton Electric Light & Power Co. (Canton).

Applicant is incorporated under the laws of the State of New York with its principal business office at Syracuse, N.Y., and is engaged in the electric utility business in 40 counties in Upstate New York.

Canton is incorporated under the laws of New York and owns and operates an electric distribution system in the town and village of Canton, St. Lawrence County, N.Y. Canton purchases all of its electric energy requirements from the Applicant and serves approximately 1,915 customers.

Applicant is the owner of 792 shares of Canton stock and now proposes to acquire the remaining 1,488 shares outstanding. Applicant proposes to acquire the shares of Canton common stock by an exchange of 14,628 shares of Applicant's $8 par value common stock (to be issued from its authorized but unissued common stock). After the exchange of stock the electric facilities of Canton will be merged into those of Applicant and Applicant will commence serving the present customers of Canton through the existing distribution facilities. Applicant proposes no new facilities other than normal extensions except that additional feeder ties will be constructed in order to firm up the system. Upon completion of the merger, the Applicant's rates in that general territory will then become effective insofar as Canton's residential, commercial, and industrial customers are concerned.

Any person desiring to be heard or to make any protest with reference to the application should on or before November 30, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–13682; Filed, Nov. 13, 1968; 8:47 a.m.]

[Docket No. CP69–130]

NORTH GAS FARMERS' CO-OPERATIVE SOCIETY AND EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 7, 1968.

Take notice that on October 29, 1968, North Gas Farmers' Co-Operative Society (Applicant), Castro County, Tex., filed in Docket No. CP69–130 an application pursuant to section 7(a) of the Natural Gas Act for an order directing El Paso Natural Gas Co. (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities of Applicant as proposed herein, and to sell natural gas to Applicant for resale to its members in Carson County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks to tap Respondent's main line and install a meter and other appurtenant equipment on each tap as necessary to supply gas to approximately 400 irrigation wells owned by its members.

Applicant states that the proposed connection will reduce the cost of irrigation gas to its members by one-third.

Applicant estimates annual operating requirements at 1,616,170 Mcf and peak month requirements at 298,991 Mcf.

Applicant states that the initial cost to be incurred by Applicant will be nominal. Cost of meter construction will be borne by the users.

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 December 2, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–13696; Filed, Nov. 13, 1968; 8:48 a.m.]

[Docket No. CP69–123]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 6, 1968.

Take notice that on October 28, 1968, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP69–123 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove certain facilities during the calendar year 1969, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks blanket authority to abandon and remove various unspecified sales measuring stations in cases where the consumer or utility customer request termination of service thereby. Such sales measuring stations are being utilized to deliver natural gas for irrigation pump fuel, oil-well pump fuel, grain drying, commercial uses, domestic uses, etc.

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 December 4, 1968.

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 permission and approval for the proposed abandonment 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. 68-13694; Filed, Nov. 13, 1968; 8:48 a.m.]

[Docket No. CP69-124]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 7, 1968.

Take notice that on October 28, 1968, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP69-124 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 4,000 horsepower compressor station adjacent to its Mitchell CO_2 Plant located in Pecos County, Tex., and 33.4 miles of 16-inch pipeline from such compressor station to connect with an existing 24-inch pipeline at the outlet of Applicant's Gomez Treating Plant located in Pecos County, Tex.

Applicant states that the proposed facilities are required to enable it to meet its increased gas purchase obligations on the "East Leg System" of its Permian Gas Supply Area facilities.

The total estimated cost of the proposed facilities is $4,213,000 which will 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 December 4, 1968.

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. 68-13695; Filed, Nov. 13, 1968; 8:48 a.m.]

[Docket No. CP69-133]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 6, 1968.

Take notice that on November 1, 1968, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr., filed in Docket No. CP69-133 an application pursuant to section 7(c) of the Natural Gas Act for a certificate authorizing the transportation and sale of natural gas to existing customers as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to deliver an additional 200 Mcf per day of contract demand to Watertown, S. Dak., and an additional 77 Mcf per day of contract demand to Western Gas Utilities, Inc.

Applicant states that the proposed additional deliveries are necessary to meet emergency demands for increased quantities of natural gas in the markets of said customers.

Applicant states that the proposed deliveries can be provided from unallocated capacity and that no additional facilities are required.

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 November 25, 1968.

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. 68-13683; Filed, Nov. 13, 1968; 8:47 a.m.]

[Docket No. E-7278; Opinion No. 551]

VILLAGE OF ELBOW LAKE, MINN., AND OTTER TAIL POWER CO.

Opinion and Order Directing Physical Interconnection of Facilities

NOVEMBER 6, 1968.

Appearances. I. L. Swanson for the Village of Elbow Lake, Minn.; Cyrus A. Field and David F. Lundeen for the Otter Tail Power Co.; Wallace Edward Brand for the Staff of the Federal Power Commission.

This proceeding was formally commenced on March 16, 1966, with an application by the Village of Elbow Lake, Minn. (Elbow Lake). An amended application was filed May 29, 1967, which stated that Elbow Lake has an operating municipal electric utility, that it has requested Otter Tail Power Co. (Otter Tail) to provide wholesale electric service to Elbow Lake, and requested Otter Tail to provide wheeling service over its transmission lines to Elbow Lake. Elbow Lake alleged that it has two sources of power—the Bureau of Reclamation and Basin Electric Power Cooperative of Bismarck, N. Dak.—but no means of bringing the power to Elbow Lake without Otter Tail's assistance, and that Otter Tail has refused to provide either wheeling or wholesale service. The amended application asks that Otter Tail be ordered to provide wheeling service, "and for such other and further relief as may be just in the premises."

Otter Tail filed its answer to the original application on April 20, 1966, and its amended answer May 20, 1966. Otter Tail's answer to the amended application was filed August 3, 1967, requesting dismissal of the application. That answer stated, inter alia, that Elbow Lake's amended application was not served on Otter Tail or its attorneys as required by § 1.17(b) of the Commission's rules of practice and procedure, and that Otter Tail appeared specially and objected to the jurisdiction of the Commission on the following grounds: The application did not state the applicable statutory provisions as required by § 1.6(b)(2); Elbow Lake, a municipal corporation, is not a "person" within the meaning of the Federal Power Act; at the time of filing the original application Elbow Lake was not engaged in the transmission or sale of electric energy as required by the Act, although it has since become so engaged. Otter Tail further alleged that should the Commission grant the requested relief, it would amount to a subsidy for the support of Elbow Lake's system, thereby depriving Otter Tail of the use of its property to serve its own customers, without due process of law; that this subsidy, which would aid a competitor, would in part destroy the facilities of Otter Tail, thereby constituting a taking of property without due process of law and without just compensation in violation of the Fifth Amendment.

Otter Tail also contended that to grant the requested relief would compel enlargement of its facilities (in proportion to the amount of power required to be

sold Elbow Lake), impair its ability to render service to its existing customers, amount to an undue burden and not be in the public interest. Otter Tail stated that it has not held itself out generally to furnish wholesale service or wheeling service; that the Bureau of Reclamation contract with Otter Tail, paragraphs 26.(f) and 27.(c)(2), prohibits Otter Tail rendering wheeling service to Elbow Lake.

On February 5, 1968, Elbow Lake filed two letters. One requested that no action be taken "for the present" in the pending proceeding, and further requested a Commission staff analysis of power supply arrangements for Elbow Lake.[1] In the second letter, Elbow Lake asked for prompt interconnection with Otter Tail's Elbow Lake substation under section 202(c) of the Act, stating that Elbow Lake has two 1136 kilowatt generators, peak loads are fast outstripping the capacity of the individual generators, and "at such time as our peak load exceeds the capacity of either generator our power will become nonfirm." Elbow Lake also declared it was willing to pay for the interconnection facilities.

On February 19, 1968, Otter Tail answered both letters, disputing that Elbow Lake had shown any facts which would warrant an immediate connection with Otter Tail's facilities. Otter Tail further denied that an emergency exists and requested that a hearing be fixed on the matter.

Section 202(b) of the Act provides:

> Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: Provided, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers * * *.

Section 202(c) provides that during war and certain emergencies the Commission may order temporary interconnections without notice or hearing, on its own motion or on complaint.

On June 14, 1968, the Commission ordered a hearing in this proceeding. The Examiner was directed to hear the issues on the appropriateness of an interim emergency interconnection under section 202(c) in advance of the matters raised under section 202(b) of the Act and to certificate to the Commission, without initial decision, that portion of the hearing record bearing on the issues presented under section 202(c).

A hearing was held by Presiding Examiner Ames W. Williams in Fergus Falls, Minn., from July 9 through July 12, 1968. The Examiner ruled that the hearing would include the issues in both sections 202(b) and 202(c) to the extent that counsel was prepared to do so, but, faced with the statement of staff counsel that the necessary studies which had been requested with respect to the section 202(b) application have not been made, the Examiner indicated that "If you are not prepared to go ahead, why, we cannot do it, but I think we should take this opportunity to elicit all the testimony that we possibly can at this time." (Tr. 219–220)

Otter Tail in its brief to the Commission has taken the position that no interconnection should be ordered. Staff urges that temporary interconnection of Otter Tail's facilities with the municipal distribution system should be ordered, and that such an order would be proper either pursuant to section 202(c) of the Act to meet an existing emergency or as an interim connection under section 202(b) while studies are made and pending an ultimate determination after further hearings on the issues under section 202(b). Both Otter Tail and staff have requested oral argument. Elbow Lake has not filed an independent brief but relies upon staff's presentation. Elbow Lake was represented by counsel at the hearing and participated by the introduction of evidence and cross-examination of Otter Tail's witnesses.

The jurisdictional questions. Under section 202(b) of the Act, the Commission has jurisdiction to order an interconnection at the request of a State commission or a person, but only if the latter is engaged in the transmission or sale of electric energy. Otter Tail made the point in its answer to the amended application, but not in its brief, that Elbow Lake was not yet engaged in the transmission or sale of electric energy at the time of the filing of its original application. It is admitted, however, that Elbow Lake was engaged in transmission or sale at the time the amended application was filed. This meets the statutory requirements of section 202(b).[2]

While service to the amended application was not made in the manner provided by our rule, Otter Tail did in fact receive the amended application and answered it, and participated in a hearing which the Examiner ruled dealt with issues not only under section 202(c) but also under section 202(b). Otter Tail presented evidence bearing on the issues under section 202(b) without objecting to the Examiner's ruling, and contended before the Examiner and in its brief to the Commission that section 202(b) issues should be heard and resolved. Under these circumstances objections to the form of service are no longer effective. Service of the amended application, moreover, is not required by the statute but by a provision of the rules and regulations of the Commission. The notice to Otter Tail required by the statute was fully complied with by the action of the Secretary when he mailed the amended application. Where substantive rights are not affected, the Commission may waive the requirements of its own rules and regulations. Even assuming that those rules were not adhered to, if no substantive rights are affected, as herein, the order setting the matter for hearing would constitute a waiver. Under circumstances such as these, to require a refiling and a new hearing would cause delay and expense, but would not affect the substantive issues to be decided.

Otter Tail's objection to the jurisdiction of the Commission on the ground that the amended application did not comply with the requirement of § 1.6(b)(2),[3] that the applicable statutory provisions be cited, is without merit. Failure to comply with this section of the rules and regulations may, in appropriate cases, be sufficient grounds for the rejection of the complaint, but cannot constitute an ouster of the jurisdiction of this Commission. There is no statutory requirement as to form of the application, and acceptance of the complaint would constitute a waiver of any defects due to the failure to comply with § 1.6(b)(2) of the rules.

The other procedural jurisdictional issue raised by Otter Tail in its amended answer but not urged in its brief can be handled summarily. It is generally recognized that the extent of the relief which the Commission can afford is limited by the provisions of section 202(b). The Commission could not under that section[4] order sales of power to Elbow Lake without compensation. Nor could it order the interconnection if such order would compel enlargement of Otter Tail's generating facilities, or impair Otter Tail's ability to render adequate service to its customers. These limitations upon the power of the Commission do not affect its jurisdiction in the present proceeding to hear the issues and render appropriate relief, within its authority, based upon the facts presented.

The only argument made by Otter Tail in its brief with respect to the Commission's jurisdiction is that Elbow Lake is not a "person" entitled to the type of relief it has requested within the meaning of section 202(b) of the Federal Power Act. It makes this argument with full realization of the Commission and judicial precedents holding that a municipality is a "person" entitled to relief under section 202(b) of the Act. Crisp County Power Commission v. Georgia Power Co., Opinion No. 508, ___ FPC ___ (1966); United States v. Public Utilities

[1] The letter states that Elbow Lake seeks "* * * a coordination study of future power supply for the Village of Elbow Lake with other power systems in the area."

[2] In case of an emergency the Commission may act under section 202(c) without any application being filed.

[3] Section 1.6 of the rules of practice and procedure was amended by Commission order No. 359, issued Feb. 5, 1968, after the pleadings in question were filed.

[4] The Commission would have jurisdiction under section 202(c) to order an emergency interconnection even under circumstances where it would have no power to order interconnection under section 202(b).

Commission of California, 345 U.S. 295, 312–3, 316 (1953); Shrewsbury Municipal Light Department v. New England Power Co., 32 FPC 373 (1963), aff'd sub nom; New England Power Co. v. Federal Power Commission, 349 F. 2d 253 (1st Cir. 1965). We adhere to these precedents.

Elbow Lake's need for interconnection with Otter Tail. Otter Tail serves retail customers in over 460 communities in Minnesota and the Dakotas. Fewer than 30 of these communities have a population of over 1,500. Consumers in Elbow Lake, which has a population of about 1,500, formerly were served at retail by Otter Tail under a franchise granted by Elbow Lake. The franchise expired in 1960 and was not renewed.

In 1966 Elbow Lake commenced to serve consumers within its boundaries through a municipally-owned distribution system powered by two diesel generators. One generator provides the power, while the other is on a standby basis in case the first unit breaks down. Each of the two generators has a nameplate rating of 1,136 kilowatts—with a factory guarantee of 10 percent overload—or 1,250 kilowatts for 2 hours. Based on past load peaks and anticipated growth it is expected by staff and Elbow Lake that the short demands of Elbow Lake will exceed the capacity of one generator in another year. Accordingly, they contend that Elbow Lake must buy another (smaller) generator or obtain an interconnection with Otter Tail in order to have adequate reserve power, since the remaining generator would not be able to handle the peak alone if one generator should fail. Otter Tail argues that the past peaks were abnormal and of very short duration so that the possibility of a generator breaking down at the time of such a peak is extremely small. Otter Tail also argues that the assured capacity of each of the generators exceeds the nameplate rating and that one of them could, therefore, handle any peaks. The assured capacity is a matter of dispute. Otter Tail's contentions depend mainly on statements of a salesman of the generators which seem insufficient to rely upon. From the evidence presented, we conclude that there is a shortage of installed reserves in the municipal distribution system to meet an adequate standard of reliability for firm power supply.

The scope of this decision. In its brief Otter Tail contends that the Examiner heard all issues of the case and that the Commission should deal finally with these issues. Otter Tail would have the Commission find that no emergency exists within the meaning of 202(c), that an undue burden will be placed upon Otter Tail by the granting of any relief under 202(b) or 202(c), that it is not in the public interest to grant relief which would create a probability of a cascading effect of numerous other municipalities following the precedent of Elbow Lake, and that Otter Tail has not dedicated its properties to wholesale sale or held itself out as a wholesaler. Additionally, Otter Tail would have the Commission find that it is improper to order it to wheel Bureau of Reclamation power to Elbow Lake because the Act does not allow the Commission to order Otter Tail to wheel government power, the Act does not allow the Commission to compel Otter Tail to transmit power for the benefit of a third party, and because Otter Tail's contract with the Bureau of Reclamation excludes any obligation to wheel power to municipalities served at retail by Otter Tail.

We think it clear that we cannot proceed at this time to a final determination of all the issues as requested by Otter Tail. It appears that the Examiner did proceed to hold a hearing to the extent counsel were ready to do so upon all the issues in the case. Otter Tail introduced evidence directed to showing that no interconnection with, or sale of energy to, Elbow Lake, or rendering of wholesale service to Elbow Lake should be ordered. Otter Tail contends that the record was complete. Staff counsel, however, as has been said, indicated that considerable additional time would be needed for studies to be made to determine whether lasting interconnection with Otter Tail was in the public interest or whether other possible interconnections later to be available would be preferable alternatives. We agree. Therefore, it will be necessary to remand this proceeding for further hearings on the unresolved issues to be held at such time and place as the Presiding Examiner or his successor in this proceeding may fix. Commission to order an interconnection for the transmission or sale of energy when it is necessary or appropriate in the public interest, but only where the

Section 202(b) of the Act allows this Commission finds that no undue burden will be placed upon the utility subject to the order. As we have previously indicated, we are unable at this time to determine the public interest with regard to a long term interconnection since the record is incomplete on this point. However, we believe that Otter Tail should be required to interconnect for a limited time with Elbow Lake, until the studies and later hearings mentioned above have been completed, and supply to that municipality electric energy at such times as it has excess capacity on its own system.

Otter Tail's principal contention in its brief is that to require interconnection or wholesale sale of energy by it would place an undue burden upon Otter Tail. Otter Tail is an integrated system. Practically all of its sales are on a retail basis. The tiny amount of wholesale business still remaining is being eliminated. It does not wish to make sales at wholesale. If individual municipalities can set up their own plants and require Otter Tail to interconnect with them, and possibly to serve them at wholesale, Otter Tail expects and fears that other municipalities now served by it at retail will break away as Elbow Lake has done. Otter Tail's witnesses stated several small communities are watching the Elbow Lake experiment and will probably follow Elbow Lake's example if it is successful. Otter Tail urges that it places an undue burden upon it to require it to assist a competitor and create an example which may cause erosion of Otter Tail's business.

We find there is no undue burden upon Otter Tail. A careful reading of the Act leads us to the conclusion that the term "undue burden" as used therein refers to a physical burden upon the facilities and not to an economic burden upon the company. An economic burden may be subject to relief by the imposition of charges sufficient to offset that burden. No substantial physical burden upon Otter Tail's electrical facilities has been shown or even claimed. This is not to say that the argument advanced by Otter Tail as to possible destruction of its retail business is without weight. These facts are quite relevant to whether it may be in the public interest to order a long-term interconnection between Otter Tail and Elbow Lake. The welfare of Otter Tail is a part of the public interest. No action should be taken which may adversely affect Otter Tail unless there are benefits to the public as a whole which would outweigh the effect on Otter Tail. But all these facts will be taken into account when a decision is ultimately made with respect to a long-term interconnection and source of power for Elbow Lake. We make no such determination here.

What payment is to be made by Elbow Lake to Otter Tail for the service here ordered will be left to negotiation between the parties, or, if they are unable to agree, for later determination by the Commission. The record is inadequate for a determination of this question at this time.

Otter Tail's brief also argues that Otter Tail has consistently and historically dedicated its properties to the furnishing of retail service and does not hold itself out generally to supply wholesale service. We believe this argument is not responsive to the request of Elbow Lake for relief under section 202(b) of the Act. That section does not limit the authority of the Commission to order interconnections of facilities and interchange of power to systems which have dedicated their facilities in a particular manner or held themselves out as rendering a particular service.

We need not decide the questions raised by Otter Tail with respect to wheeling power, since no such wheeling is here ordered. The studies still to be made may lead to the conclusion that Elbow Lake's long-term supply of power should be transmitted by someone other than Otter Tail. This would render moot the wheeling questions.

The connection here is ordered after notice and hearing pursuant to section 202(b). It is, therefore, unnecessary for us to determine whether there exists an emergency within the meaning of section 202(c).

This proceeding, we are told, will be closely followed as a possible precedent for future action by other municipalities. If other municipalities should desire to establish their own distribution systems, it is to be hoped that some of the

present "Elbow Lake situation" may be avoided. Elbow Lake made known its intented separation from Otter Tail years ago, by its refusal to renew Otter Tail's franchise in 1960 and its approval of municipal bonds in 1962 to finance its own system. Not until 1968 did it request that a study be made to determine the best transmission and supply arrangements. After this proceeding was begun, Elbow Lake began generating and distributing its own power, and thereafter Otter Tail took out its retail distribution lines which Elbow Lake was compelled to duplicate. The parties thus drastically changed the situation during the pendency of this proceeding. It would have been far better for Elbow Lake to have requested a study and to have had that study completed before severing itself from Otter Tail. Means should also be found to avoid the establishment of inefficient small generating plants if interconnection with more efficient sources of energy is available in the not-too-distant future. If it should appear from the study in this proceeding that interconnection with another source of power will be available in 2 years, as has been suggested, it might have been preferable for Elbow Lake to have deferred its own municipal system for that length of time. Means should certainly be found to avoid the economic waste of ripping out an existing distribution system and building a duplicate. The positions of the parties should not be changed during a pending proceeding if this can be avoided. All of these matters may be considered further in determining the public interest in this and other proceedings.

In view of the need for early decision on the present interconnection, the full briefing of the issues by Otter Tail and staff, and the limited nature of the decision here, the requests for oral argument are denied.

The Commission finds:

(1) It is necessary and appropriate for the purpose of the Federal Power Act that further public hearing be ordered respecting the issues presented under section 202 of the Act and in the Application (as amended) and Answer.

(2) On and after December 1967, there has existed a shortage of facilities for the generation and and/or transmission of electric energy for supply of electric power in bulk to the distribution system owned and operated by the Village of Elbow Lake resulting from a shortage of installed reserves to meet an adequate standard of reliability for firm power supply and other uses.

(3) Establishing a short-term open interconnection subject to automatic closure between Otter Tail Power Co.'s power supply system and that of the Village of Elbow Lake for the supply of maintenance and emergency energy under an appropriate interconnection arrangement is in the public interest.

(4) The action here ordered is in the public interest.

(5) No undue burden will be imposed upon Otter Tail Power Co. by the provisions of this order.

The Commission orders:

(A) Otter Tail Power Co.'s requests to dismiss the complaint of the Village of Elbow Lake are hereby denied.

(B) Otter Tail Power Co. is hereby directed to permit establishment of an open interconnection subject to automatic closure between its bulk power supply system and that of the Village of Elbow Lake. The interconnection shall be operated for the supply of emergency (including maintenance) power and energy under terms and conditions to be agreed upon by the parties, or failing such agreement, as may hereafter be determined after hearing. The interconnection shall remain until this proceeding is terminated and no longer subject to judicial review and for 1 year thereafter unless the Commission shall otherwise order. The Village of Elbow Lake shall install, and pay for, the necessary facilities for interconnection, and bear the expense of maintenance thereof.

(C) During the period of said interconnection, Otter Tail Power Co. shall prepare itself to deliver and shall deliver, to the Village of Elbow Lake within its capability to deliver and from power surplus to its own needs, such power and energy as the Village of Elbow Lake may require to meet shortages of power caused by outage of its own facilities in whole or in part, and the Village of Elbow Lake shall prepare itself to receive and shall receive such energy within its capability to do so as may be necessary to relieve a shortage of electric energy within said village.

(D) Pursuant to the authority contained in the Federal Power Act, particularly sections 202, 206, 308, 309 thereof, further public hearing shall be held upon the issues remaining in this proceeding in accordance with this opinion; a prehearing conference to expedite that hearing to commence on a date and at a time to be fixed by the Presiding Examiner or his successor in this proceeding, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

(E) In order that the foregoing issues may be properly determined, Otter Tail Power Co. is hereby directed pursuant to the provisions of section 301(b), 308 and 309 of the Federal Power Act, and the Village of Elbow Lake is hereby directed pursuant to the provisions of section 307(b), 308, and 309 of the Federal Power Act, to grant to authorized members of the staff of the Federal Power Commission during regular business hours, free access of its property and access to and the right to inspect and examine all of its accounts, records, and memoranda and shall either furnish copies of such material at the request of the staff, or make such material available for reproduction by the staff, and shall produce such material for use by the staff prior to and during said hearing at Offices of the Commission, 441 G Street NW., Washington, D.C. 20426.

(F) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37) on or before November 5, 1968.

(G) Oral argument is denied.

By the Commission.

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

[F.R. Doc. 68-13684; Filed, Nov. 13, 1968; 8:47 a.m.]

FOREIGN-TRADE ZONES BOARD

MAINE PORT AUTHORITY

Application for Foreign-Trade Zone and Sub-Zone; Extension of Time

Notice of a further extension of time within which written comments on any oral or written statements presented during the course of the hearing on the above application and written statements in rebuttal of such comments may be filed.

Interested parties may refer to the FEDERAL REGISTER notice of September 18, 1968 (33 F.R. 14139), which scheduled a public hearing on the application by the Maine Port Authority to establish a foreign-trade zone in Portland and a special purpose sub-zone in Machiasport, Maine. At the opening of this hearing, the Chairman announced that the record would be kept open during a period of 14 calendar days following the conclusion of the hearing to afford any interested parties the opportunity to file written comments on any oral or written statements presented during the course of the hearing. Moreover, any interested party wishing to submit a written statement in rebuttal of such comments was afforded an opportunity to do so by filing within 21 calendar days following the conclusion of the hearing. It was anticipated that the verbatim transcript of the proceedings would be completed by the commercial reporting service within 5 working days following the conclusion of the hearing on October 15. However, in recognition of the delays in completing the transcript of the above hearing, it was necessary to extend, by FEDERAL REGISTER notice of October 29, 1968 (33 F.R. 15921), the 14-day period to November 8, 1968 and the 21-day period to November 15, 1968.

Despite continuous efforts on the part of the Government to obtain a complete transcript of these hearings as promptly as possible, the commercial reporting service did not submit a satisfactory transcript of the 3d day of the hearings in Portland, Maine, and of the October 15 hearing in Washington, D.C. until November 12, 1968. A transcript covering the first 2 days of hearings conducted October 10 and 11 in Portland, Maine, is available at the four designated inspection points and may be purchased from the commercial reporting service as of November 12, 1968. It is anticipated that the 3d and 4th day will be similarly available in the next few days. Copies of the transcript may be purchased directly

from the reporting service by contacting Federal Steno Services, 1518 K Street NW., Washington, D.C. 20005.

Accordingly, notice is hereby given that the period within which any interested party may file written comments on any oral or written statements presented during the course of the hearing is hereby further extended from November 8, 1968, to November 27, 1968. In addition, the period within which any interested party may file a written statement in rebuttal of such comments is hereby further extended from November 15, 1968 to December 6, 1968. Written statements should be filed simultaneously at the Office of the Regional Commissioner of Customs, 24th floor of the John F. Kennedy Building, Government Center, Boston, Mass.; the U.S. Department of Commerce Field Office, Room 510, at the same location; at the Office of the District Director of Customs, 312 Fore Street, Portland, Maine; and at the Office of the Executive Secretary of the Foreign-Trade Zones Board, Washington, D.C. 20230.

Dated: November 12, 1968.

RICHARD E. HULL,
Acting Executive Secretary,
Foreign-Trade Zones Board.

[F.R. Doc. 68-13776; Filed, Nov. 13, 1968; 8:50 a.m.]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temp. Reg. G-3]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the civilian executive agencies before the Interstate Commerce Commission in the matter of tariff supplements to effect rate increases for movement of household goods.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d), authority is delegated to the Secretary of Defense to represent the interests of the civilian executive agencies before the Interstate Commerce Commission in the matter of tariff supplements to effect rate increases, proposed by the Household Goods Carriers' Bureau and by the Movers' and Warehousemen's Association of America, to become effective November 20, 21, and 22, 1968.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 5, 1968.

J. E. MOODY,
Acting Administrator
of General Services.

[F.R. Doc. 68-13717; Filed, Nov. 13, 1968; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2382]

ANEC CAPITAL CORP.

Notice of Filing of Application

NOVEMBER 7, 1968.

Notice is hereby given that ANEC Capital Corp. ("ANEC"), 420 Lexington Avenue, New York, N.Y. 10017, a Massachusetts corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 ("Act"), has filed an application for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting ANEC to sell 6,120 shares of common stock of Taccone Corp. ("Taccone") to Harry D. Frueauff, Jr. ("Frueauff"), to release its interest in certain Taccone warrants to Techno Fund, Inc. ("Techno"), and to engage in an exchange of releases in connection with the settlement of certain litigation involving Taccone. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Techno, an Ohio corporation registered as a closed-end, nondiversified, management investment company under the Act and a licensee under the Small Business Investment Company Act of 1958, is presently in receivership and is being liquidated by the receiver. Since before February 1966, Techno has been a major stockholder and substantial creditor of Taccone, a Pennsylvania corporation which manufactures specialized foundry equipment. Taccone's need for additional capital in 1966 resulted in the purchase by ANEC from Taccone of $350,000 principal amount of Taccone's 8 percent collateral debentures. Such debentures provided for the repayment in 15 equal quarterly installments from August 1, 1967, to February 1, 1971, and were secured by certain mortgages and liens on Taccone's assets. Warrants were attached to such debentures for the purchase of 6,120 shares of common stock of Taccone exercisable at $1 per share, which warrants ANEC exercised on November 20, 1966. At the time of ANEC's initial investment in Taccone in February 1966, Techno, as a condition of ANEC's investment in Taccone, (1) subordinated the indebtedness of Taccone to Techno in favor of Taccone's indebtedness to ANEC, (2) relinquished and contributed to the capital of Taccone $100,000 of Taccone's indebtedness to Techno, and (3) pledged to ANEC warrants owned by Techno for the purchase of 8,680 shares of Taccone common at $1 per share. Although the aforementioned warrants can be exercised by Techno at any time when Taccone is not in default to ANEC, such warrants can be exercised by ANEC only in the event of a default by Taccone in meeting payments on its debt to ANEC, the unpaid balance of which was $233,334 as of October 25, 1968. Taccone is not in default on any payment due ANEC. ANEC presently holds approximately 54 percent of Taccone's outstanding voting stock, and Techno owns 35 percent of Taccone's outstanding voting stock. If Techno exercised its warrants to purchase 8,680 shares of Taccone common, Techno's holdings would rise to approximately 57 percent of Taccone's outstanding voting stock while ANEC's would decrease to approximately 26 percent.

In 1966 and 1967 three lawsuits concerning Taccone were filed, involving Techno, ANEC, and Taccone. Taccone sued Russell Taccone, a founder and former president of the company, for various alleged breaches of duty involving improper use of corporate funds for defendant's benefit. Techno sued Russell Taccone for alleged violation of a covenant entered into when Techno invested in Taccone pursuant to which Russell Taccone undertook to devote his full time to the affairs of Taccone. In the third suit, Russell Taccone alleged that the officers and directors of Techno and Russell Taccone's successor as president of Taccone conspired to oust him as an officer of Taccone and to deprive him of various economic benefits and that ANEC and Techno conspired to mislead him as to the nature of the relationship between ANEC and Techno at the time ANEC made its initial investment in Taccone.

ANEC proposes to sell its 6,120 shares of Taccone common to Frueauff, who is not affiliated with ANEC or Techno, for $76,500 cash, and Frueauff's personal guarantee of Taccone's indebtedness to ANEC. The agreement of sale provides that either party may decide not to consummate the transaction if the litigation brought against ANEC by Russell Taccone is not settled. All parties to the above-mentioned litigation have agreed to exchange mutual releases. However, as a condition of Techno's release of Russell Taccone, the receiver of Techno has asked that ANEC release to Techno its interest in the warrants to purchase 8,680 shares of Taccone stock which Techno had pledged to ANEC as security for Taccone's indebtedness to ANEC.

Since ANEC and Techno each own more than 5 percent of the voting stock of Taccone, each is affiliated with Taccone and Taccone is affiliated with ANEC and Techno therefore ANEC is an affiliated person of an affiliated person of Techno and Techno is an affiliated person of an affiliated person of ANEC. Section 17(d) of the Act and Rule 17d-1 thereunder provide, in pertinent part, that it shall be unlawful for an affiliated person of an affiliated person of a registered investment company, acting as principal, to participate in, or effect any transaction in connection with, any joint

enterprise or arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been granted by the Commission. A joint enterprise or arrangement as used in Rule 17d–1 is defined as any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking, whereby a registered investment company or a controlled company thereof and any affiliated person of or a principal underwriter for such registered company, or any affiliated person of such person or principal underwriter, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking.

In passing upon an application under Rule 17d–1, the Commission must consider whether the participation of each of the registered investment companies which is a party to the joint enterprise or arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

An order pursuant to section 17(d) and Rule 17d–1 thereunder is requested to permit the sale by ANEC of its Taccone common to Frueauff, the release to Techno by ANEC of its security interest in Taccone warrants and the dismissal by Techno of its lawsuit against Russell Taccone, to the extent that such transactions fall within the purview of Rule 17d–1 as transactions in connection with a joint enterprise or arrangement between Techno and ANEC consisting of common ownership and control of Taccone.

ANEC represents that Taccone common stock is not readily marketable, that the sale price of $12.50 per share is advantageous to ANEC and that consummation of the sale will put an end to possibly of costly litigation. ANEC further states that it deems Frueauff's personal guaranty on Taccone's debt to ANEC to be more valuable to ANEC than ANEC's rights to acquire 8,680 shares of Taccone common by exercising the Techno warrants in the event of a default by Taccone. With respect to Techno, the application states that Techno's stockholders and creditors will be adequately protected with respect to the proposed transactions and that pursuant to specific authorization by the court supervising the Techno receivership supports ANEC's application and the dismissal of Techno's litigation against Russell Taccone as being in the best interests of the receivership.

Notice is further given that any interested person may, not later than November 22, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing), upon ANEC at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68–13685; Filed, Nov. 13, 1968; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 8, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41493—*Liquid Caustic Soda to Points in Alabama.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2926), for interested rail carriers. Rates on sodium (soda), caustic (sodium hydroxide), in solution, in tank-car loads, from specified points in Michigan, Ohio, and West Virginia, to Fairfax, Lanett, Opelika, and Pepperell, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 55 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C–611.

By the Commission.

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–13703; Filed, Nov. 13, 1968; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction No. 16]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND CHICAGO BURLINGTON & QUINCY RAILROAD CO.

Car Distribution

Pursuant to section 1 (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 1002:

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Louisville & Nashville Railroad Co. shall deliver to the Chicago, Burlington & Quincy Railroad a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The carrier delivering the empty boxcars as described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The carrier receiving the cars described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 12:01 a.m., November 8, 1968.

(4) Expiration date: This direction shall expire at 11:59 p.m., November 16, 1968, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 7, 1968.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 68-13704; Filed, Nov. 13, 1968; 8:48 a.m.]

[S.O. 1002; Car distribution direction No. 17]

SEABOARD COAST LINE RAILROAD CO. ET AL.

Car Distribution

Pursuant to section 1 (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 1002:

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Seaboard Coast Line Railroad Co. shall deliver to the Louisville & Nashville Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

(b) The Louisville & Nashville Railroad Co. shall deliver to the Chicago & North Western Railway Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(c) The carriers delivering the empty boxcars as described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(d) The carriers receiving the cars described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 12:01 a.m., November 8, 1968.

(4) Expiration date: This direction shall expire at 11:59 p.m., November 16, 1968, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 7, 1968.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 68-13705; Filed, Nov. 13, 1968; 8:48 a.m.]

[S.O. 994; ICC Order No. 17-A]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Rerouting and Diversion of Traffic

Upon further consideration of ICC Order No. 17 (the Louisville & Nashville Railroad Co.) and good cause appearing therefor:

It is ordered, That:

(a) ICC Order No. 17 be, and it is hereby vacated and set aside.

(b) Effective date: This order shall become effective at 9 a.m., November 7, 1968.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 7, 1968.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[F.R. Doc. 68-13706; Filed, Nov. 13, 1968; 8:49 a.m.]

[Notice 524]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 8, 1968.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2986 (Deviation No. 2), I & S-McDANIEL, INC., 1102 Prairie Street, Vincennes, Ind. 47591, filed November 1, 1968. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: Between Terre Haute, Ind., and Indianapolis, Ind., over Interstate Highway 70, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Terre Haute, Ind., and Indianapolis, Ind., over U.S. Highway 40.

No. MC 52953 (Deviation No. 10), ET & WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, Tenn. 37601, filed October 29, 1968. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From junction Interstate Highway 81 and U.S. Highway 340 at or near Greenville, Va., over Interstate Highway 81 to junction Virginia Highway 277, thence over Virginia Highway 277 to junction U.S. Highway 340, thence over U.S. Highway 340 to junction U.S. Highway 40 (Interstate Highway 70N), thence over U.S. Highway 40 (Interstate Highway 70N), to Baltimore, Md., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction Interstate Highway 81 and U.S. Highway 340 at or near Greenville, Va., over U.S. Highway 340 to junction U.S. Highway 250, thence over U.S. Highway 250 to junction U.S. Highway 29, thence over U.S. Highway 29 to junction Interstate Highway 66, thence over Interstate Highway 66 to junction Interstate Highway 495, thence over Interstate Highway 495 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 1 (also from junction Interstate Highway 66 and 495 over Interstate Highway 495 to junction U.S. Highway 1), thence over U.S. Highway 1 to junction Maryland Highway 176, thence over Maryland Highway 176, to junction Washington-Baltimore Expressway, thence over the Washington-Baltimore Expressway to Baltimore, Md., and return over the same route.

No. MC 52953 (Deviation No. 11), ET & WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, Tenn. 37601, filed October 29, 1968. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Greenville, S.C., over Interstate Highway 85 to Charlotte, N.C., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same

commodities, over a pertinent service route as follows: From Greenville, S.C., over U.S. Highway 29 to Kings Mountain, N.C., thence over U.S. Highway 74 (also U.S. Highway 29), to Charlotte, N.C., and return over the same route.

No. MC 67818 (Deviation No. 5), MICHIGAN EXPRESS, INC., 1122 Freeman Avenue SW., Grand Rapids, Mich. 49502, filed October 28, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 90 and U.S. Highway 20 at Gary, Ind., over Interstate Highway 90 to Cleveland, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Sandusky, Ohio, over Ohio Highway 2, to Toledo, Ohio, (2) from Detroit, Mich., over U.S. Highway 24 to Toledo, Ohio, thence over Ohio Highway 120 to junction U.S. Highway 20, thence over U.S. Highway 20 to Chicago, Ill., (3) from Detroit, Mich., over U.S. Highway 25 to Monroe, Mich., thence over Michigan Highway 50 to junction U.S. Highway 24, thence over U.S. Highway 24 to Toledo, Ohio, thence over Ohio Highway 2 to Lorain, Ohio, thence over Ohio Highway 57 to junction Ohio Highway 254 (also from Toledo over Ohio Highway 2 to Sandusky, Ohio, thence over U.S. Highway 250 to Milan, Ohio, thence over Ohio Highway 113 to Elyria, Ohio, thence over Ohio Highway 57 to junction Ohio Highway 254), thence over Ohio Highway 254 to Cleveland, Ohio, thence over U.S. Highway 21 to Montrose, Ohio, thence over Ohio Highway 18 to Akron, Ohio (also from Cleveland over Ohio Highway 14 to Bedford, Ohio, thence over Ohio Highway 8 to Akron) (also from Toledo to Sandusky as specified above, thence over U.S. Highway 250 to Norwalk, Ohio, thence over Ohio Highway 18 to Akron, Ohio), (4) from junction U.S. Highway 20 and Alternate U.S. Highway 20, approximately 4 miles north of Montpelier, Ohio, over Alternate U.S. Highway 20 to junction U.S. Highway 20, at or near Perrysburg, Ohio, thence over U.S. Highway 20 to Cleveland, Ohio (also over the same route to junction U.S. Highway 20 and Ohio Highway 10, over Ohio Highway 10 to Cleveland), and (5) from Adrian, Mich., over Michigan Highway 52 to the Michigan-Ohio State line, thence over Ohio Highway 109 to junction U.S. Highway 20, and return over the same routes.

No. MC 80430 (Deviation No. 8), GATEWAY TRANSPORTATION CO., INC., 2130 South Avenue, La Crosse, Wis. 54601, filed October 29, 1968. Carrier purposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Wisconsin Highway 57 and Wisconsin Highway 42 near Sturgeon Bay, Wis., over Wisconsin Highway 42 to junction U.S. Highway 141 near Manitowoc, Wis., thence over U.S. Highway 141 to Milwaukee, Wis., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Green Bay, Wis., over Wisconsin Highway 57 to Milwaukee, Wis., and (2) from Amberg, Wis., over U.S. Highway 141 to Green Bay, Wis., thence over Wisconsin Highway 57 to Sturgeon Bay, Wis., and return over the same routes.

No. MC 80430 (Deviation No. 9), GATEWAY TRANSPORTATION CO., INC., 2130 South Avenue, La Crosse, Wis. 54601, filed October 29, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Milwaukee, Wis., over U.S. Highway 45 to junction Interstate Highway 294, near Franklin Park, Ill., thence over access city streets to Chicago, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Milwaukee, Wis., over Wisconsin Highway 32 to the Wisconsin-Illinois State line, thence over Illinois Highway 42 to Waukegan, Ill., thence over Illinois Highway 120 to junction U.S. Highway 41, thence over U.S. Highway 41 to Chicago, Ill., and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 483), GREYHOUND LINES, INC., (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed October 28, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Cleveland, Ohio, over Interstate Highway 71 to junction with the Ohio Turnpike, thence over the Ohio Turnpike to junction Ohio Highway 10 at the North Olmsted Interchange (Interchange No. 9), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From junction Ohio Turnpike and Ohio Highway 18, near the Niles-Youngstown Interchange (West of Youngstown, Ohio) over the Ohio Turnpike to the Ohio-Indiana State line, near Columbia, Ohio, and (2) from Cleveland, Ohio, over Ohio Highway 10 to North Olmsted-Cleveland Interchange, and return over the same routes.

No. MC 1515 (Deviation No. 484) (cancels Deviation No. 478), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed October 30, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From Lafayette, La., over Interstate Highway 10 to Lake Charles, La., with the following access routes: (a) From Duson, La., over Louisiana Highway 95 to junction Interstate Highway 10, (b) from Rayne, La., over Louisiana Highway 35 to junction Interstate Highway 10, (c) from Crowley, La., over Louisiana Highway 13 to junction Interstate Highway 10, (d) from junction Interstate Highway 10 and Louisiana Highway 97 over Louisiana Highway 97 to junction U.S. Highway 90, (e) from junction Interstate Highway 10 and Louisiana Highway 26 over Louisiana Highway 26 to junction U.S. Highway 90, and (f) from junction Interstate Highway 10 and U.S. Highway 165 over U.S. Highway 165 to junction U.S. Highway 90, (2) from junction U.S. Highway 190 and Louisiana Highway 415 over Louisiana Highway 415 to junction Louisiana Highway 76, thence over Louisiana Highway 76 to junction Louisiana Highway 1, thence over Louisiana Highway 1 to junction Interstate Highway 10, thence over Interstate Highway 10 via Baton Rouge to junction Interstate Highway 12, thence over Interstate Highway 12 to junction U.S. Highway 61, with the following access route: From junction Louisiana Highway 1 and U.S. Highway 190 (at the west end of Mississippi River Bridge), over Louisiana Highway 1 to junction Interstate Highway 10, and (3) from New Orleans, La., over Interstate Highway 10 to junction Louisiana Highway 49, thence over Louisiana Highway 49 to Kenner, La., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: From New Orleans, La., over U.S. Highway 90 to junction Louisiana Highway 30, thence over Louisiana Highway 30 to Luling, La., thence over unnumbered highway to Boutte, La., and thence over U.S. Highway 90 to Lake Charles, La., (2) from Natchez, Miss., over U.S. Highway 61 via Scotlandville, La., to New Orleans La., and (3) from junction U.S. Highways 90 and 190 east of Slidell, La., over U.S. Highway 190 via Slidell to Opelousas, La., and return over the same routes.

No. MC 84728 (Deviation No. 5) (cancels Deviation No. 3), SAFEWAY TRAILS, INC., 1200 Eye Street NW., Washington, D.C. 20005, filed October 29, 1968. Carrier's representative: Bruce E. Mitchell, 1735 K Street NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Baltimore, Md., over Interstate Highway 95 to junction U.S. Highway 13 at or near Eddystone, Pa., with the following access routes: (1) From Elkton, Md., over Maryland Highway 279 to junction Interstate Highway 95, (2) from Perryville, Md., over U.S. Highway 222 to junction Interstate Highway 95, (3) from Havre de Grace, Md., over Maryland Highway 155 to junction Interstate Highway 95, (4) from Aberdeen, Md., over Maryland Highway 22 to junction Interstate Highway 95, (5) from junction Maryland

Highway 24 and U.S. Highway 40 over Maryland Highway 24 to junction Interstate Highway 95, and (6) from junction U.S. Highway 40 and Interstate Highway 295 over Interstate Highway 295 to junction Interstate Highway 95, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From New York, N.Y., over U.S. Highway 1 to Washington, D.C. (also from New York over U.S. Highway 1 to Trenton, N.J., thence over U.S. Highway 206 to junction U.S. Highway 130, thence over U.S. Highway 130 to Camden, N.J., thence across the Delaware River to Philadelphia, Pa., thence over U.S. Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to Baltimore, Md., thence over U.S. Highway 1 to Washington, D.C.), and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-13707; Filed, Nov. 13, 1968; 8:49 a.m.]

[Notice 1235]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 8, 1968.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 111103 (Sub-No. 29) (Republication), filed June 28, 1968, published in the FEDERAL REGISTER issue of July 25, 1968, and republished this issue. Applicant: PROTECTIVE MOTOR SERVICE COMPANY, INC., 725-29 South Broad Street, Philadelphia, Pa. 19147. Applicant's representative: John M. Demcisak, 1035 Land Title Building, Philadelphia, Pa. 19110. By application filed June 28, 1968, Protective Motor Service Co., Inc., of Philadelphia, Pa., seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of checks, payroll records, business papers, reports, and records, and audit and accounting media (excluding plant removals), between points in Dauphin County, Pa., on the one hand, and, on the other, points in Prince Georges County, Md. An order of the Commission, Operating Rights Board, served November 1, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes of checks, payroll records, business papers, reports, and records, and audit and accounting media, between points in Dauphin County, Pa., on the one hand, and, on the other, points in Prince Georges County, Md., under a continuing contract with D & H Distributing Co., Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that an appropriate permit should be issued, subject to the condition described in the second succeeding paragraph in this order; and that the application in all other respects should be denied.

Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128239 (Republication), filed May 19, 1966, published in the FEDERAL REGISTER issues of June 30, 1966, and August 10, 1967, and republished this issue. Applicant: BILLY R. HALLUM, doing business as TRI-STATE TRANSIT CO., 1934 South Florida, Memphis, Tenn. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. By application filed May 19, 1966, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle of passengers and their baggage, express, mail and newspapers in the same vehicle with passengers, between Southaven, Miss., and Memphis, Tenn., over specified route serving no intermediate points. A report and order of the Commission on further hearing, division 1, decided September 11, 1968, and served September 20, 1968, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, *of passengers and their baggage, and express and newspapers,* in the same vehicle with passengers, between Southaven, Miss., and Memphis, Tenn., over U.S. Highway 51, serving all intermediate points; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the common carrier authority for which a need is found in this order will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129820 (Sub-No. 2) (Republication), filed June 6, 1968, published in the FEDERAL REGISTER issue of June 27, 1968, and republished this issue. Applicant: TRIPLE E EXPRESS, INC., 4544a North Prospect Road, Peoria Heights, Ill. Applicant's representative: John P. Meyer, Suite 500, 4 North Vermilion Street, Danville, Ill. 61832. By application filed June 6, 1968, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of units or bundles of boxes fiberboard, without wooden frames (paper boxes), corrugated knocked down flat (fiber content consisting of not less than 80 percent woodpulp, wastepaper or straw pulp or mixtures thereof), from Galesburg, Ill., to Waverly, Cedar Falls, and Cedar Rapids, Iowa, under contract with Alton Box Board Co., Galesburg plant. An order of the Commission, Operating Rights Board, dated October 17, 1968, and served November 4, 1968, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *corrugated fiberboard boxes,* knocked down, from Galesburg, Ill., to points in Waverly, Cedar Falls, and Cedar Rapids, Iowa, under a continuing contract with Alton Box Board Co., Galesburg plant, of Galesburg, Ill., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129890 (Republication), filed May 6, 1968, published FEDERAL REGISTER issue of July 4, 1968, and republished this issue. Applicant: FREDERICK A. JOHNSON, SR., doing business as JOHNSON'S MOVING & DELIVERY, 180 Boston Post Road, East Lyme, Conn. By application filed May 6, 1968, and amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a *common carrier* by motor vehicles, over irregular routes, of *toilet preparations, soap, printed matter, cosmetics, prizes and premiums, office furniture and materials*, except commodities, in bulk, in tank vehicles, or in dump vehicles, between points within New London County lines, State of Connecticut, and points within the State of Connecticut bound on the south by Long Island Sound, bound on the east by Rhode Island State line, proceeding north to Connecticut Route 6, following Connecticut Route 6 west to Connecticut Route 66, proceeding southwest on Connecticut River to Connecticut Route 9, proceeding south on Connecticut Route 9 to Connecticut Route 17, proceeding south on Connecticut Route 17 to Connecticut 79, proceeding south on Connecticut Route 79 to Long Island Sound, including points on the indicated portions of the highways specified, restricted to shipments originating in Rye, N.Y.

An order of the Commission, Operating Rights Board, dated October 17, 1968, and served November 5, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes of (1) cosmetics and toilet preparations, and (2) equipment and supplies used in the distribution of cosmetics and toilet preparations (except commodities in bulk) between points in that portion of Connecticut on, south, and east of a line beginning at the Rhode Island State line and proceeding along U.S. Highway 6 to the junction of U.S. Highway 6 and Connecticut Highway 66, thence along Connecticut Highway 66 to the junction of Connecticut Highway 9 and Connecticut Highway 66, thence along Connecticut Highway 9 to the junction of Connecticut Highway 9 and Connecticut Highway 17, thence along Connecticut Highway 17 to the junction of Connecticut Highway 17 and Connecticut Highway 79, thence along Connecticut Highway 79 to Madison, Conn., restricted to the transportation of traffic originating at Rye, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 3468 (Notice of filing of petition to amend certificate substituting Warren, Mich., in lieu of Warren Township, Macomb County, Mich.), filed October 30, 1968. Petitioner: F. J. BOUTEL DRIVEAWAY CO., INC., Flint, Mich. Petitioner's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. By petition filed October 30, 1968, petitioner seeks to have its authority for the transportation of motor vehicles redescribed so as to substitute both Warren and Center Line, Mich., wherever petitioner's present certificate authorizes service from Warren Township, Macomb County, Mich. Petitioner states that the area previously designated as Warren Township is no longer unincorporated and the major portion of this area was incorporated on January 1, 1957, into the city of Warren, Mich., while the city of Center Line lies approximately in the middle of such area and wholly surrounded by Warren. The petition states that no authority is sought to serve any commercial zone around these points, thus the redescription will not broaden any present authority. Accordingly, petitioner requests that its authority as here pertinent, be redescribed to read "from Warren and Center Line, Mich. (but not including the commercial zones thereof as defined by the Commission.)" Any interested person desiring to participate, may file an original and six copies of his written representations, views, or arguments in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

Ex Parte No. MC–74 (Notice of filing of petition for defining "Casual Driveaway Service"), filed October 1, 1968. Petitioners: NATIONAL AUTOMOBILE TRANSPORTERS ASSOCIATION; BAKER DRIVEAWAY COMPANY, INC.; F. J. BOUTELL DRIVEAWAY COMPANY, INC.; NU-CAR CARRIERS, INC.; M & G CONVOY, INC.; KENOSHA AUTO TRANSPORT CORPORATION; HOWARD SOBER, INC.; Petitioners' representatives: George S. Dixon, 1700 One Woodward Avenue, Detroit, Mich. 48226. Attorney for petitioners: National Automobile Transporters Association and Baker Driveaway Co., Inc.; Wilmer B. Hill, 529 Transportation Building, Washington, D.C. 20006. Attorney for petitioners: F. J. Boutell Driveaway Co., Inc., Nu-Car Carriers, Inc., and M & G Convoy, Inc.; Paul F. Sullivan, 913 Colorado Building, Washington, D.C. 20005. Attorney for petitioner: Kenosha Auto Transport Corp.; Albert F. Beasley, 1019 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Attorney for petitioner: Howard Sober, Inc. Petitioners seek institution by the Interstate Commerce Commission of a rulemaking proceeding under section 553 of the Administrative Procedure Act (5 USC 553), to determine the definition and classification of "casual driveaway service" of motor vehicles by motor common and contract carriers, to distinguish such service from the regular "driveaway service" of automobile transporters generally, and for the purpose of establishing rules, regulations, classifications, or definitions as may be deemed appropriate and effective to this end, and for the requirement of the use thereof in applications for authority to perform "casual driveaway service" and in the issuance of certificates or permits authorizing the performance of such transportation service. Petitioners propose that the following definition of "casual driveaway service" should be adopted and established by rulemaking procedure:

"Casual driveaway service" is a term that means single driveaway service by casual drivers for casual shippers; and is hereby defined and delimited to mean, or include, any transportation arrangement whereby a single motor vehicle is driven under its own power (1) by a driver not regularly employed by the carrier but engaged specifically for the trip involved, and (2) for an owner in whose name the vehicle is registered and licensed, when moving at such owner's expense and not under arrangements made by any business, commercial or governmental organization.

Any interested person desiring to participate, shall file an original and six copies of his written representations, views, and arguments in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER. In addition, any person submitting matter in support of the petition, should include therein a draft of the rule he believes should be adopted.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 673 (Sub-No. 3), filed October 29, 1968. Applicant: WILLIAMSON TRANSPORTATION, INC., 130 Lenox Avenue, Stamford, Conn. 06906. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks, or special equipment), between New Haven, Conn., on the one hand, and, on the other, points in Connecticut. NOTE: Applicant states it intends to tack the proposed authority at Bridgeport, Conn. The instant application is a matter directly related to MC–F 10255, published in the FEDERAL REGISTER issue of September 25, 1968, wherein applicant seeks to convert the certificate of registration of Milkin Warehouse and Distribution Corp. under MC 107005 (Sub-No. 2) into a certificate of public convenience and necessity. If a hearing is deemed necessary,

applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 58549 (Sub-No. 11), filed October 23, 1968. Applicant: CLINE MUNDY, doing business as GENERAL MOTOR LINES, 526 Orange Avenue NE., Roanoke, Va. 24012. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) between Roanoke and Martinsville, Va., from Roanoke, over U.S. Highway 220 to Martinsville (also over U.S. Highway 220 to the intersection of Virginia Highway 919 at Boone's Mill, thence over Virginia Highway 919 to the intersection of U.S. Highway 220 at Rocky Mount), and return over the same routes; (2) between Roanoke and Lexington, Va., over U.S. Highway 11; (3) between Natural Bridge and Lexington, Va., from Natural Bridge, Va., over Virginia Highway 130 to Glasgow, thence over U.S. Highway 501 to Buena Vista, thence over U.S. Highway 60 to Lexington; and return over the same route; (4) between the intersection of U.S. Highway 220 with Virginia Highway 605 and Martinsville, Va., from the intersection of U.S. Highway 220 and Virginia State Highway 605 to Henry, Va., thence over Virginia Highways 606, 674, and 672 to Bassett, Va., thence over Virginia Highways 682, 698, 687, and 609 to U.S. Highway 220, thence over U.S. Highway 220 to Martinsville, and return over the same route; (5) between Roanoke and Independence, Va., over U.S. Highway 221; (6) between Hillsville, Va., and the intersection of Virginia Highway 94 and U.S. Highway 221, from Hillsville over U.S. Highway 52 to Poplar Camp, thence over Virginia Highway 69 to Austinville, thence over Virginia Highways 619 and 94 to Ivanhoe, Va., thence over Virginia Highway 94 to its intersection with U.S. Highway 221, and return over the same route; (7) (a) between Galax and Stuart, Va., over U.S. Highway 58; and (b) between Stuart and Martinsville, Va., over U.S. Highway 58; (8) between Independence and Wytheville, Va., over U.S. Highway 21; (9) between Roanoke and Paint Bank, Va., over U.S. Highway 311; (10) between Martinsville, and Ridgeway, Va., over U.S. Highway 220; (11) between Hillsville, Va., and the North Carolina-Virginia State line, over U.S. Highway 52; and (12) between Roanoke and Warm Springs, Va., from Roanoke over U.S. Highway 11 to the intersection of U.S. Highway 220, thence over U.S. Highway 220 to Warm Springs, Va., and return over the same route; serving all intermediate points on the highways specified in (1) through (12) above.

NOTE: Applicant states it presently holds a certificate of registration generally authorizing operations in the transportation of general commodities over routes 1 through 12. However, certain limitations or restrictions as contained in the certificate of registration have been eliminated so as to conform the authority requested with general prevailing policies of the Interstate Commerce Commission. (2) This is a matter directly related to MC–F–10285 published in the FEDERAL REGISTER issue of October 30, 1968. (3) If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Roanoke, Va.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–10293. Authority sought for control by AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040, of (1) PROTECTIVE MOTOR SERVICE COMPANY, INC., 725 South Broad Street, Philadelphia, Pa. 19147, and (2) PROTECTIVE SERVICE COMPANY, 725 South Broad Street, Philadelphia, Pa. 19147, and for acquisition by PUROLATOR, INC., 970 New Brunswick Avenue, Rahway, N.J. 07065, of control of PROTECTIVE MOTOR SERVICE COMPANY, INC., and PROTECTIVE SERVICE COMPANY, through the acquisition by AMERICAN COURIER CORPORATION. Applicants' attorneys: John Kevin Murphy, 2 Nevada Drive, Lake Success, N.Y. 11040, and Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Operating rights sought to be controlled: (1) *Articles of unusual value*, as a *contract carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Delaware within 75 miles of the City Hall, Philadelphia; *coin*, between Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo and New York, N.Y., Charlotte, N.C., Cleveland and Cincinnati, Ohio, Jacksonville, Fla., Memphis, and Nashville, Tenn., Philadelphia and Pittsburgh, Pa., Richmond, Va., and Washington, D.C., between Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo, N.Y., Charlotte, N.C., Cincinnati and Cleveland, Ohio, Detroit, Mich., Denver, Colo., Jacksonville, Fla., Memphis and Nashville, Tenn., New York, N.Y., Philadelphia and Pittsburgh, Pa., Richmond, Va., and Washington, D.C.; *bullion*, from New York, N.Y., to Philadelphia, Pa., and Fort Knox, Ky., from Fort Knox, Ky., to Philadelphia, Pa., between Fort Knox, Ky., New York, N.Y., Denver, Colo., Philadelphia, Pa., and West Point, N.Y.; *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature* moving therewith (excluding motion picture film used primarily for commercial theater and television exhibition), between Philadelphia, Pa., on the one hand, and, on the other, certain specified points in Pennsylvania, and points in Atlantic and Cape May Counties, N.J., with restrictions; between Philadelphia, Pa., on the one hand, and, on the other, points in Berks and Lebanon Counties, Pa., with restrictions; between Philadelphia, Pa., on the one hand, and, on the other, points in Dauphine County, Pa., with restrictions; between Philadelphia, Pa., on the one hand, and, on the other, points in Bucks and Lancaster Counties, Pa., with restriction; *checks, coupons, and all types of bank papers and bank records*, between the Data Center of the Philadelphia National Bank near Carlisle, Pa., on the one hand, and, on the other, certain specified points in Maryland, Fairfax and Frederick Counties, Va., certain specified points in West Virginia, and Washington, D.C., with restriction; *business papers, reports and records, checks, and audit and accounting media*, between Lancaster, Pa., on the one hand, and, on the other, points in Howard County, Md., and those in Spotsylvania and Frederick Counties, Va., with restriction; *commercial papers, documents, written instruments* and *business records* of banks and banking institutions (except currency and negotiable securities), as are used in the business of banks and banking institutions, between the Data Center of the Philadelphia National Bank, near Carlisle, Pa., on the one hand, and, on the other, certain specified points in Maryland, New York, Virginia, and Hampshire and Morgan Counties, W. Va., between Harrisburg, Pa., on the one hand, and, on the other, Baltimore, Md., with restriction; and *commercial papers, documents, written instruments, and business records* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between the Operations Center of the Equitable Trust Co. in Baltimore, Md., on the one hand, and, on the other, Winchester, Va., with restriction; and (2) *Business papers, reports, and records, and audit and accounting media*, as a *contract carrier*, over irregular routes, between points in Baltimore County, Md., on the one hand, and, on the other, certain specified points in Pennsylvania, with restriction; *business papers, records, and audit and accounting media*, between Harrisburg, Pa., on the one hand, and, on the other, Washington, D.C., with restriction; *magnetic tape and miscellaneous audit data*, between Camp Hill, Pa., and Baltimore, Md., with restriction; and *business papers, business records*, and *audit and accounting media*, between Allentown, Pa., on the one hand, and, on the other, Washington, D.C., with restriction. AMERICAN COURIER CORPORATION is authorized to operate as a *common carrier* in Maine, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Illinois, Iowa, Nebraska, Kentucky, Ohio, West Virginia, Pennsylvania, Rhode Island, Michigan, Indiana, Maryland, Virginia, Delaware, Wisconsin, South Dakota, Missouri, North Dakota, Kansas, Louisiana, Florida, Alabama, Mississippi, Vermont, Georgia, North Carolina, Arkansas, Texas, Oklahoma, Tennessee, South Carolina, and the District of Columbia; and as a *contract carrier* in New York, New Jersey, North

Carolina, Tennessee, Georgia, Connecticut, Pennsylvania, Ohio, West Virginia, Massachusetts, Delaware, Virginia, Maryland, Rhode Island, Illinois, Iowa, Missouri, Indiana, Kentucky, Minnesota, Wisconsin, Maine, Nebraska, New Hampshire, Vermont, Michigan, North Dakota, South Dakota, Alabama, South Carolina, Arkansas, Texas, Florida, Louisiana, Oklahoma, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10294. Authority sought for control by THOMAS H. JONES and ROBERT W. JONES, individuals, 630 Poindexter Street, Chesapeake, Va. 23506, of COASTAL HAULING, INC., 401 Bay Colony Drive, Virginia Beach, Va. 23451. Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be controlled: *Salt*, in bulk, in dump vehicle, as a *common carrier*, over irregular routes, from Norfolk, Va., to points in that part of North Carolina on and east of U.S. Highway 15. THOMAS H. JONES nor ROBERT W. JONES, hold authority from this Commission. However, they control D. D. JONES TRANSFER & WAREHOUSE COMPANY INCORPORATED, 630 Poindexter Street, Chesapeake, Va., which is authorized to operate as a *common carrier* in Virginia, North Carolina, South Carolina, Alabama, Delaware, Florida, Georgia, Kentucky, Mississippi, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10295. Authority sought for control and merger by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32203, of the operating rights and property of BOYCE MOTOR LINES, INC, Lakeside Drive, Canandaigua, N.Y. 14424, and for acquisition by INTERNATIONAL UTILITIES, INC., and, in turn by INTERNATIONAL UTILITIES CORPORATION, both of 1500 Walnut Street, Philadelphia, Pa. 19102, of control of such rights and property through the transaction. Applicants' attorneys and representative: Roland Rice, 618 Perpetual Building, Washington, D.C. 20004, Larry D. Knox, 2050 Kings Road, Jacksonville, Fla., and David S. Van De Vate, 183 East Main Street, Rochester, N.Y. 14604. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Mileses, N.Y., and Binghamton, N.Y., serving all intermediate points, and points in Dickinson and Fenton Townships, Broome County, N.Y., as off-route points, between Elmira, N.Y., and Big Flats, N.Y., serving the intermediate point of Horseheads, N.Y.; between Buffalo, N.Y., and New York, N.Y., serving no intermediate points, but serving points in New Jersey within 30 miles of City Hall, New York, N.Y., as off-route points, and serving Canandaigua, N.Y., as an off-route point, with service at Canandaigua restricted to the interchange of traffic only, with restriction; between Buffalo, N.Y., and Youngstown, N.Y., between Buffalo, N.Y., and Niagara Falls, N.Y., between Buffalo, NY., and Brockport, N.Y., serving certain intermediate and off-route points, from Buffalo, N.Y., to Hornell, N.Y., serving certain intermediate points for delivery only, from Buffalo, N.Y., to Salamanca, N.Y., serving certain intermediate points, and the off-route point of Perrysburg, N.Y., for delivery only, from Buffalo, N.Y., to Jamestown, N.Y., serving certain intermediate points, and the off-route point of Sinclairville, N.Y., for delivery only, from Buffalo, N.Y., to Jamestown, N.Y., serving certain intermediate points for delivery only, with restrictions; between Rochester, N.Y., and Syracuse, N.Y., between junction New York Highways 96 and 332 and Canandaigua, N.Y., serving all intermediate points, over one alternate route for operating convenience only; *general commodities* except livestock, loose bulk commodities, classes A and B explosives, currency, bullion, articles of virtu, and commodities injurious or contaminating to other lading, between Binghamton, N.Y., and Buffalo, N.Y., serving all intermediate points other than Endicott, N.Y., and certain off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, from New York, N.Y., and certain specified points in New Jersey, to points in Pike and Wayne Counties, Pa., from New York, N.Y., to Hancock, N.Y., between New York, N.Y., and points in New Jersey within 30 miles of City Hall, New York, N.Y., on the one hand, and, on the other, Binghamton, N.Y.; between certain specified points in New York, from Jamestown, N.Y., to Buffalo, N.Y., with restriction; *silk and rayon yarns*, from New York, N.Y., to Stroudsburg and Matamoras, Pa.; *silk and rayon cloth*, from Stroudsburg and Matamoras, Pa., to New York, N.Y., and Hoboken and Passaic, N.J., from Matamoras, Pa., to certain specified points in New Jersey; and *nursery stock*, from all points in Wayne County to certain specified points in New York. RYDER TRUCK LINES, INC., is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10296. Authority sought for control by U.S. INDUSTRIES, INC., 250 Park Avenue, New York, N.Y. 10017, of C. I. WHITTEN TRANSFER COMPANY, Post Office Box 1833, Huntington, W. Va. 25719. Applicants' attorney: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Operating rights sought to be controlled: *Classes A, B, and C explosives*, and *blasting supplies*, as a *common carrier*, over irregular routes, between Martinsburg, W. Va., on the one hand, and, on the other, points in Pennsylvania, with service at Martinsburg, W. Va., restricted to joinder only, with restriction; between Edwardsville, Ill., and points in Illinois within 5 miles of Edwardsville and Louisville, Ky.; *explosives and blasting supplies* from Fairchance, Pa., to certain specified points in Ohio, and points in that part of Virginia east of U.S. Highway 220, including points on the indicated portions of the highways specified, between points in Kentucky, Ohio, Virginia, West Virginia, and certain specified points in North Carolina, between Fairchance, Pa., and points within 10 miles thereof, on the one hand, and, on the other, Huntington and Nemours, W. Va., and Falls Mills, Va., and points within 10 miles of each point, between points within 10 miles of Fairchance, Pa., including Fairchance, Pa., between Seneca, Ill., and points within 5 miles thereof, on the one hand, and, on the other, points in Kentucky, Ohio, Virginia, West Virginia, and certain specified points in North Carolina, between Pompton Lakes, N.J., and points within 5 miles thereof, on the one hand, and, on the other, certain specified points in Kentucky, West Virginia, and Virginia, between Kenvil, N.J., and points within 10 miles thereof, on the one hand, and, on the other, points in Kentucky, Virginia, West Virginia, certain specified points in North Carolina; that part of Maryland on and west of U.S. Highway 15, and certain specified points in Pennsylvania, from Evansville, Ind., and Wolf Lake, Ill., to certain specified points in Kentucky; *powder* and *classes A and B explosives*, between Huntington and Nemours, W. Va., on the one hand, and, on the other, certain specified points in Kentucky; *foundry core compounds* and *ground fire clay*, from Lawco, Ohio, and points in Ohio within 10 miles thereof, to points in Alabama, Connecticut, Delaware, Kentucky, Maryland, Massachusetts, Vermont, New Jersey, Maine, New York, Tennessee, Pennsylvania, Virginia, West Virginia, and the District of Columbia; *automobile bumpers and parts and fittings thereof*, and *automobile bumper castings*, between Huntington, W. Va., on the one hand, and, on the other, points in Massachusetts, Pennsylvania, New Jersey, Delaware, New York, and Virginia; *classes A, B, and C explosives, blasting supplies*, and *used containers* for explosives, blasting supplies and powder, between points in Indiana on U.S. Highway 31E within 6 miles of Jeffersonville, Ind., including Jeffersonville on the one hand, and, on the other, Kenvil, N.J., and points within 5 miles of Kenvil, points in Kentucky, Ohio, Virginia, West Virginia, certain specified points in North Carolina, with service at the described Indiana points restricted to interchange of traffic with other carriers only; *classes A, B, and C explosives* as classified in the Commission's rules and regulations governing the transportation of explosives and other dangerous articles, *blasting supplies* and *empty used containers* for explosives and blasting supplies, between Gambrills, Md., and points in Maryland within 5 miles thereof, on the one hand, and, on the other, points in Kentucky, Ohio, Virginia, and West Virginia, certain specified points in North Carolina, Seneca, Ill., and points within 5 miles thereof, Kenvil, N.J., and points within 10 miles thereof, and points in Indiana on U.S. Highway 31E within 6 miles of Jeffersonville, Ind., including Jeffersonville,

with restriction; *classes A, B, and C explosives, ammunition, ingredients and component parts of explosives and ammunition,* and *empty containers* used in the transportation of the above-described commodities, between Pinto, W. Va., and Washington, D.C., with restriction; between Pinto, W. Va., and Indian Head, Md., with restriction; *classes A, B, and C explosives,* and *empty containers* used in the transportation of the above-specified commodities, between Gainesville, Va., and Andrews Air Force Base, Md., with restrictions; *classes A, B, and C explosives,* as defined by the Commission, and *blasting supplies,* between Joliet, Ill., and points within 5 miles thereof, on the one hand, and, on the other, Seneca, Ill., and points within 5 miles thereof, Pompton Lakes, N.J., and points within 5 miles thereof, Kenvil, N.J., and points within 10 miles thereof, certain specified points in Maryland, Washington, D.C., certain specified points in North Carolina, points in Indiana on U.S. Highway 31E within 6 miles of Jeffersonville, Ind., including Jeffersonville, and points in Kentucky, Ohio, Pennsylvania, Virginia, and West Virginia, with restriction; *classes A and B explosives,* between the site of the Iowa Ordnance Plant located at Burlington, Iowa, and Seneca, Ill.; *classes A, B, and C explosives,* between Gainesville, Va., on the one hand, and, on the other, Duck, N.C., and points within 20 miles of Duck, N.C.; *explosives,* from Evansville, Ind., and Wolf Lake, Ill., to certain specified points in Illinois and Indiana; *classes A, B, and C explosives, blasting supplies, nitro-carbo nitrates,* and *ammonium nitrate,* from Odill, Ill., to points in Connecticut, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, and West Virginia, with restriction; *classes A, B, and C explosives, blasting supplies, blasting materials,* and *blasting agents,* between Avon and Simsbury, Conn., on the one hand, and, on the other, points in Delaware, with restriction; between the plantsite of Atlas Chemical Industries, Inc., at or near Reynolds, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, New Hampshire, and Rhode Island, with restriction. U.S. INDUSTRIES, INC., holds no authority from this Commission. However, it controls B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224, which is authorized to operate as a *common carrier* in Wisconsin, Ohio, Michigan, Maryland, Virginia, Pennsylvania, Illinois, Indiana, West Virginia, Kentucky, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10297. Authority sought for purchase by STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Post Office Box 5689, Dallas, Tex. 75222, of the operating rights and property of TRADERS TRANSPORT CO., INC., Evans Avenue, Bedford, Mass. 01730, and for acquisition by HILL-ELLIOTT, INC., 2100 Mercantile Bank Building, Dallas, Tex., of control of such rights and property through the purchase. Applicants' attorney: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Operating rights sought to be transferred: under a certificate of registration, in Docket No. MC–97935 Sub-1, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in Louisiana, Texas, Ohio, Michigan, Missouri, Illinois, Indiana, Arkansas, New York, New Jersey, Pennsylvania, Connecticut, Tennessee, Oklahoma, Missouri, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10298. Authority sought for purchase by LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108, of a portion of the operating rights of ROBERT QUENTIN FARRIS, doing business as FARRIS TRUCK LINE, Post Office Box 528, Daisetta, Tex. 77533, and for acquisition by R. E. LEE, and M. S. LEE, both also of Oklahoma City, Okla., of control of such rights through the purchase. Applicants' attorneys and representatives: Richard H. Champlin, Post Office Box 32488, Oklahoma City, Okla., Roland Rice, 618 Perpetual Building, 1111 E Street NW., Washington, D.C., and Robert Quentin Farris, Box 528, Daisetta, Tex. 77533. Operating rights sought to be transferred: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier,* over a regular route, between Houston, Tex., and Beaumont, Tex., serving no intermediate points and the off-route points of Daisetta, Hull, and Batson, Tex. Vendee is authorized to operate as a *common carrier* in Texas, Oklahoma, Missouri, Illinois, Kansas, Indiana, Ohio, Pennsylvania, West Virginia, New York, Arizona, New Mexico, California, Colorado, and Arkansas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10299. Authority sought for purchase by THE AETNA FREIGHT LINES, INCORPORATED, Post Office Box 350, 2507 Youngstown Road SE., Warren, Ohio 44482, of the operating rights and property of S & E McCORMICK, INC., 1020 Church Street, Wilmington 99, Del., and for acquisition by J. PHIL FELBURN, Post Office Box 427, Tytus and Browning Streets, Middletown, Ohio, of control of such rights and property through the purchase. Applicants' attorneys: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006, and David Keil, 200 West Ninth Street, Wilmington, Del. 19801. Operating rights sought to be transferred: *Iron and steel products, heavy machinery, and boilers, tanks, stacks, and repair parts,* as a *common carrier,* over irregular routes, between points in New Castle County, Del., on the one hand, and, on the other, Albany and New York, N.Y., Richmond, Va., points in New Jersey, Delaware, and the District of Columbia, certain specified points in Pennsylvania and Maryland; *lumber and piling,* between Wilmington, Del., on the one hand, and, on the other, Philadelphia, Pa., certain specified points in New Jersey, points in Delaware, and those in that part of Maryland east of the Susquehanna River and Chesapeake Bay; *household goods* as defined in *Practices of Motor Common Carriers Household Goods,* 17 M.C.C. 467, between Wilmington, Del., on the one hand, and, on the other, New York, N.Y., and points in Pennsylvania, New Jersey, and Maryland within 120 miles of Wilmington; *commodities requiring special equipment and rigging,* between points in Accomac, and Northampton Counties, Va., certain specified points in Maryland, Delaware, and the District of Columbia, between Philadelphia, Pa., on the one hand, and, on the other, points in Accomac, and Northampton Counties, Va., certain specified points in Maryland, Delaware, and the District of Columbia; and *machinery and heavy or bulky articles, requiring special equipment or handling,* between points in New Jersey, Delaware, Maryland, New York, the District of Columbia, and that part of Pennsylvania within 150 miles of Philadelphia, Pa., including Philadelphia. Vendee is authorized to operate as a *common carrier* in Michigan, Pennsylvania, West Virginia, New York, Illinois, Indiana, Ohio, Kentucky, Iowa, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68–13708; Filed, Nov. 13, 1968; 8:49 a.m.]

[Notice 1237]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 8, 1968.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated. (2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary. (3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto. (4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner. (5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 125686 (Sub-No. 4), filed November 4, 1968. Applicant: EAST COAST TRANSPORT COMPANY, INCORPORATED, Post Office Box 1296, Goldsboro, N.C. Applicant's representative: J. Ruffin Bailey, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, nitric acid, anhydrous ammonia and nitrogen solutions*, from points in Hertford County, N.C., to points in South Carolina, West Virginia, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, and Georgia.

HEARING: December 10, 1968, at the Offices of the Interstate Commerce Commission, Washington, D.C., before an examiner to be later designated.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-13709; Filed, Nov. 13, 1968; 8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 8, 1968.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. C-321 Case No. 4, filed October 17, 1968. Applicant: PARKER MOTOR FREIGHT, INC., 1505 Steele Avenue SW., Grand Rapids, Mich. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *passengers*, serving Lansing, Mich., and points in I-96 between Grand Rapids and Lansing via otherwise authorized routes on traffic which carrier either originates at or delivers to its authorized points of Cheboygan and Mackinaw City. Service at Lansing, Mich., and points on I-96 between Grand Rapids and Lansing includes off-route points within 3 miles thereof and the commercial zones of all service points. (Applicant seeks to modify present restriction against traffic moving between Lansing or points on I-96 west thereof, on the one hand, and, on the other, points east of I-75). Both intrastate and interstate authority sought.

HEARING: November 21, 1968, 9:30 a.m., Michigan Public Service Commission, Lewis Cass Building, South Walnut Street, Lansing, Mich. Request for procedural information, including the time for filing protests concerning this application should be addressed to the Michigan Public Service Commission, Lewis Cass Building, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission.

State Docket No. MT-4484, filed October 24, 1968. Applicant: VAN CURLER TRUCKING CORP., 121 LaGrange Avenue, Rochester, N.Y. 14613. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, from all points in Monroe County, N.Y., to all points in Chautauqua County, N.Y. Both interstate and intrastate authority is sought.

HEARING: No date has been assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the New York Public Service Commission, 44 Holland Avenue, Albany, N.Y. 12208 and should not be directed to the Interstate Commerce Commission.

State Docket No. MC 4610 (Sub-No. 3), filed October 24, 1968. Applicant: HUMBOLDT EXPRESS, INC., Faydur Court, Nashville, Tenn. 37210. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except household goods, commodities in bulk, between Brownsville and Memphis, Tenn., over the following routes: (1) From Brownsville via U.S. Highway 70 to Memphis, and return over same route; (2) from Brownsville via Tennessee Highway 76 to junction with Interstate Highway 40, thence via Interstate Highway 40 to Memphis, and return over same route, all of said authority to be used in conjunction with all other authority held by applicant. Restriction: Restricted against the handling of any traffic which originates at or is destined to points between Brownsville and Humboldt, including Brownsville but excluding Humboldt, on U.S. Highway 70. Both intrastate and interstate authority sought.

HEARING: Thursday, December 19, 1968, at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, Tenn., at 9:30 a.m. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-13710; Filed, Nov. 13, 1968; 8:49 a.m.]

[Notice 729]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 1968.

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 protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 33641 (Sub-No. 79 TA), filed November 4, 1968. Applicant: IML FREIGHT, INC., Post Office Box 2277, 2175 South 3270 West Street, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Explosives, blasting materials; agents and supplies;* (1) between all points and over the regular routes which applicant is certificated for the transportation of general commodities (except explosives), in Docket No. MC 33641, and all effective sub numbers

thereto, wherein applicant is authorized to operate in the States of Arizona, California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Virginia, West Virginia, and Wyoming, and subject to all route restrictions, if any, as otherwise specified in said certificates, and (2) serving all points not on its regular routes in Arizona, California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Virginia, West Virginia, and Wyoming, as off-rote points in connecton with carrier's regular route operations, for 180 days. NOTE: Applicant does not seek duplicating authority. NOTE: Applicant states it does intend to tack the authority here applied for to other authority held by it, or to interline with other carriers at any point authorized to be served under present authority. Supporting shipper: Headquarters, Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310, Department of Defense). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 89684 (Sub-No. 68 TA), filed November 4, 1968. Applicant: WYCOFF COMPANY, INCORPORATED, 566 South Second West Street, Post Office Box 366; Salt Lake City, Utah 84101 (84110). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Newspapers*, from Denver, Colo., to points in Utah and Wyoming as follows: (a) From Denver, to Salt Lake City, Utah, over U.S. Highways 6 and 50 (including I–70) and over U.S. Highway 40, serving all points in Utah on said highways west of the Utah-Colorado line; (b) from Denver to Salt Lake City, Utah, over U.S. Highway 1–25 to Fort Collins, Colo., thence over U.S. Highway 287 to Laramie, Wyo., thence westerly over U.S. Highways 30 and I–80 to Salt Lake City, Utah, serving all intermediate points in Wyoming and all points in Utah, together with the following off-route points in Wyoming; Kemmerer, Pinedale, Big Piney, Afton, and Jackson, for 180 days. Supporting shippers: The Denver Post, Denver, Colo. 80201; Rocky Mountain News, Denver, Colo. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 102682 (Sub-No. 259 TA), filed November 4, 1968. Applicant: HUGHES TRANSPORTATION, INC., Post Office Box 10207, Charleston, S.C. 29411. Applicant's representative: Frank B. Hand, Jr., The Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, from Macon, Ga., to Dahlgren and Portsmouth, Va., Dover, Del., and Edgewood, Md., for 180 days. Supporting shipper: Maxson-Macon, Division of Maxson Electronics Corp., Guy Paine Road, Macon, Ga. 31206. Send protests to: Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, 601 A Federal Building, 901 Sumter Street, Columbia, S.C. 29201.

No. MC 111785 (Sub-No. 36 TA), filed November 4, 1968. Applicant: BURNS MOTOR FREIGHT, INC., Post Office Box No. 149, U.S. Highway 219 North, Marlinton, W. Va. 24954. Applicant's representative: Theodore Polydoroff, 1120 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from points in Tucker County, W. Va., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, for 180 days. Supporting shipper: Hinchcliff Products Co., 20784 Westwood Drive, Strongsville, Ohio 44136. Attention: Donald B. Phillips, Vice-President, Sales. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3202 Federal Office Building, Charleston, W. Va. 25301.

No. MC 114533 (Sub-No. 176 TA), filed November 4, 1968. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records* (1) between Milwaukee, Wis., on the one hand, and, points in Illinois, except Chicago, Zion, Rockford, Aurora, and Oakbrook; points in Michigan, except Detroit; and points in Indiana, on the other; (2) between Waukegan, Ill., on the one hand, and, Indianapolis and Richmond, Ind., on the other, for 150 days. Supporting shippers: (1) Johns-Manville Service Corp., Waukegan, Ill. 60085; (2) J. C. Penney Co., Inc., 1301 Avenue of Americas, New York, N.Y. 10019. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 119009 (Sub-No. 4 TA), filed November 4, 1968. Applicant: JOHN KONECNIK, doing business as F & K MILK SERVICE, 5620 North Pearl Street, Rosemont, Ill. 60016. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* as described in appendix 1, to the report in *Descriptions in Motor Carrier Certificate*, 61 M.C.C. 209, and *Chocolate drinks, chocolate milk, cottage cheese, fruit juices, fruit flavored milk, sour cream, sour cream dips and yogurt* in containers, from Borden, Inc., plant at or near Woodstock, Ill., to Beloit, Fort Atkinson, Janesville, Madison, Middleton, Monroe, Stoughton, and White Water, Wis., for 180 days. Supporting shipper: Lucky Stores, Inc., Post Office Box 67, Rock Island, Ill. 61201. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 124813 (Sub-No. 60 TA), filed November 4, 1968. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, and phosphate feed supplements*, from Alden, Iowa, to points in Illinois and Wisconsin, for 180 days. Supporting shipper: Iowa Limestone Co., 500 New York Avenue, Des Moines, Iowa 50333. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 133115 (Sub-No. 1 TA), filed November 4, 1968. Applicant: ELVIS SCHREMP, HUBERT J. SCHREMP, HOWARD SCHREMP, AND GLENNON SCHREMP, a partnership, doing business as SCHREMP BROS., McBride, Mo. 63776. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products laminated with wood, aluminum or fiberglass*, from plantsite of Pennington & Sons, Inc., McBride, Mo., to jobsites in Alabama, Michigan, Wisconsin, Illinois, Kansas, Nebraska, Iowa, Oklahoma, Texas, Pennsylvania, New York, Ohio, North Dakota, Delaware, Maryland, and California, for 180 days. Supporting shipper: Laminated Panels, Division of Pennington & Sons, Inc., Post Office Box 192, Perryville, Mo. 63775. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-13711; Filed, Nov. 13, 1968; 8:49 a.m.]

[Notice 245]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 8, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce

Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–70731. By order of October 31, 1968, the Transfer Board approved the transfer to Gem Transport, Inc., Louisville, Ky., of the operating rights in permits Nos. MC–110393, MC–110393 (Sub-No. 5), MC–110393 (Sub-No. 6), MC–110393 (Sub-No. 8), MC–110393 (Sub-No. 10), MC–110393 (Sub-No. 11), MC–110393 (Sub-No. 13), MC–110393 (Sub-No. 15), MC–110393 (Sub-No. 16), MC–110393 (Sub-No. 18), and MC–110393 (Sub-No. 23) issued October 7, 1959, March 25, 1963, November 1, 1962, January 15, 1963, May 2, 1963, September 10, 1964, January 5, 1965, December 6, 1965, September 17, 1964, April 6, 1966, and July 13, 1966, respectively, to Frigid Food Express, Inc., Post Office Box 196, Westville, Ind. 46391, authorizing the transportation, over irregular routes, of dairy products, meats, canned foods, frozen foods, floor covering, and plumbing fixtures generally from and to points in the eastern and central States and limited to service performed under contracts with certain shippers. Rudy Yessin, Post Office Box 457, Frankfort, Ky. 40601, attorney for transferee.

No. MC–FC–70816. By order of October 31, 1968, the Transfer Board approved the transfer to Shupe Bros. Co., a corporation, Greeley, Colo., of permits Nos. MC–119710 (Sub-No. 5), MC–119710 (Sub-No. 6), MC–119710 (Sub-No. 9), and MC–119710 (Sub-No. 12), issued March 10, 1964, May 14, 1968, December, 2, 1968 and November 1, 1968, respectively, to John L. Shupe and Ivan D. Shupe, a partnership, doing business as Shupe Bros., Greeley, Colo., authorizing the transportation of: Salt, salt products, pepper, mineral mixtures, and packaged individual servings of jams, jellies, honey, syrups, sugar, condiments, sauces, and salad dressing, from Saltair, Utah, to points as specified in Colorado, Wyoming, Nebraska, South Dakota, and Kansas, as restricted; animal and poultry feeds, other than liquid, in bulk, in tank vehicles, from Hereford, Tex., to points in Arizona, Colorado, Kansas, New Mexico, and Oklahoma, as restricted; animal and poultry feeds, as excepted, from Lucerne and Ault, Colo., to points in New Mexico, Kansas, Texas, Oklahoma, Nebraska, South Dakota, Wyoming, Montana, Idaho, and Utah; animal and poultry feeds, from Garden City, Kans., to points in Colorado, Nebraska, New Mexico, Oklahoma, and Texas, as restricted; and materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industry, in mixed loads with salt or salt products (otherwise authorized), from the plantsite of the Morton Salt Co., Saltair, Utah, to points in Colorado, Kansas, Nebraska, South Dakota, and Wyoming. Paul F. Sullivan, 1341 G Street NW., Washington, D.C. 20005, attorney for applicants.

No. MC–FC–70836. By order of October 30, 1968, the Transfer Board approved the transfer to Beckwith's Moving & Storage, Inc., 15 North Main Street, Monroe, N.Y. 10950, of certificate in No. MC–104799, issued December 10, 1956, to Clifford M. Beckwith, doing business as Beckwith's Moving & Storage, Monroe, N.Y. 10950, authorizing the transportation of: Household goods as defined by the Commission, between points within 12 airline miles of the U.S. Post Office at Monroe, N.Y., exclusive of points in the corporate areas of Middletown and Newburgh, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and the District of Columbia.

No. MC–FC–70853. By order of October 31, 1968, the Transfer Board approved the transfer to Tonganoxie Motor Freight, Inc., Route 1, Tonganoxie, Kans. 66086, of certificates Nos. MC–60178 and MC–60178 (Sub-No. 4), issued December 6, 1955 and April 29, 1960, to Clifford W. Black, doing business as Tonganoxie Motor Freight, Box 133, Tonganoxie, Kans. 66086, authorizing the transportation of: General Commodities, excluding household goods, commodities in bulk and other specified commodities, from Tonganoxie, Kans., to Kansas City, Mo., serving intermediate points, and return over the same route serving specified intermediate and off-route points; and livestock, from Tonganoxie, Kans., to Kansas City, Mo., serving intermediate and off-route points within 20 miles of Tonganoxie.

No. MC–FC–70889. By order of October 31, 1968, the Transfer Board approved the transfer to Lee's Towing Service, Inc., Chicago, Ill., of certificate No. MC–116906 (Sub-No. 1), issued December 9, 1965, to Julius C. Topolski, doing business as Tops Towing, Chicago, Ill., authorizing the transportation of: Automobiles, trucks, truck-tractors, and busses, for replacement purposes, in wrecker service, from Chicago, Ill., to points in Indiana, Michigan, Missouri and Wisconsin; and in the reverse direction, disabled or wrecked automobiles, busses, trucks, tractors, and semitrailers. Alfred L. Roth, 188 West Randolph Street, Chicago, Ill. 60601, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–13712; Filed, Nov. 13, 1968; 8:49 a.m.]

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