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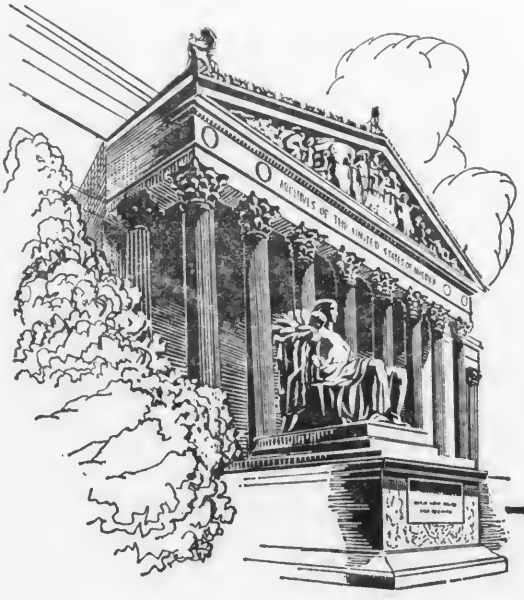

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Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—United States Standards for Grades of Filberts in the Shell [1]

On page 7804 of the FEDERAL REGISTER of May 21, 1970, there was published a notice of proposed rule making to revise these grade standards by increasing the tolerances for mixed types and for off-size, and by providing for specifying size in connection with grade in terms of minimum diameter, minimum and maximum diameters, or in accordance with a size classification. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

Interested persons were given until July 1, 1970, to submit written data, views, or arguments regarding the proposal. No comments have been received and the proposed revised standards are hereby adopted without change and are set forth below.

These standards shall become effective on September 1, 1970, and will thereupon supersede the U.S. Standards for Grades of Filberts In The Shell which have been in effect since November 25, 1961 (7 CFR 51.1995–51.2008).

Dated: July 14, 1970.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

GRADE

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

DEFINITIONS

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADE

§ 51.1995 U.S. No. 1.

"U.S. No. 1" consists of filberts in the shell which meet the following requirements:

(a) Similar type; and,
(b) Dry.
(c) Shells:
(1) Well formed; and,
(2) Clean and bright.
(3) Free from:
(i) Blanks; and,
(ii) Broken or split shells.
(4) Free from damage caused by:
(i) Stains; and,
(ii) Adhering husk; or,
(iii) Other means.
(d) Kernels:
(1) Reasonably well developed; and,
(2) Not badly misshapen.
(3) Free from:
(i) Rancidity;
(ii) Decay;
(iii) Mold; and,
(iv) Insect injury.
(4) Free from damage caused by:
(i) Shriveling; and,
(ii) Discoloration; or,
(iii) Other means.

(e) Size: The size shall be specified in connection with the grade in terms of minimum diameter, minimum and maximum diameters, or in accordance with one of the size classifications in Table I.

TABLE I

Size classifications	Maximum size: Will pass through a round opening of the following size	Minimum size: Will not pass through a round opening of the following size
Round type varieties:		
Jumbo	No maximum	5 9/64 inch.
Large	5 9/64 inch	4 9/64 inch.
Medium	4 9/64 inch	4 5/64 inch.
Small	4 5/64 inch	No minimum.
Long type varieties:		
Jumbo	No maximum	4 7/64 inch.
Large	4 9/64 inch	4 1/64 inch.
Medium	4 1/64 inch	3 3/64 inch.
Small	3 3/64 inch	No minimum.

(f) Tolerances: In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are permitted as specified:

(1) *For mixed types.* 20 percent for filberts which are of a different type.

(2) *For defects.* 10 percent for filberts which are below the requirements of this grade: *Provided,* That not more than one-half of this amount or 5 percent shall consist of blanks, and not more than 5 percent shall consist of filberts with rancid, decayed, moldy or insect injured kernels, including not more than 3 percent for insect injury.

(3) *For off-size.* 15 percent for filberts which fail to meet the requirements for the size specified, but not more than two-thirds of this amount, or 10 percent shall consist of undersize filberts.

APPLICATION OF STANDARDS

§ 51.1996 Application of standards.

(a) The grade of a lot of filberts shall be determined on the basis of a composite sample drawn from containers in various locations in the lot. However, any container or group of cantainers in which the filberts are obviously of a quality, type or size materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

(b) In grading the sample, each filbert shall be examined for defects of the shell before being cracked for kernel examination. A filbert shall be classed as only one defective nut even though it may be defective externally and internally.

DEFINITIONS

§ 51.1997 Similar type.

"Similar type" means that the filberts in each container are of the same general type and appearance. For example, nuts of the round type shall not be mixed with those of the long type in the same container.

§ 51.1998 Dry.

"Dry" means that the shell is free from surface moisture, and that the shells and kernels combined do not contain more than 10 percent moisture.

§ 51.1999 Well formed.

"Well formed" means that the filbert shell is not materially misshapen.

§ 51.2000 Clean and bright.

"Clean and bright" means that the individual filbert and the lot as a whole are practically free from adhering dirt and other foreign material, and that the shells have characteristic color.

§ 51.2001 Blank.

"Blank" means a filbert containing no kernel or a kernel filling less than one-fourth the capacity of the shell.

§ 51.2002 Split shell.

"Split shell" means a shell having any crack which is open and conspicuous for a distance of more than one-fourth the circumference of the shell, measured in the direction of the crack.

§ 51.2003 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance, or the edible or marketing quality of the filberts. The following specific defects shall be considered as damage:

(a) Stains which are dark and materially affect the appearance of the individual shell.

(b) Adhering husk when covering more than 5 percent of the surface of the shell in the aggregate.

(c) Shriveling when the kernel is materially shrunken, wrinkled, leathery or tough.

(d) Discoloration when the appearance of the kernel is materially affected by black color.

§ 51.2004 Reasonably well developed.

"Reasonably well developed" means that the kernel fills one-half or more of the capacity of the shell.

§ 51.2005 Badly misshapen.

"Badly misshapen" means that the kernel is so malformed that the appearance is materially affected.

§ 51.2006 Rancidity.

"Rancidity" means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

§ 51.2007 Moldy.

"Moldy" means that there is a visible growth of mold either on the outside or the inside of the kernel.

§ 51.2008 Insect injury.

"Insect injury" means that the insect, frass or web is present inside the nut or the kernel shows definite evidence of insect feeding.

METRIC CONVERSION TABLE

§ 51.2009 Metric conversion table.

Inches:	*Millimeters (mm)*
62/64	24.6
59/64	23.4
56/64	22.2
49/64	19.4
48/64	19.0
47/64	18.6
45/64	17.9
44/64	17.5
42/64	16.7
35/64	13.9
34/64	13.5

[F.R. Doc. 70-9216; Filed, July 16, 1970; 8:52 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 730—RICE

Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years

DATE ON WHICH RICE HARVEST IS NORMALLY SUBSTANTIALLY COMPLETED IN ARIZONA

Basis and purpose. The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to establish a date on which rice harvest is normally substantially completed in Arizona.

Since the spring date for determining rice compliance for Arizona is past and since the date on which rice harvest is normally substantially completed, which was recommended by the Arizona State Committee, is necessary in determining marketing quota penalty in connection with excess rice, if any, it is important that this amendment be issued and made effective as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest, and this amendment shall become effective as provided herein.

The subpart—Rice marketing quota regulations for 1967 and subsequent crop years (32 F.R. 8666, 9148, 33 F.R. 3052, 3213, 9331, 34 F.R. 1435, 9417, 35 F.R. 5995, 9999) is amended as follows:

Paragraph (a)(3) of § 730.10 is amended by inserting "Arizona ---------- Nov. 30" immediately preceding "Arkansas" ---------- Nov. 15" in the listing of States and dates on which rice harvest is normally substantially completed.

(Secs. 356, 375, 52 Stat. 62, as amended, 66, as amended; 7 U.S.C. 1356, 1375)

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

Signed at Washington, D.C., on July 13, 1970.

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

[F.R. Doc. 70-9209; Filed, July 16, 1970; 8:51 a.m.]

[Amdt. 5]

PART 730—RICE

Subpart—Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice

MISCELLANEOUS AMENDMENTS

Basis and purpose. The amendments herein are issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of these amendments is to (1) establish a closing date for the release of producer rice allotments in Arizona effective with the 1970 and subsequent crop years and (2) clarify the term spouse designated as a family member in connection with succession of interest in producer allotments.

Since these amendments provide a closing date for the release of producer rice allotments for Arizona only which was recommended by the Arizona State Committee and a clarification of regulations currently in effect, it is hereby found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary and these amendments shall become effective as provided herein.

The subpart—Regulations for determination of acreage allotments for 1969 and subsequent crops of rice (33 F.R. 14520, 17764, 34 F.R. 3733, 5629, and 35 F.R. 5995) is amended as follows:

1. Paragraph (a)(2) of § 730.75 is amended by inserting "Arizona ---------- Apr. 1" immediately preceding "California---------- Apr. 1" in the listing of States and closing dates for filing a written release of rice allotments.

2. The second sentence of paragraph (b)(2) of § 730.76 is amended by deleting the comma immediately following the word spouse in the fourth line thereof and inserting "(including a divorced spouse if the transfer is made in connection with the divorce proceedings),"

(Secs. 353, 375, 52 Stat. 61, as amended, 66, as amended; 7 U.S.C. 1353, 1375)

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

Signed at Washington, D.C., on July 13, 1970.

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

[F.R. Doc. 70-9210; Filed, July 16, 1970; 8:51 a.m.]

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

[Amdt. 7]

PART 792—CONSERVING BASE AND DESIGNATED DIVERTED ACREAGE

Approved Conserving Uses

The regulations governing conserving base and designated diverted acreage, 31

F.R. 5873, as amended, are further amended as follows:

1. Section 792.2 is amended by changing paragraphs (a)(2), (b)(1) and (4), (c)(2) and (7), and by adding a new paragraph (b)(8), to read as follows:

§ 792.2 Farm conserving base.

(a) *Determining the conserving base.* * * *

(2) Summer or winter cover crops consisting principally of small grains, annual legumes or annual grasses, including volunteer stands of such crops, which are normally seeded in the area except that the following acreages of crops shall not be considered as devoted to a conserving use:

(i) Millet, sudan grass (including hybrids), sorghum grass crosses or small grain-grass crosses which do not produce a grain, when harvested for seed or grain.

(ii) Sweet sorghums not defined as feed grains, cowpeas, field and canning peas, and field and canning beans which are harvested as silage, seed, grain, or for processing purposes.

(iii) Soybeans harvested for any purpose.

* * * * *

(b) *Maintaining the conserving base.* * * *

(1) The conserving uses set forth in paragraph (a) of this section, except that: (i) Soybeans may be approved only at the option of the State committee and must be incorporated into the soil by a date established by the State committee; (ii) small grain cover crops must be disposed of by an established disposition date; *Provided,* That oats or rye may be left standing if (*a*) an oats-rye base has not been established for the farm, (*b*) an intention to leave oats or rye standing on the land is filed with the county committee in writing prior to the applicable disposition date, and (c) no harvesting occurs.

* * * * *

(4) Plantings for wildlife food plots or wildlife habitat. Barley, corn, grain, sorghums, oats, rye, soybeans, rice, and wheat will qualify if: (i) The area conforms to standards (maximum size, location, etc.) which have been established by the State committee in consultation with State wildlife agencies, (ii) the area and crop are designated by the operator and approved by the county committee in writing prior to the close of the signup period for the annual programs or the planting of the crop, whichever is later, and (iii) no grazing or harvesting other than by wildlife is permitted. Plantings for wildlife food plots may, however, be cut and stacked on the food plot for winter use by wildlife where the State committee, in cooperation with the State wildlife agency, determines that the area is subject to snow conditions which make the stacking of wildlife food reserves desirable.

* * * * *

(8) A crop destroyed by natural causes if the acreage is substituted for other eligible diverted or conserving acreage where (i) the operator requests reclassification of the crop, and (ii) the farm is otherwise in compliance with the program.

(c) *Additional provisions relating to the conserving base.* * * *

(2) If noncropland is brought into cropland status, the conserving base determined for the farm shall be increased by an acreage equal to the new cropland in accordance with instructions issued by the Deputy Administrator.

* * * * *

(7) Acreage not planted or which was planted but failed because of a natural disaster which is considered devoted to cotton, wheat, or feed grains under the provisions of the programs for those commodities shall not be considered as being devoted to a conserving use except as provided in § 792.3(a)(2).

2. Paragraphs (c), (d), and (h) of § 792.3 are amended to read as follows:

§ 792.3 Designation, use, and care of diverted acreage under the feed grain, upland cotton, wheat diversion, and wheat certificate programs; approved conserving uses.

* * * * *

(c) *Restriction on harvesting of crops from diverted acreage.* No crops other than the crops specified in paragraph (e) of this section shall be harvested from the designated diverted acreage in the current year, or after December 31 of the current year if the crop would normally mature and be harvested in the current year, except (1) where the crop is one which matured in the year preceding the current year on land which was not designated as diverted acreage in such year under an adjustment program and the harvesting was delayed because of adverse weather or other conditions beyond the control of the farm operator, or (2) where the county committee in accordance with instructions issued by the Deputy Administrator determines that it is necessary to permit the harvesting of crops from the diverted acreage for use in the area in order to alleviate a shortage of forage resulting from severe drought, flood, or other natural disaster and consents to such harvesting subject to an appropriate reduction in the payment rate.

(d) *Restriction on grazing.* The designated diverted acreage shall not be grazed during the period between April 30 and October 1 of the current year, or at the election of the State committee with advance notice to the operator and the Director, Commodity Programs Division, between March 31 and September 1 or between April 14 and September 15 or, for 1969 and 1970, between May 14 and October 15, except where the county committee in accordance with instructions issued by the Deputy Administrator determines it is necessary to permit the diverted acreage to be grazed in order to alleviate a shortage in the area resulting from severe drought, flood, or other natural disaster and consents to such grazing subject to an appropriate reduction in the payment rate.

* * * * *

(h) *Approved conserving uses on diverted acreage.* Subject to the provisions of paragraphs (c), (d), and (g) of this section, the approved conserving uses on diverted acreage are the conserving uses set forth in § 792.2(b), except that sweet or forage sorghums may be approved only by the State committee and must be incorporated into the soil by a date established by the State committee.

(Titles III, IV, V, and VI of the Food and Agriculture Act of 1965, 79 Stat. 1187; Public Law 90-475, 82 Stat. 701)

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

Signed at Washington, D.C. on July 13, 1970.

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

[F.R. Doc. 70-9213; Filed, July 16, 1970; 8:52 a.m.]

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

[Milk Order 4; Docket No. AO-293-A23 etc.]

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Correction and Order Terminating Certain Provisions

The tentative order included in the decision issued May 18, 1970 (35 F.R. 7924), and the order issued June 19, 1970 (designated as the Middle Atlantic order), which is made effective August 1, 1970, are hereby corrected as follows:

A. In § 1004.80(a), that portion of subparagraph (2) which precedes subdivision (i) is corrected to reads as follows:

§ 1004.80 Time and method of payment.

(a) * * *

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.72 (c) through (f) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.72 (a) and (b) for excess milk received from such producers subject to the following adjustments: *Provided,* That from the effective date hereof through February 1971, such payment shall be at not less than the weighted average price with respect to milk received from producers, also subject to the following adjustments:

* * * * *

B. Order terminating certain provisions: This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

It is hereby found and determined that the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1004.70(e), the provision which reads: "and by the butterfat differential pursuant to § 1004.81 to reflect variation in butterfat content from 3.5 percent."

2. Section 1004.71(c).

The termination of these provisions will eliminate an unnecessary administrative step in pool computation.

In computing handlers' obligations for other source milk used in Class I, on which a payment of the difference between the Class I price and the weighted average price is applicable, the provisions here being terminated prescribe computations adjusting for differential butterfat which must then be offset in computing handlers' payment obligations to the producer settlement fund pursuant to § 1004.85. These offsetting computations are totally unnecessary and could be confusing to handlers. The identical result will obtain by the termination here effected.

Inasmuch as the actions taken herewith apply to the Middle Atlantic order which will not become effective until August 1, 1970, it is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest.

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

It is therefore ordered, That the aforesaid provisions of the order are hereby terminated.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 13, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-9170; Filed, July 16, 1970; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs. Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1970 and Subsequent Crops

DELEGATION OF AUTHORITY

The regulations issued by the Commodity Credit Corporation published at 35 F.R. 7363 and 7781 containing the General Regulations Governing Price Support for the 1970 and Subsequent Crops of Grain and Similarly Handled Commodities are hereby amended as follows:

Paragraph (b) of § 1421.2 is amended to provide authorization for executing release of chattel mortgages and security agreements on behalf of CCC and to execute indemnity agreements on behalf of CCC when the county recording official deems such an agreement necessary. The amended paragraph reads as follows:

§ 1421.2 Administration.

* * * * *

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in his behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. He may also execute releases or otherwise obtain the release of record of chattel mortgages and security agreements made to CCC to secure loans on agricultural commodities upon payment in full of the loan involved. He may execute indemnity agreements on behalf of CCC where any county recording officer deems such indemnity agreement necessary to releasing a mortgage or security agreement of record.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1447, 1421, 1425)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 13, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-9215; Filed, July 16, 1970; 8:52 a.m.]

[CCC Grain Price Support Regs., 1970 and Subsequent Crops Flaxseed Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Flaxseed Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops (35 F.R. 7363 and 7781) issued by the Commodity Credit Corporation which contain regulations of a general nature with respect to price support loan and purchase operations are supplemented for the 1970 and subsequent crops of flaxseed by adding §§ 1421.150–1421.159 to read as follows. The material previously appearing in §§ 1421.3051–1421.3060 remains in full force and effect as to the crops of flaxseed to which it was applicable.

Sec.
1421.150 Purpose.
1421.151 Availability.
1421.152 Eligible flaxseed.
1421.153 Determination of quality.
1421.154 Determination of quantity.
1421.155 Warehouse receipts.
1421.156 Fees and charges.
1421.157 Warehouse charges.
1421.158 Maturity of loans.
1421.159 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U.S.C. 714 b and c, 7 U.S.C. 1447, 1421.

§ 1421.150 Purpose.

This supplement contains program provisions, which together with the General Regulations Governing Price Support for the 1970 and Subsequent Crops and any amendments thereto or revisions thereof (such regulations are referred to in this subpart as "General Regulations"), and the annual crop year supplement issued with respect to the crop of flaxseed for which price support is being requested, apply to price support loans and purchases for the 1970 and subsequent crops of flaxseed.

§ 1421.151 Availability.

Producers desiring price support for flaxseed must request a loan or notify the County ASCS office of intentions to sell to CCC no later than the dates set forth in the applicable annual flaxseed crop supplement to the regulations in this part.

§ 1421.152 Eligible flaxseed.

(a) *General.* To be eligible for a loan or a purchase, the flaxseed (1) must be merchantable for crushing into oil and feed, as determined by CCC, and (2) must not contain mercurial compounds or other substances poisonous to man or animals.

(b) *Warehouse-stored loan grade requirements.* To be eligible for a warehouse-storage loan, the flaxseed must also grade No. 1 or No. 2.

§ 1421.153 Determination of quality.

The grade, grading factors and all other quality factors shall be based on the Official Grain Standards of the United States for Flaxseed, whether or not determinations are made on the basis of an official inspection.

§ 1421.154 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 56 pounds of flaxseed free of dockage.

(a) *In warehouse.* The quantity of flaxseed stored in an approved warehouse and on which a warehouse-storage loan may be made and the quantity of flaxseed delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt, or on the supplemental certificate if applicable.

(b) *On farm.* The quantity of flaxseed eligible to be placed under a farm-storage loan shall be determined in accordance with § 1421.18 of the general regulations. The quantity acquired by CCC from farm storage shall be determined by weight.

§ 1421.155 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade of flaxseed.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight, and net bushels, (2) grade, (3) test weight, (4) moisture, (5) dockage, (6) any other grading factor(s) when such factor(s) and not test weight determine(s) the grade, (7) whether the flaxseed arrived by rail, truck, or barge, and (8) the date the flaxseed was received or deposited in the warehouse.

(c) *Liens.* The warehouse receipts may be subject to liens for warehouse charges only to the extent indicated in § 1421.157.

(d) *Freight certificate requirements.* Warehouse receipts representing flaxseed which has been shipped by rail, or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission, from a country shipping point to a designated terminal point or to a storage point and stored intransit to a designated terminal point, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the flaxseed and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the ASCS commodity office and shall be signed by the warehouseman.

§ 1421.156 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11 of the General Regulations.

§ 1421.157 Warehouse charges.

(a) *Handling and storage liens.* Warehouse receipts and the flaxseed represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement (hereinafter called UGSA) may be subject to liens for warehouse handling and storage charges at not to exceed the UGSA rates from the date the flaxseed is deposited in the warehouse for storage. In no event shall a warehouseman be entitled to satisfy the lien by sale of the flaxseed when CCC is holder of the warehouse receipt.

(b) *Deduction of storage charges—UGSA warehouses.* The table set forth in the annual flaxseed crop supplement will provide the deduction for storage charges to be made from the amount of the loan or purchase price in the case of flaxseed stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipt that all warehouse charges except receiving and loading out charges have been prepaid through the applicable loan maturity date, no storage deduction shall be made. If such written evidence is not submitted, the beginning date to be used for computing the storage deduction on flaxseed stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the flaxseed was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which the storage charges have been paid.

§ 1421.158 Maturity of loans.

Loans will mature on demand but not later than the date specified in the annual flaxseed crop supplement to the regulations in this subpart.

§ 1421.159 Support rates.

Basic county support rates for flaxseed and the schedule of premiums and discounts will be set forth in the annual flaxseed crop supplement to the regulations contained in this subpart. Farm-stored flaxseed loans will be made at the applicable basic county support rate adjusted, where applicable, for the Weed Control discount. The support rate for warehouse-storage loans and for flaxseed acquired by CCC from under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual flaxseed crop supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of flaxseed stored in or delivered to an approved warehouse, or on such other form as CCC may prescribe in the case of flaxseed delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.23 of the General Regulations.

(a) *Basic support rates for farm-stored flaxseed.* The applicable basic support rate for farm-storage loans shall be the basic county support rate established for the county in which the flaxseed is stored.

(b) *Basic support rates for warehouse-stored flaxseed received by rail or utilizing combination barge-rail rates—*(1) *When shipped by rail and stored intransit at interior locations.* The applicable basic support rate for warehouse-storage loans on flaxseed which was received by rail and stored in an approved warehouse at other than a port terminal market shall be determined by adding to the basic support rate established for the county from which the flaxseed was shipped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a terminal market designated in subparagraph (c) (2) of this section that would be used in commercial channels of trade. If the flaxseed is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a designated terminal market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped by rail and stored at designated port terminal market locations.* The applicable basic support rate for warehouse storage loans on flaxseed which was received by rail and stored in an approved warehouse at a port terminal market designated in paragraph (c) (2) (iii) of this section shall be determined by adding to the basic support rate established for the county from which the flaxseed was shipped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be the lowest applicable freight rate to the port terminal market that would be used in commercial channels of trade.

(3) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse storage loans on flaxseed which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the flaxseed was shipped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car, or barge freight rate applying from origin through point of storage to one of the interior or port terminal markets designated in paragraph (c) (2) of this section that would be used in commercial channels of trade. If the flaxseed is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to the designated interior or port terminal market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(c) *Basic support rates for warehouse-stored flaxseed received by truck or nontariff barge—*(1) *Stored at other than terminal markets.* (i) The applicable basic support rate for warehouse-storage loans on flaxseed which was received by truck, or by barge not utilizing combination barge-rail freight-rates, and stored in an approved warehouse located outside the switching limits of terminal markets designated in subparagraph 2 of this paragraph shall be the basic county support rate established for the county in which the flaxseed is stored.

(ii) If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(2) *Stored within the switching limits of designated terminal markets.* (i) The applicable basic county support rate for warehouse-storage loans on flaxseed which was received by truck, or by barge not utilizing combination barge-rail freight-rates, and stored in an approved warehouse located within the switching limits of a terminal market designated in subdivision (ii) or (iii) of this subparagraph shall be determined by adding 4 cents per bushel to the basic county support rate established for the county (or city) in which the terminal market is located.

(ii) Designated interior terminal markets are as follows:

Interior terminal market	*County in which located*
Minneapolis, Minn	Hennepin
St. Paul, Minn	Ramsey

(iii) Designated port terminal markets are as follows:

Port terminal markets	*County or city in which located*
Duluth, Minn	St. Louis
Los Angeles, Calif	Los Angeles
San Francisco, Calif	San Francisco City
Superior, Wis	Douglas

(d) *Storing warehouseman's responsibilities.* The storing warehouseman in the case of flaxseed received by rail or utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission shall be responsible for determining the in-line routes via the storing warehouse that will protect the lowest freight rate to the designated interior or port terminal market designated in paragraph (c) (2) (ii) or (iii) of this section, whichever the case may be, that would be used in commercial channels of trade, and for protecting such routes. The storing warehouseman shall also execute supplemental certificates showing (i) the rate of freight paid into the storage point, (ii) amount of penalty, if any, for backhaul or out-of-line movement, (iii) the applicable interior or port terminal market that would be used in commercial channels of trade and (iv) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. His liability, if any, for his failure to comply with the provisions of this paragraph (d) will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 13, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-9214; Filed, July 16, 1970; 8:52 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e) (5) relating to the State of Massachusetts, subdivision (iii) relating to Worcester County is deleted.

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

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

The amendment excludes a portion of Worcester County, Mass. from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of July 1970.

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

[F.R. Doc. 70-9168; Filed, July 16, 1970; 8:48 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, in paragraph (e) (13) relating to the State of Texas, subdivision (xii) relating to Tarrant County is amended to read:

(13) *Texas.* * * *

(xii) That portion of Tarrant County bounded by a line beginning at the junction of State Highway 121 and the Tarrant-Dallas County line; thence, following State Highway 121 in a generally southwesterly direction to Interstate Highway 820; thence, following Interstate Highway 820 in a generally southerly direction to the Fort Worth-Dallas Toll Road; thence, following the Fort Worth-Dallas Toll Road in an easterly direction to the Tarrant-Dallas County line; thence, following the Tarrant-Dallas County line in a northerly direction to its junction with State Highway 121.

2. In § 76.2, in paragraph (e) (14) relating to the State of Virginia, subdivision (iii) relating to King William and Hanover Counties is deleted.

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

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

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

The amendments also exclude a portion of King William and Hanover Counties in Virginia from the areas

quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

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

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

Done at Washington, D.C., this 14th day of July 1970.

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

[F.R. Doc. 70-9207; Filed, July 16, 1970; 8:51 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

MISCELLANEOUS AMENDMENTS TO CHAPTER

The Atomic Energy Commission has adopted the amendments set forth below to the citations of authority in its regulations in 10 CFR Chapter I.

In addition, other amendments of a corrective editorial nature, such as corrections to statutory references, have been adopted.

Since the amendments are of a corrective editorial nature and no substantive changes in the regulations are effected, good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary, and for making the amendments effective without the customary 30-day notice.

Accordingly, 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 of Chapter I, Title 10 of the Code of Federal Regulations are published as a document subject to codification to be effective upon publication in the FEDERAL REGISTER.

PART 2—RULES OF PRACTICE

1. The citation of authority following the table of sections in 10 CFR Part 2 is amended to read as follows:

AUTHORITY: The provision of this Part 2 issued under sec. 161, 68 Stat. 948, as amended, 81 Stat. 54; 42 U.S.C. 2201, 5 U.S.C. 552, unless otherwise noted. Sections 2.200–2.204 also issued under sec. 186, 68 Stat. 955; 42 U.S.C. 2236 and §§ 2.800–2.807 also issued under 80 Stat. 383; 5 U.S.C. 553.

§ 2.104 [Amended]

2. A citation of authority is added after § 2.104 of 10 CFR Part 2 to read as follows:

(Sec. 189 a., 68 Stat. 955, as amended; 42 U.S.C. 2239(a))

3. The last sentence in § 2.704 (a) of 10 CFR Part 2 is amended to read as follows:

§ 2.704 Designation of presiding officer, disqualification, unavailability.

(a) * * * If the Commission does not so provide, the Chairman of the Atomic safety and licensing board, the Chief issue an order designating an atomic safety and licensing board appointed pursuant to section 191 of the Atomic Energy Act of 1954, as amended, or, if the Commission has not provided for the hearing to be conducted by an atomic safety and licensing board, the Chief Hearing Examiner will issue an order designating a hearing examiner appointed pursuant to section 3105 of title 5 of the United States Code.

* * * * *

§ 2.713 [Amended]

4. A citation of authority is added after § 2.713 of 10 CFR Part 2 to read as follows:

(80 Stat. 385, 81 Stat. 195; 5 U.S.C. 555, 500)

5. Section 2.718(l) of 10 CFR Part 2 is amended to read as follows:

§ 2.718 Power of presiding officer.

A presiding officer has the duty to conduct a fair and impartial hearing according to law, to take appropriate action to avoid delay, and to maintain order. He has all powers necessary to those ends, including the powers to:

* * * * *

(l) Take any other action consistent with the Act, this chapter, and sections 551–558 of title 5 of the United States Code.

6. Section 2.719(a) of 10 CFR Part 2 is amended to read as follows:

§ 2.719 Separation of functions.

(a) A presiding officer shall perform no duties inconsistent with his responsibilities as a presiding officer, and will not be responsible to or subject to the supervision or direction of any officer or employee engaged in the performance of investigative or prosecuting functions.

* * * * *

7. A citation of authority is added after § 2.719 of 10 CFR Part 2 to read as follows:

(80 Stat. 584; 5 U.S.C. 554)

§ 2.721 [Amended]

8. The citation of authority after § 2.721 is amended to read as follows:

(Sec. 191, 76 Stat. 409; 42 U.S.C. 2241)

§§ 2.754, 2.760, 2.762, 2.770 [Amended]

9. Citations of authority are added after §§ 2.754, 2.760, 2.762, and 2.770 to read as follows:

(80 Stat. 387, 5 U.S.C. 557)

10. Section 2.756 of 10 CFR Part 2 is amended, and the citation of authority following the section is deleted, to read as follows:

§ 2.756 Informal procedures.

The Commission encourages the use of informal procedures consistent with the Act, sections 551–558 of title 5 of the United States Code, and the regulations in this chapter, and with the orderly conduct of the proceeding and the necessity for preserving a suitable record for review.

11. Section 2.800 of 10 CFR Part 2 is amended to read as follows:

§ 2.800 Scope of rule making.

This subpart governs the issuance, amendment and repeal of regulations in which participation by interested persons is prescribed under section 553 of title 5 of the United States Code.

PART 4—NONDISCRIMINATION IN FEDERALLY-ASSISTED COMMISSION PROGRAMS—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

12. The citation of authority following the table of sections in 10 CFR Part 4 is amended to read as follows:

AUTHORITY: The provisions of this Part 4 issued under 68 Stat. 919, as amended, secs. 602–605, 78 Stat. 252, 253; 42 U.S.C. 2011, 2000d–1—2000d–4.

13. Section 4.61 of 10 CFR Part 4 is amended to read as follows:

§ 4.61 Presiding officer.

One or more members of the Commission or one or more hearing examiners appointed pursuant to section 3105 of title 5 of the United States Code shall (a) preside at a hearing and (b) make findings of fact and conclusions of law if an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 4.51(d).

14. The first sentence of § 4.63(a) of 10 CFR Part 4 is amended to read as follows:

§ 4.63 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 554–557 of title 5 of the United States Code, and in accordance with such procedures as are proper (and not inconsistent with §§ 4.61–4.64) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 4.51, taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. * * *

* * * * *

PART 7—ADVISORY BOARDS

15. Section 7.1(a) of 10 CFR Part 7 is amended to read as follows:

§ 7.1 Purpose.

(a) The regulations in this part shall govern advisory boards established pursuant to sections 161a., 26, 29, and 157a. of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to the extent not inconsistent with specific law.

* * * * *

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR DEFENSE INFORMATION

16. The citation of authority following the table of sections in 10 CFR Part 10 is amended to read as follows:

AUTHORITY: The provisions of this Part 10 issued under sec. 145, 68 Stat. 942, as amended, 42 U.S.C. 2165; sec. 161, 68 Stat. 948, as amended, 42 U.S.C. 2201. E.O. 10450, 18 F.R. 2489, 3 CFR 1949–1953 comp., p. 936, as amended; E.O. 10865, 25 F.R. 1583, 3 CFR 1959–1963 comp., p. 398, as amended, 3 CFR 1969 revision, p. 312.

§ 10.11 [Amended]

17. The citation of authority after § 10.11 of 10 CFR Part 10 is deleted.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

18. The citation of authority following the table of sections in 10 CFR Part 20 is amended to read as follows:

AUTHORITY: The provisions of this Part 20 issued under secs. 53, 63, 65, 81, 103, 104, 161, 68 Stat. 930, 933, 935, 936, 937, 948, as amended; 42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 20.401–20.408, issued under sec. 161o., 68 Stat. 950, as amended, 42 U.S.C. 2201(o).

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

19. The citation of authority following the table of sections in 10 CFR Part 30 is amended to read as follows :

AUTHORITY: The provisions of this Part 30 issued under secs. 81, 82, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended; 42 U.S.C. 2111, 2112, 2201, 2232, 2233. Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended; 42 U.S.C. 2234. For the purposes of sec. 223, 68 Stat. 958, as amended, 42 U.S.C. 2273, § 30.34(c) issued under sec. 161 b., 68 Stat. 948; 42 U.S.C. 2201(b) and §§ 30.51 and 30.52 issued under sec. 161 o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§ 30.61 [Amended]

20. A citation of authority is added to § 30.61 to read as follows:

(Secs. 186, 187, 68 Stat. 955; 42 U.S.C. 2236, 2237)

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

21. The citation of authority following the table of sections in 10 CFR Part 31 is amended to read as follows:

AUTHORITY: The provisions of this Part 31 issued under secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended; 42 U.S.C. 2111, 2201, 2233. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 31.5(d)(5), 31.6(a) and 31.11(e) issued under sec. 161 o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

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

22. The citation of authority following the table of sections in 10 CFR Part 32 is amended by adding a sentence to the end thereof to read as follows:

For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 32.12, 32.16, 32.20, 32.25(c), 32.29(c), 32.52, 32.56, 32.60, 32.63 issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

PART 33—SPECIFIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

23. The citation of authority following the table of sections in 10 CFR Part 33 is amended to read as follows:

AUTHORITY: The provisions of this Part 33 issued under secs. 81 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended; 42 U.S.C. 2111, 2201 2232, 2233. For the purposes of sec. 223 68 Stat. 958 as amended; 42 U.S.C. 2273, § 33.17(a) issued under sec. 161b., 68 Stat. 948; 42 U.S.C. 2201(b).

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

24. The citation of authority following the table of sections in 10 CFR Part 34 is amended to read as follows:

AUTHORITY: The provisions of this Part 34 issued under secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953 954 as amended; 42 U.S.C. 2111, 2201, 2232, 2233. For the purposes of sec. 223, 68 Stat. 958 as amended; 42 U.S.C. 2273, §§ 34.25(c), 34.26, 34.27, 34.33(b), and 34.43 (d) issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

25. The citation of authority following the table of sections in 10 CFR Part 35 is amended to read as follows:

AUTHORITY: The provisions of this Part 35 issued under secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended; 42 U.S.C. 2111, 2201, 2232, 2233. For the purposes of section 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, § 3531(c)(4) and (5) issued under 161b, 68 Stat. 948; 42 U.S.C. 2201(b).

PART 36—EXPORT AND IMPORT OF BYPRODUCT MATERIAL

26. The citation of authority following the table of sections in 10 CFR Part 36 is amended to read as follows:

AUTHORITY: The provisions of this Part 36 issued under secs. 81, 82, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended; 42 U.S.C. 2111, 2112, 2201, 2232, 2233. For the purposes of sec. 223, 68 Stat. 958 as amended; 42 U.S.C. 2273, §§ 36.22(c) and 36.24(c) issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

PART 40—LICENSING OF SOURCE MATERIAL

27. The citation of authority following the table of sections in 10 CFR Part 40 is amended to read as follows:

AUTHORITY: The provisions of this Part 40 issued under secs. 62, 63, 64, 65, 161, 182, 183, 68 Stat. 932, 933, 948, 953, 954, as amended; 42 U.S.C. 2092, 2093, 2094, 2095, 2201, 2232, 2233, unless otherwise noted. Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended; 42 U.S.C. 2234. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, § 40.41(c) issued under sec. 161b., 68 Stat. 948; 42 U.S.C. 2201(b) and §§ 40.23(e)(3), 40.61 and 40.62 issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§§ 40.23, 40.24 [Amended]

28. The citation of authority after §§ 40.23 and 40.24 of 10 CFR Part 40 is deleted.

§ 40.71 [Amended]

29. A citation of authority is added after § 40.71 of 10 CFR Part 40 to read as follows:

(Secs. 186, 187, 68 Stat. 955; 42 U.S.C. 2236, 2237)

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

30. The citation of authority following the table of sections in 10 CFR Part 50 is amended to read as follows:

AUTHORITY: The provisions of this Part 50 issued under secs. 103, 104, 161, 182, 183, 68 Stat. 936, 937, 948, 953, 954, as amended; 42 U.S.C. 2133, 2134, 2201, 2232, 2233, unless otherwise noted. Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; 42 U.S.C. 2234. Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955; 42 U.S.C. 2236. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, § 50.54(i) issued under sec. 161i, 68 Stat. 949; 42 U.S.C. 2201(i), and §§ 50.70–50.71 issued under sec. 161o, 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§ 50.10 [Amended]

31. The citation of authority after § 50.10 of 10 CFR Part 50 is amended to read as follows:

(Secs. 101, 185, 68 Stat. 936, 955, as amended; 42 U.S.C. 2131, 2235)

§§ 50.23, 50.35, 50.55, 50.56 [Amended]

32. A citation of authority is added after §§ 50.23, 50.55 and 50.56 and the citation of authority after § 50.35 of 10 CFR Part 50 is amended to read as follows:

(Sec. 185, 68 Stat. 955; 42 U.S.C. 2235)

§ 50.42 [Amended]

33. A citation of authority is added to § 50.42 of 10 CFR Part 50 to read as follows:

(Sec. 105, 68 Stat. 938, as amended; 42 U.S.C. 2135)

§ 50.58 [Amended]

34. The citation of authority after § 50.58 of 10 CFR Part 50 is amended to read as follows:

(Secs. 182b., 189a., 68 Stat. 953, 955, as amended; 42 U.S.C. 2232(b), 2239(a))

35. The first sentence of § 50.80(b) of 10 CFR Part 50 is amended to read as follows:

§ 50.80 Transfer of licenses.

* * * * *

(b) An application for transfer of a license shall include as much of the information described in §§ 50.33 and 50.34 with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license. * * *

* * * * *

§ 50.103 [Amended]

36. A citation of authority is added to § 50.103 of 10 CFR Part 50 to read as follows:

(Sec. 108, 68 Stat. 939, as amended; 42 U.S.C. 2138)

PART 55—OPERATOR'S LICENSES

37. The last sentence of the citation of authority following the table of sections in 10 CFR Part 55 is amended to read as follows:

AUTHORITY: * * * For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, § 55.3 issued under sec. 161i., 68 Stat. 949; 42 U.S.C. 2201(i).

§ 55.40 [Amended]

38. A citation of authority is added to § 55.40 of 10 CFR Part 55 to read as follows:

(Secs. 186, 187, 68 Stat. 955; 42 U.S.C. 2236, 2237)

PART 70—SPECIAL NUCLEAR MATERIAL

39. The second sentence of the citation of authority following the table of sections in 10 CFR Part 70 is amended to read as follows:

AUTHORITY: * * * For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 70.32(a)(6) and 70.41(a) issued under sec. 161b, 68 Stat. 948; 42 U.S.C. 2201(b) and §§ 70.51 to 70.55 issued under sec. 161o, 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§§ 70.36, 70.44 [Amended]

40. A citation of authority is added after §§ 70.36 and 70.44 of 10 CFR Part 70 to read as follows:

(Sec. 184, 68 Stat. 954, as amended; 42 U.S.C. 2234)

§§ 70.53, 70.54 [Amended]

41. The citations of authority after §§ 70.53 and 70.54 of 10 CFR Part 70 are deleted.

42. Section 70.61(c) of 10 CFR Part 70 is amended to read as follows:

§ 70.61 Modification and revocation of licenses.

* * * * *

(c) Upon revocation, suspension or modification of a license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense or security, or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee prior to any of the procedures provided under section 551–558 of title 5 of the United States Code.

* * * * *

§ 70.61 [Amended]

43. A citation of authority is added after § 70.61 of 10 CFR Part 70 to read as follows:

(Secs. 186, 187, 68 Stat. 955; 42 U.S.C. 2236, 2237)

§ 70.62 [Amended]

44. A citation of authority is added after § 70.62 to read as follows:

(Sec. 108, 68 Stat. 939, as amended; 42 U.S.C. 2138)

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT

45. The citation of authority following the table of sections in 10 CFR Part 71 is amended to read as follows:

AUTHORITY: The provisions of this Part 71 issued under secs. 53, 63, 81, 161, 182, 183, 68 Stat. 930, 933, 935, 948, 953, 954, as amended; 42 U.S.C. 2073, 2093, 2111, 2201, 2232, 2233, unless otherwise noted. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 71.61–71.63 issued under sec. 161o, 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§§ 71.5, 71.7, 71.14 [Amended]

46. The citation of authority after §§ 71.5, 71.7 and 71.14 of 10 CFR Part 71 is deleted.

PART 80—GENERAL RULES OF PROCEDURE ON APPLICATIONS FOR DETERMINATION OF REASONABLE ROYALTY FEE, JUST COMPENSATION, OR THE GRANT OF AN AWARD FOR PATENTS, INVENTIONS, OR DISCOVERIES

47. The citation of authority following the table of sections in and § 80.1 of 10 CFR Part 80 are revised to read as follows:

AUTHORITY: The provisions of this Part 80 issued under sec. 1, 66 Stat. 806, 808; 35 U.S.C. 183, 188, and secs. 151–161 and 173, 68 Stat. 943–948, 953, as amended; 42 U.S.C. 2181–2201, 2223.

§ 80.1 Scope of the part.

The regulations in this part provide the rules of procedure to be followed by any person making application to the Atomic Energy Commission for the determination of a reasonable royalty fee, compensation or the grant of an award pursuant to sections 157 and 173 of the Atomic Energy Act of 1954, as amended (68 Stat. 947, 953), and section 1 of the Patent Act of July 19, 1952 (66 Stat. 806, 808); 35 U.S.C. 183, 188).

PART 81—STANDARD SPECIFICATIONS FOR THE GRANTING OF PATENT LICENSES

48. Section 81.3 of 10 CFR Part 81 is amended to read as follows:

§ 81.3 Communications.

All communications concerning the regulations in this part, including applications for licenses, should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Counsel for Patents. Communications and reports may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C., at 7920 Norfolk Avenue, Bethesda, Md., or at Germantown, Md.

PART 110—UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

49. The second sentence of the citation of authority following the table of sections in 10 CFR Part 110 is amended to read as follows:

AUTHORITY: * * * for the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, §§ 110.10 and 110.11 issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o).

§ 110.1 [Amended]

50. Section 110.1 of 10 CFR Part 110 is amended by changing the reference to "section 57(a)(3)(B) of the Atomic Energy Act of 1954 (68 Stat. 919)" to "section 57 b.(2) of the Atomic Energy Act of 1954, as amended (78 Stat. 605)."

§ 110.6 [Amended]

51. The reference to "Section 57 a.(3) of the Act" in § 110.6 of 10 CFR Part 110 is changed to "Section 57 b.(2) of the Act."

§ 110.7 [Amended]

52. The reference to "section 57(a)(3)(B) of the Act" in § 110.7 of 10 CFR Part 110 is changed to "section 57 b.(2) of the Act."

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

§§ 155.8, 115.9, 115.46 [Amended]

53. The citations of authority after §§ 115.8, 115.9 and 115.46 of 10 CFR Part 115 are deleted.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

54. The citation of authority following the table of sections in 10 CFR Part 140 is amended to read as follows:

AUTHORITY: The provisions of this Part 140 issued under secs. 161 and 170, 68 Stat. 948, 71 Stat. 576, as amended; 42 U.S.C. 2201, 2210.

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

55. The citation of authority following the table of sections in 10 CFR Part 170 is amended to read as follows:

AUTHORITY: The provisions of this Part 170 issued under sec. 501, 65 Stat. 290; 31 U.S.C. 483a.

56. Section 170.12 (b) and (c) of 10 CFR Part 170 are amended to read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) *Construction permit fees and operating license fees.*[1] Fees for construction permits and operating licenses are payable when the construction permit or operating license is issued. No construction permit or operating license will be issued by the Commission until the full amount of the fee prescribed in this part has been paid.

(c) *Annual fees.* Annual fees prescribed in this part are payable, in the case of licenses outstanding on the effective date of this part, 1 year after the effective date of this part and annually thereafter. In the case of licenses issued after the effective date of this part, annual fees are payable 1 year after the first of the month following the date of issuance of the license and annually thereafter.

* * * * *

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

Dated at Washington, D.C., this 13th day of July 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 70-9179; Filed, July 16, 1970; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 70-21]

PART 523—MEMBERS OF BANKS

Compromise, Remission, or Mitigation of Penalty Assessed for Failure To Meet Liquidity Requirement; Delegation of Authority

JULY 9, 1970.

Resolved that the Federal Home Loan Bank Board, upon the basis of its consideration of the desirability of amending § 523.12 of the regulations for the Federal Home Loan Bank System (12 CFR 523.12) for the purpose of delegating authority to compromise, remit, or mitigate penalites which have been assessed to members of the Federal Home Loan Bank System for failure to meet the liquidity requirements in § 523.11 of said regulations (12 CFR 523.11), hereby amends said § 523.12 by revising paragraph (c) thereof to read as follows, effective July 17, 1970:

§ 523.12 Deficiencies and penalties.

* * * * *

(c) *Assessment of penalty; compromise, remission, or mitigation.* The Board hereby assesses a penalty against each member in the amount calculated pursuant to paragraph (b) of this section. For good cause shown, the Board may, upon application by a member submitted through the Bank of which it is a member, compromise, remit, or mitigate, in whole or in part, any penalty herein assessed before collection thereof. The president of such Bank, or any other officer of such Bank designated by him, may, upon such application and subject to such conditions as he may impose, so compromise, remit, or mitigate such penalty, if he determines that:

(1) The penalty would have a seriously adverse effect upon the member; or

(2) The deficiency in liquid assets or short-term liquid assets resulted from either:

(i) The temporary disruption of normal operations because of negotiation or implementation of a merger or similar transaction; or

(ii) Any situation beyond the control of the institution's management, including but not limited to:

(*a*) A breakdown or unforeseen delay in mail or other form of communication;

(*b*) An unexpectedly heavy withdrawal of savings coupled with large disbursements on commitments;

(*c*) A natural disaster; or

(*d*) Abnormally heavy withdrawals caused by harmful rumors.

However, no such penalty may be compromised, remitted, or mitigated if the member has failed to observe any condition imposed in connection with a prior compromise, remission, or mitigation of any such penalty.

(Sec. 5A 47 Stat. 727, as added by 64 Stat. 256, as amended by Public Law 90-505, sec. 4, 82 Stat. 856, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that since the above amendment relates to Board organization, procedure, or practice, notice and public procedure are not required pursuant to the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since the above amendment is not a substantive amendment or rule, publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment is likewise not required; and the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

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

[F.R. Doc. 70-9217; Filed, July 16, 1970; 8:52 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 6 (Rev. 4)]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Minority Enterprise Small Business Investment Companies

Pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended, there is amended, as set forth below, Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations, as revised in 33 F.R. 326, and amended in 33 F.R. 11147, 20035, 34 F.R. 1234, 5796, 35 F.R. 4596, by amending §§ 107.3 and 107.702 and adding a new § 107.813.

Information and effective date. On June 4, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 8672) concerning amendment of the SBIC Regulation. After due and careful consideration of the comments received, the Administration has determined to adopt the formal amendments published herewith, incorporating the text of the June 4, 1970, proposals (with a minor textual, clarifying alteration in the § 107.3 definition of a MESBIC), as being in furtherance of the best interests of the SBIC program.

In view of the Administrator's determination that it is in the public interest that the amended provisions of the SBIC Regulation dealing with minority enterprise small business investment companies, shall be promptly applied to the program authorized by the Small Business Investment Act of 1958, the present amendments shall become effective upon publication in the FEDERAL REGISTER.

The Regulations Governing Small Business Investment Companies are hereby amended as follows:

1. By amending the definition of "Associate of a Licensee" appearing in § 107.3 by adding a new paragraph (h) thereto, and by adding at the end of § 107.3 a definition of the term, "Minority Enterprise Small Business Investment Company (MESBIC)," which shall read as follows:

§ 107.3 **Definition of terms.**

* * * * *

Associate of a Licensee. * * *

(h) A minority enterprise small business investment company (MESBIC) and a participant Licensee owning stock thereof pursuant to § 107.813, as well as Associates of such MESBIC and such participant Licensee, shall, for the purpose of the regulations in this part, be deemed Associates of each other.

* * * * *

Minority Enterprise Small Business Investment Company (MESBIC). "Minority Enterprise Small Business Investment Company (MESBIC)" means a Licensee company licensed solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals whose participation in the free enterprise system is hampered because of social or economic disadvantages.

2. By adding a proviso at the end of § 107.702 that shall read as follows:

§ 107.702 **Common control.**

* * * : *Provided, however,* That officerships or directorships in or ownership or control of stock of a MESBIC shall be excepted from the application of the foregoing prohibitions: *And provided, further,* That when 20 percent or more of the total outstanding stock of each of two or more Licensees, is (with prior SBA written permission under §§ 107.102–107.103 or § 107.701) respectively owned or controlled directly or indirectly by the same person, or persons acting in concert, the combined aggregate amount of debentures issued to or guaranteed by SBA based upon the capitalization of such Licensees which is attributable to such person(s), shall not exceed the applicable $7.5 million or $10 million limits prescribed by section 303 (b) of the Act.

3. By adding a new § 107.813 which shall read as follows:

§ 107.813 **Financing disadvantaged concerns through a MESBIC wholly or commonly owned by licensee companies.**

(a) *General.* Sections 304(d) and 305(b) of the Act authorize Licensees to finance small concerns in cooperation with each other and/or other lenders and investors, incorporated or unincorporated, through participation agreements. This section enables Licensee companies and non-Licensee investors to participate in financing disadvantaged small concerns, subject to the conditions hereinafter set forth, through the medium of a wholly or commonly owned MESBIC.

(b) *Conditions.* A MESBIC may, with SBA's prior written approval, be wholly or commonly owned by a Licensee or Licensee companies ("participant Licensee"), with or without non-Licensees, subject to the following conditions:

(1) In reviewing an application by a participant Licensee, SBA will consider the effect of its investment in the MESBIC on the financial structure and operations of each participant Licensee and of the MESBIC: *Provided, however,* That no participant Licensee may use funds borrowed from or guaranteed by SBA for the capitalization of the MESBIC.

(2) Each participant Licensee shall own at least 20 percent of the voting securities of the MESBIC, equity ownership in such amount constituting a presumption of active participation. Licensees proposing to own less than 20 percent of the voting securities will be accorded an opportunity to demonstrate to SBA's satisfaction that they will be active participants.

(3) Within the percentage and dollar limits prescribed by section 303(b) of the Act, MESBIC debentures shall be eligible for SBA purchase or guarantee to the extent that:

(i) MESBIC capitalization is derived from non-Licensee investors; or

(ii) A participant Licensee has unused eligibility under section 303(b) of the Act which is transferred to its capital investment in the MESBIC (the participant Licensee's eligibility being reduced accordingly), but not to exceed the matching ratio under section 303(b) applicable to such investment.

(4) MESBIC capitalization attributable to the contribution of a participant Licensee without unused eligibility, or unwilling to have its eligibility reduced in accordance with subparagraph (3)(ii) of this paragraph, will not be eligible for leveraging by SBA.

(5) For a definition of Associate of participant Licensees and their wholly or commonly owned MESBICs, see § 107.3(h).

Dated: July 10, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-9186; Filed, July 16, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-2-AD; Amdt. 39-1030]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 35 Series, 35-33 Series, 33 Series and 36 Airplanes

Amendment 39-935 published in the FEDERAL REGISTER on February 4, 1970 (35 F.R. 2517), AD 70-3-5, applicable to Beech Models 35 Series, 35-33 Series, 33 Series and 36 airplanes, is an airworthiness directive which prohibits certain ground and flight operations in these airplanes and requires the installation of a placard covering these restrictions.

Subsequent to the issuance of Amendment 39-935, the Federal Aviation Administration has determined that AD 70-3-5 must be amended to exempt certain Beech model airplanes from the requirements of the original AD when these airplanes are modified in accordance with Beech Kit 35-9009S, to require the removal of a placard on certain other Beech model airplanes which conflicts with the restrictions required by the AD and to delete certain Beech model airplanes from the applicability statement of the AD.

Specifically, a placard installed in Beech Models E33 and V35A airplanes in the factory and in other Beech model airplanes in compliance with Beechcraft Service Instruction No. 0133-286 must be removed since it conflicts with the placard required by paragraph B of the AD in that it permits maneuvers which are prohibited by the AD. This placard with the conflicting information is located either on the top outer portion of the floating instrument panel or on the fuel selector valve covering plate and reads as follows:

Caution—To prevent fuel flow interruptions due to gravity or centrifugal force, select the high-wing tank in slips and inside tank during turning takeoffs.

The above mentioned service instruction has been canceled by the manufacturer. Paragraph C of the AD as amended will make removal of the placard mandatory.

Airplane Flight Manuals for the Beech Model E33 airplanes (P/N 33-590004-1 dated Sept. 20, 1968) and for the Beech Model V35A airplanes (P/N 35-590116-3 dated Sept. 22, 1968) must also be altered to delete the conflicting placard as a required item and the substitution in lieu thereof the placard required in paragraph B of the AD. This change is set forth in paragraph D of the AD as amended.

The manufacturer has designed new fuel cells for Beech Models K35 through

V35A, 35–33 through E33, 35–C33A through E33A and 36 airplanes. These fuel cells retain a quantity of fuel at their outlets and thereby prevent loss of engine power which occurred with the previous cells when the airplane performed maneuvers prohibited by the AD. Beech Kit 35–9009S provides these new fuel cells and installation information. When these fuel cells are installed in both wings in these model airplanes, this AD is no longer applicable. Paragraph E of the AD as amended covers this exemption.

Finally, Beech Models F33, F33A, and 35R airplanes are being deleted from the applicability paragraph of the AD. The Beech Models F33 and F33A airplanes are current production airplanes containing the new fuel cells. The Beech Model 35R airplane has fuel system characteristics which service records show are not affected by the maneuvers prohibited by paragraph A of the AD. In addition, the above mentioned model airplanes do not have the conflicting placard installed. The applicability statement is also being amended by deleting the phrase "unless retrofitted with antislosh main fuel tanks" since an equivalent exemption is now provided in paragraph E of the AD as amended.

Due to the many changes to AD 70–3–5 as amended, it is being reissued in its entirety.

Since this amendment is in part relaxatory in nature, provides clarification, and is in the interest of safety it imposes no additional burden on any person. Consequently, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–935 (35 F.R. 2517), AD 70–3–5, is amended so that it now reads as follows:

BEECH. Applies to Models H35, equipped with Continental O–470–G–CI engines, J35, K35, M35, N35, P35, S35, S35–TC, V35, V35–TC, V35A, and V35A–TC, Serial Nos. D5062, D5331 through D–9068; Models 35–33, 35–A33, 35–B33, 35–C33, and E33, Serial Nos. CD–1 through CD–1234; Models 35–C33A and E33A, Serial Nos. CE–1 through CE–289; Model F33C, Serial Nos. CJ–26 and up; Model E33C, Serial Nos. CJ–1 and up; Model 36, Serial Nos. E–1 through E–184 airplanes.

Compliance: Required as indicated, unless already accomplished.

(A) Effective immediately, turning type takeoffs and a takeoff immediately following a fast taxi turn are prohibited. Avoid prolonged slips (20 seconds or more) with fuel tanks less than half full.

(B) Within 20 hours' time in service after the effective date of this AD, install a permanent type placard on the instrument panel in clear view of the pilot utilizing a minimum of one-eighth inch high letters, or at any equivalent location approved by an FAA Flight Standards Inspector, with the following wording:

Turning type takeoffs, and takeoff immediately following fast taxi turn prohibited. Avoid prolonged slips (20 seconds or more) with fuel tanks less than half full.

NOTE: The operator/owner may make and install the placard.

(C) Within 20 hours' time in service after the effective date of this AD, on Beech Models V35A (Serial Nos. D–8828 through D–9068), E33 (Serial Nos. CD–1181 through CD–1234), E33A (Serial Nos. CE–227 through CE–289) and 36 (Serial Nos. E–1 through E–184) airplanes and those Beech model airplanes previously modified in accordance with Beech Service Instruction 0133–286 obliterate or remove Beech placard, P/N 33–924017, located either on the Fuel Selector Valve Cover Plate or on the Top Center of the floating instrument panel, which reads:

Caution—to prevent fuel flow interruptions due to gravity or centrifugal force, select the high-wing tank in slips and inside tank during turning takeoffs.

Naphtha will remove the instrument panel placard. (Beech Service Instruction 0133–286 has been canceled.)

(D) Within 20 hours' time in service after the effective date of this AD, revise the Airplane Flight Manual, P/N 33–590004–1, dated September 28, 1968, on the Beech Model E33 airplanes and the Airplane Flight Manual, P/N 35–590116–3, dated September 20, 1968, on the Beech Model V35A airplanes as follows: In section I, Limitations, under Item I obliterate the "required placard" paragraph which states, "Caution—to prevent fuel flow interruptions due to gravity or centrifugal force, select the high-wing tank in slips and inside tank during turning takeoffs", and in its place insert a new paragraph with the words specified on the placard required by paragraph B of the AD. Accomplish this insertion by affixing a typewritten or printed insert over the existing paragraph.

NOTE: This insert may be made and installed by the operator/owner.

(E) Beech Models K35, M35, N35, P35, S35, S35–TC, V35, V35TC, V35A, V35A–TC, 35–33, 35–A33, 35B33, 35–C33, 35–C33A, E33, E33A, E33C, and 36 airplanes with fuel cells installed in both wings in accordance with Beech Kit 35–9009S are exempt from compliance with this AD. Beech Kit 35–9009S is listed under Item 616 on Aircraft Specification 3A15.

This amendment becomes effective July 18, 1970.

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

Issued in Kansas City, Mo., on July 8, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70–9144; Filed, July 16, 1970; 8:46 a.m.]

[Docket No. 10166; Amdt. 39–1038]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation Model BAC 1–11 200 and 400 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) requiring modifications to the APU starting system was published in the FEDERAL REGISTER, 35 F.R. 4412.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only adverse comment recommended that the compliance time specified in paragraph (a) of the proposed AD be increased to 1,500 hours' time in service for those airplanes in which Mod. PM–2518 is incorporated. The FAA does not agree with this recommendation since Mod. PM–2518 is not directly related to the requirement of paragraph (a). Moreover, the FAA does not consider that such an increase in compliance time is necessary since paragraph (a) only involves the replacement of a fuse with a directly interchangeable fuse of a different rating.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Model BAC 1–11 200 and 400 series airplanes.

Compliance is required as indicated.

(a) Within the next 750 hours' time in service after the effective date of this AD, unless already accomplished, replace the existing 200 ampere fuse in the APU starter motor circuit with a 150 ampere fuse in accordance with British Aircraft Corp. Model BAC 1–11 Service Bulletin No. 49–PM4480 dated November 10, 1969, or later ARB-approved issue, or an FAA-approved equivalent.

(b) For airplanes which have not incorporated BAC 1–11 Modification PM2518 on or before the effective date of this AD, within the next 750 hours' time in service after the effective date of this AD, unless already accomplished, modify the APU starting system as follows:

(1) Incorporate a second power relay in accordance with British Aircraft Corp. Model BAC 1–11 Service Bulletin No. 49–PM2429, Revision 4, dated June 1, 1967, or later ARB-approved issue, or an FAA-approved equivalent.

(2) Incorporate a separate APU start control in accordance with British Aircraft Corp. Model BAC 1–11 Service Bulletin No. 49–PM2891, Revision 5 dated December 15, 1969, or later ARB-approved issue, or an FAA-approved equivalcnt.

(c) For airplanes which have incorporated BAC 1–11 Modification PM2518 on or before the effective date of this AD, within the next 1500 hours' time in service after the effective date of this AD unless already accomplished, modify the APU starting system in accordance with paragraphs (b)(1) and (b)(2) of this AD. (British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 49–A–PM4480 covers this subject.)

This amendment becomes effective August 16, 1970.

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

Issued in Washington, D.C., on July 10, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70–9146; Filed, July 16, 1970; 8:46 a.m.]

[Docket No. 10194; Amdt. 39-1039]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation Model BAC 1-11 200 and 400 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) requiring installation of a containment guard on the compressor in the air conditioning system cold air unit (C.A.U.) on certain British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes was published in the FEDERAL REGISTER, 35 F.R. 4862.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comments received in response to the notice objected to the proposal on the grounds that service experience does not justify the issuing of an AD. The commentator further suggested that if the AD is adopted, it should be made applicable only to airplanes having center fuel tanks installed. However, the FAA is aware of two instances in which fragments of the C.A.U. impeller penetrated through the torus. Although in both cases the wheel fragments passed through noncritical areas and did not seriously damage the airplane, there is no assurance that a future failure of the compressor wheel would not damage vulnerable parts of the airplane, such as the center fuel tank, main wheels and tires, hydraulic system components, air system components and lines, and parts of the airplane basic structure. Therefore, the FAA does not agree with the recommendations that the AD should be made applicable only to airplanes having a center fuel tank installed.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Model BAC 1-11 200 and 400 Series Airplanes Which Do Not Have BAC Modification PM3791 (or Normalair Modification No. 271 TC) Incorporated.

To prevent penetration of compressor wheel shroud fragments through the air conditioning system cold air unit compressor scrolls in the event of compressor failure, within the next 1,200 hours' time in service after the effective date of this AD, unless already accomplished, install containment guards on the cold air units P/N 12-525350 (R.H.) and P/N 13-525350 (L.H.) in accordance with Normalair-Garrett, Ltd., Service Bulletin No. 21-314 dated August 18, 1969, or later ARB-approved issue, or an FAA-approved equivalent. (British Aircraft Corp. Model BAC 1-11 Service Bulletin No. 21-PM4350 refers to this subject.)

This amendment becomes effective August 16, 1970.

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

Issued in Washington, D.C., on July 10, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-9147; Filed, July 16, 1970; 8:46 a.m.]

[Docket No. 70-EA-47; Amdt. 39-1026]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 71 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Sikorsky type S-61 helicopters.

There has been a report of a loose terminal on the cabin heater blower of an S-61 helicopter which is believed to have been a contributing factor to a fire in a New York Airways helicopter. Because the loose terminal resulted from a failure to follow the manufacturer's instructions when assembled by the supplier of the terminal unit, this defect could exist in other helicopters of the same type design.

In view of the foregoing, notice and public procedure hereon are contrary to the public interest and the airworthiness directive may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administartor, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SIKORSKY AIRCRAFT. Applies to Sikorsky S-61A/L/N/R Type Helicopters Certificated In All Categories and Incorporating Torrington A18702 Series Cabin Heater Blower Assemblies.

Compliance required within the next 25 hours' time of cabin heater operation after the effective date of this AD unless already accomplished. To prevent potential hazards associated with intermittent operation of the cabin heater blower, accomplish the following:

(a) Comply with the Accomplishment Instructions (excluding paragraph D) of Sikorsky Service Bulletin No. 61B55-14 dated 1 April 1970, or later revision, or equivalent method both approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) Upon request with substantiation data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective July 22, 1970.

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

Issued in Jamaica, N.Y., on June 30, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-9145; Filed, July 16, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SW-28]

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

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

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fayetteville, Ark., control zone and transition area and revoke the Decatur, Ark., and Siloam Springs, Ark., transition areas.

On May 15, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7586) stating the Federal Aviation Administration proposed to alter controlled airspace in the Fayetteville, Ark., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through 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., September 17, 1970, as hereinafter set forth.

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

FAYETTEVILLE, ARK.

Within a 5.5-mile radius of Drake Field (lat. 36°00'13" N., long. 94°10'12" W.), within 3 miles each side of the Drake VOR 325° radial extending from the 5.5-mile radius zone to 8 miles northwest of the VOR.

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

FAYETTEVILLE, ARK.

That airspace extending upward from 700 feet above the surface within a 27.5-mile radius of lat. 36°12'00" N., long. 94°14'00" W., within 5 miles each side of the Drake VOR 186° radial extending from the 27.5-mile radius area to 19 miles south of the VOR, and within 5 miles east and 10 miles west of the Fayetteville VORTAC 005° radial extending from the 27.5-mile radius area to 33.5 miles north of the VORTAC.

(3) In § 71.181 (35 F.R. 2134), the Decatur, Ark., transition area is revoked.

(4) In § 71.181 (35 F.R. 2134), the Siloam Springs, Ark., transition area is revoked.

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

Issued in Fort Worth, Tex., on July 8, 1970.

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

[F.R. Doc. 70-9148; Filed, July 16, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-55]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Holland, Mich.

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

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 17, 1970, as hereinafter set forth:

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

HOLLAND, MICH.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (latitude 42°47'45'' N., longitude 86°09'45'' W.); within a 6-mile radius of Tulip City Airport (latitude 42°44' 45'' N., longitude 86°06'30'' W.); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radii area to 8 miles south of the airport; and within 2 miles each side of the Pullman, Mich., VORTAC 359° radial, extending from the 6-mile radii area to 12 miles north of the VORTAC.

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

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9149; Filed, July 16, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-64]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Sidney, Mont.

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

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 17, 1970, as hereinafter set forth:

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

SIDNEY, MONT.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Sidney-Richland Airport (latitude 47°42'35'' N., longitude 104°11'10'' W.); and within 3 miles each side of the 115° bearing from Sidney-Richland Airport, extending from the 11-mile radius area to 13 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 115° bearing from Sidney-Richland Airport, extending from the airport to 23½ miles southeast of the airport.

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

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9150; Filed, July 16, 1970; 8:47 a.m.]

[Airspace Docket No. 69-CE-94]

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

Alteration of Control Zone and Transition Area

On pages 4263 and 4264 of the FEDERAL REGISTER dated March 7, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area of Kearney, Nebr.

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

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

These amendments shall be effective 0901 G.m.t., July 23, 1970.

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

Issued in Kansas City, Mo., on May 4, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

KEARNEY, NEBR.

Within a 5-mile radius of Kearney Municipal Airport (latitude 40°43'45'' N., longitude 98°59'55' W.); within 3½ miles each side of the Kearney VOR 194° radial, extending from the 5-mile radius zone to 10½ miles south of the VOR; and within 3½ miles each side of the Kearney VOR 360° radial, extending from the 5-mile radius zone to 11½ miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

KEARNEY, NEBR.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Kearney Municipal Airport (latitude 40°43'45'' N., longitude 98°59'55'' W.); within 4½ miles east and 9½ miles west of the Kearney VOR 194° radial, extending from the airport to 18½ miles south of the airport; and within 4½ miles east and 9½ miles west of the Kearney VOR 360° radial, extending from the airport to 18½ miles north of the airport.

[F.R. Doc. 70-9151; Filed, July 16, 1970; 8:47 a.m.]

[Airspace Docket No. 70-CE-16]

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

Alteration of Transition Area

On page 5711 of the FEDERAL REGISTER dated April 8, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Wabash, Ind.

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

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

This amendment shall be effective 0901 G.m.t., August 20, 1970.

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

Issued in Kansas City, Mo., on June 17, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

WABASH, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wabash Municipal Airport (latitude 40°-45'50" N., longitude 85°48'05" W.); within 5 miles each side of the 105° bearing from Wabash Municipal Airport extending from the 5-mile radius area to 12 miles east of the airport; and within 2 miles each side of the 040° radial of the Kokomo, Ind., VORTAC, extending from the 5-mile radius area to 15 miles northeast of the Kokomo, Ind., VORTAC; excluding the portion which overlies the Kokomo, Ind., 700-foot floor transition area.

[F.R. Doc. 70-9152; Filed, July 16, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-10]

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

Alteration of Federal Airway

On May 15, 1970, F.R. Doc. 70-5970 was published in the FEDERAL REGISTER (35 F.R. 7553) effective July 23, 1970.

This document amended Part 71 of the Federal Aviation Regulations in part by designating a segment of VOR Federal airway No. 208 from Myton, Utah, via Vernal, Utah, to Cherokee, Wyo.

Subsequent to the publication of this amendment, it has been determined that the portion of the segment of V-208 designated from Vernal for a distance of 19 miles at 10,500 feet MSL should be designated to a distance of 25 miles at 10,500 feet MSL so as to provide additional controlled airspace for aircraft conducting climbing procedures northeast of the Vernal VORTAC.

Since this amendment is minor in nature and no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, F.R. Doc. 70-5970 (35 F.R. 7553) is amended as hereinafter set forth.

In Item 1b. "19 miles, 105 MSL," is deleted and "25 miles, 105 MSL," is substituted therefor.

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

Issued in Washington, D.C., on July 10, 1970.

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

[F.R. Doc. 70-9153; Filed, July 16, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-7]

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

Alteration of Federal Airway

On May 26, 1970, F.R. Doc. 70-6476 was published in the FEDERAL REGISTER (35 F.R. 8212) effective July 23, 1970.

This document amended Part 71 of the Federal Aviation Regulations, in part, by altering the segment of VOR Federal airway No. 26 between Myton, Utah, and Cherokee, Wyo.

In Airspace Docket No. 70-WE-10 (35 F.R. 7553) effective July 23, 1970, the segment of V-26 between Myton, Utah, and Cherokee, Wyo., was revoked and a segment of V-208 was designated as a replacement for the revoked segment of V-26. Therefore, action is taken herein to delete reference to V-26 in Airspace Docket No. 70-WE-7.

Since this amendment is editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, F.R. Doc. 70-6476 (35 F.R. 8212) is amended as hereinafter set forth.

In Airspace Docket No. 70-WE-7 Item 1. is deleted.

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

Issued in Washington, D.C., on July 10, 1970.

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

[F.R. Doc. 70-9154; Filed, July 16, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-60]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Areas

The purpose of these amendments to Part 73 of the Federal Aviation Regulations is to revoke the Juan De Fuca, Wash., Restricted Area R-6705 and the Rosario Strait, Wash., Restricted Area R-6708.

The Federal Aviation Administration has been advised by the Department of the Navy that the Juan De Fuca Restricted Area R-6705 and the Rosario Strait Restricted Area R-6708 are no longer needed for their designated purposes. Accordingly, action is taken herein to revoke these restricted areas.

Since these amendments restore airspace to the public use and relieve a restriction, notice and public procedure thereon are unnecessary and good cause exists for making these amendments effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth.

In §73.67 (35 F.R. 2354) "R-6705 Juan De Fuca, Wash.," and "R-6708 Rosario Strait, Wash.," are revoked.

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

Issued in Washington, D.C., on July 10, 1970.

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

[F.R. Doc. 70-9155; Filed, July 16, 1970; 8:47 a.m.]

[Docket No. 10426; Amdt. 712]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAPs, effective August 13, 1970:

Akron, Colo.—Washington County Airport; VOR 1, Amdt. 1; Canceled.

Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective August 13, 1970:

Akron, Colo.—Akron-Washington County Airport; VOR Runway 27. Orig.; Established.
Bethel, Alaska—Bethel Municipal Airport; VOR Runway 18, Amdt. 4; Revised.
Bethel, Alaska—Bethel Municipal Airport; VOR Runway 36, Amdt. 4; Revised.
Port Clinton, Ohio—Carl R. Keller Field; VOR-1, Amdt. 3; Revised.
Sandusky, Ohio—Griffing-Sandusky Airport; VOR Runway 36, Amdt. 4; Revised.
Sheridan, Wyo.—Sheridan County Airport; VOR Runway 13, Amdt. 1; Revised.
Sheridan, Wyo.—Sheridan County Airport; VOR/DME Runway 31, Amdt. 1; Revised.

Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective August 13, 1970:

Cleveland, Ohio—Cleveland-Hopkins International Airport; LOC (BC) Runway 23L/R, Amdt. 5; Revised.
Milwaukee, Wis.—General Mitchell Field; LOC (BC) Runway 19, Amdt. 4; Canceled.

Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective August 13, 1970:

Bethel, Alaska—Bethel Municipal Airport; NDB (ADF) Runway 18, Amdt. 5; Revised.
Cleveland, Ohio—Cleveland-Hopkins International Airport: NDB (ADF) Runway 5R/5L, Amdt. 4; Revised.

Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective August 13, 1970:

Greer, S.C.—Greenville-Spartanburg Airport; ILS Runway 3, Amdt. 8; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on July 7, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[F.R. Doc. 70-9042; Filed, July 16, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

PART 17—BAKERY PRODUCTS

Bread and Whole Wheat Flour Identity Standards; Ascorbic Acid as Optional Ingredient

In the matter of amending the standard of identity for bread (21 CFR 17.1) to permit the optional use of ascorbic acid in a quantity not more than 0.02 part for each 100 parts by weight of flour used, including any quantity of ascorbic acid in the flour used, and to permit the optional use of ascorbic acid in whole wheat flour (21 CFR 15.80):

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of January 22, 1970 (35 F.R. 902), based on a petition submitted by Delmar Chemicals, Inc., King of Prussia, Pa. 19406, now located at 9321 Airlie, Montreal, Quebec, Canada. Since the identity standards for whole wheat flour (§ 15.80) and whole wheat bread (§ 17.5) do not provide for added ascorbic acid, the Commissioner of Food and Drugs requested the submission of data on the functionality of ascorbic acid as a dough conditioner in whole wheat bread.

Three favorable comments were filed in response to the proposal. One of these stated that ascorbic acid does function as a dough conditioner in the manufacture of whole wheat bread and this comment was followed by submission of data adequate to support the statement.

On the basis of the information submitted in the petition, the comments received, and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to amend §§ 15.80 and 17.1 to provide for the optional addition of ascorbic acid as a dough conditioner.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended; 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That § 15.80 (a) and (b) be revised and that § 17.1(a) be amended by adding a new subparagraph, as follows:

§ 15.80 Whole wheat flour, graham flour, entire wheat flour; identity; label statement of optional ingredients.

(a) Whole wheat flour, graham flour, entire wheat flour is the food prepared by so grinding cleaned wheat, other than durum wheat and red durum wheat, that when tested by the method prescribed in paragraph (c) (2) of this section, not less than 90 percent passes through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. The moisture content of whole wheat flour is not more than 15 percent. It may contain ascorbic acid in a quantity not to exceed 200 parts per million as a dough conditioner. Unless such addition conceals damage or inferiority or makes the whole wheat flour appear to be better or of greater value than it is, the optional bleaching ingredient azodicarbonamide (complying with the requirements of § 121.1085 of this chapter, including the quantitative limit of not more than 45 parts per million), or chlorine dioxide, or chlorine, or a mixture of nitrosyl chloride and chlorine, may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

(b) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner." When any optional bleaching ingredient is used, the label shall bear the word "bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed, or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

* * * * *

§ 17.1 Bread, white bread, and rolls, white rolls, or buns, white buns; identity; label statement of optional ingredients.

(a) * * *

(17) Ascorbic acid, but the total quantity thereof, including any quantity in the flour used, is not more than 0.02 part for each 100 parts by weight of flour used.

* * * * *

Due to cross-references, upon becoming effective the amendment of § 15.80 will be applicable to the standard for bromated whole wheat flour (§ 15.90) and the amendment of § 17.1 will be applicable to the standards for enriched bread, milk bread, raisin bread, and whole wheat bread (§§ 17.2 through 17.5).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room

6–62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: July 7, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9139; Filed, July 16, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

n-ALKYLSULFONATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2376) filed by Metachem, Inc., 425 Park Avenue, New York, N.Y. 10022, on behalf of Farbenfabriken Bayer, A.G., Leverkusen, Federal Republic of Germany, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of *n*-alkylsulfonate as specified below in polyvinyl chloride and/or vinyl chloride copolymers for use in food-contact articles.

The petition proposed that § 121.2527 *Antistatic and/or antifogging agents in food-packaging materials* be amended to provide for the safe use of the additive in polyvinyl chloride articles used for food-contact purposes. Since the surface-active functions of the additive are not limited to antistatic and/or antifogging agent use, it was concluded that § 121.2541 should be amended to provide for use of the additive in polyvinyl chloride and/or vinyl chloride copolymers complying with § 121.2521.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2541(c) is amended by alphabetically inserting in the list of substances a new item as follows:

§ 121.2541 Emulsifiers and/or surface-active agents.

* * * * *

(c) List of substances

	Limitations
* * *	* * *
n-Alkylsulfonate (alkyl group is in the range C_{10}-C_{18} with not less than 50 percent C_{14}-C_{16}).	For use only: 1. As provided in § 121.2526. 2. At levels not to exceed 2 percent by weight of polyvinyl chloride and/or vinyl chloride copolymers complying with § 121.2521.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: July 7, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9140; Filed, July 16, 1970; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 730—ADMINISTRATIVE DISCHARGES AND RELATED MATTERS CONCERNING SEPARATIONS FROM THE NAVAL SERVICE

Miscellaneous Amendments

1. Section 730.12 is amended by adding a new paragraph (a–1) and amending paragraph (d) as follows:

§ 730.12 Discharge of enlisted personnel by reason of unfitness.

* * * * *

(a–1) A member being processed for a discharge for unfitness shall be given an opportunity to have his or her case heard before an administrative discharge board of at least three officers, one of whom shall be serving in the grade of lieutenant commander or higher, unless such member after consulting with counsel specifically waives his right which shall be witnessed by member's counsel. The member may elect not to appear personally before the board and have his counsel represent him at the board proceedings.

* * * * *

(d) * * *

Prior to declaring his intentions concerning the rights listed in this paragraph (and prior to requesting a discharge to escape trial by court-martial in cases processed under paragraph (b)(5) of this section) the member shall consult his counsel. If the individual requests that his case be heard by a board of officers, the commanding officer shall convene a board in accordance with § 730.15. In the event the individual refuses to request or waive his privileges, make a page 13 entry of explanation in the individual's service record and forward a copy of the page 13 along with other enclosures to the Chief of Naval Personnel.

* * * * *

2. Section 730.13 is amended by adding a new paragraph (a–1) and amending paragraph (c) as follows:

§ 730.13 Discharge of enlisted personnel by reason of misconduct.

* * * * *

(a–1) A member being processed for a discharge for misconduct shall be given an opportunity to have his or her case heard before an administrative discharge board of at least three officers, one of whom shall be serving in the grade of lieutenant commander or higher, unless such member after consulting with counsel specifically waives this right which shall be witnessed by the member's counsel. The member may elect not to appear personally before the board and have his counsel represent him at the board proceedings.

* * * * *

(c) * * *

Prior to declaring his intentions concerning the rights listed in this paragraph, the member shall consult with counsel. If the respondent is in civil confinement or is not reasonably available, consultation with counsel may be accomplished by mail. If the member requests that his case be heard by a board of officers, the commanding officer shall convene an administrative discharge board in accordance with § 730.15. In the event the individual refuses to request or waive his privileges, make a page 13 entry of explanation in his service record and forward a copy of the page

13, along with other enclosures, to the Chief of Naval Personnel.

* * * * *

JOSEPH B. MCDEVITT,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General of the Navy.

JULY 8, 1970.

[F.R. Doc. 70-9126; Filed, July 16, 1970; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

Miscellaneous Amendments

1. Section 17.46c is added to read as follows:

§ 17.46c Hospital care for research purposes.

Subject to the provisions of § 17.62(g), any person who is a bona fide volunteer may be admitted to a Veterans Administration hospital when the treatment to be rendered is part of an approved Veterans Administration research project and there are insufficient veteran-patients suitable for the project.

2. Section 17.59 is added to read as follows:

§ 17.59 Outpatient care for research purposes.

Subject to the provisions of § 17.62(g), any person who is a bona fide volunteer may be furnished outpatient treatment when the treatment to be rendered is part of an approved Veterans Administration research project and there are insufficient veteran-patients suitable for the project.

3. In § 17.62, paragraphs (a) and (c) are amended and paragraph (g) is added so that the added and amended material reads as follows:

§ 17.62 Charges for care or services.

* * * * *

(a) *Furnished in error or on tentative eligibility.* Charges at rates prescribed by the Chief Medical Director shall be made for inpatient or outpatient care or services (including domiciliary care) authorized for any person on the basis of eligibility as a vetern or a tentative eligibility determination under § 17.35, but who was subsequently found to have been ineligible for such care or services as a veteran because the military service or any other eligibility requirement was not met, or

* * * * *

(c) *Furnished beneficiaries of the Department of Defense or other Federal agencies.* Except as provided for in paragraph (f) of this section, charges at rates prescribed by the Office of Management and Budget shall be made for any inpatient or outpatient care or services authorized for a member of the Armed Forces on active duty or retired, or for any beneficiary or designee of any other Federal agency, or

* * * * *

(g) *Furnished for research purposes.* Charges will not be made for medical services, including transportation, furnished as part of an approved Veterans Administration research project, except that if the services are furnished to a person who is not eligible for the services as a veteran, the medical care appropriation shall be reimbursed from the research appropriation at the same rates used for billings under paragraph (b) of this section.

4. In § 17.65a, that portion of paragraph (c) preceding subparagraph (1) is amended to read as follows:

§ 17.65a Waivers.

* * * * *

(c) *Salary overpayments.* If the debt represents erroneous payment of pay, the Fiscal activity having responsibility for collection shall review the circumstances of the overpayment and report to management any possible remedial action to prevent similar overpayments at the station level in the future. (Pay as used in the foregoing sentence is defined in 4 CFR 91.2 to mean salary, wages, pay, compensation, emoluments, and remuneration for services. It includes overtime pay; night, Sunday standby, irregular and hazardous duty differential; pay for Sunday and holiday work; payment for accumulated and accrued leave, and severance pay. It does not include expenses of travel and transportation or expenses of transportation of household goods.) After such review and necessary development, all requests for waiver of Veterans Administration salary overpayments shall be referred before any determinations are made as to compromise or termination or suspension of collection action as follows:

* * * * *

5. Section 17.96a is revised to read as follows:

§ 17.96a Authority to compromise claims and terminate or suspend collection action.

The Chief of the Fiscal activity at a Veterans Administration hospital or any other Veterans Administration field station, is delegated authority to compromise claims not exceeding $500 representing charges made under § 17.62(a) in which there has been a prior denial of waiver by a field station Committee on Waivers and Compromises. Such officers are further delegated authority to terminate or suspend collection action of claims not over $20,000 representing charges made under § 17.62 (a) or (b). In exercising this authority, the standards in § 1.900 et seq. of this chapter are to be applied. The authority under this section further involves the responsibility to comply with all reporting procedures which may be required by the VA Controller and the Comptroller General of the United States. Any action, other than a completed compromise settlement, of any Chief of the Fiscal activity of any field station under the exclusive jurisdiction of the Department of Medicine and Surgery is subject to reversal by the Department of Medicine and Surgery Board on Collections and Compromises.

6. Section 17.102 is added to read as follows:

§ 17.102 Travel incident to research.

Subject to the provisions of § 17.62(g), travel may be furnished when necessary to provide inpatient or outpatient treatment which is part of an approved Veterans Administration research project.

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

These VA regulations are effective the date of approval.

Approved: July 10, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Acting Deputy Administrator.

[F.R. Doc. 70-9187; Filed, July 16, 1970; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

PART 8–1—GENERAL

1. In Part 8–1, § 8–1.708–2 is added to read as follows:

§ 8–1.708 Certificate of competency program.

§ 8–1.708–2 Applicability and procedure.

The higher authority referred to in FPR 1–1.708–2(a) will be the following individuals in the Veterans Administration:

(a) The head of the station at field stations.

(b) Manager of the Marketing Center at the Marketing Center.

(c) Director of Supply Service for the Purchase and Contract Division, Supply Service, Central Office.

(d) Manager, Administrative Services for the Building and Supply Service and Publications Service, Central Office.

(e) Assistant Administrator for Construction for construction contracts excluding those for maintenance and repair entered into by field stations.

(f) Manager, VA Supply Depot at Somerville, N.J., and Hines, Ill., and the Executive Officer, VA Subdepot, Bell, Calif.

2. Section 8–1.708–3 is revised to read as follows:

§ 8–1.708–3 Conclusiveness of certificate of competency.

Despite the issuance of a certificate of competency by the Small Business Administration (SBA), a contracting officer who has substantial doubts as to a

prospective contractor's ability to perform shall document his reasons therefor, and submit the matter to the Director, Supply Service for resolution with SBA. If, in the opinion of the Director, the reasons advanced by the contracting officer are valid, he may request SBA to withdraw the certificate of competency. The contracting officer will be advised as to the action he is to take.

PART 8–6—FOREIGN PURCHASES

3. In Part 8–6, Subpart 8–6.54 is added to read as follows:

Subpart 8–6.54—Duty-free Importation of Goods

Sec.
8–6.5400 Scope of subpart.
8–6.5401 General.
8–6.5402 Application for duty-free importation of goods.
8–6.5403 Transfer of items approved for duty-free entry.
8–6.5404 Technical assistance.

AUTHORITY: The provisions of this Subpart 8–6.54 issued under sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); Sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c).

Subpart 8–6.54—Duty-free Importation of Goods

§ 8–6.5400 Scope of subpart.

This subpart prescribes the procedures for securing the duty-free importation of certain goods to be used for educational and scientific purposes.

§ 8–6.5401 General.

(a) Scientific instruments and apparatus may be imported duty-free for use in a scientific or educational institution when no instruments or apparatus of equivalent scientific value for the intended purpose are being manufactured in the United States.

(b) The Administrator, Business and Defense Services Administration (BDSA) is responsible for determining if items meet the established criteria outlined in paragraph (a) of this section.

§ 8–6.5402 Application for duty-free importation of goods.

(a) An application, BDSA Form 768, will be prepared for each item of duty-free instruments or apparatus requested or to be requested. BDSA Form 768 will be prepared in seven copies and submitted to the Commissioner of Customs, Attention: Tariff Classification Ruling, Washington, D.C. 20226. This application may be submitted prior to purchase of an item (based on a firm intention to buy) or it may be submitted subsequent to the placing of the order. When the application is filed prior to the issuing of an order, the order must be placed on or before the 60th day following the date on which a decision by BDSA becomes final.

(1) The application will list all pertinent characteristics and specifications of the foreign made item which, in the opinion of the prospective user, make it superior in scientific value to a similar item of domestic origin.

(2) The application must also explain why an item of these characteristics and specifications is required to accomplish the purpose for which the item is to be used.

(b) The Commissioner of Customs will:

(1) Forward copies of the application to the Administrator, Business and Defense Services Administration, and

(2) Return one copy to the Veterans Administration station filing the request. This copy will be stamped as accepted for transmittal to the Department of Commerce. The Veterans Administration station making the application will in turn file this copy with the Director of Customs of the district in which the item has been or will be entered.

(c) The Administrator, Business and Defense Services Administration will publish a notice of the application in the FEDERAL REGISTER. Equipment manufacturers and other interested parties will be given 20 days to present information on scientific instruments or apparatus of domestic manufacture which they feel have equivalent scientific value to the item of foreign make. At the end of 20 days BDSA will evaluate any comments received from interested parties, and decide if the item may enter duty-free. This decision will also be published in the FEDERAL REGISTER. If no appeal is made within 20 days from the date of publication, the Administrator, Business and Defense Services Administration will notify the Director of Customs of the applicable district of the decision. If the applicable district is not known, the Administrator, Business and Defense Administration will notify the Commissioner of Customs.

§ 8–6.5403 Transfer of items approved for duty-free entry.

(a) An item admitted on a duty-free basis may be transferred through normal excess procedures to another scientific or educational institution without payment of duty.

(b) If an item entered on a duty-free basis is subsequently transferred to other than a scientific or educational institution or is used for commercial purposes within 5 years after entry, the VA field station which secured the duty-free entry must immediately notify customs officers at the port of entry. Upon such transfer or diversion to commercial use within the specified time, the VA field station originally securing the duty-free entry becomes liable for payment of the original duty applicable to its importation.

§ 8–6.5404 Technical assistance.

Field stations seeking to take advantage of this exemption for a specific procurement will submit to the Manager, VA Marketing Center, Hines, Ill., a letter setting forth in detail the specific circumstances that make such a procurement necessary. The Manager, VA Marketing Center will render to the station advice and technical assistance and, where appropriate, furnish the required forms for filing an application with BDSA.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c), sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: July 10, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[F.R. Doc. 70–9189; Filed, July 16, 1970; 8:50 a.m.]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

PART 8–2—PROCUREMENT BY FORMAL ADVERTISING

1. In § 8–2.201, paragraphs (h) and (i) are added to read as follows:

§ 8–2.201 Preparation of invitations for bids.

* * * * *

(h) Contracting officers required to solicit invitations for bids which will result in contracts that are unique or unusual, or which may be legally questionable, will utilize such legal advice that is available to them in preparing the invitations. They will also seek technical and financial advice from their available sources when necessary. Prior to releasing such invitations to prospective bidders, they will forward the proposed invitations to the Director, Supply Service, for review and determination as to whether submission to the General Counsel is required. Contracts coming within the purview of this paragraph are such as, but not limited to, the following:

(1) Utility services involving Government investment.
(2) Management services.
(3) Research (basic and applied).
(4) Research and development.
(5) ADP equipment, when purchased from other than an FSS contract.
(6) Scarce medical specialist services.
(7) Mutual use, or exchange of use, of specialized medical resources.

(i) Invitations for bids of the types specified in paragraph (h) of this section that are solicited by contracting officers assigned to the Office of the Assistant Administrator for Construction will be submitted directly to the General Counsel by the Assistant Administrator for Construction.

2. Section 8–2.404–2 is revised to read as follows:

§ 8–2.404–2 Rejection of individual bids.

(a) When a bid that is being considered for an award is found to be incomplete, i.e., all pages of the invitation have not been returned by the bidder, the contracting officer will take whichever of the following actions is appropriate:

(1) Make a determination that the bid as submitted is in such a form that acceptance would create a valid and binding contract, requiring the contractor to perform in accordance with all of the

material terms and conditions of the invitation. Such a determination may be based on the fact that the bid as submitted includes evidence that the offeror intends to be bound by all the material, terms and conditions of the invitation.

(2) Make a determination that the bid as submitted is in such form that acceptance would not create a valid and binding contract.

(b) Questions involving the responsiveness of a bid which cannot be resolved by the contracting officer may be submitted directly to the Comptroller General, accompanied by a copy of the pertinent documents. A copy of each submission will be forwarded to the appropriate Regional Medical Director (134).

3. Sections 8–2.406–3 and 8–2.406–4 are revised to read as follows:

§ 8–2.406–3 Other mistakes disclosed before award.

(a) In accordance with the provisions of FPR 1–2.406–3(b), the authority of the Administrator to make the administrative determinations set forth in FPR 1–2.406–3(a) is hereby delegated, without power of redelegation, to the Director, Supply Service. This delegation in no way impairs the delegations contained in Comptroller General Decision B122003, dated November 22, 1954.

(b) When a bidder alleges a mistake in his bid prior to award, the contracting officer will, after complying with the provisions of FPR 1–2.406–3, submit the complete file to the Director, Supply Service for an administrative determination. Based upon the evidence submitted, the Director, Supply Service will determine the action to be taken by the contracting officer. This determination will, prior to its release to the contracting officer, be submitted to the General Counsel for approval. Pending receipt of the determination no award shall be made.

(c) When the Director, Supply Service, based on the evidence submitted, believes that the case should be submitted to the Comptroller General for decision, he will prepare the submission and forward it to the Comptroller General. The decision of the Comptroller General will be furnished to the contracting officer by the Director, Supply Service. A copy of each such decision will be furnished to the General Counsel.

§ 8–2.406–4 Disclosure of mistakes after award.

(a) In accordance with the provisions of FPR 1–2.406–4(d), the authority of the Administrator to make the administrative determinations set forth in FPR 1–2.406–4 is hereby delegated, without power of redelegation, to the Director, Supply Service.

(b) If a mistake in bid is disclosed or alleged after an award had been made, the contracting officer will, after complying with the provisions of FPR 1–2.406–4, submit the complete file to the Director, Supply Service for an administrative determination. The Director, Supply Service will review the case and, where permissible, render an administrative determination to the contracting officer. This determination will, prior to its release to the contracting officer, be submitted to the General Counsel for approval.

(c) In those instances where the rendering of an administrative determination is precluded by the provisions of FPR 1–2.406–4, the Director, Supply Service will submit the case to the Comptroller General for decision. The contracting officer will be advised of this submission. The decision of the Comptroller General will be forwarded to the contracting officer by the Director, Supply Service. A copy of each such decision will be furnished to the General Counsel.

4. In § 8–2.407–1, paragraphs (a) and (b) are amended to read as follows:

§ 8–2.407–1 General.

(a) Contracting officers will not award a contract for the purchase of a firm or indefinite quantity of supplies, equipment or services (excluding construction) at an actual or estimated cost of $200,000 or more, until such contract has been reviewed by the Director, Supply Service. In addition to the proposed contract the contracting officer will also forward the following:

(1) A copy of the appropriate specification (Veterans Administration, Federal, etc.).

(2) A copy of each bid received including any correspondence accompanying a bid.

(3) Copies of correspondence received in lieu of a bid.

(4) A copy of the abstract.

(5) Contracting officer's determination of bidder's responsibility.

(6) Statement as to proposed inspection and testing to assure compliance with specifications.

(7) Contracting officer's analysis of bids received and his determination as to the award.

(b) Upon completion of his review the Director, Supply Service will return the entire file to the contracting officer together with his recommendation. In the event an award is not recommended the specific reasons for such a recommendation will be furnished the contracting officer.

* * * * *

PART 8–3—PROCUREMENT BY NEGOTIATION

5. In § 8–3.101, paragraph (c) is added to read as follows:

§ 8–3.101 General requirements for negotiation.

* * * * *

(c) Proposed contracts coming within the purview of paragraph (h) of § 8–2.201 will be subject to the procedures set forth in paragraphs (h) and (i) of that section, i.e., the requests for proposals will be submitted to the General Counsel prior to release to the offerors.

PART 8–7—CONTRACT CLAUSES

6. In § 8–7.150–17, paragraph (a) of the clause is amended to read as follows:

§ 8–7.150–17 Inspection of contractor's plant by Chief, Marketing Division for Drugs and Chemicals or his representative.

The following clause will be included in all invitations for bids or requests for proposals to purchase drugs issued by the Marketing Division for Drugs and Chemicals:

(a) The plant or plants in which the products covered by this contract are manufactured or compounded are subject to inspection by the Chief, Marketing Division for Drugs and Chemicals, or by qualified inspectors designated by him. The inspection will be made for the purpose of ascertaining whether or not the Contractor is in violation of:

(1) Veterans Administration standard requirements for facilities supplying drug and chemical items; or

(2) Good manufacturing practices as defined by the Food and Drug Administration; or

(3) Safety, health, or sanitation codes prescribed by Federal, State, or local laws or ordinances.

* * * * *

7. In § 8–7.5001–14, paragraph (a) of the clause is amended to read as follows:

§ 8–7.5001–14 Changes in services.

The following clause shall be included in all Architect-Engineer contracts.

CHANGES IN SERVICES

(a) The Contracting Officer may at any time by written order issue additional instructions, require additional work or services, or direct the omission of work or services covered by this contract. If such changes cause a substantial increase or decrease in the amount or character of the work to be done under this contract, an equitable adjustment of the amount of the total fee to be paid the Architect-Engineer shall be made and the contract shall be modified in writing accordingly. Any claim for adjustment under this clause must be asserted within 30 days from the date the change is ordered (unless the Contracting Officer shall grant a further period of time prior to the date of final payment of the contract). Nothing provided in this clause shall excuse the Architect-Engineer from proceeding with the prosecution of the work so changed. There shall be no adjustment in the amount of the fixed fee as provided herein, nor any claim therefor because of any errors and/or omissions made in computing the estimated cost of the work as originally planned and as set forth in section 2b of the general scope of the project and/or where the low bid varies from the estimated cost in section 2b of the general scope of the project.

* * * * *

PART 8–11—FEDERAL, STATE, AND LOCAL TAXES

8. In § 8–11.502–1, paragraph (c) is added and former paragraphs (c) and (d) are redesignated (d) and (e) so that the added and redesignated material reads as follows:

§ 8–11.502–1 Types of evidence of exemption.

* * * * *

(c) *Beer procured from licensed breweries.* The contracting officers specified in § 8–75.101 are hereby authorized to sign application permits on Treasury Department prescribed forms, to procure from licensed breweries, alcohol (beer) tax free, when such product is prescribed for therapeutic use of patients. Each procurement will be supported by the proper Treasury Department permit form.

(d) *Playing cards and filled cheese.* No tax exemption form is required for the tax free purchase of playing cards or filled cheese. Treasury regulations require that manufacturers be furnished a certification of tax exemption substantially as shown in this section. Where removals from the same place of manufacture are regular or made frequently, a certificate covering all orders for a specific period not to exceed four quarters may be furnished. Otherwise a separate exemption certificate will be furnished for each order. Contracting Officers are authorized to sign such certification.

EXEMPTION CERTIFICATE

(To support tax-free removals of filled cheese or playing cards for the use of the United States under provisions of section 7510 of the Internal Revenue Code of 1954.)

---------- 19--

The undersigned hereby certifies that he is a contracting officer of the Veterans Administration; that he is authorized to execute this certificate; and that the article or articles specified in the accompanying order or on the reverse side hereof are purchased from ---------- for the exclusive
(Name of vendor)
use of the Veterans Administration of the United States.

It is understood that the exemption from tax in the case of removals of articles under this exemption certificate for the United States is limited to the removal of articles for its exclusive use. The undersigned understands that if articles purchased tax free under this exemption certificate are used otherwise or are sold to employees or others, such fact will be promptly reported to the manufacturer, producer, or importer of the article or articles covered by this certificate. It is also understood that the fraudulent use of this certificate for the purpose of securing this exemtpion will subject the undersigned and all guilty parties to a fine of not more than $10,000 or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

(Signature)

(Address)

(e) *Tax exemption forms.* (1) SF 1094 will be furnished the vendor to claim exemption from payment of State and local taxes when the purchase price excludes such taxes. This form will be used by the U.S. Government as the basis for billing taxing authorities for refund of taxes paid, when the vendor refuses to sell at a price exclusive of such taxes.

(2) SF 1094 will not be furnished the vendor or used by the U.S. Government to claim reimbursement from the taxing authority, where the amount of each tax (State or local), on any one purchase is $1 or less.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: July 10, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[F.R. Doc. 70–9190; Filed, July 16, 1970; 8:50 a.m.]

PART 8–7—CONTRACT CLAUSES

Clauses for Fixed-Price Construction Contracts Estimated To Exceed $2,000 but Not To Exceed $10,000

1. Section 8–7.651–6 is revised to read as follows:

§ 8–7.651–6 Safety requirements, accident prevention, etc.

Insert the clause set forth in § 8–7.650–20.

2. Section 8–7.651–11 is added to read as follows:

§ 8–7.651–11 Protection of property.

The contractor shall protect all utility lines, adjacent buildings, trees, shrubs, roads, curbs, walks and other property from damage while the work called for in this contract is in progress. He shall protect all existing or completed work from damage due to inclement weather, dust, dirt, etc. He shall repair or replace any damage thereto caused by himself, his workmen, his subcontractors or their workmen while this work is in progress.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: July 10, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[F.R. Doc. 70–9188; Filed, July 16, 1970; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM–9; Amdt. 178–11]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Specification 2E Bottles; Marking Size Requirements

The purpose of this amendment to § 178.24a–6 of the Hazardous Materials Regulations is to permit smaller figures for the specification identification of specification 2E bottles.

In amendment 178–5, Docket No. HM–9, August 1, 1969 (34 F.R. 12588) the Board stated in item 15 of the preamble, "Based on the comments received, the Board sees no sufficient reason to conclude that the one-fourth inch figure size is too large. If information is provided indicating that for smaller bottles a smaller figure size is warranted, this matter will be considered in future rule making." Information has been provided by the Bemis Co., Inc., indicating that embossed figures of one-fourth inch are impractical on certain small bottles and that figures of one-eighth inch are legible. Also, it has been observed by representatives of the Department that one-sixteenth inch figures are legible on small bottles.

The Board believes that an immediate amendment to the specification should be made to facilitate compliance with the marking requirements. Since this amendment merely relaxes a figure size requirement and imposes no additional burden on any person, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, § 178.24a–6(a)(1) is amended to read as follows:

§ 178.24a Specification 2E: inside polyethylene bottle.

§ 178.24a–6 Marking.

(a) * * *

(1) Marking must be by embossment in at least ¼ inch figures for bottles of one quart or less capacity and at least ⅛ inch figures for bottles of more than one quart capacity as follows: "DOT 2E", the minimum thickness of the polyethylene in thousandths of inches (mils), and the year of manufacture (e.g., DOT–2E 15–69).

This amendment is effective October 30, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831–835, title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421–1430, 1472(h))

Issued in Washington, D.C., on July 13, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

CARL V. LYON,
Acting Administrator, Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

SAM SCHNEIDER,
Board Member, for the Federal Aviation Administration.

[F.R. Doc. 70–9204; Filed, July 16, 1970; 8:51 a.m.]

Chapter V—National Highway Safety Bureau, Department of Transportation

SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS

[Docket No. 70–14; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims; Passenger Cars

Correction

In F.R. Doc. 70–7251 appearing at page 9211 in the issue for Friday, June 12, 1970, in Table I–J, column 32, opposite tire size designation "F78–15", the figure now reading "1,550" should read "1,500".

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

MERRIMACK VALLEY—SOUTHERN NEW HAMPSHIRE INTERSTATE AIR QUALITY CONTROL REGION

Notice of Proposed Designation and Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region (Massachusetts-New Hampshire) as set forth below in the following new § 81.81 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Massachusetts and New Hampshire and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at 10 a.m., July 23, 1970, in the Junior High School Auditorium, Spring Street, Nashua, N.H. 03060.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation. A report prepared for the consultation is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.81 is proposed to be added to read as follows:

§ 81.81 Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region.

The Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region (Massachusetts-New Hampshire) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Massachusetts:

ESSEX COUNTY

TOWNS

Andover.	Methuen.
Amesbury.	Newbury.
Boxford.	Newburyport.
Georgetown.	North Andover.
Groveland.	Rowley.
Haverhill.	Salisbury.
Lawrence.	West Newbury.
Merrimac.	

MIDDLESEX COUNTY

TOWNS

Ayer.	Littleton.
Billerica.	Lowell.
Carlisle.	Pepperell.
Chelmsford.	Tewksbury.
Dracut.	Tyngsborough.
Dunstable.	Westford.
Groton.	

In the State of New Hampshire:

BELKNAP COUNTY

TOWN

Tilton.

GRAFTON COUNTY

TOWNS

Alexandria.	Bristol.
Bridgewater.	Hebron.

HILLSBOROUGH COUNTY

TOWNS

Amherst.	Mason.
Bedford.	Merrimack.
Brookline.	Milford.
Goffstown.	Mont Vernon.
Hollis.	Nashua.
Hudson.	New Boston.
Litchfield.	Pelham.
Lyndeboro.	Weare.
Manchester.	Wilton.

MERRIMACK COUNTY

TOWNS

Allenstown.	Henniker.
Andover.	Hill.
Boscawen.	Hooksett.
Bow.	Hopkinton.
Canterbury.	Loudon.
Chichester.	Northfield.
Concord.	Pembroke.
Danbury.	Pittsfield.
Dunbarton.	Salisbury.
Epsom.	Warner.
Franklin.	Webster.

ROCKINGHAM COUNTY

TOWNS

Atkinson.	Newcastle.
Auburn.	Newfields.
Brentwood.	Newington.
Candia.	Newmarket.
Chester.	Newton.
Danville.	North Hampton.
Deerfield.	Northwood.
Derry.	Nottingham.
East Kingston.	Plaistow.
Epping.	Portsmouth.
Exeter.	Raymond.
Fremont.	Rye.
Greenland.	Salem.
Hampstead.	Sandown.
Hampton.	Seabrook.
Hampton Falls.	South Hampton.
Kensington.	Stratham.
Kingston.	Windham.
Londonderry.	

STRAFFORD COUNTY

TOWNS

Barrington.	Milton.
Dover.	New Durham.
Durham.	Rochester.
Farmington.	Rollinsford.
Lee.	Somersworth.
Madbury.	Strafford.
Middleton.	

This action is proposed under the authority of sections 107(a) and 301(2) of the Clean Air Act, section 2, Public Law 90–148, 81 Stat. 490, 504, 42 U.S.C. 1857c–2(a), 1857g(a).

Dated: July 14, 1970.

JOHN H. LUDWIG,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70–9174; Filed, July 16, 1970; 8:48 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 502]

REGULATIONS UNDER SECTION 5 OF THE FAIR PACKAGING AND LABELING ACT

"Cents-Off" and Similar Reduced-Price Promotions; Extension of Time for Filing Comments

Notice is given that at the request of the Grocery Manufacturers of America, Inc., 1632 K Street NW., Washington, D.C., and for good and sufficient reason, the time period for submitting comments relevant to proposed "Cents-Off" regulation which was published in the FEDERAL REGISTER of May 19, 1970 (35 F.R. 7705), is extended to September 1, 1970.

Issued: July 14, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70–9272; Filed, July 16, 1970; 8:52 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

DEFINITION OF POOLED INCOME FUND

Notice of Proposed Rule Making

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

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 642(c)(5) of the Internal Revenue Code of 1954, relating to the definition of pooled income fund, as added by section 201(b) of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 558), such regulations are amended as follows:

PARAGRAPH 1. Section 1.642(c) is amended by revising section 642(c) and by adding a historical note, as follows:

§ 1.642(c) Statutory provisions; estates and trusts; special rules for credits and deductions; charitable contributions deduction.

SEC. 642. *Special rules for credits and deductions.* * * *

(c) *Deduction for amounts paid or permanently set aside for a charitable purpose*—(1) *General rule.* In the case of an estate or trust (other then [sic] a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(2) *Amounts permanently set aside.* In the case of an estate and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—

(A) Created on or before October 9, 1969, if—

(i) An irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) The grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) Establish by a will executed on or before October 9, 1969, if—

(i) The testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) The testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) *Pooled income funds.* In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) *Adjustments.* To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) *Definition of pooled income fund.* For purposes of paragraph (3), a pooled income fund is a trust—

(A) To which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

(B) In which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) Which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

(D) Which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) Which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) From which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

(6) *Taxable private foundations.* In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

* * * * *

[Sec. 642(c) as amended by sec. 201(b), Tax Reform Act 1969 (83 Stat. 558)]

PAR. 2. Immediately after § 1.642(c)–4 the following new sections are inserted:

§ 1.642(c)–5 Definition of pooled income fund.

(a) *In general.* (1) Section 642 (c)(5) prescribes certain rules for the valuation of contributions involving transfers to certain unincorporated funds described as "pooled income funds" in that section.

(2) Notwithstanding any other provision of this chapter, a fund which meets the requirements of a pooled income fund, as defined in section 642(c)(5) and paragraph (b) of this section, shall not be treated as an association within the meaning of section 7701(a)(3). Such a fund and its beneficiaries shall be taxable under part I, subchapter J, chapter 1 of the Code, but the provisions of subpart E (relating to grantors and others treated as substantial owners) of such part shall not apply to such fund.

(3) No gain or loss shall be recognized to the donor on the transfer of property to a pooled income fund, to the extent that the donor retains for himself, or creates for the benefit of another, a life income interest in the property transferred. The fund's basis and holding period shall be determined as provided in sections 1015(b) and 1223(2). If, however, a donor transfers property to a pooled income fund and receives property other than a life income interest in such fund, or transfers property to the fund which is subject to an indebtedness, this subparagraph shall not apply to the

gain or loss realized by reason of (i) the receipt of the property other than such income interest or (ii) the assumption of such indebtedness by the pooled income fund. For the allocation of income among the beneficiaries of a life income interest, see paragraph (c) of this section.

(4) A charitable contributions deduction for the value of the remainder interest may be allowed under section 170, 2055, 2106, or 2522, where there is a transfer of property to a pooled income fund. However, see section 4947(a)(2) for the application to pooled income funds of the provisions relating to private foundations and section 508(e) for rules relating to provisions required in the governing instrument prohibiting certain activities specified in section 4947(a)(2). For disallowance of a charitable contributions deduction in the case of a transfer of tangible personal property to a pooled income fund, see section 170(a)(3).

(5) For transitional rules in respect of certain funds created before January 1, 1971, see § 1.642(c)-7.

(b) *Requirements for qualification as a pooled income fund.* A pooled income fund to which this section applies must satisfy all of the following requirements:

(1) *Contribution of remainder interest to charity.* (i) Each donor must transfer property to the fund and contribute an irrevocable remainder interest in such property to or for the use of a public charity, retaining for himself, or creating for another beneficiary or beneficiaries, a life income interest in the transferred property. The governing instrument may provide that, in the event such organization is not a public charity when the remainder interest is to be transferred to or for the use of such organization, such amount shall be transferred to or for the use of an organization which is a public charity.

(ii) For purposes of this subparagraph, the term "public charity" means an organization or organizations described in clause (i) to (vi) of section 170(b)(1)(A). If an organization is described in clause (i) to (vi) of section 170(b)(1)(A), and is also described in clause (viii) of such section, it shall be treated as a public charity for purposes of this subparagraph.

(iii) A contingent remainder interest shall not be treated as an irrevocable remainder interest for purposes of this subparagraph.

(2) *Creation of life income interest.* Each donor must retain for himself for life an income interest in the property transferred to such fund, or create an income interest in such property for the life of one or more named beneficiaries, each of whom must be living at the time of the transfer of the property to the fund by the donor. In the event more than one beneficiary of the income interest is named, such beneficiaries may enjoy their shares of income concurrently and/or consecutively. The governing instrument must specify at the time of the transfer the particular person or persons to whom the income is payable and the share of income distributable to each person so specified. The organization to or for the use of which the remainder interest is contributed may also be designated as one of the beneficiaries of an income interest. The donor need not retain or create a life interest in all the income from the property transferred to the fund provided any income not payable under the terms of the governing instrument to an income beneficiary is contributed to, and within the taxable year in which it is received is paid to, the same organization to or for the use of which the remainder interest is contributed.

(3) *Commingling of property required.* The property transferred to the fund by each donor must, and the governing instrument shall so require, be commingled with, and invested or reinvested with, other property transferred to the fund by other donors satisfying the requirements of subparagraphs (1) and (2) of this paragraph. The organization to or for the use of which the remainder interest is contributed may maintain more than one pooled income fund, provided that each such fund is maintained by the organization and is not a device to permit a group of donors to create a fund which may be subject to their manipulation. The fund must not include property transferred under arrangements other than those specified in section 642(c)(5) and this paragraph. However, a fund shall not be disqualified as a pooled income fund under this paragraph because any portion of its properties is invested or reinvested jointly with other properties, not a part of the pooled income fund, which are held by, or for the use of, the organization which maintains the fund, as, for example, with securities in the general endowment fund of the organization to or for the use of which the remainder interest is contributed. Where such joint investment or reinvestment of properties occurs, detailed accounting records must be maintained specifically identifying the assets included in the pooled income fund and the income earned by, and attributable to, such assets. Such a joint investment or reinvestment of properties shall not be treated as an association or partnership for purposes of the Code.

(4) *Prohibition against exempt securities.* The property transferred to the fund by any donor must not include any securities, the income from which is exempt from tax under substitle A of the Code, and the fund must not invest in such securities. The governing instrument must contain specific prohibitions against accepting or investing in such securities.

(5) *Maintenance by charitable organization required.* The fund must be maintained by the same organization to or for the use of which the irrevocable remainder interest is contributed. The requirement of maintenance will be satisfied where the organization exercises control directly or indirectly over the fund. For example, this requirement of control shall ordinarily be met when the organization has the power to remove the trustee or trustees of the fund and designate a new trustee or trustees. A national organization which carries out its purposes through local organizations, chapters, or auxiliary bodies with which it has an identity of aims and purposes may maintain a pooled income fund (otherwise satisfying the requirements of this paragraph) in which one or more local organizations, chapters, or auxiliary bodies to which subparagraph (1) of this paragraph applies have been named as recipients of the remainder interests. For example, a national church body may maintain a pooled income fund where donors have transferred property to such fund and contributed an irrevocable remainder interest therein to or for the use of various local churches or educational institutions of such body. The fact that such local organizations or chapters have been separately incorporated from the national organization is immaterial.

(6) *Prohibition against donor or beneficiary serving as trustee.* The fund must not have, and the governing instrument must prohibit the fund from having, as a trustee a donor to the fund or a beneficiary (other than the organization to or for the use of which the remainder interest is contributed) of an income interest in any property transferred to such fund. Thus, if a donor or beneficiary (other than such organization) directly or indirectly has general responsibilities with respect to the fund which are ordinarily exercised by a trustee, such fund does not meet the requirements of section 642(c)(5) and this paragraph. The fact that a donor of property to the fund, or a beneficiary of the fund, is a trustee, officer, director, or other official of the organization to or for the use of which the remainder interest is contributed, who while acting in that capacity for such organization participates in the maintenance of the fund, ordinarily will not prevent the fund from meeting the requirements of section 642(c)(5) and this paragraph.

(7) *Income of beneficiary to be based on rate of return of fund.* Each beneficiary entitled to income of any taxable year of the fund must receive such income in an amount determined by the rate of return earned by the fund for such taxable year with respect to his income interest, computed as provided in paragraph (c) of this section. The governing instrument shall require the trustee to make income payments to the beneficiaries entitled thereto at least once in the taxable year in which the income is earned but may provide for more frequent periodic payments. For purposes of this subparagraph, a payment will be considered as made on the last day of a taxable year of the fund if the payment is made within 2½ months after the close of the taxable year, or within such longer period as is shown to the satisfaction of the Commissioner or his delegate to be reasonable. The beneficiary shall include in his gross income all amounts properly paid, credited, or required to be distributed to the beneficiary during the taxable year or years of the fund ending within or with his taxable year. The governing in-

strument under which the income interest is retained or created may provide that the income interest of any designated beneficiary shall terminate with the regular periodic payment next preceding the date of such beneficiary's death. For purposes of this section, § 1.642(c)-6, and § 1.642(c)-7 the term "income" has the same meaning as it does under section 643(b) and the regulations thereunder.

(8) *Termination of life income interest.* Upon the termination of the income interest of the designated beneficiary the organization to or for the use of which the remainder interest is contributed must sever from the fund an amount equal to the value of the property upon which the income interest is based. However, see subparagraph (3) of this paragraph for rules relating to commingling of property.

(c) *Allocation of income to beneficiary*—(1) *In general.* Every income interest retained or created in property transferred to a pooled income fund shall be assigned a proportionate share of the annual income earned by the fund, such share, or unit of participation, being based on the fair market value of such property on the date of transfer, as provided in this paragraph.

(2) *Types of plans*—(i) *Unit plan.* (*a*) On each transfer of property by a donor to a pooled income fund, one or more units of participation in the fund shall be assigned to the income interest retained or created in such property. For example, on each transfer of property by a donor to a pooled income fund there may be assigned to the beneficiary or beneficiaries of the income interest a number of units of participation equal to the number obtained by dividing the fair market value of the property transferred by the fair market value of a unit in the fund immediately before such transfer.

(*b*) The fair market value of a unit in the fund immediately before a transfer shall be determined by dividing the fair market value of all property in the fund at such time by the number of units then in the fund. The initial fair market value of a unit in a pooled income fund shall be the fair market value, on the date of transfer, of the property transferred to the fund divided by the number of units assigned to the income interest in that property. The value of each unit of participation will fluctuate with each new transfer of property to the fund in relation to the appreciation or depreciation in the fair market value of the property in the fund at such time, but all units in the fund will always have equal value.

(*c*) The share of income allocated to each unit of participation shall be determined by dividing the income of the fund for the taxable year by the outstanding number of units in the fund at the end of such year, except that, consistently with paragraph (b)(7) of this section, income shall be allocated to units outstanding during only part of such year (by reason of additional transfers of property to the fund or the death of any beneficiaries of an income interest in the property of such fund) by taking into consideration the period of time such units are outstanding during such taxable year. For example, the income may be allocated to such units on the basis of the actual earnings of the fund for each quarter of the taxable year during which they are outstanding or on the basis of a yearly average which takes into consideration the fluctuating value of the property in the fund during such year.

(ii) *Other plans.* Any other method of allocating income to units of participation which reaches a result consistent with the provisions of subdivision (i) of this subparagraph shall be acceptable for purposes of section 642(c)(5)(F) and this paragraph.

(3) *Special rule for partial allocation of income to charity.* Notwithstanding subparagraph (2) of this paragraph, the governing instrument may provide that a unit of participation is entitled to share in the income of the fund in a lesser amount than would otherwise be determined under such subparagraph, provided that the income otherwise allocable to the unit under such subparagraph is paid within the taxable year in which it is received to the organization to or for the use of which the remainder interest is contributed under the governing instrument.

(4) *Fair market value of property.* For purposes of this section, § 1.642(c)-6, and § 1.642(c)-7 the fair market value of property shall be its value in excess of the indebtedness or charges against such property.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). On July 1, 1970, A and B transfer separate properties with a fair market value of $20,000 and $10,000, respectively, to a newly created pooled income fund which is maintained by Y University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves for life an income interest in such property, the remainder interest being contributed to Y University. The pooled income fund assigns an initial value of $100 to each unit of participation in the fund, and under the governing instruments A receives 200 units and B receives 100 units, in the fund. On October 1, 1970, C transfers property to the fund with a fair market value of $12,000, retaining in himself for life an income interest in such property and contributing the remainder interest to Y University. The fair market value of the property in the fund immediately before C's transfer is $36,000. The fair market value of A's and B's units immediately before such transfer is $120 each ($36,000/$300). By reason of his transfer of property C is assigned 100 units of participation in the fund ($12,000/$120).

Example (2). Assume that the pooled income fund in example (1) earns $2,600 for its taxable year ending June 30, 1971, and there are no further contributions of property to the fund in such year. Further assume $300 is earned in the first quarter ending September 30, 1970. Therefore, the fund earns $1 per unit for the first quarter ($300 divided by 300 units outstanding) and $5.75 per unit for the remainder of the taxable year ([$2,600—$300] divided by 400 units outstanding). If the fund distributes its income for the year based on its actual earnings per quarter, the income must be distributed as follows:

Beneficiary:	*Share of income*
A	$1,350 ([200×$1]+[200×$5.75]).
B	$675 ([100×$1])+[100×$5.75]).
C	$575 (100×$5.75).

Example (3). (a) On July 1, 1970, A and B transfer separate properties with a fair market value of $20,000 and $10,000, respectively, to a newly created pooled income fund which is maintained by X University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves an income interest for life in such property, the remainder interest being contributed to X University. The governing instrument provides that each unit of participation in the fund shall have a value of not more than its initial fair market value; the instrument also provides that the income allocable to appreciation in the fair market value of such unit (to the extent in excess of its initial fair market value) at the end of each quarter of the fiscal year is to be distributed currently to X University. On October 1, 1970, C contributes to the fund property with a fair market value of $60,000 and retains in himself an income interest for life in such property, the remainder interest being contributed to X University. The initial fair market value of the units assigned to A, B, and C is $100. A, B, and C's units of participation are as follows:

Beneficiary:	*Units of participation*
A	100 ($10,000 divided by $100).
B	200 ($20,000 divided by $100).
C	600 ($60,000 divided by $100).

(b) The fair market value of the property in the fund immediately before C's contribution is $40,000. Assuming the fair market value of the property in the fund is $100,000 on December 31, 1970, and that the income of the fund for the second quarter ending December 31, 1970, is $2,000, the income is shared by the income beneficiaries and X University as follows:

Beneficiary:	*Allocation of income*
A, B, and C	90% ($90,000 divided by $100,000).
X University	10% ($10,000 divided by $100,000).

(c) For the quarter ending December 31, 1970, each unit of participation is allocated $2 (90 percent×$2,000 divided by 900) of the income earned for that quarter. A, B, C, and X University share in the income as follows:

Beneficiary:	*Share of income*
A	$200 (100×$2).
B	$400 (200×$2).
C	$1,200 (600×$2).
X University	$200 (10%×$2,000).

(d) *Effective date.* Section 642(c)(5) and this section apply to transfers in trust made after July 31, 1969.

§ 1.642(c)-6 Valuation of a remainder interest in property transferred to a pooled income fund.

(a) *In general.* (1) For purposes of sections 170, 2055, 2106, and 2522 the fair market value of a remainder interest in property transferred after July 31, 1969, to a pooled income fund to which § 1.642(c)-5 applies is its present value determined under this section. The present value of the remainder interest

at the time of the transfer of property to the fund shall be determined by computing the present value at such time of the life income interest in the transferred property (as determined under paragraph (b) of this section) and subtracting such value from the fair market value of the transferred property on the appropriate valuation date. The fact that the income beneficiary of the income interest in such property may not receive the last income payment, as provided in paragraph (b)(7) of § 1.642(c)-5, shall not be taken into account for purposes of determining the present value of the life income interest.

(2) The method for determining the present value of a remainder interest in property transferred to a pooled income fund where such value is dependent on the termination of one life is set forth in paragraph (d) of this section. If the computation of the value of the remainder interest requires the use of a factor which is not provided in paragraph (d) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the pooled income fund's yearly rate of return and of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in subparagraph (1) of this paragraph. Any claim for deduction in any return for the value of a remainder interest in property transferred to a pooled income fund must be supported by a statement attached to the return showing the computation of the present value of such interest.

(b) *Present value of life income interest.* The present value of the life income interest in property transferred to a pooled income fund shall be computed on the basis of—

(1) Mortality according to the life table for total males (as to each male life involved) and the life table for total females (as to each female life involved) contained in United States Life Tables: 1959–61, published by the U.S. Department of Health, Education, and Welfare, Public Health Service, and

(2) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. Where it appears from the facts and circumstances that the highest yearly rate of return had been manipulated in order to obtain an excessive charitable contributions deduction, such rate of return shall not be used. In such a case the highest yearly rate of return of the fund shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 preceding taxable years. If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made, the highest yearly rate of return shall be deemed to be 6 percent, except where the Commissioner prescribes a different yearly rate of return. For purposes of this subparagraph the yearly rate of return of a pooled income fund shall be determined as provided in paragraph (c) of this section unless the highest yearly rate of return is deemed to be 6 percent or such other rate as the Commissioner prescribes.

(c) *Computation of pooled income fund's yearly rate of return.* (1) For purposes of paragraph (b) of this section, the yearly rate of return earned by a pooled income fund for a taxable year shall be that percentage obtained by dividing the amount of income earned by the pooled income fund for such taxable year by an amount equal to (i) the average fair market value for such taxable year of the property in such fund less (ii) the corrective term adjustment.

(2) The average fair market value of the property in a pooled income fund for a taxable year shall be the sum of the amounts of the fair market value of all property held by the pooled income fund on each determination date of such taxable year divided by the number of determination dates in such taxable year. For such purposes the fair market value of property held by the fund shall be determined without including any income earned by the fund.

(3) A determination date shall be (i) each day within the taxable year of the pooled income fund on which property is transferred to the fund by a donor or withdrawn from the fund as a result of the transfer of a remainder interest in any property of the fund, (ii) the first day of the taxable year if such day is not described in subdivision (i) of this subparagraph, and (iii) such additional days as are necessary to have at least four determination dates within the taxable year. In no case shall the period between any two consecutive determination dates within the taxable year be greater than 3 calendar months.

(4) The corrective term adjustment shall be the sum of the products obtained by multiplying each income payment made by the pooled income fund within its taxable year by the percentage set forth in column (2) of the following table opposite the period within such year, set forth in column (1), which includes the date on which that payment is made:

TABLE

(1) *Payment period*	(2) *Percentage of payment*
Last week of 4th quarter	0
Balance of 4th quarter	25
Last week of 3d quarter	25
Balance of 3d quarter	50
Last week of 2d quarter	50
Balance of 2d quarter	75
Last week of 1st quarter	75
Balance of 1st quarter	100

(5) A pooled income fund's method of calculating its yearly rate of return must be supported by a full statement attached to the income tax return of the pooled income fund for each taxable year.

(6) The application of this paragraph may be illustrated by the following examples:

Example (1). (a) The pooled income fund maintained by W University accepts transfers to, and effects withdrawals from, the fund at the beginning of each calendar quarter of the taxable year. The pooled income fund is on a calendar-year basis. The pooled income fund earned $5,000 of income during 1971. The fair market value of its property (determined without including any income earned by the fund), and the income paid out, on the first day of each calendar quarter in 1971 are as follows:

Date	Fair market value of property	Income payment
Jan. 1	$100,000	$1,200
Apr. 1	105,000	1,200
July 1	95,000	1,200
Oct. 1	100,000	1,400
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is $100,000 ($400,000, divided by 4).

(c) The corrective term adjustment for 1971 is $3,050, determined by applying the percentages obtained in column (2) of the table in subparagraph (4) of this paragraph:

Multiplication:	*Product*
100% × $1,200	$1,200
75% × $1,200	900
50% × $1,200	600
25% × $1,400	350
Sum of products	3,050

(d) The pooled income fund's yearly rate of return for 1971 is 5.157 percent, determined as follows:

$$\frac{\$5,000}{\$100,000-\$3,050}=0.05157$$

Example (2). (a) The pooled income fund maintained by X University accepts transfers to, and effects withdrawals from, the fund at the beginning of each calendar quarter of its taxable year. The pooled income fund is on a calendar-year basis. The pooled income fund earned $5,000 of income during 1971 and paid out $3,000 on December 15, 1971, and $2,000 on January 15, 1972. The fair market value of its property (determined without including any income earned by the fund) on the determination dates in 1971 and the income paid out during 1971, determined by applying paragraph (b)(7) of § 1.642(c)-5, are as follows:

Date	Fair market value of property	Income payment
Jan. 1	$125,000	
Apr. 1	125,000	
July 1	75,000	
Oct. 1	75,000	
Dec. 15		$3,000
Dec. 31		2,000
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is $100,000 ($400,000 divided by 4).

(c) The corrective term adjustment for 1971 is $750, determined by applying the percentages obtained in column (2) of the table in subparagraph (4) of this paragraph:

Multiplication:	Product
0% × $2,000	$----
25% × $3,000	750
Sum of products	750

(d) The pooled income fund's yearly rate of return for 1971 is 5.038 percent, determined as follows:

$$\frac{\$5,000}{\$100,000-\$750}=0.05038$$

(d) *Present value of remainder interest dependent on the termination of one life*—(1) *In general.* The present value under this section of a remainder interest which is dependent on the termination of the life of one individual shall be determined under this paragraph. The present value of such a remainder interest shall be computed by the use of Table G(1) or Table G(2) in subparagraph (3) of this paragraph. Table G(1) is to be used when the individual upon whose life the present value of the remainder interest is based is a male, and Table G(2) is to be used when the individual upon whose life the present value of the remainder interest is based is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table G(1) is to be used. The factors in these tables have been obtained by subtracting from 1 the factor for determining the present value of the life income interest. For purposes of the computations under this section, the age of an individual is to be taken as the age of that individual at his nearest birthday.

(2) *Computation of value of remainder interest.* The factor which is used in determining the present value of the remainder interest is the factor under the appropriate yearly rate of return in column (2) of Table G(1) or Table G(2) opposite the number in column (1) which corresponds to the age of the individual upon whose life the value of the remainder interest is based. If the yearly rate of return is a percentage which is between yearly rates of return for which factors are provided in Table G(1) or Table G(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this subparagraph, the fair market value on the appropriate valuation date. If the yearly rate of return is below 2.2 percent or above 8 percent, see paragraph (a)(2) of this section. The application of this subparagraph may be illustrated by the following example:

Example. M, a male who will be 50 years old on April 15, 1970, transfers $100,000 to a pooled income fund on January 1, 1970, and retains in himself a life income interest in such property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 4.717 percent. In table G(1) the figure in column (2) opposite 50 years under 4.6 percent is 0.40087 and under 4.8 percent is 0.38764. The present value of the remainder interest is $39,313, computed as follows:

Factor at 4.6 percent for male aged 50	0.40087
Factor at 4.8 percent for male aged 50	.38764
Difference	.01323

Interpolation adjustment:

$$\frac{4.717\%-4.6\%}{0.2\%}=\frac{x}{0.01323}$$

$$x=0.00774$$

Factor at 4.6 percent for male aged 50	0.40087
Less: Interpolation adjustment	.00774
Interpolated factor	.39313
Present value of remainder interest ($100,000 × 0.39313)	$39,313

(3) *Actuarial tables.* The following tables, which show the factor obtained by subtracting from 1 the factor for determining the present value of the life income interest, shall be used in the application of the provisions of this section:

TABLE G(1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
0	.26256	.2362	.21314	.19296	.17526
1	.24606	.21876	.19485	.17389	.15548
2	.25009	.22258	.19844	.17724	.15859
3	.25473	.22702	.20267	.18125	.16238
4	.25966	.23178	.20723	.18559	.16649
5	.26483	.23677	.21203	.19018	.17087
6	.27017	.24195	.21702	.19497	.17545
7	.27568	.2473	.22219	.19994	.18021
8	.28134	.25282	.22753	.20509	.18516
9	.28716	.2585	.23305	.21043	.19029
10	.29314	.26436	.23875	.21595	.19562
11	.29928	.27038	.24462	.22165	.20114
12	.30555	.27654	.25065	.22751	.20681
13	.31193	.28282	.25678	.23349	.21261
14	.31836	.28915	.26299	.23954	.21849
15	.32483	.29553	.26925	.24565	.22443
16	.33131	.30194	.27554	.25179	.23041
17	.33784	.30839	.28187	.25798	.23643
18	.3444	.31487	.28825	.26422	.24251
19	.35102	.32143	.29471	.27055	.24868
20	.35772	.32808	.30126	.27697	.25495
21	.3645	.33481	.3079	.28349	.26133
22	.37136	.34163	.31465	.29012	.26782
23	.37836	.3486	.32154	.29691	.27446
24	.38551	.35573	.32862	.30389	.28134
25	.39287	.3631	.33593	.31113	.28846
26	.40045	.37069	.3435	.31863	.29586
27	.40824	.37852	.35131	.32638	.30353
28	.41622	.38655	.35935	.33438	.31146
29	.42439	.39479	.36761	.34262	.31964
30	.43272	.40321	.37605	.35106	.32803
31	.44121	.4118	.38469	.3597	.33664
32	.44985	.42056	.39352	.36855	.34547
33	.45865	.4295	.40254	.3776	.35452
34	.4676	.4386	.41174	.38686	.36379
35	.47669	.44787	.42113	.39631	.37327
36	.48592	.45728	.43068	.40595	.38295
37	.49528	.46684	.44039	.41577	.39283
38	.50475	.47654	.45026	.42575	.40289
39	.51433	.48637	.46027	.4359	.41313
40	.52399	.49629	.4704	.44618	.42352
41	.53374	.50632	.48064	.4566	.43406
42	.54356	.51642	.49099	.46713	.44473
43	.55343	.52661	.50143	.47777	.45553
44	.56337	.53687	.51195	.48851	.46644
45	.57335	.54719	.52256	.49935	.47748
46	.58337	.55757	.53324	.51029	.48861
47	.59343	.568	.54399	.5213	.49985
48	.60349	.57845	.55477	.53235	.51114
49	.61352	.58887	.56553	.54341	.52244
50	.62348	.59924	.57625	.55444	.53373
51	.63337	.60954	.58691	.56541	.54498
52	.64318	.61978	.59752	.57634	.55618
53	.65293	.62996	.60808	.58724	.56737
54	.66266	.64012	.61864	.59814	.57858
55	.67236	.65028	.6292	.60906	.58982
56	.68206	.66044	.63977	.62001	.6011
57	.69173	.67059	.65035	.63097	.61241
58	.70135	.68069	.66089	.64191	.6237
59	.71086	.69069	.67134	.65276	.63492
60	.72024	.70056	.68166	.66349	.64602
61	.72947	.71029	.69184	.67408	.65699
62	.73856	.71987	.70188	.68454	.66783
63	.74751	.72932	.71178	.69487	.67855
64	.75633	.73865	.72157	.70508	.68916
65	.76504	.74786	.73125	.71519	.69966
66	.77362	.75694	.7408	.72518	.71005
67	.78209	.76591	.75024	.73505	.72034
68	.79043	.77476	.75956	.74482	.73052
69	.79867	.78351	.76879	.7545	.74062
70	.80683	.79218	.77794	.7641	.75064

TABLE G (1)—Continued

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
71	.8149	.80076	.78701	.77363	.7606
72	.82288	.80926	.796	.78308	.7705
73	.83078	.81768	.80491	.79246	.78032
74	.83856	.82599	.81372	.80174	.79005
75	.84624	.83418	.82241	.8109	.79966
76	.85379	.84226	.83098	.81996	.80917
77	.86124	.85023	.83945	.8289	.81858
78	.86854	.85804	.84776	.8377	.82783
79	.87564	.86566	.85587	.84627	.83686
80	.88249	.873	.8637	.85457	.8456
81	.88897	.87996	.87112	.86243	.8539
82	.89501	.88645	.87804	.86977	.86164
83	.90065	.89251	.88451	.87664	.86889
84	.90606	.89833	.89072	.88323	.87586
85	.91143	.90411	.8969	.8898	.8828
86	.91659	.90967	.90285	.89612	.88949
87	.92155	.91502	.90857	.90221	.89504
88	.92629	.92012	.91404	.90803	.90211
89	.93072	.9249	.91916	.91349	.90789
90	.93475	.92926	.92383	.91846	.91317
91	.93838	.93318	.92803	.92295	.91792
92	.94165	.93671	.93182	.92699	.92221
93	.94457	.93986	.9352	.9306	.92604
94	.94717	.94267	.93822	.93382	.92946
95	.94954	.94523	.94097	.93675	.93257
96	.95184	.94772	.94365	.93961	.93561
97	.95403	.95009	.94619	.94232	.93849
98	.95611	.95234	.9486	.9449	.94124
99	.95808	.95447	.9509	.94736	.94385
100	.95996	.95651	.95309	.94969	.94633
101	.96175	.95845	.95517	.95192	.9487
102	.96348	.96032	.95718	.95407	.95099
103	.96517	.96214	.95915	.95617	.95322
104	.96687	.96399	.96114	.9583	.95548
105	.96871	.96598	.96328	.96059	.95792
106	.97092	.96838	.96585	.96334	.96085
107	.97401	.97173	.96947	.96721	.96497
108	.97919	.97735	.97552	.9737	.97180
109	.98924	.98828	.98733	.98638	.98544

TABLE G(1)

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
0	.15973	.14608	.13407	.12348	.11414
1	.1393	.12506	.11252	.10145	.09167
2	.14218	.1277	.11493	.10364	.09365
3	.14573	.13103	.11804	.10654	.09634
4	.14962	.1347	.12149	.10977	.09938
5	.15378	.13864	.12521	.11328	.10268
6	.15814	.14278	.12913	.117	.10619
7	.16269	.14711	.13325	.1209	.10989
8	.16743	.15164	.13757	.12501	.11379
9	.17236	.15636	.14207	.12931	.11788
10	.17748	.16127	.14678	.13381	.12218
11	.1828	.16639	.15169	.13851	.12668
12	.18828	.17167	.15676	.14338	.13135
13	.19389	.17708	.16198	.1484	.13616
14	.19959	.18259	.16728	.1535	.14106
15	.20534	.18815	.17265	.15867	.14602
16	.21114	.19375	.17805	.16386	.15102
17	.21698	.19941	.18351	.16912	.15608
18	.22289	.20512	.18903	.17444	.1612
19	.22888	.21093	.19465	.17986	.16641
20	.23498	.21685	.20037	.18539	.17174
21	.2412	.22289	.20622	.19103	.17719
22	.24753	.22904	.21219	.19681	.18276
23	.25403	.23537	.21834	.20277	.18853
24	.26075	.24193	.22471	.20896	.19452
25	.26773	.24876	.23137	.21544	.20082
26	.275	.25589	.23834	.22224	.20744
27	.28256	.26331	.24562	.22931	.21437
28	.29039	.27101	.25318	.23675	.2216
29	.29848	.27899	.26102	.24445	.22914
30	.30679	.2872	.26911	.2524	.23694
31	.31534	.29566	.27746	.26062	.24502
32	.32412	.30436	.28606	.2691	.25336
33	.33314	.31331	.29492	.27785	.26199
34	.34238	.32251	.30404	.28687	.2709
35	.35186	.33194	.31341	.29616	.28008
36	.36154	.34161	.32303	.3057	.28953
37	.37144	.3515	.33288	.31549	.29924
38	.38155	.3616	.34296	.32553	.30922
39	.39184	.37192	.35327	.33581	.31943
40	.4023	.38241	.36378	.34629	.32988
41	.41292	.39309	.37447	.35698	.34053
42	.42369	.40393	.38534	.36785	.3514
43	.43461	.41492	.39639	.37892	.36246
44	.44566	.42607	.4076	.39017	.37372
45	.45684	.43736	.41897	.4016	.38518
46	.46814	.44879	.43049	.41319	.39681
47	.47956	.46035	.44217	.42494	.40862
48	.49104	.47199	.45394	.43681	.42055
49	.50255	.48368	.46576	.44875	.43257
50	.51406	.49537	.4776	.46071	.44463
51	.52554	.50704	.48944	.47267	.4567
52	.53699	.5187	.50127	.48465	.4688

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 3.2%	3.4%	3.6%	3.8%	4%
53	.54843	.53036	.51311	.49665	.48093
54	.5599	.54206	.52502	.50872	.49314
55	.57142	.55382	.537	.52089	.50547
56	.58299	.56566	.54906	.53315	.5179
57	.59461	.57756	.5612	.5455	.53045
58	.60623	.58946	.57336	.5579	.54304
59	.61778	.60131	.58547	.57025	.5556
60	.62922	.61305	.59749	.58252	.56809
61	.64053	.62468	.6094	.59468	.58049
62	.65172	.63619	.6212	.60675	.5923
63	.6628	.64759	.6329	.61872	.60502
64	.67377	.6589	.64452	.63061	.61717
65	.68464	.67011	.65605	.64243	.62925
66	.69541	.68123	.66748	.65417	.64126
67	.70607	.69225	.67883	.66582	.6532
68	.71664	.70317	.69009	.6774	.66506
69	.72713	.71403	.7013	.68892	.67689
70	.73756	.72483	.71245	.70041	.68869
71	.74793	.73559	.72357	.71186	.70046
72	.75824	.74629	.73464	.72328	.71221
73	.76848	.75693	.74566	.73466	.72392
74	.77863	.76748	.7566	.74597	.73558
75	.78868	.77794	.76745	.75719	.74716
76	.79862	.78831	.77821	.76833	.75866
77	.80846	.79857	.78887	.77938	.77006
78	.81816	.80869	.7994	.7903	.78138
79	.82764	.81859	.80971	.801	.79245
80	.83681	.82817	.8197	.81138	.8032
81	.84552	.83729	.8292	.82125	.81344
82	.85365	.8458	.83808	.83049	.82302
83	.86128	.85378	.84641	.83915	.83201
84	.8686	.86146	.85442	.84749	.84068
85	.87591	.86912	.86243	.85584	.84935
86	.88296	.87652	.87016	.8639	.85773
87	.88975	.88365	.87763	.87169	.86583
88	.89626	.89049	.88479	.87916	.87361
89	.90236	.8969	.89151	.88618	.88092
90	.90793	.90276	.89765	.8926	.88761
91	.91295	.90804	.90319	.89839	.89365
92	.91748	.91281	.90819	.90362	.8991
93	.92153	.91707	.91266	.9083	.90308
94	.92515	.92088	.91666	.91247	.90834
95	.92844	.92435	.92029	.91628	.91231
96	.93165	.92773	.92384	.92	.91619
97	.9347	.93094	.92722	.92353	.91988
98	.9376	.934	.93044	.9269	.9234
99	.94036	.93691	.93349	.9301	.92674
100	.94299	.93969	.93641	.93316	.92993
101	.94551	.94234	.9392	.93608	.93298
102	.94793	.94489	.94188	.93889	.93592
103	.95029	.94739	.94451	.94164	.9388
104	.95269	.94991	.94716	.94443	.94171
105	.95527	.95264	.95002	.94743	.94485
106	.95837	.95591	.95316	.95103	.94862
107	.96274	.96052	.95832	.95613	.95305
108	.97009	.9683	.96651	.96474	.96297
109	.9845	.98356	.98263	.9817	.98077

TABLE G(1)

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
0	.10589	.09859	.09212	.08638	.08128
1	.08301	.07525	.06856	.06252	.05715
2	.0848	.07695	.06998	.06378	.05826
3	.0873	.07926	.07211	.06574	.06006
4	.09014	.08191	.07459	.06805	.06221
5	.09324	.08483	.07732	.07061	.06462
6	.09655	.08795	.08027	.07338	.06722
7	.10006	.09126	.08339	.07634	.07001
8	.10375	.09477	.08672	.07948	.07299
9	.10765	.09847	.09023	.08282	.07616
10	.11175	.10237	.09395	.08636	.07952
11	.11605	.10648	.09787	.0901	.08309
12	.12052	.11076	.10196	.094	.08682
13	.12513	.11518	.10619	.09806	.0907
14	.12983	.11968	.1105	.10219	.09465
15	.13459	.12425	.11488	.10638	.09866
16	.13939	.12885	.11929	.1106	.1027
17	.14425	.13352	.12376	.11488	.1068
18	.14917	.13823	.12827	.1192	.11094
19	.15418	.14304	.13289	.12363	.11517
20	.15931	.14797	.13762	.12816	.11951
21	.16455	.15301	.14246	.13281	.12397
22	.16993	.15819	.14744	.13758	.12855
23	.17549	.16355	.1526	.14255	.13332
24	.18129	.16915	.158	.14775	.13832
25	.18739	.17505	.16371	.15326	.14364
26	.19382	.18129	.16975	.15911	.14929
27	.20057	.18785	.17612	.16529	.15528
28	.20763	.19473	.18281	.17179	.1616
29	.215	.20193	.18983	.17862	.16824
30	.22264	.20939	.19712	.18573	.17517
31	.23056	.21715	.2047	.19314	.1824
32	.23876	.2252	.21259	.20086	.18994

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
33	.24725	.23354	.22077	.20888	.1978
34	.25603	.24217	.22926	.21721	.20596
35	.26509	.25111	.23805	.22585	.21445
36	.27443	.26032	.24714	.2348	.22325
37	.28405	.26983	.25652	.24405	.23236
38	.29393	.27962	.26619	.2536	.24177
39	.30408	.28967	.27614	.26344	.25149
40	.31446	.29997	.28635	.27354	.26148
41	.32507	.31052	.29681	.2839	.27174
42	.3359	.32129	.30752	.29452	.28226
43	.34694	.33229	.31846	.3054	.29305
44	.35819	.34352	.32964	.31651	.30409
45	.36965	.35495	.34104	.32787	.31538
46	.3813	.3666	.35267	.33946	.32692
47	.39314	.37846	.36451	.35128	.33871
48	.40512	.39046	.37653	.36328	.35068
49	.4172	.40258	.38866	.37542	.3628
50	.42933	.41476	.40087	.38764	.37502
51	.44148	.42697	.41313	.39991	.3873
52	.45367	.43923	.42544	.41226	.39966
53	.46591	.45155	.43782	.42469	.41212
54	.47824	.46398	.45032	.43725	.42472
55	.4907	.47655	.46298	.44998	.43751
56	.50328	.48926	.4758	.46288	.45048
57	.51599	.5021	.48877	.47595	.46363
58	.52876	.51503	.50182	.48912	.4769
59	.54151	.52795	.51489	.50231	.4902
60	.5542	.54082	.52791	.51547	.50348
61	.56681	.55361	.54087	.52857	.51671
62	.57933	.56632	.55376	.54162	.52989
63	.59178	.57897	.5666	.55462	.54304
64	.60416	.59157	.57939	.56759	.55617
65	.61649	.60412	.59214	.58053	.56928
66	.62875	.61662	.60485	.59344	.58236
67	.64095	.62906	.61751	.6063	.59542
68	.65308	.64145	.63014	.61914	.60845
69	.66519	.65381	.64275	.63197	.6215
70	.67728	.66617	.65535	.64482	.63456
71	.68935	.67853	.66798	.65769	.64767
72	.70141	.69088	.6806	.67058	.6608
73	.71345	.70322	.69323	.68348	.67395
74	.72543	.71552	.70583	.69636	.6871
75	.73735	.72775	.71837	.70919	.70021
76	.7492	.73993	.73086	.72198	.71329
77	.76097	.75205	.74331	.73473	.72634
78	.77263	.76405	.75564	.74739	.7393
79	.78407	.77584	.76776	.75983	.75205
80	.79518	.7873	.77955	.77195	.76448
81	.80577	.79822	.79081	.78352	.77635
82	.81568	.80846	.80135	.79437	.78749
83	.82499	.81807	.81126	.80456	.79796
84	.83396	.82734	.82083	.8144	.80808
85	.84295	.83664	.83042	.8243	.81826
86	.85164	.84563	.83971	.83387	.82811
87	.86005	.85434	.84871	.84316	.83768
88	.86813	.86272	.85737	.85209	.84689
89	.87573	.87059	.86552	.86051	.85557
90	.88268	.8778	.87298	.86823	.86352
91	.88896	.88432	.87974	.8752	.87072
92	.89463	.89021	.88583	.88151	.87723
93	.89971	.89548	.8913	.88716	.88306
94	.90424	.90019	.89618	.89221	.88827
95	.90838	.90448	.90063	.89681	.89303
96	.91241	.90868	.90498	.90131	.89768
97	.91626	.91268	.90912	.9056	.90211
98	.91992	.91648	.91307	.90969	.90634
99	.92341	.92011	.91683	.91359	.91037
100	.92674	.92357	.92042	.91731	.91422
101	.92992	.92688	.92386	.92086	.9179
102	.93298	.93006	.92717	.92429	.92144
103	.93598	.93319	.93041	.92765	.92492
104	.93902	.93634	.93369	.93105	.92843
105	.94228	.93974	.93721	.93471	.93222
106	.94622	.94383	.94147	.93911	.93678
107	.95178	.94963	.94749	.94536	.94324
108	.96121	.95946	.95772	.95508	.95426
109	.97985	.97893	.97801	.9771	.97619

TABLE G(1)

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
0	.07674	.07269	.06908	.06585	.06295
1	.05237	.0481	.04429	.04088	.03783
2	.05332	.04893	.04499	.04146	.0383
3	.05499	.05045	.04638	.04274	.03947
4	.05699	.05231	.04811	.04434	.04095
5	.05924	.05442	.05009	.04619	.04268
6	.06169	.05672	.05226	.04823	.0446
7	.06432	.05921	.0546	.05044	.04669
8	.06714	.06187	.05712	.05283	.04895
9	.07015	.06473	.05983	.0554	.05139

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
10	.07335	.06777	.06273	.05816	.05402
11	.07675	.07102	.06582	.06111	.05684
12	.08032	.07442	.06908	.06423	.05981
13	.08403	.07797	.07247	.06747	.06292
14	.08781	.08159	.07594	.07079	.06609
15	.09165	.08526	.07945	.07415	.06931
16	.09551	.08896	.08298	.07753	.07254
17	.09943	.0927	.08656	.08095	.07581
18	.10338	.09649	.09018	.08441	.07911
19	.10744	.10036	.09388	.08794	.08249
20	.11159	.10433	.09768	.09158	.08597
21	.11586	.10842	.10159	.09531	.08954
22	.12025	.11262	.10561	.09916	.09322
23	.12482	.11701	.10982	.10319	.09708
24	.12963	.12164	.11426	.10745	.10116
25	.13476	.12657	.11901	.11202	.10555
26	.14022	.13184	.1241	.11693	.11028
27	.14602	.13746	.12952	.12217	.11535
28	.15215	.1434	.13528	.12774	.12075
29	.15861	.14967	.14137	.13365	.12647
30	.16535	.15623	.14775	.13985	.1325
31	.1724	.16311	.15444	.14637	.13883
32	.17977	.1703	.16145	.1532	.14549
33	.18745	.1778	.16879	.16036	.15248
34	.19546	.18563	.17645	.16785	.1598
35	.20378	.1938	.18444	.17568	.16745
36	.21242	.20228	.19277	.18384	.17545
37	.22139	.21109	.20142	.19233	.18378
38	.23066	.22022	.2104	.20116	.19245
39	.24024	.22966	.2197	.21031	.20146
40	.25011	.2394	.2293	.21977	.21077
41	.26026	.24942	.2392	.22953	.2204
42	.27067	.25973	.24938	.23959	.23033
43	.28137	.27031	.25985	.24994	.24056
44	.29232	.28118	.27061	.26059	.25109
45	.30354	.29231	.28165	.27153	.26192
46	.31502	.30372	.29298	.28277	.27305
47	.32676	.31539	.30458	.29429	.28448
48	.33869	.32727	.3164	.30603	.29615
49	.35078	.33932	.3284	.31797	.30802
50	.36298	.35149	.34052	.33004	.32003
51	.37526	.36375	.35274	.34222	.33215
52	.38762	.37609	.36507	.35451	.3444
53	.40009	.38856	.37752	.36694	.3568
54	.41271	.4012	.39016	.37957	.3694
55	.42554	.41405	.40302	.39242	.38224
56	.43856	.42711	.4161	.40552	.39534
57	.45178	.44038	.42941	.41885	.40869
58	.46513	.45379	.44287	.43235	.42222
59	.47852	.46726	.4564	.44593	.43583
60	.4919	.48073	.46995	.45954	.44948
61	.50524	.49417	.48347	.47313	.46313
62	.51855	.50758	.49698	.48672	.47679
63	.53183	.52098	.51048	.50031	.49046
64	.5451	.53438	.52399	.51392	.50415
65	.55836	.54778	.53751	.52755	.51788
66	.57161	.56117	.55104	.5412	.53164
67	.58484	.57456	.56457	.55486	.54542
68	.59806	.58795	.57811	.56854	.55923
69	.61129	.60136	.59169	.58228	.57311
70	.62457	.61483	.60533	.59608	.58706
71	.63789	.62835	.61905	.60997	.60111
72	.65125	.64193	.63282	.62394	.61526
73	.66464	.65554	.64666	.63798	.62949
74	.67804	.66919	.66052	.65205	.64376
75	.69141	.6828	.67438	.66613	.65806
76	.70476	.69642	.68825	.68023	.67239
77	.7181	.71003	.70211	.69435	.68673
78	.73135	.72356	.71592	.70841	.70105
79	.7444	.7369	.72953	.7223	.71519
80	.75713	.74902	.74283	.73587	.72902
81	.76931	.76238	.75556	.74886	.74227
82	.78073	.77407	.76752	.76107	.75473
83	.79146	.78507	.77877	.77256	.76646
84	.80185	.79571	.78966	.7837	.77783
85	.8123	.80643	.80063	.79492	.7893
86	.82243	.81682	.81129	.80583	.80045
87	.83226	.82692	.82165	.81644	.8113
88	.84174	.83666	.83164	.82668	.82178
89	.85067	.84584	.84107	.83635	.83169
90	.85887	.85427	.84972	.84523	.84078
91	.86628	.8619	.85756	.85327	.84903
92	.873	.8688	.86466	.86056	.8565
93	.87901	.87499	.87102	.86709	.86319
94	.88438	.88053	.87671	.87293	.86919
95	.88928	.88557	.8819	.87826	.87465
96	.89408	.89052	.88608	.88348	.88002
97	.89866	.89523	.89183	.88847	.88513
98	.90301	.89972	.89646	.89322	.89001
99	.90717	.90401	.90087	.89776	.89468
100	.91115	.9081	.90509	.9021	.89913
101	.91495	.91202	.90912	.90625	.90339
102	.91861	.9158	.91302	.91025	.9075
103	.9222	.9195	.91683	.91417	.91154
104	.92583	.92324	.92068	.91813	.91561
105	.92974	.92728	.92484	.92241	.92
106	.93445	.93214	.92984	.92756	.92529
107	.94114	.93904	.93696	.93488	.93282
108	.95253	.95063	.94912	.94743	.94574
109	.97528	.97438	.97348	.97259	.9717

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
0	.06036	.05802	.05592	.05403	.05232
1	.03509	.03263	.03041	.02841	.02661
2	.03546	.0329	.0306	.02852	.02664
3	.03652	.03386	.03147	.02931	.02735
4	.0379	.03515	.03266	.03041	.02837
5	.03952	.03667	.03408	.03174	.02962
6	.04133	.03836	.03568	.03325	.03104
7	.0433	.04022	.03744	.03491	.03261
8	.04544	.04225	.03936	.03673	.03434
9	.04775	.04445	.04146	.03872	.03624
10	.05026	.04684	.04373	.0409	.03831
11	.05295	.04941	.04619	.04325	.04056
12	.0558	.05213	.04879	.04575	.04295
13	.05877	.05499	.05153	.04837	.04547
14	.06181	.0579	.05432	.05104	.04804
15	.06489	.06084	.05714	.05375	.05063
16	.06799	.0638	.05998	.05646	.05323
17	.07111	.06679	.06283	.05919	.05584
18	.07426	.0698	.0657	.06194	.05847
19	.07749	.07289	.06865	.06476	.06116
20	.0808	.07605	.07168	.06764	.06392
21	.08422	.07932	.07479	.07062	.06675
22	.08774	.08268	.07801	.07368	.06969
23	.09143	.08621	.08139	.07691	.07277
24	.09535	.08996	.08498	.08036	.07607
25	.09956	.09402	.08887	.0841	.07967
26	.10412	.09841	.0931	.08817	.08358
27	.10902	.10313	.09766	.09257	.08783
28	.11424	.10819	.10255	.09729	.0924
29	.11979	.11357	.10777	.10235	.09729
30	.12564	.11924	.11327	.10769	.10247
31	.1318	.12523	.11909	.11335	.10797
32	.13820	.13155	.12524	.11933	.11379
33	.14509	.13818	.1317	.12563	.11993
34	.15224	.14516	.13852	.13228	.12641
35	.15974	.15249	.14568	.13928	.13325
36	.16757	.16015	.15318	.14661	.14043
37	.17574	.16817	.16103	.15431	.14797
38	.18425	.17652	.16923	.16235	.15585
39	.19311	.18522	.17778	.17074	.16408
40	.20228	.19124	.18664	.17946	.17265
41	.21176	.20358	.19584	.1885	.18155
42	.22155	.21324	.20535	.19787	.19078
43	.23165	.22321	.21519	.20758	.20033
44	.24206	.23319	.22534	.2176	.21023
45	.25278	.24409	.23583	.22795	.22046
46	.26381	.25501	.24662	.23854	.23102
47	.27514	.26624	.25775	.24965	.24192
48	.28673	.27773	.26911	.26094	.2531
49	.29851	.28943	.28076	.27246	.26452
50	.31045	.3013	.29254	.28415	.27612
51	.32252	.31329	.30446	.29599	.28788
52	.33472	.32543	.31652	.30798	.29979
53	.34707	.33773	.32877	.32016	.31189
54	.35963	.35025	.34124	.33258	.32425
55	.37245	.36305	.354	.34529	.3369
56	.38554	.37612	.36704	.35829	.34987
57	.3989	.38946	.38037	.3716	.36314
58	.41244	.40301	.39391	.38513	.37666
59	.42608	.41667	.40758	.39879	.39031
60	.43977	.43038	.42131	.41253	.40404
61	.45346	.44411	.43506	.4263	.41782
62	.46718	.45787	.44885	.44012	.43166
63	.48091	.47165	.46269	.45399	.44555
64	.49468	.48549	.47658	.46793	.45953
65	.5085	.49939	.49053	.48194	.47359
66	.52235	.51332	.50454	.49602	.48772
67	.53624	.52731	.51862	.51016	.50193
68	.55017	.54134	.53275	.52437	.51622
69	.56417	.55546	.54698	.5387	.53064
70	.57826	.56969	.56132	.55316	.54519
71	.59247	.58403	.5758	.56776	.5599
72	.60678	.5985	.59041	.5825	.57477
73	.62119	.61307	.60514	.59737	.58978
74	.63565	.62772	.61995	.61235	.60491
75	.65015	.64241	.63482	.62739	.62011
76	.66469	.65715	.64976	.64251	.63541
77	.67927	.67195	.66476	.65771	.65079
78	.69382	.68673	.67975	.67291	.6662
79	.7082	.70134	.6946	.68798	.68147
80	.72228	.71567	.70916	.70276	.69647
81	.73578	.7294	.72312	.71695	.71087
82	.74848	.74233	.73627	.73031	.72444
83	.76044	.75451	.74867	.74291	.73724
84	.77203	.76632	.7607	.75515	.74968
85	.78374	.77827	.77287	.76754	.76228
86	.79513	.78989	.78471	.77961	.77457
87	.80622	.80121	.79626	.79138	.78655
88	.81695	.81217	.80744	.80277	.79817
89	.82708	.82252	.81802	.81357	.80917
90	.83639	.83204	.82775	.82349	.8193
91	.84483	.84068	.83657	.83251	.82849
92	.85248	.84851	.84457	.84068	.83682
93	.85934	.85553	.85175	.84801	.84431
94	.86548	.86181	.85818	.85458	.85102
95	.87108	.86755	.86405	.86057	.85714
96	.87658	.87318	.8698	.86646	.86315
97	.88183	.87855	.8753	.87209	.86889
98	.88684	.88368	.88055	.87746	.87438
99	.89162	.88858	.88557	.88258	.87963
100	.89618	.89326	.89037	.88749	.88464
101	.90056	.89775	.89496	.89219	.88945

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
102	.90478	.90208	.8994	.89673	.89409
103	.90892	.90632	.90374	.90118	.89863
104	.91309	.9106	.90813	.90567	.90323
105	.9176	.91523	.91286	.91051	.90818
106	.92303	.92079	.91857	.91636	.91416
107	.93078	.92874	.92671	.9247	.92269
108	.94406	.94239	.94073	.93908	.93743
109	.97081	.96993	.96905	.96816	.96729

TABLE G(1)

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
0	.05077	.04937	.04809	.04693	.04588
1	.02498	.0235	.02215	.02094	.01983
2	.02194	.0231	.022	.02073	.01957
3	.02558	.02397	.02251	.02118	.01996
4	.02652	.02484	.02332	.02193	.02066
5	.02769	.02594	.02434	.02289	.02156
6	.02903	.0272	.02554	.02401	.02262
7	.03052	.02861	.02687	.02527	.02382
8	.03216	.03017	.02836	.02669	.02517
9	.03397	.0319	.03	.02826	.02666
10	.03595	.03379	.03181	.02999	.02833
11	.0381	.03585	.03379	.0319	.03015
12	.0101	.03806	.03591	.03393	.03211
13	.04282	.04038	.03814	.03608	.03418
14	.01528	.04274	.04042	.03827	.0363
15	.01777	.04513	.04271	.04048	.03842
16	.05026	.04752	.045	.04267	.04052
17	.05276	.04991	.04729	.04487	.04263
18	.05527	.05232	.04959	.04707	.04474
19	.05781	.05477	.05191	.04931	.04688
20	.06017	.05729	.05431	.05161	.04908
21	.06319	.05988	.05682	.05398	.05134
22	.06599	.06255	.05937	.05641	.05366
23	.06891	.06537	.06207	.05899	.05613
24	.07209	.0684	.06496	.06176	.05878
25	.07551	.07171	.06813	.06481	.0617
26	.07931	.07531	.07163	.06817	.06494
27	.08341	.07929	.07544	.07185	.06849
28	.08782	.08356	.07957	.07584	.07235
29	.09257	.08815	.08402	.08015	.07652
30	.0976	.09303	.08874	.08473	.08097
31	.10293	.09821	.09378	.08962	.08572
32	.10859	.10371	.09913	.09483	.09078
33	.11457	.10954	.10481	.10036	.09616
34	.1209	.11571	.11083	.10623	.10189
35	.12758	.12223	.11719	.11244	.10795
36	.1346	.1291	.12391	.11901	.11437
37	.14198	.13632	.13097	.12592	.12114
38	.1497	.14389	.1384	.13319	.12826
39	.15779	.15183	.14618	.14082	.13575
40	.1662	.16009	.15429	.14879	.14358
41	.17495	.1687	.16275	.15711	.15174
42	.18404	.17764	.17155	.16577	.16026
43	.19346	.18692	.18069	.17477	.16912
44	.20322	.19654	.19018	.18411	.17834
45	.21331	.20651	.20002	.19382	.1879
46	.22375	.21682	.2102	.20388	.19783
47	.23454	.22748	.22075	.2143	.20814
48	.24561	.23844	.23159	.22503	.21874
49	.25692	.24965	.24269	.23601	.22962
50	.26843	.26106	.25398	.24721	.2407
51	.28009	.27262	.26546	.25858	.25197
52	.29192	.28437	.2771	.27013	.26342
53	.30395	.29631	.28897	.2819	.2751
54	.31624	.30853	.3011	.29396	.28708
55	.32883	.32106	.31357	.30635	.29938
56	.34175	.33392	.32637	.31908	.31206
57	.35499	.34711	.33951	.33217	.32509
58	.36847	.36057	.35292	.34554	.3384
59	.3821	.37417	.3665	.35908	.3519
60	.39583	.38789	.3802	.37275	.36554
61	.40961	.40167	.39395	.38649	.37925
62	.42346	.41551	.4078	.40032	.39306
63	.43737	.42943	.42172	.41424	.40698
64	.45137	.44345	.43576	.42829	.42102
65	.46547	.45758	.44991	.44246	.4352
66	.47966	.4718	.46416	.45673	.4495
67	.49392	.48612	.47853	.47113	.46392
68	.50828	.50054	.493	.48564	.47847
69	.52277	.5151	.50762	.50032	.4932
70	.53741	.52983	.52242	.51518	.50812
71	.55223	.54474	.53741	.53026	.52326
72	.56722	.55983	.5526	.54553	.53862
73	.58235	.57508	.56797	.56101	.55419
74	.59761	.59048	.58349	.57665	.56994
75	.61298	.60598	.59913	.59241	.58582
76	.62844	.6216	.6149	.60832	.60187
77	.644	.63734	.6308	.62438	.61807
78	.6596	.65312	.64675	.6405	.63435
79	.67508	.66879	.66261	.65653	.65056
80	.69028	.68419	.6782	.67231	.66651

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
81	.70489	.69901	.69321	.6875	.68189
82	.71866	.71297	.70736	.70184	.69639
83	.73166	.72615	.72072	.71538	.7101
84	.74429	.73897	.73373	.72856	.72346
85	.75709	.75198	.74694	.74195	.73704
86	.76959	.76467	.75982	.75503	.7503
87	.78178	.77708	.77243	.76783	.7633
88	.79361	.78911	.78466	.78027	.77592
89	.80482	.80052	.79627	.79206	.7879
90	.81513	.81103	.80696	.80293	.79896
91	.82451	.82057	.81668	.81282	.80901
92	.83301	.82924	.8255	.8218	.81814
93	.84065	.83702	.83342	.82987	.82634
94	.84748	.84399	.84053	.8371	.8337
95	.85373	.85036	.84701	.8437	.84042
96	.85987	.85661	.85339	.85019	.84702
97	.86573	.86259	.85948	.8564	.85334
98	.87134	.86831	.86531	.86235	.85939
99	.87669	.87378	.87089	.86802	.86518
100	.88181	.879	.87622	.87346	.87072
101	.88672	.88402	.88133	.87867	.87603
102	.89147	.88886	.88627	.88371	.88116
103	.89611	.8936	.89111	.88864	.88618
104	.90081	.8984	.896	.89363	.89127
105	.90586	.90356	.90128	.89901	.89674
106	.91197	.9098	.90764	.9055	.90336
107	.9207	.91872	.91675	.91479	.91284
108	.93579	.93415	.93253	.93092	.9293
109	.96642	.96555	.96468	.96382	.96296

TABLE G(2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return 2.2%	2.4%	2.6%	2.8%	3%
0	.22662	.20119	.17921	.1602	.14372
1	.21362	.18742	.16474	.14508	.12802
2	.21706	.19061	.16768	.14777	.13046
3	.2211	.19443	.17126	.1511	.13356
4	.2254	.19852	.17511	.15472	.13694
5	.2299	.2028	.17917	.15855	.14053
6	.23455	.20724	.18339	.16254	.14429
7	.23937	.21186	.1878	.16672	.14823
8	.24433	.21663	.19235	.17105	.15233
9	.24944	.22155	.19707	.17554	.1566
10	.25468	.22662	.20193	.18019	.16103
11	.26006	.23183	.20694	.18499	.16561
12	.26557	.23717	.21209	.18993	.17033
13	.27118	.24262	.21736	.195	.17518
14	.2769	.24818	.22274	.20018	.18015
15	.28271	.25385	.22823	.20548	.18524
16	.28861	.25961	.23382	.21088	.19043
17	.29461	.26547	.23952	.21638	.19574
18	.3007	.27144	.24533	.22201	.20117
19	.3069	.27752	.25126	.22776	.20673
20	.31323	.28374	.25733	.23367	.21244
21	.31967	.29008	.26354	.23971	.2183
22	.32625	.29656	.26989	.24591	.22432
23	.33295	.30318	.27639	.25226	.2305
24	.33979	.30995	.28305	.25877	.23687
25	.34676	.31686	.28986	.26545	.24337
26	.35387	.32393	.29683	.2723	.25007
27	.36112	.33114	.30396	.27931	.25694
28	.36851	.3385	.31126	.28651	.264
29	.37603	.34601	.31871	.29387	.27123
30	.38369	.35367	.32632	.30139	.27865
31	.39147	.36147	.33409	.30909	.28623
32	.39938	.36941	.34201	.31695	.294
33	.40743	.3775	.3501	.32498	.30195
34	.41562	.38574	.35834	.33319	.31009
35	.42394	.39414	.36675	.34158	.31842
36	.43239	.40268	.37533	.35014	.32693
37	.44098	.41136	.38406	.35888	.33563
38	.44969	.42019	.39295	.36778	.34452
39	.45852	.42915	.40199	.37685	.35358
40	.46746	.43825	.41118	.38609	.36281
41	.47652	.44747	.42051	.39548	.37222
42	.48568	.45681	.42998	.40502	.3818
43	.49495	.46628	.43959	.41472	.39154
44	.50433	.47587	.44933	.42457	.40146
45	.51382	.48559	.45922	.43458	.41155
46	.52341	.49543	.46925	.44476	.42182
47	.5331	.50539	.47942	.45508	.43221
48	.54289	.51545	.48971	.46554	.44284
49	.55275	.52562	.50012	.47614	.45358
50	.5627	.53588	.51064	.48686	.46446
51	.57271	.54622	.52125	.4977	.47548
52	.58278	.55665	.53197	.50866	.48663
53	.59293	.56716	.5428	.51974	.49792
54	.60317	.57779	.55375	.53098	.50939

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 2.2%	2.4%	2.6%	2.8%	3%
55	.61353	.58856	.56487	.54239	.52105
56	.62399	.59945	.57613	.55397	.5329
57	.63456	.61046	.58753	.56571	.54494
58	.64518	.62155	.59904	.57758	.55711
59	.65583	.63269	.6106	.58951	.56938
60	.66648	.64383	.62218	.60149	.5817
61	.67711	.65496	.63377	.61349	.59406
62	.68771	.66609	.64537	.62551	.60647
63	.6983	.67722	.65699	.63757	.61891
64	.7089	.68837	.66864	.64967	.63143
65	.71951	.69954	.68033	.66183	.64402
66	.73013	.71075	.69207	.67406	.6567
67	.74075	.72196	.70384	.68634	.66945
68	.75134	.73316	.7156	.69862	.68221
69	.76185	.74429	.7273	.71086	.69495
70	.77226	.75533	.73892	.72303	.70762
71	.78256	.76626	.75044	.7351	.72021
72	.79275	.77709	.76187	.74709	.73273
73	.80281	.78778	.77318	.75897	.74515
74	.81271	.79833	.78433	.7707	.75742
75	.82243	.80869	.7953	.78225	.76952
76	.83199	.81889	.80612	.79365	.78147
77	.8414	.82894	.81678	.8049	.79329
78	.8506	.83879	.82724	.81594	.80489
79	.85951	.84833	.83739	.82667	.81618
80	.86807	.8575	.84715	.837	.82705
81	.87619	.86621	.85642	.84682	.8374
82	.88384	.87442	.86517	.85609	.84718
83	.89111	.88223	.8735	.86493	.8565
84	.8982	.88985	.88164	.87357	.86562
85	.9053	.89749	.88981	.88225	.8748
86	.91192	.90462	.89743	.89035	.88337
87	.91802	.9112	.90447	.89784	.8913
88	.92364	.91726	.91096	.90475	.89862
89	.92876	.92279	.91689	.91106	.90531
90	.93339	.92778	.92224	.91677	.91137
91	.93752	.93224	.92703	.92187	.91678
92	.94115	.93617	.93124	.92637	.92155
93	.94432	.93959	.93491	.93029	.92571
94	.94708	.94257	.93811	.9337	.92934

TABLE G(2)

(1) Age	(2) Yearly rate of return 3.2%	3.4%	3.6%	3.8%	4%
0	.12943	.11702	.10624	.09684	.08866
1	.11321	.10032	.08911	.07932	.07079
2	.1154	.10228	.09084	.08085	.07212
3	.11826	.10491	.09325	.08305	.07412
4	.12141	.10783	.09595	.08555	.07642
5	.12476	.11096	.09886	.08824	.07891
6	.12829	.11426	.10194	.09111	.08158
7	.13201	.11775	.10521	.09416	.08443
8	.13588	.12139	.10863	.09737	.08743
9	.13992	.12521	.11223	.10075	.0906
10	.14412	.12918	.11598	.10429	.09393
11	.14847	.13331	.11988	.10798	.09741
12	.15297	.13759	.12394	.11182	.10104
13	.1576	.142	.12813	.11579	.1048
14	.16236	.14653	.13244	.11989	.10868
15	.16723	.15118	.13687	.1241	.11269
16	.17221	.15594	.14141	.12842	.1168
17	.1773	.16082	.14607	.13286	.12102
18	.18252	.16582	.15086	.13743	.12537
19	.18787	.17096	.15578	.14213	.12986
20	.19338	.17626	.16087	.14701	.13452
21	.19905	.18172	.16611	.15204	.13934
22	.20487	.18734	.17152	.15724	.14432
23	.21086	.19313	.1771	.16261	.14948
24	.21703	.1991	.18288	.16817	.15483
25	.22338	.20526	.18883	.17392	.16038
26	.2299	.2116	.19498	.17987	.16612
27	.23661	.21814	.20132	.18601	.17206
28	.24352	.22487	.20787	.19237	.17822
29	.2506	.23179	.21461	.19892	.18457
30	.25788	.23891	.22156	.20568	.19114
31	.26534	.24621	.22869	.21264	.19792
32	.27298	.25371	.23604	.21981	.2049
33	.28082	.26142	.24359	.2272	.21211
34	.28886	.26933	.25136	.23481	.21955
35	.29709	.27745	.25934	.24264	.22722
36	.30553	.28578	.26754	.2507	.23513
37	.31416	.29432	.27597	.25899	.24327
38	.32299	.30306	.28461	.2675	.25164
39	.33201	.31201	.29346	.27624	.26024
40	.34121	.32116	.30252	.28519	.26908
41	.3506	.3305	.31179	.29437	.27814
42	.36018	.34004	.32126	.30376	.28742
43	.36993	.34977	.33095	.31337	.29694
44	.37987	.3597	.34084	.3232	.30668
45	.39	.36983	.35095	.33326	.31668
46	.40032	.38018	.36128	.34355	.32691
47	.41082	.39071	.37182	.35407	.33738
48	.4215	.40144	.38257	.36481	.34809
49	.43234	.41235	.39351	.37576	.35902

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 3.2%	3.4%	3.6%	3.8%	4%
50	.44335	.42343	.40464	.38691	.37016
51	.4545	.43468	.41595	.39825	.38152
52	.46579	.44609	.42745	.40979	.39308
53	.47725	.45768	.43913	.42155	.40487
54	.48891	.46948	.45105	.43355	.41692
55	.50078	.48152	.46322	.44582	.42927
56	.51286	.49379	.47565	.45837	.44191
57	.52515	.50629	.48832	.47118	.45484
58	.53759	.51896	.50119	.48421	.468
59	.55015	.53177	.51421	.49741	.48135
60	.56278	.54467	.52733	.50173	.49484
61	.57546	.55763	.54054	.52416	.50844
62	.5882	.57067	.55384	.53769	.52218
63	.601	.58378	.56724	.55133	.53604
64	.61388	.597	.58076	.56512	.55007
65	.62687	.61034	.59442	.57907	.56427
66	.63996	.62381	.60822	.59318	.57866
67	.65313	.63737	.62215	.60743	.59322
68	.66634	.65099	.63615	.62178	.60788
69	.67954	.66462	.65017	.63617	.6226
70	.69268	.6782	.66416	.65054	.63732
71	.70576	.69174	.67812	.66489	.65204
72	.71878	.70522	.69203	.67921	.66675
73	.7317	.71861	.70588	.69348	.68141
74	.74449	.73189	.71961	.70765	.69599
75	.75711	.745	.73319	.72167	.71043
76	.76959	.75798	.74665	.73558	.72478
77	.78194	.77081	.76	.7494	.73903
78	.79408	.7835	.77315	.76302	.7531
79	.8059	.79583	.78597	.77631	.76685
80	.8173	.80774	.79837	.78917	.78016
81	.82815	.81908	.81018	.80144	.79286
82	.83842	.82982	.82137	.81307	.80491
83	.84821	.84007	.83206	.82419	.81644
84	.8578	.85011	.84254	.8351	.82777
85	.86746	.86024	.85313	.84613	.83923
86	.8765	.86972	.86304	.85646	.84997
87	.88486	.8785	.87223	.86605	.85994
88	.89258	.88661	.88072	.87491	.86917
89	.89964	.89403	.8885	.88303	.87764
90	.90603	.90075	.89554	.89039	.88531
91	.91174	.90677	.90185	.89699	.89218
92	.91678	.91207	.90742	.90281	.89825
93	.92118	.9167	.91227	.90789	.90355
94	.92502	.92075	.91652	.91233	.90818

TABLE G(2)

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
0	.08151	.07526	.06979	.065	.06079
1	.06333	.0568	.05108	.04606	.04165
2	.06447	.05777	.05188	.04672	.04217
3	.06629	.05941	.05337	.04805	.04336
4	.0684	.06135	.05514	.04967	.04484
5	.0707	.06347	.0571	.05147	.0465
6	.07318	.06577	.05922	.05344	.04831
7	.07583	.06824	.06152	.05557	.0503
8	.07864	.07086	.06396	.05785	.05242
9	.08162	.07365	.06657	.06029	.0547
10	.08474	.07659	.06933	.06288	.05713
11	.08802	.07967	.07224	.06561	.0597
12	.09145	.08291	.07529	.06848	.0624
13	.09501	.08627	.07846	.07148	.06523
14	.09868	.08975	.08175	.07458	.06816
15	.10248	.09334	.08515	.0778	.07121
16	.10638	.09704	.08865	.08112	.07435
17	.1104	.10085	.09227	.08455	.07759
18	.11454	.10479	.09601	.0881	.08096
19	.11881	.10886	.09988	.09178	.08445
20	.12326	.1131	.10392	.09562	.0881
21	.12787	.1175	.10811	.09961	.09191
22	.13264	.12206	.11247	.10378	.09588
23	.13759	.1268	.11701	.10811	.10003
24	.14273	.13173	.12174	.11264	.10436
25	.14806	.13686	.12666	.11736	.10888
26	.1536	.14219	.13178	.12229	.11361
27	.15933	.14772	.13711	.12741	.11854
28	.16529	.15347	.14266	.13276	.12369
29	.17145	.15942	.14841	.13831	.12904
30	.17782	.1656	.15439	.14409	.13462
31	.1844	.17199	.16057	.15007	.14041
32	.1912	.17859	.16699	.15629	.14644
33	.19822	.18543	.17363	.16274	.15269
34	.20549	.1925	.18051	.16944	.1592
35	.21298	.19982	.18765	.17638	.16595
36	.22072	.20738	.19503	.18358	.17296
37	.2287	.2152	.20267	.19104	.18023
38	.23692	.22325	.21056	.19875	.18777
39	.24538	.23155	.21869	.20671	.19556
40	.25407	.2401	.22708	.21494	.20361
41	.26301	.24889	.23572	.22342	.21192
42	.27217	.25792	.24461	.23215	.2205
43	.28157	.2672	.25375	.24115	.22934
44	.29122	.27674	.26315	.25041	.23846
45	.30112	.28653	.27283	.25996	.24787

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
46	.31128	.29659	.28278	.2698	.25757
47	.32168	.30691	.293	.2799	.26756
48	.33234	.31749	.3035	.2903	.27784
49	.34323	.32832	.31425	.30095	.28839
50	.35434	.33939	.32525	.31187	.29922
51	.36568	.35069	.3365	.32305	.31031
52	.37724	.36223	.34799	.33449	.32168
53	.38904	.37403	.35976	.34622	.33334
54	.40113	.38612	.37184	.35826	.34534
55	.41352	.39854	.38426	.37067	.35772
56	.42623	.41129	.39704	.38344	.37048
57	.43924	.42436	.41015	.39657	.38361
58	.45251	.43771	.42355	.41001	.39706
59	.46598	.45127	.43719	.42371	.41079
60	.47961	.46501	.45102	.43761	.42474
61	.49337	.47891	.46502	.45169	.43889
62	.50727	.49296	.4792	.46597	.45325
63	.52133	.50718	.49356	.48045	.46783
64	.53557	.5216	.50814	.49516	.48266
65	.55	.53624	.52296	.51014	.49777
66	.56464	.5511	.53802	.52539	.51317
67	.57947	.56617	.55331	.54088	.52884
68	.59443	.5814	.56878	.55656	.54472
69	.60945	.59671	.58435	.57237	.56075
70	.6245	.61206	.59997	.58825	.57686
71	.63956	.62743	.61565	.60419	.59305
72	.65463	.64283	.63136	.62019	.60932
73	.66966	.65822	.64707	.63621	.62563
74	.68462	.67354	.66273	.65219	.64192
75	.69946	.68876	.6783	.6681	.65814
76	.71422	.70389	.69381	.68395	.67432
77	.72889	.71897	.70927	.69978	.69049
78	.74339	.73388	.72458	.71546	.70654
79	.75757	.74848	.73957	.73084	.72228
80	.77131	.76264	.75413	.74578	.73758
81	.78444	.77617	.76805	.76007	.75224
82	.7969	.78902	.78128	.77368	.7662
83	.80882	.80133	.79397	.78672	.77959
84	.82055	.81345	.80646	.79958	.7928
85	.83243	.82574	.81914	.81265	.80624
86	.84358	.83727	.83106	.82493	.81889
87	.85393	.84799	.84214	.83636	.83066
88	.86351	.85792	.8524	.84696	.84158
89	.8723	.86704	.86184	.8567	.85163
90	.88028	.87531	.8704	.86555	.86076
91	.88743	.88273	.87809	.8735	.86895
92	.89374	.88929	.88488	.88051	.8762
93	.89926	.89502	.89081	.88666	.88254
94	.90408	.90002	.896	.89202	.88809

TABLE G(2)

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
0	.05709	.05383	.05096	.04842	.04617
1	.03776	.03435	.03132	.02866	.0263
2	.03816	.03463	.0315	.02873	.02628
3	.03922	.03557	.03233	.02947	.02692
4	.04057	.03679	.03344	.03047	.02783
5	.04209	.03818	.03472	.03164	.0289
6	.04377	.03973	.03614	.03295	.03011
7	.04561	.04144	.03774	.03443	.03147
8	.04759	.04329	.03945	.03603	.03297
9	.04972	.04528	.04131	.03777	.03459
10	.05199	.04741	.04331	.03964	.03635
11	.05441	.04968	.04545	.04165	.03824
12	.05696	.05208	.04771	.04378	.04025
13	.05962	.0546	.05008	.04602	.04236
14	.06239	.05721	.05255	.04835	.04457
15	.06527	.05994	.05512	.05078	.04686
16	.06824	.06274	.05778	.0533	.04924
17	.07132	.06565	.06054	.05591	.05171
18	.07451	.06868	.0634	.05862	.05428
19	.07782	.07182	.06638	.06145	.05697
20	.0813	.07512	.06952	.06443	.05979
21	.08492	.07857	.0728	.06755	.06276
22	.08871	.08218	.07624	.07082	.06588
23	.09266	.08595	.07984	.07426	.06915
24	.09681	.08992	.08362	.07787	.07261
25	.10114	.09406	.08759	.08167	.07625
26	.10567	.09841	.09176	.08566	.08007
27	.1104	.10296	.09613	.08985	.08409
28	.11537	.10773	.10071	.09426	.08832
29	.12052	.11269	.1055	.09887	.09275
30	.12591	.11789	.11051	.10369	.09741
31	.13151	.1233	.11573	.10873	.10227
32	.13734	.12894	.12118	.114	.10735
33	.1434	.13481	.12686	.1195	.11267
34	.14971	.14093	.1328	.12524	.11824
35	.15627	.14731	.13898	.13125	.12407
36	.1631	.15394	.14543	.13752	.13015
37	.17019	.16085	.15215	.14405	.13651
38	.17754	.16802	.15914	.15086	.14313
39	.18515	.17545	.16639	.15793	.15002
40	.19303	.18315	.17392	.16528	.15719
41	.20118	.19112	.18171	.1729	.16464
42	.20958	.19936	.18979	.1808	.17236

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
43	.21827	.20788	.19814	.18898	.18038
44	.22723	.21669	.20678	.19746	.18869
45	.23649	.2258	.21573	.20625	.19731
46	.24606	.23521	.22499	.21535	.20626
47	.25591	.24493	.23456	.22477	.21552
48	.26607	.25495	.24445	.23452	.22512
49	.2765	.26527	.25463	.24456	.23502
50	.28723	.27588	.26512	.25491	.24524
51	.29823	.28677	.2759	.26558	.25577
52	.30951	.29795	.28697	.27654	.26661
53	.3211	.30946	.29838	.28784	.2778
54	.33304	.32132	.31016	.29952	.28938
55	.34537	.33359	.32236	.31164	.30141
56	.3581	.34627	.33498	.3242	.31388
57	.37121	.35935	.34802	.33718	.3268
58	.38467	.3728	.36144	.35055	.34012
59	.39841	.38654	.37517	.36426	.35378
60	.41239	.40054	.38916	.37824	.36774
61	.42659	.41477	.4034	.39248	.38197
62	.44101	.42923	.4179	.40698	.39648
63	.45566	.44395	.43266	.42178	.41129
64	.47059	.45896	.44773	.4369	.42645
65	.48582	.47429	.46314	.45238	.44197
66	.50136	.48994	.4789	.46822	.45789
67	.51719	.50591	.49499	.48441	.47417
68	.53324	.52213	.51134	.50089	.49076
69	.54947	.53853	.5279	.5176	.50759
70	.56579	.55505	.54461	.53446	.5246
71	.58222	.57169	.56144	.55147	.54177
72	.59874	.58844	.5784	.56864	.55912
73	.61531	.60526	.59546	.58591	.57659
74	.63188	.6221	.61255	.60323	.59413
75	.6484	.6389	.62961	.62054	.61167
76	.6649	.6557	.64669	.63788	.62927
77	.6814	.67251	.6638	.65528	.64693
78	.69779	.68922	.68083	.6726	.66454
79	.71388	.70565	.69758	.68966	.68189
80	.72954	.72165	.7139	.70629	.69883
81	.74455	.73699	.72957	.72227	.71511
82	.75884	.75162	.74451	.73752	.73065
83	.77257	.76567	.75888	.75219	.74561
84	.78613	.77956	.77309	.76671	.76044
85	.79994	.79371	.78759	.78155	.77559
86	.81293	.80705	.80126	.79554	.7899
87	.82503	.81948	.814	.80859	.80326
88	.83627	.83103	.82585	.82074	.81569
89	.84661	.84166	.83677	.83193	.82715
90	.85601	.85133	.84669	.84212	.83759
91	.86446	.86002	.85563	.85128	.84699
92	.87193	.86771	.86353	.8594	.8553
93	.87847	.87444	.87045	.8665	.86259
94	.88419	.88033	.8765	.87272	.86897

TABLE G(2)

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
0	.04418	.04241	.04063	.03943	.03817
1	.0242	.02234	.02069	.01922	.0179
2	.0241	.02217	.02045	.01891	.01754
3	.02466	.02264	.02085	.01925	.01782
4	.02548	.02338	.02151	.01984	.01834
5	.02646	.02428	.02233	.02059	.01902
6	.02757	.02531	.02327	.02145	.01983
7	.02884	.02648	.02437	.02247	.02076
8	.03023	.02777	.02557	.02359	.02181
9	.03175	.0292	.0269	.02484	.02298
10	.0334	.03075	.02836	.02621	.02427
11	.03517	.03242	.02993	.02769	.02566
12	.03707	.03421	.03162	.02929	.02718
13	.03906	.03609	.0334	.03097	.02876
14	.04115	.03806	.03526	.03273	.03044
15	.04332	.04012	.03721	.03458	.03218
16	.04557	.04225	.03922	.03649	.03399
17	.04791	.04446	.04132	.03847	.03588
18	.05035	.04676	.04351	.04055	.03784
19	.05289	.04918	.04581	.04272	.03991
20	.05557	.05173	.04823	.04502	.04209
21	.0584	.05442	.05078	.04745	.04441
22	.06136	.05724	.05347	.05002	.04685
23	.06449	.06022	.05631	.05273	.04944
24	.06779	.06337	.05932	.0556	.05219
25	.07127	.0667	.0625	.05865	.0551
26	.07494	.07021	.06587	.06187	.05819
27	.07879	.07391	.06941	.06527	.06145
28	.08285	.07782	.07317	.06888	.06491
29	.08712	.08192	.07712	.07267	.06856
30	.0916	.08623	.08127	.07668	.07242
31	.09629	.09075	.08563	.08088	.07647
32	.1012	.0955	.09021	.0853	.08074
33	.10634	.10047	.09501	.08995	.08523
34	.11174	.10569	.10007	.09484	.08997
35	.11739	.11117	.10538	.09997	.09494
36	.1233	.1169	.11093	.10537	.10018
37	.12947	.1229	.11677	.11104	.10567
38	.13592	.12917	.12287	.11697	.11144

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
39	.14263	.13571	.12924	.12317	.11748
40	.14962	.14253	.13588	.12964	.12378
41	.15689	.14963	.14281	.13639	.13038
42	.16444	.157	.15001	.14343	.13724
43	.17229	.16467	.15751	.15077	.14441
44	.18043	.17265	.16532	.1584	.15188
45	.18889	.18094	.17345	.16637	.15968
46	.19768	.18957	.18191	.17467	.16782
47	.20678	.19852	.1907	.18329	.17628
48	.21623	.20781	.19983	.19227	.1851
49	.22599	.21741	.20928	.20157	.19424
50	.23606	.22735	.21907	.21121	.20373
51	.24645	.2376	.22918	.22117	.21355
52	.25717	.24818	.23963	.23147	.22371
53	.26824	.25912	.25044	.24215	.23425
54	.27971	.27048	.26167	.25326	.24523
55	.29163	.2823	.27337	.26485	.25668
56	.30402	.29459	.28556	.27692	.26865
57	.31687	.30735	.29823	.2895	.28111
58	.33012	.32053	.31134	.30251	.29404
59	.34374	.33409	.32482	.31592	.30737
60	.35766	.34796	.33864	.32968	.32105
61	.37186	.36213	.35276	.34375	.33506
62	.38636	.37661	.36721	.35815	.34941
63	.40117	.39142	.382	.37291	.36414
64	.41635	.4066	.39718	.38807	.37928
65	.43191	.42218	.41278	.40368	.39488
66	.44788	.4382	.42882	.41975	.41095
67	.46424	.45462	.44529	.43625	.42748
68	.48092	.47139	.46213	.45314	.44442
69	.49787	.48843	.47926	.47035	.46169
70	.51501	.50569	.49662	.4878	.47922
71	.53233	.52315	.5142	.50549	.49701
72	.54985	.54081	.53201	.52343	.51506
73	.56751	.55864	.55	.54156	.53332
74	.58524	.57657	.5681	.55983	.55175
75	.60301	.59454	.58627	.57818	.57026
76	.62085	.6126	.60453	.59664	.58891
77	.63876	.63076	.62292	.61524	.60772
78	.65664	.6489	.6413	.63385	.62656
79	.67427	.6668	.65946	.65226	.6452
80	.6915	.6843	.67723	.67029	.66347
81	.70807	.70114	.69434	.68765	.68107
82	.72389	.71724	.7107	.70427	.69794
83	.73914	.73276	.72648	.72031	.71423
84	.75426	.74816	.74216	.73625	.73042
85	.76973	.76394	.75824	.75262	.74707
86	.78434	.77885	.77344	.7681	.76283
87	.79799	.79279	.78766	.78259	.77759
88	.8107	.80577	.80091	.7961	.79136
89	.82243	.81776	.81315	.80859	.80408
90	.83311	.82869	.82431	.81998	.8157
91	.84274	.83853	.83437	.83026	.82618
92	.85126	.84725	.84329	.83936	.83548
93	.85873	.85489	.8511	.84735	.84363
94	.86526	.86153	.85794	.85434	.85077

TABLE G(2)

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
0	.03705	.03604	.03513	.03432	.03359
1	.01672	.01567	.01472	.01388	.01311
2	.01631	.01521	.01422	.01333	.01253
3	.01653	.01538	.01434	.01341	.01258
4	.017	.01579	.01471	.01374	.01285
5	.01762	.01636	.01522	.0142	.01326
6	.01835	.01704	.01584	.01477	.01379
7	.01922	.01784	.01659	.01546	.01444
8	.0202	.01875	.01745	.01626	.01518
9	.0213	.01979	.01841	.01717	.01604
10	.02251	.02093	.01949	.01818	.017
11	.02383	.02217	.02066	.0193	.01806
12	.02526	.02352	.02195	.02051	.01921
13	.02676	.02495	.0233	.02179	.02042
14	.02835	.02645	.02472	.02315	.02171
15	.03001	.02802	.02622	.02457	.02306
16	.03172	.02965	.02776	.02604	.02446
17	.03351	.03135	.02937	.02757	.02591
18	.03537	.03312	.03105	.02917	.02743
19	.03733	.03498	.03282	.03085	.02903
20	.03941	.03696	.03471	.03264	.03074
21	.04162	.03906	.03671	.03455	.03255
22	.04395	.04128	.03882	.03657	.03448
23	.04641	.04363	.04107	.03871	.03654
24	.04904	.04614	.04347	.04101	.03874
25	.05182	.04881	.04603	.04345	.04107
26	.05478	.05165	.04875	.04606	.04358
27	.05792	.05465	.05163	.04883	.04624
28	.06124	.05785	.0547	.05179	.04908
29	.06476	.06123	.05796	.05492	.0521
30	.06847	.06481	.06141	.05824	.0553
31	.07238	.06858	.06504	.06175	.05868
32	.0765	.07255	.06888	.06546	.06226

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
33	.08084	.07675	.07294	.06937	.06606
34	.08542	.08118	.07722	.07352	.07007
35	.09024	.08586	.08175	.07792	.07432
36	.09532	.09078	.08653	.08255	.07882
37	.10066	.09596	.09156	.08744	.08357
38	.10626	.10141	.09686	.09259	.08858
39	.11214	.10712	.10242	.09799	.09383
40	.11828	.11311	.10825	.10368	.09937
41	.12471	.11938	.11436	.10963	.10517
42	.13141	.12592	.12074	.11586	.11125
43	.13841	.13276	.12742	.12238	.11762
44	.14573	.13991	.13441	.12922	.1243
45	.15336	.14738	.14172	.13637	.1313
46	.16134	.15519	.14939	.14387	.13865
47	.16964	.16334	.15737	.1517	.14632
48	.1783	.17184	.16571	.15989	.15435
49	.18729	.18068	.17439	.16842	.16273
50	.19662	.18986	.18342	.17729	.17145
51	.20629	.19937	.19279	.18651	.18051
52	.2163	.20924	.20251	.19608	.18994
53	.22671	.21951	.21262	.20605	.19977
54	.23755	.23021	.22319	.21647	.21005
55	.24888	.24141	.23426	.22741	.22085
56	.2 073	.25313	.24586	.23888	.23219
57	.27309	.26538	.25799	.25089	.24407
58	.28591	.2781	.2706	.26339	.25646
59	.29914	.29124	.28364	.27632	.26929
60	.31275	.30476	.29707	.28965	.28251
61	.32668	.31862	.31085	.30335	.29612
62	.34098	.33285	.32501	.31744	.31013
63	.35566	.34748	.33958	.33194	.32455
64	.37078	.36256	.3546	.34691	.33946
65	.38636	.37811	.37012	.36239	.3549
66	.40244	.39418	.38617	.37841	.37089
67	.41898	.41073	.40272	.39496	.38742
68	.43595	.42773	.41974	.41198	.40444
69	.45328	.44509	.43713	.42939	.42186
70	.47087	.46275	.45484	.44714	.43964
71	.48875	.4807	.47286	.46521	.45776
72	.5069	.49895	.49119	.48362	.47623
73	.52529	.51745	.50978	.50231	.49501
74	.54385	.53614	.52859	.52123	.51402
75	.56252	.55495	.54755	.5403	.53322
76	.58135	.57394	.56669	.55959	.55264
77	.60035	.59313	.58605	.57911	.57231
78	.6194	.61238	.60549	.59874	.5921
79	.63826	.63146	.62477	.61821	.61178
80	.65676	.65018	.64371	.63735	.63111
81	.67461	.66826	.66201	.65586	.64982
82	.69171	.68558	.67955	.67362	.66778
83	.70823	.70234	.69652	.6908	.68517
84	.72468	.71902	.71345	.70795	.70254
85	.7416	.7362	.73089	.72564	.72047
86	.75763	.7525	.74743	.74244	.7375
87	.77265	.76777	.76295	.75819	.7535
88	.78666	.78203	.77745	.77293	.76846
89	.79963	.79523	.79088	.78658	.78232
90	.81148	.80729	.80315	.79906	.79501
91	.82216	.81817	.81423	.81033	.80647
92	.83164	.82783	.82407	.82034	.81665
93	.83995	.83631	.8327	.82913	.82559
94	.84723	.84373	.84026	.83682	.83342

§ 1.642(c)–7 Transitional rules with respect to pooled income funds.

(a) *In general.* A fund created after December 31, 1970, shall not be treated as a pooled income fund unless it meets all the requirements of sections 642(c)(5) and 1.642(c)–5. A fund created before January 1, 1971, may be treated as a pooled income fund to which § 1.642(c)–5 applies if on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969, it possessed the initial characteristics described in paragraph (b) of this section and is amended, in the time and manner provided in paragraph (c) of this section, to meet all the requirements of sections 642(c)(5) and 1.642(c)–5. If a portion of such a fund cannot be amended because of local law, any portion of the fund which can be amended may be separated from such fund and established before January 1, 1971, as a separate fund for purposes of this section. A fund which is amended in the time and manner provided in paragraph (c) of this section

shall be treated as provided in paragraph (d) of this section for the period ending the day before the date on which it meets the requirements of sections 642(c)(5) and 1.642(c)-5.

(b) *Initial characteristics required.* A fund shall not be treated as a pooled income fund to which section 642(c)(5) applies, even though it is amended as provided in paragraph (c) of this section, unless it possessed the following characteristics on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969:

(1) It satisfied the requirements of section 642(c)(5)(A);

(2) It was constituted in a way to attract and contain commingled properties transferred to the fund by more than one donor satisfying such requirements; and

(3) Each beneficiary of the life income interest which was retained or created in the fund was entitled to receive, but not less often than annually, a proportional share of the annual income earned by the fund, such share being based on the fair market value (determined either on the date of transfer or as provided in paragraph (c) of § 1.642(c)-5) of the property in which such life interest was retained or created.

(c) *Amendment requirements.* (1) A fund possessing the initial characteristics described in paragraph (b) of this section on the date prescribed therein shall be treated as a pooled income fund if it is amended to meet all the requirements of section 642(c)(5) and § 1.642(c)-5 before January 1, 1971, or, if later, on or before the 30th day after the date on which any judicial proceedings begun before January 1, 1971, which are required to amend its governing instrument or any other instrument which does not permit it to meet such requirements, become final. However, see paragraph (d) of this section for limitation on period in which claim for deduction may be filed.

(2) In addition, if the transferred property described in paragraph (b)(2) of this section is commingled with other property, the transferred property must be separated on or before the date specified in subparagraph (1) of this paragraph from the other property and allocated to the fund in accordance with the transferred property's percentage share of the fair market value of the total commingled property on the date of separation. The percentage share shall be the ratio which the fair market value of the transferred property on the date of separation bears to the fair market value of the total commingled property on that date and shall be computed in a manner consistent with paragraph (c) of § 1.642(c)-5. The property which is so allocated to the fund shall be treated as property received from transfers which meet the requirements of section 642(c)(5), and such transfers shall be treated as made on the dates on which the properties giving rise to such allocation were transferred to the fund by the respective donors. The property so allocated to the fund must be representative of all the commingled property other than securities the income from which is exempt from tax under subtitle A of the Code; compensating increases in other commingled property allocated to the fund shall be made where such tax-exempt securities are not allocated to the fund. The application of this subparagraph may be illustrated by the following example:

Example. (a) The trustees of X fund are in the process of amending it in order to qualify as a pooled income fund. The property transferred to the X fund was commingled with other property transferred to the organization by which the fund was established. After taking into account the various transfers and the appreciation in the fair market value of all the properties, the fair market value of the property allocated to the fund on the various transfer dates is set forth in the following schedule and determined in the manner indicated:

TRANSFERS

Date of transfer	Value of all property before transfer	Trust property	Other property	Value of all property after transfer	Property allocated to fund
	(1)	(2)	(3)	(4)	(5)
January 1, 1968		$100,000	$100,000	$200,000	[1] $100,000
September 30, 1968	$300,000	100,000		400,000	[2] 250,000
January 15, 1969	480,000	60,000		540,000	[3] 360,000
November 11, 1969	600,000	200,000		800,000	[4] 600,000

[1] $100,000=(the amount in column (2)).
[2] 250,000=([$100,000/$200,000]×$300,000]+$100,000).
[3] 360,000=([$250,000/$400,000]×$480,000]+$60,000).
[4] 600,000=([$360,000/$540,000]×$600,000]+$200,000).

(b) On September 30, 1970, the trustees decide to separate the property of X fund from the other property. The fair market value of all the commingled property is $1 million on September 30, 1970, and there were no additional transfers to the fund after November 11, 1969. Accordingly, the fair market value of the property required to be allocated to X fund must be $750,000 ($600,000/$800,000×$1,000,000), and X fund's percentage share of the commingled property is 75 percent ($750,000/$1,000,000). Accordingly, assuming that the commingled property consists of Y stock with a fair market value of $800,000 and Z bonds with a fair market value of $200,000, there must be allocated to X fund at the close of September 30, 1970, Y stock with a value of $600,000 ($800,000×75%) and Z bonds with a value of $150,000 ($200,000×75%).

(d) *Transactions before amendment of fund.* (1) A fund which is amended pursuant to paragraph (c) of this section shall be treated for all purposes, including the allowance of a deduction for any charitable contribution, as if it were from the date of its creation, or from July 31, 1969, whichever is later, a pooled income fund to which section 642(c)(5) and § 1.642(c)-5 apply. Thus, for example, where a donor transferred property in trust to such a fund on August 1, 1969, but before its amendment under this section, a charitable contributions deduction for the value of the remainder interest may be allowed under section 170, 2055, 2106, or 2522. The deduction may not be claimed, however, until the fund is amended pursuant to this section and shall be allowed only if the claim is filed within the period of limitation prescribed by section 6511(a).

(2) For purposes of determining under paragraph (c) of § 1.642(c)-6 the highest yearly rate of return earned by such a pooled income fund for the 3 preceding taxable years, taxable years of the fund preceding its taxable year in which the fund is amended and qualifies as a pooled income fund under this section shall be used provided that the fund did not at any time during such preceding years hold any investments in securities the income from which is exempt from tax under subtitle A of the Code. If any such tax-exempt securities were held during such period, the pooled income fund shall be treated for purposes of paragraph (b)(2) of § 1.642(c)-6 as if it had been in existence less than 3 taxable years preceding the taxable year in which the transfer of property to the fund is made.

(3) Property transferred to such a pooled income fund before its amendment pursuant to paragraph (c) of this section shall be treated as property received from transfers which meet the requirements of section 642(c)(5).

[F.R. Doc. 70-9083; Filed, July 16, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 50]

NATIONAL CAPITAL PARKS

Park-Use Permit System for Public Gatherings

The Department of the Interior is considering amendments to the National Park Service regulations appearing in the Code of Federal Regulations, Title 36, Part 50, containing the regulations specifically applicable to park areas administered by National Capital Parks, National Park Service, in the District of Columbia and its environs. The Secretary of the Interior has under study the proposed complete revision, set forth below, of the provisions of 36 CFR 50.19. That regulation constitutes the park-use permit system governing "public gatherings" (including demonstrations, picketing, speech-making, holding of vigils, parades, ceremonies, meetings and all other forms of public assembly) in National Capital Parks areas.

Interested persons are hereby given opportunity, and are invited, to participate in the making of these proposed regulations. They may do so by submitting, in duplicate, such written data, views, objections and arguments as they desire to be considered by the Secretary of the Interior before the proposed amendments to 36 CFR 50.19 are issued in final form. Such written submissions should be mailed to the General Superintendent, National Capital Parks, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242. All such written submissions received by the Superintendent within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before the Secretary of the Interior takes final action in this matter. The proposed amendments, as set forth below, may be changed in light of the written data, views, etc., received. A set of all written submissions received will be available at the General Superintendent's Office for examination by interested parties.

Upon review of the written data, views, etc., received within the indicated 30-day period, the Secretary of the Interior will, in the exercise of his discretion and judgment, determine whether to allow the presentation of additional views orally before an official of the Department to be designated for this purpose, with the object of receiving into the informal record orally such additional views, etc., as interested persons desire to submit, and to have the designated official conduct such inquiry as may appear to be warranted relative to any particular representations made, or any other aspect of these proposed regulations. Accordingly, interested persons are hereby also invited to include in their written submissions such views as they desire to present to the Secretary of the Interior relative to the desirability of having an opportunity to present their views orally, and the points which should be inquired into thereby. If the Secretary of the Interior determines to have such further proceedings conducted in this matter before promulgation of the rule in final form, timely notice of the date and place thereof will be announced in the FEDERAL REGISTER.

The proposed amendments to 36 CFR 50.19 are issued pursuant to, draw policy guidance from, or have been prepared after considering the purpose and effect of the following statutory provisions: Act Establishing National Park Service, as amended, 16 U.S.C. secs. 1, et seq.; Act Authorizing National Park Service Comprehensive Study of Park, etc., Programs of the United States, 16 U.S.C. secs. 17k–17m; Act authorizing Secretary of the Interior to enter into contracts with Concessioners for National Capital Park Accommodations, Facilities and Services Consistently with the Preservation and Conservation of Park Values, 16 U.S.C. secs. 20–20g; Act Authorizing Secretary of the Interior to Formulate and Maintain Comprehensive Plan for Conservation, Development and Utilization of Outdoor Recreation Resources of United States, Including District of Columbia, for Benefit and Enjoyment of American People, 16 U.S.C. sec. 4601; Act Establishing National Policy as to Preservation of Historic Sites, Buildings, etc., 16 U.S.C. secs. 461–470; 5 U.S.C. 553; and D.C. Code sec. 8–144.

The following prefatory statement as to the background, and policy considerations and tentative judgments embodied in the proposed amendments to 36 CFR 50.19 are set forth for the guidance of all interested persons:

(A) BACKGROUND

First. A decision was rendered by the U.S. Court of Appeals for the District of Columbia Circuit in Women Strike for Peace v. Walter J. Hickel, Secretary of the Interior, Ct. App. No. 23,268, on August 1, 1969.

The controversy in that case arose out of an application by the organization "Women Strike for Peace" which filed an application for a permit to erect, on park land under National Capital Parks jurisdiction, a structure (approximately 20 feet long, 8 feet high, and 6 feet deep) on which the organization desired to convey a visual message to the general public. The organization indicated that it desired to erect this structure in connection with a public gathering it planned to hold on the park land over a continuous 6-day period. The National Park Service denied the organization's application to erect the structure because erection of such a structure was not viewed "as an appropriate use of Federal park lands."

In its majority opinion in that case, the Court of Appeals did not reach and determine the issue whether the National Park Service's denial of the permit to erect the structure on park land was in accord with law. The Court of Appeals majority said that "the record did not clearly set forth the basis on which the (National) Park Service (had) denied * * * permission * * * for * * * (the organization to erect) * * * its particular display (on park land)." The Court of Appeals majority declared that the National Park Service could clarify the record for purposes of the case by undertaking "to define and announce a set of coherent park policies, clarifying the (policy) matters (involved) that are as yet unclear, and perhaps modifying the policies on further reflection as to the interaction of the various interests properly taken into account."

In this connection, the Court of Appeals majority observed: "The park authorities have the function of considering and accommodating the various interests involved." It is not the function of the courts "to construct guides for park use." The courts' duty "is to assure our citizens that the (National) Park Service has (consistent) rules, or criteria, or guidelines." Such National Park Service's rules "will naturally seek to further park objectives." But the National Park Service "must also take into proper account matters that have at least a non-frivolous constitutional aspect, and must take a hard look at them and give them reflective consideration."

In preparing the proposed revision to 36 CFR 50.19, the Secretary of the Interior has followed the Court of Appeals' direction to take a "hard look" at all factors involved, and has given them "reflective consideration" in order to accomplish a proper and reasonable accommodation of all the important interests affected.

Second. Decisions have been rendered by the District Court and the Court of Appeals for the District of Columbia Circuit in A Quaker Action Group v. Walter J. Hickel, Secretary of the Interior, D.C.C.A. No. 688–69 and Ct. App. Nos. 22,983 & 23,625.

The controversy in that case arose out of the desired expressed by a number of organizations to obtain permits for demonstrations on the Pennsylvania Avenue sidewalk in front of the White House, and in Lafayette Park, which faces the White House across Pennsylvania Avenue. Both are park areas under National Capital Parks jurisdiction.

The demonstrations these organizations sought to hold exceeded in size the limitations imposed upon the number of participants permitted for demonstrations conducted at those White House area park sites. These limitations, imposed under the provisions of 36 CFR 50.19, as then in effect, by the implementing memorandum of the National Park Service's Regional Director restricted the number of participants permitted (at any one time) in any demonstration held on the sidewalk in front of the White House to 100, and restricted the number of participants permitted (at any one time) in any demonstration held in Lafayette Park to 500.

In so restricting the number of participants permitted (at any one time) in demonstrations held in those particular White House area park sites, the Regional Director paramountly relied upon the security judgments (discussed below) reached in the matter by the Director of the U.S. Secret Service. The Regional Director also took into account these further considerations:

Organizations wishing to conduct demonstrations in excess of the 100/500 limitations imposed in the White House area park sites had available other suitable, nearby park sites where they could assemble and engage in the larger demonstrations they desired to hold. They could at the same time also conduct demonstrations—within the respective 100/500 participant limitations at any one time—on the sidewalk in front of the White House and in Lafayette Park. This adjustment of the conflicting interests was designed to accommodate reasonably the desire of the would-be demonstrators to hold a demonstration in those White House area park sites, without unduly discommoding the many tourists who seek to view the White House from its Pennsylvania Avenue aspects; the pedestrian and vehicular traffic regularly flowing along Pennsylvania Avenue; and all those who regularly effect ingress to, and egress from, the White House at the Pennsylvania Avenue driveway entrances. Moreover, it was considered that

this balancing-of-the-interests accommodation avoided the injuries excessive numbers of demonstrators in Lafayette Park would cause to that park's features, including its monuments, shrubs, plants, and flowers.

The Court of Appeals, in its first decision in the matter, dated June 24, 1969, concerned itself solely with the issue whether the District Court had abused its discretion in issuing a preliminary injunction generally enjoining pendente lite enforcement of the provisions of 36 CFR 50.19, as then in effect, and the implementing memorandum of the Regional Director applicable only to the White House area park sites. Addressing itself exclusively to the Presidential security concern (involved only with respect to the White House area park sites), the Court of Appeals recognized that the "safety of the President" was indeed "a paramount interest." It concurred with the view that "courts must listen with the utmost respect to the conclusion (as to the danger to the security and safety of the President and the White House posed by demonstrations in the immediate vicinity of the White House) of those entrusted with responsibility for safeguarding the President."

However, the Court of Appeals considered that the Government bore the burden to satisfy the Court that the security judgments of the Secret Service Director, on which the National Park Service's Regional Director had paramountly relied in imposing the 100/500 participant limitations upon demonstrations in White House area park sites, "rest upon solid facts and a realistic appraisal of the danger rather than vague fears extrapolated beyond any foreseeable threat." And the Court of Appeals concluded that, even "in the context of a preliminary injunction, the burden upon the Government" is to "in fact show * * * a danger (that large demonstrations in the vicinity of the White House may threaten the safety of the Chief Executive) rather than simply advance its conclusion as a determination binding upon the courts."

While declining under these circumstances to hold that the District Court had "abused * * * (its) * * * discretion" in granting a preliminary injunction, the Court of Appeals modified the preliminary injunction in order "to assure the safety of the President." In modifying the preliminary injunction, the Court of Appeals authorized "the enforcement of 36 CFR 50.19 to the extent of requiring that groups wishing to protest (by conducting demonstrations, to) provide notice to the (National) Park Service of (any) planned demonstration 15 days before the event." This, the Court of Appeals stated, would provide the Government an opportunity, if it wished to do so, to "seek to enjoin the demonstration through judicial action."

In taking this interim action, the Court of Appeals stressed that its "arrangement" was being "devised strictly, on the basis of an incomplete record, for the pendency of the lawsuit", and was meant to be "in no ways binding upon the * * * (District Court) * * * in its determination of the merits and appropriate relief, if any."

Thereafter, the Government moved the District Court to grant summary judgment in its favor, or, alternatively, to dissolve the preliminary injunction, as modified by the Court of Appeals in its June 24, 1969 decision. The Government supported its motion with a supplemental affidavit executed by the Director, U.S. Secret Service.

This affidavit furnished the reasons sought by the Court of Appeals as to the Secret Service Director's "realistic appraisal of the danger existing today" to the security of the President, other occupants of the White House, and the White House itself, if assemblies and demonstrations in the immediate vicinity of the White House were not kept to numbers manageable by police and security personnel in the event any such assembly or demonstration should result in a riot, or violence otherwise breaks out during the assembly or demonstration. The Secret Service Director therein expressed the security judgment, relative to incidents he cited in his supplemental affidavit occurring in the immediate vicinity of the White House, that these were examples of demonstrations which "could well have resulted in tragic displays of violence if larger numbers of persons had been involved in the incidents."

Further, taking notice of the increase in recent years of "violent outbreaks in the course of demonstrations" (as to which he cited certain publicly reported specific incidents), the Secret Service Director expressed the security judgment that:

> It is necessary that only small groups be permitted to demonstrate near the White House in order to reduce the danger that such violence would imperil the safety of the Executive Residence, its occupants, including the President, and its contents. Likewise, it is necessary that the groups demonstrating near the White House be kept to numbers manageable by police and security personnel in order to insure that any violent activities which might erupt during demonstrations can be contained.

Moreover, relative to the desire expressed by the Court of Appeals in its June 24, 1969, opinion to have the courts informed as to the consideration given to "possible alternative means to protect the White House", rather than limiting demonstrations in the vicinity of the White House to 100/500 participants at any one time, the Secret Service Director stated in his supplemental affidavit:

> It is, of course, possible to protect the White House against assaults from Pennsylvania Avenue by the use of sufficient personnel armed with adequate weapons. However, the practice of restricting the areas in which demonstrations can be held or limiting the size of demonstrations has been considered preferable to the possible creation of a condition in which the White House must be protected by inflicting intentional casualties upon violent demonstrators and perhaps accidental casualties upon nonviolent demonstrators in the vicinity. Should it become necessary to protect the White House against any mass assault from the sidewalk it is probable that the casualties would include innocent persons, i.e., persons who did not participate in the violence. Moreover, in rejecting alternative proposals consideration has been given to the importance of the object being protected. In the case of the White House and the President, it might be necessary in the case of a large mob to inflict such casualties as would be necessary to insure the security of the area, and a distance of 230 feet (the distance from the White House fence to the Executive Residence itself) may be insufficient to allow attempts to provide such protection by non-lethal means such as tear gas or containment. A large buffer zone between the crowd and the fence would be preferable but is unavailable * * *.

The Secret Service Director further informed the District Court (relative to other points adverted to by the Court of Appeals in its June 24, 1969, opinion) why other means of protecting the President, other occupants of the White House, and the White House itself were not feasible. In this connection, he advised that "the determination has been made" that no situation should be created wherein "infliction of casualties is the means of protection." Rather, the security judgment made was that "a limitation on the opportunity for violence and danger to the White House should be adopted."

An incident that occurred on October 15, 1969, wherein some 50 persons presented themselves at a White House gate demanding to see the President, there ensued a blockage of the White House sidewalk, and efforts were made to climb the White House fence, was brought to the Court's attention. The Government furnished the District Court, in further support of its motion for summary judgment, the affidavit executed by an Assistant Director of the Secret Service providing his own eyewitness account of the incident, and some 14 photographs.

The Government also submitted to the District Court in support of its motion for summary judgment the then-recently-published "Statement on Assassination" of the National Commission on the Causes and Prevention of Violence headed by Dr. Eisenhower (together with the Commission's Staff Study Report). This Commission Statement pertinently summed up the potentialities for violence affecting the President (in part) as follows:

> * * * Eight American Presidents—nearly one in four—have been the targets of assassins' bullets, and four died as a result.
>
> Violence has been a recurring theme in American life, rising to a crescendo whenever social movements—agrarian reform, abolition, reconstruction, organized labor—have challenged the established order.
>
> Though presidential assassinations have not been typical of these periods of great stress, such periods have often produced assassinations of other prominent persons. Consistently they have subjected political leaders to vilification and threats to their safety.
>
> The 1960s afford a grim example. The present decade, though by no means the worst in American history, has witnessed disturbingly high levels of assassination and political violence. * * *
>
> In comparison to the other nations of the world, the level of assassination in the United States is high. It is still high when

the comparison is limited to other countries with large populations or other western democracies.

Probably no other form of domestic violence—civil war—causes more anguish and universal dismay among citizens than the murder of a respected national leader. Assassination, especially when the victim is a President, strikes at the heart of the democratic process. It enables one man to nullify the will of the people in a single, savage act. It touches the lives of all the people of the nation.

* * * * *

Many of the conditions associated with conspiratorial assassination in other countries appear to be developing in this country:

Political violence in the United States is probably more intense than it has been since the turn of the century. If civil strife continues to become more violent, political assassinations may well occur.

There is much talk today of revolution and urban guerrilla warfare by extremists, and there have been outbreaks of violence with aspects of guerrilla warfare, as in the Cleveland shoot-out of July 1968. If extremists carry out their threats, we can expect political assassinations.

Even if the rhetoric of revolution and vilification of governmental authority is never translated into deed, the constant excoriation of America's institutions and leaders may destroy their legitimacy in the eyes of other segments of society. The assassinations during the Reconstruction era arose in just such a context.

* * * * *

Racial tensions have been at a high level in this country during the 1960s. If violent racial confrontations increase, the level of political violence in the United States could approach that of countries in which political assassinations typically occur.

Finally, the United States may in the next few years undergo even more rapid socioeconomic change than it has in the recent past. Rapid change is another characteristic that correlates with high level of conspirational assassination.

Present trends were of an escalating risk of assassination, not only for Presidents, but for other officeholders at every level of government, as well as leaders of civil rights and political-interest groups.

* * * * *

Whatever the future holds for the United States, it is clear that, among all public figures, Presidents will continue to run the greatest risks of assassination. It is in the nature of their office; it is in the nature of the distorted logic by which assassins choose their targets.

With this supplemental material in the record, taking judicial notice of the reported violent confrontations-with-constituted-authority which have occurred in late years across our land, and expressing "common sense" conclusions on its own based thereon, the District Court granted Government's motion for summary judgment. The District Court stressed the weight it gave to the Eisenhower Committee's Statement and Report. It also expressed its "common sense" conclusion, based on the facts then of record, that there is indeed a "terrible danger" in permitting large groups to demonstrate in front of the White House; that this danger may come from peaceable demonstrators "furnishing a screen" for others bent on violence; and that such a situation would be "almost impossible for the Government and the Secret Service to defend against."

The District Court also noted, in essential concurrence with the Secret Service Director's view, that military-type measures are an abhorrent means of "how to protect the White House." And it noted, also agreeably to the Secret Service Director's view, that it is also abhorrent to consider that, if violence did erupt during a large demonstration, and demonstrators started across the White House lawn, the Secret Service and other security forces would have "no choice but to start shooting", and then "a lot of innocent people are very likely to get killed."

In granting the Government's motion for summary judgment, dissolving the preliminary injunction, as modified by the Court of Appeals in its June 24, 1969 decision, and dismissing the litigation, the District Court expressed its determination that the "terrible danger" to the safety and security of the President, inhering in permitting any large demonstrations to take place in front of the White House, far outweighs in importance "rights of dissent" relative to their exercise in only "one place in front of the White House." It also rejected the contention advanced in argument that a large demonstration at a suitable, nearby park site (which the Government would permit, along with 100 demonstrators at a time on the sidewalk in front of the White House) is an unreasonable means of accommodating and effectuating the "free-exchange-of-views" value of the First Amendment freedoms. In its oral opinion, the District Court stated:

> This Court holds, relying on the * * * Statement on Assassinations (of the National Commission on the Causes and Prevention of Violence headed) by Dr. Eisenhower and matters (of) which the Court as well as all the public is aware, that the President of the United States is in constant danger of assassination.
>
> This Court feels that the record in this case, including the affidavits, photographs, and so forth, when combined with general knowledge and common sense shows clearly that the gathering of large crowds in front of the White House presents a clear and present danger to the President of the United States, not so much from the protesters themselves, if at all, but from the screening they would give to any individual or group who had assassination in mind.
>
> This Court finds that in order to reasonably control the situation and protect the President, it is necessary to limit the number of protesters who may gather either on the sidewalk in front of the White House or across the street in Lafayette Park * * *.
>
> Therefore, the Court will grant summary judgment to * * * (the Government) * * * in this case and discharge the * * * (preliminary injunction, as modified) * * *.

Thereafter, the matter again came before the Court of Appeals on motion for summary reversal of the judgment the District Court's had granted in the Government's favor, or for stay pending appeal, and on the Government's motion for summary affirmance of the District Court's judgment. A majority of the Court of Appeals' Division which heard these motions, in the second decision the Court of Appeals has rendered in the matter, entered February 10, 1970, concluded that the District Court had erred "in adjudicating the issues in (the) summary fashion" it did, and that the issues presented merited "further exploration by the full processes of a trial on the merits" in the District Court. In this connection, the Court of Appeals majority stressed that "nothing * * * (the Court of Appeals had previously) said or * * * (was) * * * saying should be taken as directed toward a decision of the issues on their merits, since all * * * (consideration of the case by the Court of Appeals had) * * * been directed at resolving the issue of preliminary injunctive relief only."

The Court of Appeals majority rendering the February 10, 1970 decision ordered that the preliminary injunction, as modified by the Court of Appeals' decision of June 24, 1969, be reinstated, and remain in effect pending final disposition of the case by the District Court, or until further Court of Appeals order.

In determining to reinstate for this interim period the 15-day-advance-notice-system the Court of Appeals had earlier devised, the Court of Appeals majority stated in its February 10, 1970 opinion that it was relying (in part) upon the fact that the Government had "not contended that the notice system is objectionable because of any of its administrative aspects," and that, so far as the Court of Appeals had then been advised, "the notice system satisfies its contemplated objective of providing the Government sufficient time, at least during * * * (the) * * * interim period, to take preventive measures should the Government feel that the safety of the President is endangered."

The Government thereupon moved the Court of Appeals for reconsideration of the February 10, 1970 order reinstating the modified preliminary injunction, and for issuance of a further order which would "permit enforcement pendente lite of the regulations (36 CFR 50.19 and the implementing memorandum of the National Park Service's Regional Director) of the Department of the Interior restricting picketing in front of the White House to 100 persons and in Lafayette Park to 500 persons."

In its moving papers, the Government informed the Court of Appeals "that the 15-day (advance) notice system does not, in the judgment of the officials of the Executive Branch responsible for the protection of the safety of the President and the White House, provide any measure of such protection." And in support of the motion, the Government filed the affidavit of an Assistant Director of the Secret Service detailing the reasons undergirding the security judgment reached by the Secret Service that the notice system devised by the Court of Appeals is "administratively unworkable" and "does not provide a significant measure of protection for the President and the White House."

By order entered March 6, 1970, the Court of Appeals majority which had rendered the February 10, 1970, decision further modified the Court of Appeals

modification of the preliminary injunction so as "(1) to provide that the District Court is authorized and directed to implement the (15-day-advance) notice system by providing a form, which may be suggested by the Government, for the giving of notice of prospective demonstrations, in which the sponsors shall furnish reliable estimates of the number of persons participating, the estimated duration of the demonstration, including the times proposed for its beginning and conclusion, and the character of the activity in contemplation, and (2) further to provide that the preliminary injunctive relief as set forth in the order of February 10, 1970, does not extend protection to any persons sponsoring or engaged in activities not conforming to the notice given in such form."

In the present posture of this litigation, the Secretary of the Interior has determined that he may properly deal with this aspect of 36 CFR 50.19 in the course of the proposed complete revision to that regulation the Department of the Interior has undertaken in line with the views expressed by the Court of Appeals in the Women Strike for Peace litigation, discussed above. As the Court of Appeals has observed there, "the park authorities have the function of considering and accommodating the various interests involved" in the use of the park areas under National Capital Parks administration, and it is for the park authorities in the first instance to "take into proper account matters that have at least a nonfrivolous constitutional aspect, and * * * take a hard look at them and give them reflective consideration."

This conclusion gains added force from the consideration that the Secretary's action, in revising 36 CFR 50.19, may entirely eliminate from the Quaker Action case the question raised by the Court of Appeals majority in its February 10, 1970, opinion as to whether the 100/500 participant limitations imposed upon demonstrations in the vicinity of the White House may lawfully "be exercised by internal administrative action of subordinate officials rather than regulations duly exercised by the head of the cognizant department (here, the Secretary of the Interior) * * *."

In line with the Court of Appeals' direction given in its Women Strike for Peace opinion of August 1, 1969, the Secretary of the Interior, has also taken a "hard look" at the competing factors involved in the Quaker Action litigation as well, and has given them "reflective consideration."

Third. Basic legislative policy regarding use of parks is expressed in 16 U.S.C. 1; 16 U.S.C. 3; and 16 U.S.C. 20. The provisions in 16 U.S.C. secs. 1 and 3 derive from the Act of August 25, 1916, 39 Stat. 535, as amended. That Act created the National Park Service as an agency in the Department of the Interior, and prescribed the fundamental purpose it was to serve. Its original "charter", as set forth in 16 U.S.C. sec. 1, is a direction by Congress to undertake such measures in promoting and regulating public use of our national park system areas, as would be in conformity with the fundamental purpose for which these park areas had been set aside by Congress in our Nation's interest as national parks, monuments and reservations. The Service's primary function, as set forth therein, is to aid the American people to achieve full and unimpaired enjoyment of the park values, including the scenery, the natural and historical objects, and the wildlife to be found in these national park system areas. However, the statute enjoins the limitation that current enjoyment by our people of these national parks, monuments and reservations must not interfere with their continued maintenance in unimpaired form, so that the same park values can be as fully enjoyed by future generations. This central national interest purpose continues to be the fundamental guide to National Park Service regulation of the use of all national park system areas.

Specifically adverting to furtherance of this fundamental purpose, for which the national park areas have been set aside, Congress has declared in 16 U.S.C. § 20 its specific finding that "the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within * * * (our national park system) * * * areas should be provided only under carefully controlled safeguards * * *, so that * * * development of such facilities can best be limited to locations where the least damage to park values will be caused * * *."

(B) Policy Considerations and Tentative Judgments Embodied in Proposed 36 CFR 50.19

In accordance with the Court of Appeals opinion in the Women Strike for Peace litigation, the Secretary of the Interior has given due "reflective consideration" to the basic policy problem presented here: How best to regulate and manage use of the park, historic and national monument areas, and reservations administered by National Capital Parks so as reasonably to accommodate and reconcile all the significant interests involved. The Secretary has reached tentative judgments in the matter.

The following discussion identifies these interests; sets forth the Secretary's tentative judgments as to the proper accommodations which should be made, in light of all the pertinent factors; and indicates the basis on which the provisions of proposed 36 CFR 50.19 rests, and the circumstances and conditions under which assembly, demonstration and other speech activities are to be carried on in the various park areas encompassed by proposed 36 CFR 50.19.

As already observed, the original "charter" creating the National Park Service, set forth in 16 U.S.C. sec. 1, contains a direction by Congress for the National Park Service to undertake such measures regulating public use of our national park system areas, as will best conform such use to the fundamental purpose for which Congress has set those areas aside in our Nation's interest as national parks, monuments, and reservations. And in enacting 16 U.S.C. secs. 20–20g Congress further made the specific finding that "the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within * * * (our national park system) * * * areas should be provided only under carefully controlled safeguards * * *, so that * * * development of such facilities can best be limited to locations where the least damage to park values will be caused * * *".

The key is Congress' direction to the National Park Service to locate such necessary adjuncts to park operation where they will cause "the least (possible) damage to park values." As the congressional committee report accompanying the bill which came to be enacted as 16 U.S.C. secs. 20–20g (Public Law 89–249, 79 Stat. 969) discloses, the standard there provided simply puts into statutory form policies which * * * have heretofore been followed by the National Park Service in administering concessions within units of our national park system." 2 United States Code Cong. & Adm. News, 89th Cong., 1st Sess. (1965), at p. 3489.

The National Park Service follows the basic conservation approach indicated in these statutory provisions: To aid the American public enjoy the National Park System park values to which the National Park System is primarily dedicated; to assure such current enjoyment of the parks as parks is consistent with preserving essential park values, so that those values can continue to be enjoyed in undiminished form by succeeding generations of our American people; and to maximize insofar as possible the people's enjoyment of these park values taking into account competing park uses which should, and must necessarily, be allowed to be carried on in these park areas.

In addition, consideration has been given to such Interior Department policies as those set forth in the Secretary's June 18, 1969, memorandum to the Director of the National Park Service, containing an 11-point directive for management of the National Park System. One of the primary points emphasized in that document was the Secretary's statement, "To secure these values and benefits to our predominantly urban society, we must bring parks to people." The directive noted that the National Park Service "now manages more significant parklands in and near large urban centers than any other agency of Government at any level," and went on to urge more experimentation with such programs as Summer-in-the-Parks for the urban parks in the National Capital Parks, and other endeavors to enhance the educational, inspirational, and recreational values of all parks, "especially for our youth."

This basic National Capital Parks conservation policy is, of course, balanced against other considerations including the consideration of fostering the expression of views in such areas. The central park area in Washington, D.C., is of primary concern because of its historic importance and the competing interests operative there.

Washington, D.C., as the Nation's Capital, presents historical and national monument sites of great significance to our entire populace. Millions of Americans (and foreign visitors as well) who regularly throng there, thrill to its monumental sites, its beautiful park areas and its magnificent vistas. There are many Americans who experience a surge of pride and emotional inspiration each time they view its central National Capital Parks features, so evocative of our traditions, glorious past history and promise of future progress as a great Nation: The President's Park area, which includes the White House and its impressive grounds; the splendid visual sweep down from Capitol Hill, past the Washington Monument, the Reflecting Pool and the Lincoln Monument, across Arlington Memorial Bridge to Arlington National Cemetery, which has its own lustrous monuments; and the adjacent Tidal Basin area, with its cherry trees, boating and the Jefferson Memorial, all comprising a resplendently scenic park setting. As recently noted by the Court of Appeals for the District of Columbia in Allen v. Hickel, Ct. App. No. 23,544, decided April 10, 1970, the citizens of our Nation typically come to the Nation's Capital "to visit its (historic) sites and (national) monuments as one means of maintaining and strengthening their ties with our Nation's values and heritage."

Proper effectuation of the Park Service interest in maintaining this central National Capital Parks area warrants reasonable regulation therein of the various activities which may be carried on by park users.

The Secretary of the Interior is especially cognizant of the need to provide opportunities in the park area of Washington, D.C., including the central park areas, for free expression of ideas by assembly, demonstration and other speech activities. But effectuation of this important public interest must be harmonized with the other legitimate and important public concerns operative in such park areas.

Foremost, proper measures must be taken to protect the public safety and good order of the community against violence from any source. Moreover, it is a basic responsibility of the National Park Service to conserve the historical and national monument park values to which the central park area is primarily dedicated. Further, the National Park Service also has a basic responsibility to protect and conserve use of these same park facilities by people for rest and recreation purposes, to which park areas are also dedicated. Finally there is vitally operative in the White House area the paramount concern to protect the safety and security of the President, others occupying the Executive Mansion, the Presidential offices and personnel, the White House itself, and the White House grounds.

Situated in or near the central park area of the Nation's Capital are the official seats of the legislative and executive branches of our Government. Limited facilities for assembly, demonstration and other speech activities exist in the immediate vicinity of this seat-of-Government area, other than on park lands. Particularly in light of these considerations, the Secretary considers that it is necessary to provide a reasonable opportunity there to accommodate peaceable assemblies by persons who desire to express views and petition the Government. Adequate exercise of the constitutional freedom to hold assemblies, in order to express views and petition the Government in a peaceable and orderly fashion, is essential to proper functioning of our American system of government by consent of the governed.

However, it is constitutionally permissible to regulate such speech activities reasonably, taking into account the indicated competing legitimate values. Proper consideration must be given to ensure preservation of the peace and general good order of the community, to designate the places, to limit the noisiness, to prescribe the hours, and otherwise to keep public assemblies generally within acceptable bounds.

The Foreword to Rights in Conflict, the Walker Report on the Conflicts and Confrontations between Demonstrators and Police during the 1968 Democratic National Convention, pertinently observes in this connection:

> The right to dissent is fundamental to democracy. But the expression of that right has become one of the most serious problems in contemporary democratic government. That dilemma was dramatized in Chicago during the Democratic National Convention of 1968—the dilemma of a city coping with the expression of dissent.
>
> * * * [T]he events of convention week * * * [t]o a shocking extent * * *consisted of crowd-police battles in the parks as well as the streets * * *.
>
> * * * The physical confrontations in Chicago will be repeated elsewhere until we learn to deal with the dilemma they represent.
>
> In principle at least, most Americans acknowledge the right to dissent. And, in principle at least, most dissenters acknowledge the right of a city to protect its citizens, and its property. But what happens when these undeniable rights are brought—deliberately by some—into conflict?
>
> Convention week in Chicago is what happens, and the challenge it brings is plain: to keep peaceful assembly from becoming a contradiction in terms.

Traffic considerations warrant the consideration of reasonable time and place limitations upon the holding of mass demonstrations in public places, to facilitate heavy movement of traffic, during "rush-hours".

In addition to its responsibility to conserve the historical and national monument park values, to which the central park area in Washington, D.C., is dedicated, the National Park Service has a responsibility to protect the other park values to which not only that central park area, but also all other park areas under National Capital Parks administration, are dedicated.

All park areas in and near a large urban community such as Washington, D.C., provide indispensable "oases" from the city's "hustle and bustle", where city dwellers and workers alike can lay aside their daily cares, and enjoy rest and relaxation, communion with nature, enjoyment of trees, shrubbery, flowers, greensward, sun, air. Sometimes, simply to have a park bench on which to sit and view the passing scene, or for quiet contemplation, is an aid to enable people momentarily to escape from the noxious effects of the crowded and closed-up conditions of modern urban living. In the interest of effectuating these basic park values, the National Park Service constantly strives to maintain the National Capital park areas in the Nation's Capital so as to permit maximum enjoyment of them as city parks, and in this connection tries to keep them in as aesthetically pleasing a park state as possible.

As for park areas having natural settings. the National Park Service considers its prime responsibility to be to preserve them in as unspoiled a state as possible. In general, activities which tend to interfere with the public's enjoyment of their particularly appealing recreational - and - mental - health - restorative-values are not encouraged. Of course, the designation and maintenance of adequate recreational areas within these national park sites are considered essential incidents of proper public enjoyment of the park values.

Additionally, many park sites under National Capital Parks administration also function as city recreational play areas. In the particular areas reserved for outdoor athletics, the playing of baseball, tennis, softball games, etc.

Moreover, there are other park activities directly related to fulfillment of National Capital Parks responsibilities in administering an urban park system for Washington, D.C. These include such activities as the annual Folk Festival staged by the Smithsonian Institution, the annual Art Show staged by the District of Columbia, and the Summer-in-the-Parks program conducted by National Capital Parks itself. The Mall functions as a park adjunct to the National Art Gallery, and the various Smithsonian Institution museums. The cultural, educational and recreational purposes to which those civic activities are dedicated are in harmony with the basic park values of the Mall.

Finally, there are national celebration, commemorative and recreational events that are sponsored (or cosponsored) by the National Park Service. These include the Christmas Pageant of Peace, the Cherry Blossom Festival, Independence Day (July 4th) Celebration, the President's Cup Regatta, and Inaugural Day events.

These and similar features of National Capital Parks administration are deemed to be essential incidents of promoting and maintaining proper public use of the National Capital Parks sites for the basic park value purposes to which they are primarily dedicated.

The park areas in the vicinity of the White House present unique considerations. A vital concern in respect of the White House area is the paramount need to protect the safety and security of the President, other persons occupying the Executive Mansion, the Presidential

offices and personnel, the White House itself, and the White House grounds.

The basic articles of faith on which our American system of government by consent of the governed rest include the notion that free men will tend to be law-abiding. But in the current stressful time, our peaceful traditions and respect for law and order, which we have inherited from our English forebears, are weathering in a stormy climate. The Presidency is a prime focal point of authority in our Federal system. It is also to be noted that, despite their most peaceable intentions, sponsors of demonstrations and other public assemblies generally have no effective means of keeping hostile groups seeking violent encounters with our constituted authorities from responding to their assembly call. The danger of violent outbursts, organized and unorganized, is therefore a factor which must be reckoned with in establishing proper regulations to protect the security of the President, the White House and its environs.

As observed by the Eisenhower Commission on the Causes and Prevention of Violence in its Statement on Assassination, periods of great social stress in our past history have produced assassinations, vilification of our political leaders and threats to their personal safety. Further, "considering the high visibility, the substantial power, and the symbolic (as well as actual) importance of the American presidency, it is not surprising that Presidents are prime victims of assassination * * *. The presidency is of the fulcrum of power, the focus of hopes, and the center of controversy in American politics. * * * Present trends warn of an escalating risk of assassination * * * for (our) Presidents. * * * [I]t is clear that, among all public figures, Presidents will continue to run the greatest risks of assassination. * * *".

The Commission recognized that complete isolation of the President, as a means of guarding him against dangers, is "neither practicable nor desirable." But it recommended that the risks be minimized as much as possible, in the interest of "effective security."

As noted in the discussion above of the Quaker Action litigation, the Secret Service Director, who, more than any other person in governmental service, directly bears the tremendous burdens attendant upon securing the safety of the Presidency, expressed in the course of that litigation his security judgment as to the need to keep within readily manageable limits the numbers of demonstrators and picketers permitted on the sidewalk in front of the White House and in Lafeyette Park. He there concluded that demonstrating or picketing groups permitted to assemble on the sidewalk in front of the White House should not exceed 100 persons at any one time, and such groups permitted to assemble in Lafayette Park should not exceed 500 persons at any one time, in the interest of the security of the President, other persons occupying the Executive Mansion, the Presidential offices and personnel, the White House itself, and the White House grounds.

In connection with the proposed revision of 36 CFR 50.19, the Secret Service Director on June 25, 1970, sent the following letter to the Department of the Interior:

> It is the understanding of the Secret Service that the Secretary of the Interior has under consideration revised regulations (36 CFR 50.19) governing demonstrations and other public assemblies in the Nation's Capital. The object of this letter is to convey to the Secretary the current security judgments and requests of the Secret Service, relative to including therein provisions for proper protection of the President, other persons occupying the Executive Mansion, the Presidential office and personnel, the White House itself, and the White House grounds.
>
> We strongly hold the view that the safety and security of the President, the Executive Mansion and its other occupants, the Presidential offices and personnel, and the White House grounds, require that the 100 participant limitation which has been in effect for demonstration and other public assembly activities on the sidewalk in front of the White House, and the 500 participant limitation which has been in effect for demonstration and other public assembly activities in Lafayette Park, be incorporated into the revised regulations.
>
> We are further of the view that the dangerous potential which exists today for violent outbreaks in the course of confrontations sought with constituted authority in demonstration activities focusing upon the Presidency, and the equally dangerous potential threat posed by violence-prone individuals and groups who may seek to utilize the screen which the bodies of peaceable demonstrators can provide for them, in respect of an assassination attempt, or an attempt to storm the White House or the Presidential offices, warrant our making this additional request:
>
> That—apart from the indicated 100/500 participant limits placed upon demonstration and other public assembly activities permitted under the policy implementation to the current regulations—all other demonstration and public assembly activities be kept entirely away from the White House and its immediate environs. In other words, that an area limitation be included in the revised regulations, barring all other demonstration and other public assembly activities from being carried on in any park area within the following bounds: on the south, E Street NW.; on the north, H Street NW.; on the east, 15th Street NW.; and on the west, 17th Street NW.
>
> We reiterate the basic security judgment expressed in the affidavits I executed in connection with the Quaker Action litigation. We believe that the small-scale (100/500) demonstration and assembly activities permitted on the White House sidewalk and in Lafayette Park under the policy implementations to the current regulations, would be manageable in the event any conveivable type of violence breaks out in the course of demonstration or assembly activities there. However, if groups of any size are permitted to congregate in these areas for the purpose of mass demonstrations, and violence erupts, the available security force may not have the necessary capability or facility to contain or control a violent group intent upon entering the White House compound.
>
> Your cooperation in incorporating these security requests in the revised regulations would be greatly appreciated.

The difficulties with which the Secret Service Director must cope, and the conflicting considerations which affect his security problems, are well recognized. As noted in the Report of the President's Commission on the Assassination of President John F. Kennedy (1964), at page 427, the President's "very position as representative of the people" precludes taking "the precautions of a dictator" to shield him from danger. "The protection of the President must be thorough but inconspicuous to avoid even the suggestion of a garrison state."

With respect to the Secret Service Director's judgment relative to the tolerable limits of security risks attendant upon demonstrations and other public assemblies on the front sidewalk and in Lafayette Park, the Report of the President's Commission on the Assassination of President Kennedy (1964) sets forth (at p. 428) a memorandum prepared by the FBI Director for President Johnson soon after the assassination of President Kennedy, explaining that, since other considerations render it impossible to achieve full security for the President's safety, the only practical approach to the matter "necessitates compromise". The FBI Director pointedly added: "Many Presidents have been understandably impatient with the security precautions which many years of experience dictate because these precautions reduce the President's privacy and the access to him of the people of the country. Nevertheless the procedures and advice should be accepted if the President wishes to have any security." The Report comments in this connection (at p. 427): "The men in charge of protecting the President, confronted by complex (security) problems and limited as they are in the measures they may employ must depend upon the utmost cooperation and understanding from the public and the President."

The Secretary of the Interior considers that, on the vital point of the security of the President, other persons occupying the Executive Mansion, the Presidential offices and personnel, the White House itself and the White House grounds, the judgment of the Secret Service Director—subject to the calculated risks the President chooses to take as the political head of the nation—should prevail. The matter is assigned to the Secret Service Director's competence by statute, and it is he who primarily bears the tremendous responsibilities to assure Presidential security.

It is thought that no substantial constitutional problem is presented by the proposed regulations, 36 CFR 50.19, incorporating the requests of the Secret Service Director, made in the vital interest of the security of the President, other persons occupying the Executive Mansion, the Presidential offices and personnel, the White House itself and the White House grounds.

The provisions of proposed 36 CFR 50.19 attempt no regulation at all of the ideological content of the speech activities intertwined with the demonstration and other public assembly conduct.

All groups seeking to hold demonstrations or other public assemblies in front of the White House or in Lafayette Park

in excess of the 100/500 participant limitations applicable there, would have available to them the use under permit of other suitable, nearby park sites, where they may assemble and demonstrate in large numbers. Thus, the communication purpose intertwined with mass demonstration conduct can be adequately accommodated without the incurrence of undue security risks to the President, other occupants of the Executive Mansion, the Presidential offices and personnel, the White House itself, and the White House grounds.

While the security interest in proper protection of the President, the White House and its environs is indeed a paramount concern, the Secretary is of the view that the park values taken into account by the National Capital Parks Director in the Quaker Action litigation (discussed above) are also legitimate interests. The assembly of large numbers of demonstrators in Lafayette Park can cause substantial injuries to its park features, its monuments, plants, etc. It does not seem unreasonable to place a limitation upon the size of assemblies in Lafayette Park. It should be possible to maintain that park area in an undespoiled state, so as not to disturb the enjoyment by persons working, living, or visiting in the vicinity, of the park values to which this beautiful and historic park site is primarily dedicated. Park values and the general comfort and convenience of the public are not to be disregarded in a fair balancing of all the considerations involved.

As for the erection of structures and bringing movable facilities on park lands: Proposed 36 CFR 50.19 permits speakers' stands and platforms to be erected, where needed, in connection with any permitted demonstration or other public assembly. These regulations also allow movable facilities—including stands, floats, chairs—to be used in connection with such activities. However, other structures will not be permitted to be erected in connection with permitted demonstrations or other public assemblies on National Capital Parks. An exception has been made, however, relative to structures incident to events determined by the National Park Service to warrant its sponsorship or cosponsorship.

The Secretary is of the view that allowing structures to be erected on park land is generally undesirable, unless a supervening park purpose requires it since the erection of structures inevitably causes injuries to basic park values.

In the Secretary's judgment, barring the temporary erection of structures (other than speakers' stands or platforms) in connection with permitted assemblages on park lands has minimal impact on effectuation of the communication value of the first amendment freedoms. Proposed 36 CFR 50.19 makes adequate provision for movable facilities, signs, placards, etc., in connection with permitted demonstrations or assemblies on park lands. Going beyond the bar to the temporary erection of structures in connection with permitted assemblages on park lands, the Secretary is further of the view that freedom to communicate ideas does not extend to erecting structures on park lands advertising "messages" which some group or individual wishes to convey to the general public. The detriment to basic park values if billboard or display structure "messages" were permitted to be erected over the park landscapes is obvious. It could result in offensive and unaesthetic defacement of park features and vistas, and cause great injury to the people's enjoyment of beautiful, unblemished, reposeful and uncluttered park areas.

Congress in enacting the Highway Beautification Act of 1965, Public Law 89–285, 79 Stat. 1028, 23 U.S.C. sec. 131, has generally barred the erection of outdoor advertising signs and displays in areas adjacent to the Nation's Interstate Highway System. This, Congress has expressly declared, has been done in order to promote the "recreational value of public travel, and to preserve natural beauty" along the routes of the Interstate Highway System. Maintenance of park tranquillity and beauty touches even closer to the people's basic recreational, reposeful and aesthetic needs.

As indicated herein, the Secretary has given full reflective consideration to all relevant factors. He considers that proposed 36 CFR 50.19 accommodates to the maximum extent possible all the various interests involved, and provides definite and workable procedures for the prompt handling of park-use permit applications.

The comments of all interested persons with respect to these proposed regulations are desired, and will receive full reflective consideration.

Dated: July 13, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

Section 50.19 is revised to read as follows:

§ 50.19 Public gatherings.

(a) Definitions:

(1) The term "public gatherings" includes, but is not limited to, demonstrations, picketing, speech-making, holding of vigils, parades, ceremonies, meetings and all other forms of public assembly.

(2) The term "White House area" means all park areas, including sidewalks adjacent thereto, within these bounds: On the south, Constitution Avenue NW.; on the north, H Street NW.; on the east, 15th Street NW.; and on the west, 17th Strect, NW.

(3) The term "White House sidewalk" means the south sidewalk of Pennsylvania Avenue NW., between East and West Executive Avenues NW.

(4) The term "park areas" shall include all areas, including sidewalks adjacent thereto, other than the White House area, administered by National Capital Parks of the National Park Service.

(5) The term "NPS event" means any celebration, commemorative, or recreational event sponsored or co-sponsored by the National Park Service.

(b) Public gatherings, other than NPS events, may be held only pursuant to a valid official permit issued in accordance with the provisions of this section. NPS events are excepted from the operation of this section. They will not require official permits; may be held in any park area; and may preempt park areas to the exclusion of other public gatherings.

(c) Speaker's stands or platforms may be erected, where needed, as adjuncts to any permitted public gathering, except on the White House sidewalk; but no other structures (including billboards, displays, etc.) may be erected on park lands except in connection with NPS events. All such structures shall be erected as inconspicuously as possible, and with least possible damage to basic National Park System values, and shall be dismantled as soon as practicable after conclusion of the public gathering.

(d) In connection with permitted public gatherings, except on the White House sidewalk, movable facilities—such as stands, lecterns, sound amplification equipment, chairs, portable sanitary facilities, and press and news facilities—reasonably necessary as an integral part of a public gathering, shall be permitted, provided prior notice has been given to the Superintendent, except that:

(1) The Superintendent reserves the right to limit the sound amplification equipment, so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area.

(2) No sound amplification equipment shall be used on the White House sidewalk, other than hand-portable sound amplification equipment which the Superintendent determines, in the exercise of his judgment, is necessary for crowd control purposes.

(3) The Superintendent may impose reasonable restrictions upon the movable facilities permitted, in the interest of protecting the park area involved for the primary park purpose to which it has been dedicated, traffic considerations, and other legitimate park value concerns:

(e) Permit applications shall be submitted to the General Superintendent, National Capital Parks, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20243:

(1) *White House area.* Permit applications shall be submitted in writing on a form provided by NPS so as to be received by the Superintendent at least 7 days in advance of the date of any proposed public gathering involving 100 or more participants; and at least 48 hours in advance of any proposed public gathering involving less than 100 participants.

(2) *Park areas.* Permit applications for all park areas, except the White House area, shall provide the following information: Area, date, time, duration, and nature of the public gathering; estimated number of participants; sponsoring organization; props and equipment to be used; and name, address, and phone number of applicant.

(f) The Superintendent shall process with reasonable promptness applications

in order of receipt; and, subject to the limitations set forth in paragraph (g) of this section, he shall issue an official permit upon proper application, authorizing a peaceable and orderly public gathering to be held, unless:

(1) A proper prior application for the same time and place has been received, and has been or will be granted on an "exclusive" use basis; or

(2) It reasonably appears that the proposed public gathering will present a clear and present danger to the public safety, good order, or health; or

(3) The proposed public gathering is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; in that event, an alternate site if available for the activity shall be proposed by the Superintendent to the applicant; in this connection, the Superintendent shall reasonably take into account possible damage to the park including, trees, shrubbery, other plantings, park installations, and statues.

(4) The permit is subject to denial as contrary to any of the provisions in this section.

(g) Issuance of permits under paragraph (f) of this section shall be subject to the following limitations:

(1) No permit shall be issued for any place within the White House area, except for the White House sidewalk, Lafayette Park, and the Ellipse.

(2) No more than 100 persons shall be permitted to conduct a public gathering on the White House sidewalk at any one time.

(3) No more than 500 persons shall be permitted to conduct a public gathering at Lafayette Park at any one time.

(4) No permit shall be issued authorizing public gatherings to be held simultaneously on the White House sidewalk and in Lafayette Park.

(5) No permit shall be issued for a period of more than 7 consecutive days and no permit shall authorize any public gathering having a duration of more than 24 consecutive hours.

(6) No public gatherings shall be permitted to be held between the hours of 7–9:30 a.m. and 4–6:30 p.m., except on Saturdays, Sundays, and legal holidays, unless it shall be made to appear to the satisfaction of the Superintendent that the holding of the particular public gathering will not unreasonably interfere with rush-hour traffic.

(h) Authorized permits may contain additional reasonable conditions and additional time limitations, consistent with this section, and in the interest of protecting the park site involved for the primary park purpose to which it has been dedicated, the use of nearby areas by other persons, and other legitimate park value concerns.

(i) Public gatherings may be held and speeches may be made in the following areas under the jurisdiction of the National Capital Parks without official permit. The conduct of any such gathering shall be reasonably consistent with the protection and use of the area for the purposes for which it is maintained:

(1) *Franklin Park.* Thirteenth Street, between I and K Streets NW., for no more than 500 persons.

(2) *McPherson Square.* Fifteenth Street, between I and K Streets NW., for no more than 500 persons.

(3) *U.S. Reservation No. 31.* West of 18th Street and south of H Street NW., for no more than 100 persons.

(4) *Rock Creek and Potomac Parkway.* West of 23d Street, south of P Street NW., for no more than 1,000 persons.

(5) *Garfield Park.* East side of Second Street, SE., between Virginia Avenue and South Carolina Avenue, for no more than 1,000 persons.

(6) *U.S. Reservation No. 46.* North side of Pennsylvania Avenue, west of Eighth Street and south of D Street SE., for no more than 25 persons.

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DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 92]

LIVESTOCK FROM MEXICO

Testing for Tuberculosis

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Department of Agriculture is considering the amendment of the regulations relating to importation of certain animals and poultry, and certain animal and poultry products, and inspection and other requirements for certain means of conveyance and shipping containers thereon (9 CFR Part 92) pursuant to provisions of the Act of August 30, 1890, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 4, 5, and 11 of the Act of July 2, 1962 (21 U.S.C. 102–105, 111, 134c, 134d, and 134f), in the following respects:

Paragraph (b) of § 92.35 would be amended to read as follows:

§ 92.35 Cattle from Mexico.

* * * * *

(b) *Tuberculosis.* (1) In addition to the provisions required in the certificate under paragraph (a) of this section, such certificate shall also show, with respect to all cattle from Mexico except cattle certified in accordance with § 92.40, that a review of the herd history, tuberculin test results, trace-back slaughter reports, post-mortem reports and any other available records or information do not indicate evidence of tuberculosis or exposure thereto during the preceding 60 days. The certificate shall also show, with respect to all cattle, except cattle certified in accordance with § 92.40 and steers, that the herd or herds from which the animals proceed have been tuberculin tested with negative results not more than 12 months nor less than 3 months before the date the animals are offered for entry into the United States, and that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of said herd test. The said certificate shall give the date and place of inspection, the date and place and results of the tuberculin test if applicable, the name of the herd owner, the name of the consignor and consignee, and an individual description of each animal including breed, age, sex, and tattoo or ear tag number.

(2) Cattle from a herd or herds in which one or more reactors to the tuberculin test have been disclosed shall not be eligible for importation until said herd or herds have reached full tuberculosis-free status under Mexican Government regulations.

(3) All bulls and female cattle accompanied by the certificate described herein shall be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results: *Provided,* That if any reactor is disclosed in any lot when so tested at the port of entry, the entire lot shall be refused entry and the entire lot or any portion thereof shall not be eligible for importation until said lot has reached full tuberculosis-free status under Mexican Government regulations and the animals offered for entry have met the other applicable requirements of this section.

The purpose of this proposal is to require that all cattle offered for importation from Mexico (except cattle for immediate slaughter from the States specified in 9 CFR 92.40 and steers) shall originate in herds which have been tested for tuberculosis with negative results, and shall then be retested for tuberculosis with negative results by the ANH port veterinarian at the port of entry immediately prior to importation into the United States.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, within 60 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the office of said director during regular office hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 13th day of July 1970.

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

[F.R. Doc. 70–9169; Filed, July 16, 1970; 8:48 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 723]

CIGAR-FILLER TOBACCO (TYPE 41)

1971–72 Marketing Year Farm Acreage Allotments and Normal Yields

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), hereinafter referred to as the "Act", regulations are being prepared to govern the establishment of farm acreage allotments and normal yields for the 1971 crop of cigar-filler (type 41) tobacco.

Under section 301(b)(15) of the Act, cigar-filler tobacco comprises only type 41 tobacco. Producers of cigar-filler (type 41) tobacco disapproved marketing quotas for such kind of tobacco for 3 marketing years beginning October 1, 1968 (33 F.R. 4787), and previously thereto had disapproved marketing quotas in referenda held in 3 successive years subsequent to 1952 (18 F.R. 8474, 19 F.R. 9365, 21 F.R. 667). Hence, pursuant to the provisions of section 312 of the Act, acreage allotments and marketing quotas were not determined for such kind of tobacco for the 1969 and 1970 crops of such kind of tobacco. Pursuant to section 312 of the Act, the Secretary is required to proclaim not later than February 1, 1971, a quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1971, and hold a referendum of farmers who were engaged in the production of such kind of tobacco in 1970 to see whether such farmers favor or oppose marketing quotas. Under section 313(g) of the Act, when the national marketing quota is announced by the Secretary it will be converted into a national acreage allotment, and the national acreage allotment, less a reserve not to exceed 1 percent thereof for new farms, for adjusting inequities in old farm acreage allotments and providing acreage allotments for overlooked old farms, will be apportioned to farms. (Tobacco classified as type 41 tobacco is grown only in Pennsylvania.) Section 362 of the Act requires that notice of the farm acreage allotment for each old farm shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the referendum.

It is contemplated that the regulations for type 41 tobacco allotments for the 1971–72 marketing year will be substantially the same as those issued for such kind of tobacco for the 1968–69 marketing year (33 F.R. 843), except that the 5-year and 3-year periods used in determining preliminary acreage allotments for the 1971–72 marketing year will be the years 1966–70 and 1968–70, respectively, instead the years 1963–67 and 1965–67 which were in use for the 1968–69 marketing year.

Allotments determined under the regulations will remain in effect for the 1971 crop year whether or not marketing quotas are approved in the referendum.

Prior to final adoption and issuance of these regulations, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Commodity Programs Division, ASCS, USDA, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at such time and place and in the manner convenient to the public business (7 CFR 1.27(b)).

All submissions must be postmarked not later than 30 days after date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Signed at Washington D.C., on July 13, 1970.

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

[F.R. Doc. 70-9211; Filed, July 16, 1970; 8:51 a.m.]

[7 CFR Part 724]

BURLEY AND CERTAIN OTHER TYPES OF TOBACCO

Allotment and Marketing Quota Regulations, 1968–69 and Subsequent Marketing Years; and Establishment of 1971 Preliminary Allotments for Maryland Tobacco

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), hereinafter referred to as the "Act", an amendment to the regulations is being prepared to become effective with the establishment of farm acreage allotments for 1971 crops.

It is proposed that the regulations now in effect will continue to be in effect for the 1971 and subsequent crops, except that in the case of Maryland tobacco the preliminary farm acreage allotment for the 1971 crop would be computed on the basis of the larger of (a) the farm's average history acreage for the 5 years, 1966–70 or (b) the farm's average history acreage for the 2 years 1969–70 (not to exceed the allotment for the farm for 1968). The provisions of the regulations now in effect for determining preliminary farm acreage allotments would not fully apply to Maryland tobacco allotments for 1971, since allotments were not determined for Maryland tobacco for the 1969 and 1970 crops.

Prior to final adoption and issuance of the proposed amendment, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Commodity Programs Division, ASCS, USDA, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at such time and place and in the manner convenient to the public business (7 CFR 1.27(b)). All submissions must be postmarked not later than 30 days after date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Signed at Washington, D.C., on July 13, 1970.

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

[F.R. Doc. 70-9212; Filed, July 16, 1970; 8:51 a.m.]

Consumer and Marketing Service

[7 CFR Part 1030]

[Docket No. AO-361-A2]

MILK IN CHICAGO REGIONAL MARKETING AREA

Partial Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held, 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 (7 CFR Part 900), at Chicago Ill., on August 20–22, 1969, with additional sessions at Oshkosh, Wis., on August 25–27, 1969, pursuant to notice thereof issued on July 25, 1969 (34 F.R. 12529).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on February 27, 1970 (35 F.R. 4064; F.R. Doc. 70-2675), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. A paragraph is added after the list of material issues.

2. Under the heading "3. Pool plant performance requirements for supply plants and reload point.":

(a) All of material under subheading "Monthly shipping percentages" is revised.

(b) All of subheading "Unit pooling of supply plants" is deleted and one paragraph is substituted therefor.

(c) Under the subheading "Shipments of condensed skim milk", the first, fourth and fifth paragraphs are revised and eight new paragraphs are inserted after the fourth paragraph.

(d) All of subheading "Authority of Director of Dairy Division" is deleted.

(e) Under the subheading "Reload operations", the first and fifth paragraphs are revised.

(f) Under the subheading "Miscellaneous", the first paragraph is revised and a new paragraph is added between paragraphs one and two.

3. Under the heading "4. Producer milk definition.": The first sentence is deleted.

(a) Under subheading "Diversion of producer milk", the fifth paragraph is revised and a new paragraph is added thereafter. Paragraphs six through 17 are deleted.

(b) Under subheading "Interhandler transfers of producer milk", the first paragraph is revised.

4. Under the heading "5. Location adjustments.", a new paragraph is added after the last paragraph.

The material issues on the record of the hearing relate to:

1. Marketing area expansion;
2. Individual handler pooling proposals;
3. Pool plant performance requirements for supply plants and reload point facilities;
4. Producer milk definition;
5. Location adjustments to Class I and uniform prices;
6. Class II milk price; and
7. Seasonal incentive payment plan of uniform prices to producers.

With respect to material issues No. 3 and No. 4, this is a partial decision. The hearing should be reopened to receive further evidence on performance requirements for supply plants and on the provisions relating to diverted milk.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area expansion.* The marketing area should be expanded to include Adams, Green Lake, Marquette, Menominee and Waushara Counties in the State of Wisconsin. It should also include all the territory within the boundaries of the specified counties that is occupied by a Government (municipal, State, or Federal) reservation, installation, institution, or other establishment.

The proposed expansion of the marketing area to include other additional territory in Wisconsin and Illinois should not be adopted on the basis of this record.

A cooperative association which represents a large number of the producers supplying the Chicago Regional market proposed enlarging the marketing area to include all of the territory within the following Wisconsin counties: Adams, Chippewa, Clark, Eau Claire, Green Lake, Jackson, Marathon, Marquette, Menominee, Waushara, and Wood.

The five counties of Adams, Green Lake, Marquette, Menominee, and Waushara are encircled by the present Chicago Regional marketing area. Menominee County in northeast Wisconsin was an Indian reservation at the time of promulgation of the former Northeastern Wisconsin order but since 1961 has been established as a regular Wisconsin County. Proponent urged the inclusion of these five counties to provide contiguity to an area primarily served by Chicago regulated handlers.

Chicago Regional handlers now have a preponderance of the fluid milk sales in these counties. Except for Adams County, Chicago Regional handlers distribute all of the milk sold in each county. In Adams County, Chicago Regional handlers distribute 51 percent of the milk while a handler regulated under the Minneapolis-St. Paul order distributes 30 percent and a handler through his partially regulated plant in Eau Claire, Wis., distributes the remaining 19 percent of the milk sold in the county.

The inclusion of these counties will achieve another purpose cited by proponent, i.e., to reduce an undue expense on handlers. Presently, handlers who distribute milk in these counties must maintain separate records of these sales and report them as out-of-area sales. The addition of these counties will eliminate the necessity that handlers maintain separate records insofar as these sales are concerned.

The other Wisconsin counties proposed to be added to the marketing area are part of the unregulated territory, of about 20 counties, in northwest Wisconsin which borders on five Federal order marketing areas, namely, the Chicago Regional, Southeastern Minnesota-Northern Iowa, Minneapolis-St. Paul, Duluth-Superior, and Michigan Upper Peninsula. Specifically, the portion of this territory included in the proposal consists of the counties of Chippewa, Clark, Eau Claire, and Jackson plus the unregulated area in Marathon and Wood Counties.

In regard to the inclusion of the above northwest Wisconsin counties in the marketing area, the proponent cooperative stated that this part of the proposal was prompted in the interest of two regulated handlers located in this area who receive milk produced by its members. One of these regulated handlers has his plant located in Marshfield, Wis., in northwest Wood County, abutting Marathon County. This handler's plant is pooled as a supply plant under the order but, in addition, he packages and distributes about 10 percent of the milk received at this plant on routes throughout the unregulated portions of both Marathon and Wood Counties.

The other handler is located in Black River Falls, Jackson County, Wis. This handler operates a distributing plant with route disposition in the marketing area in an amount slightly over 10 percent of his total sales. Most of the route sales from this plant are made in Jackson County.

Neither one of these regulated handlers presented testimony in support of this proposal. The Marshfield handler stated that he could see no need to extend the marketing area. The Black River Falls handler did not make an appearance. Proponent cooperative offered in support for the proposal the fact that the Black River Falls handler's sales into the Chicago Regional marketing area have not been sufficient to provide a comfortable assurance of continuous regulation if he were to enlarge his sales in Jackson County. Proponent contended further that these handlers must compete in their home counties with unregulated milk distributed by the operator of the Eau Claire plant. There was no indication, however, such competition has resulted in disorderly marketing.

The difficulties of such two handlers with full regulation are not so much related to competition for sales in this unregulated area as to achieving order changes which will make it easier for them to retain their regulated status. The Marshfield handler supported an amendment to the pool plant qualification provisions which would add his route sales to the shipments from his supply plant to determine the pool status of the plant.

At the hearing the representative of proponent stated that its producer members do not have any direct interest in the marketing of milk within Chippewa, Clark, and Eau Claire counties, but included them in the proposal in the event that the Eau Claire distributor desired to present evidence supporting their inclusion in the marketing area.

The operator of the Eau Claire plant, however, opposed the addition of any Wisconsin territory to the marketing area. He presented data showing the percent of his total sales in each of several counties. In the present marketing area he has 8.2 percent of his total sales, in Adams County 3.5 percent, Chippewa 7.5, Clark 6.5, Eau Claire 24, Jackson 5, Marathon (unregulated) 0.5 and Wood (unregulated) 1.5 percent. Thus, he contended that if Adams County were added, total distribution within the expanded marketing area from this plant might exceed the minimum 10 percent in-area sales specified in the pool distributing plant provisions for full regulation.

This operator testified further that if the marketing area is expanded so that his plant becomes fully regulated under the order then all the Wisconsin counties contained in the proposal should be added to the marketing area. In the event of their inclusion, he requested that another hearing be called to consider regulation of all the remaining territory in northwest Wisconsin under either the Chicago Regional or the Minneapolis-St. Paul order, since about 42 percent of his sales are in these remaining northwest Wisconsin counties and are in competition with several distributors who still would not be regulated under a Federal order.

A cooperative association which operates an unregulated distributing plant located at Chippewa Falls in Chippewa County, opposed the addition of Chippewa and Eau Claire counties to the Chicago Regional marketing area. A majority of the sales from its plant are made in Chippewa and Eau Claire counties but about 30 percent of the distribution from the plant is in counties not here considered for regulation.

This cooperative was one of the proponents in 1968 to have these two counties, plus additional territory in Wisconsin and Minnesota, added to the Minneapolis-St. Paul marketing area. The proposed addition of these two counties to the Minneapolis-St. Paul marketing area was denied on the ground that sales in these counties by regulated handlers were negligible. The

cooperative's representative stated that similar conditions exist with respect to sales by Chicago Regional handlers in Chippewa and Eau Claire counties. As in the case of the Eau Claire distributor, the cooperative's witness urged that these two counties should not be brought under Federal regulation in the absence of regulating the remainder of the unregulated territory in northwest Wisconsin.

At the present time less than 6 percent of the milk sold in Chippewa and Eau Claire counties is from plants regulated under a Federal order. If the Eau Claire distributor were fully regulated these percentages would increase considerably, but this would leave him in competition with at least six unregulated distributors in his remaining distribution area.

Full regulation of the Eau Claire plant would likely result if Jackson, Wood, and Marathon counties were added along with the five counties now encircled by the marketing area, as urged by proponent cooperative, since this would include within the marketing area about 19 percent of the plant's present sales area. However, this handler probably could adjust his total sales operations slightly to maintain the partially regulated status of his Eau Claire plant if only the five counties now encircled by the marketing area were added. This opportunity is available to him since he also operates distributing plants regulated under nearby Federal orders from which he can serve part of the accounts in the marketing area now being served out of the Eau Claire plant.

It was concluded earlier in this decision that Adams, Green Lake, Marquette, Menominee, and Waushara counties should be added to the marketing area since they are clearly part of the principal distribution area of presently regulated handlers. However, the additional Wisconsin territory should not be included. It would not be feasible to include these counties without the opportunity to consider regulation under some Federal order of the remaining unregulated territory in northwest Wisconsin because the proportion of the milk sold by regulated handlers in these northwestern Wisconsin counties depends significantly upon regulation of particular plants.

A handler who operates two pool distributing plants proposed the addition of Grundy, Kankakee, and Le Salle counties, Ill., to the marketing area. At the hearing, however, this handler supported only the addition of Kankakee County. No testimony was presented in support of adding Grundy and La Salle counties, consequently no further consideration is given in this decision to their inclusion.

Proponent cited several fluid milk sales accounts in Kankakee County, previously served by the company's distributing plant under the Southern Illinois order, which were lost over the past few years to an unregulated distributor located in the city of Kankakee. The reason given for the loss of these accounts was that the Kankakee distributor offered milk at a lower price. Proponent believed the Kankakee dealer could do this because his unregulated status permitted him to purchase milk for fluid uses at a lower price than proivded by the order.

The operator of the Kankakee plant testified in opposition to including that county in the Chicago Regional marketing area. He stated that since the producer blend price under the Chicago Regional order is low relative to the Southern Illinois order he would lose his 18 producers if he became regulated under Chicago. He also stated that if he lost his local producers it would be very costly for him to get an alternative supply of milk from Wisconsin plants since he handles only about 20,000 pounds of milk per day, which is about one-half of an "over-the-road" tank truck load.

The Kankakee distributor stated that he would prefer to be regulated under the Central or Southern Illinois order, if regulation were necessary. He maintained that he should receive the same treatment as several other small plants located within the unregulated territory between the Chicago Regional and Central Illinois marketing areas.

An association of Chicago milk dealers who account for more than 50 percent of the milk distributed under the order, and some of whose members distribute milk in Kankakee County, stated in their brief that this county should not be added to the Chicago Regional marketing area. They claim the addition of this county could cause difficult procurement problems for the Kankakee dairy because of its proximity to the Central Illinois marketing area. Thus, they stated that it would be more appropriate to add this county to the Central Illinois marketing area. A similar view was expressed in the brief filed by an association of cooperatives that represents a majority of the producers on the Chicago market.

There is substantial overlapping of the distribution routes in Kankakee County of Chicago Regional handlers and of the unregulated Kankakee distributor. Milk regulated under the Chicago Regional order accounts for about 53 percent of the total milk sold in the county. The Kankakee distributor's sales account for about 19 percent while proponent's distribution, which is from his Southern Illinois regulated plant in Champaign, accounts for 24 percent. The remaining four percent of the sales in the county is from Central Illinois handlers and an unregulated distributor located in Streator (La Salle County), Ill.

Kankakee County is located about 60 miles directly south of the city of Chicago, Ill. It abuts the Chicago Regional marketing area on the north, the Indiana marketing area on the east and the Central Illinois marketing area on the west. To the south, only the unregulated county of Iroquois separates it from the Southern Illinois marketing area. Kankakee County producers therefore are located relatively close to several alternative Federal order marketing areas, each one having a somewhat higher Class I price in Kankakee County and most having higher producer blend prices than does the Chicago Regional order.

Even though the Kankakee distributor competes more with Chicago Regional handlers for fluid milk outlets, his competition for sources of supply are the other nearby markets most of which have higher blend prices in Kankakee County. For example, producer blend prices f.o.b. the city of Kankakee under the Southern Illinois order during the period July 1968 through June 1969 averaged $5.20 per hundredweight while the comparable Chicago Regional blend price was $5, or 20 cents less. Regulating this handler under the Chicago Regional order could cause him undue hardship in milk procurement.

For the reasons set forth above it is hereby concluded that the proposal to add Kankakee County, Ill., to the marketing area should not be adopted.

Although some of the route disposition of regulated handlers extends beyond the boundaries of the Chicago Regional marketing area, it is neither practical nor reasonable to stretch the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it encompasses the great bulk of the fluid milk sales area of regulated handlers.

All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

2. *Individual handler pooling proposals.* The proposals to adopt individual handler pooling within the Chicago Regional marketing area, including that to reinstate the Milwaukee, Wis., Federal order (No. 39) with its individual handler pooling, should be denied.

There were two proposals for individual handler pooling. One would adopt such pooling for the entire Chicago Regional market. The other would remove

from the Chicago Regional market that territory formerly under the Milwaukee order so as to reinstate such order with its individual handler pooling of producer returns. The first proposal was offered by a regulated handler. The latter proposal was made by a dairy farmer and three cooperative associations serving Milwaukee-based handlers and was supported by several handlers who were regulated under the former Milwaukee order.

Under individual handler pooling, each handler pays his producers a uniform price based on his utilization of their milk at the applicable class prices. Producers supplying different handlers in an individual handler pool market receive different uniform prices because of the varying proportions of milk utilized in Class I by handlers. Such pooling arrangement yields the highest prices to those producers fortunate enough to deliver to plants with a high percentage of Class I utilization.

Under marketwide pooling, a producer supplying the regulated market is assured a return based on his pro rata share of the total Class I sales of the market. The blend price that each producer receives each month depends on the overall utilization of producer milk received at the pool plants of all regulated handlers. Although each handler is required to pay classified prices for producer milk in accordance with his utilization of such milk, the blended prices to producers will be the same for all producers under the order irrespective of the uses made of such milk by the individual handler.

Instituting individual handler pooling for the entire Chicago Regional marketing area would disrupt the efficient channels of marketing milk which have been established over the years and undoubtedly lead to destructive competition among producers for the Class I market. This is precisely a marketing condition which the Congress sought to correct or prevent by the use of orders with provision for the marketwide pooling of producer returns.

The present Chicago Regional marketing area, which includes all of northern Illinois and virtually all of eastern and southern portions of Wisconsin, is essentially coextensive with the production area for the market. About 85 percent of the market's milk supply comes from Wisconsin dairy farms. Based on June 1969 data, the market's supply is assembled at 171 plants, of which 106 are distributing plants and 65 are supply plants. About 20 percent of the market's supply is received directly from farms at the 106 distributing plants. The 65 supply plants receive about 80 percent of the milk associated with the market and ship about 25 percent of such milk for Class I uses by distributing plants. The remaining 75 percent of the milk at supply plants represents the reserve supplies on the market.

If individual handler pooling were instituted in this market, the producers of about 80 percent of the market's supply (i.e., those delivering to supply plants) would be burdened with carrying virtually all of the market's lower-valued reserve. Milk from these producers, nevertheless, is equally eligible quality-wise with milk in other plants now serving the market, and is essential to meeting the daily and weekly variations in the Class I requirements of the market. Thus, to provide individual handler pooling would assign, in effect, the preferential (higher-valued) Class I market to relatively few of the eligible producers, i.e., those who happen to be delivering to distributing plants (about 20 percent of the market's supply), while burdening the remaining 80 percent of the producers with the market's surplus milk, which is priced $1.20 per hundredweight below that milk used for Class I purposes.

This situation could be expected to provide the incentive for producers and their cooperatives associated with supply plants to enter into various arrangements with the handlers who operate distributing plants to gain a larger share of the Class I market. Being left with a small, or perhaps no, share of the Class I market, such producers and cooperatives could only gain a place in the fluid market by compromising the minimum Class I price through rebates and other inducements favorable to the handler.

Distributing plant handlers would have a great incentive to enter into such arrangements so as to lower Class I milk cost and to gain procurement advantage over their competitors. This type of activity, in turn, would place pressure also on the other 20 percent of the producers to compromise on the Class I price in order to retain their Class I outlet. This could only lead to cut-throat competition and market chaos.

Marketing circumstances very similar to those present in the Chicago Regional market existed at the inception of the New York market order and prompted the Supreme Court of the United States to make the following finding (see decision in United States et al. vs. Rock Royal Cooperative, Inc., et al.): "It is generally recognized that the chief cause of fluctuating prices and supplies is the existence of a normal surplus which is necessary to furnish an adequate amount for peak periods of consumption" * * * "Since these producers are numerous enough to keep up a volume of fluid milk for New York distribution beyond ordinary requirements, cut-throat competition even among them would threaten the quality and in the end the quantity of fluid milk deemed suitable for New York consumption. Students of the problem generally have apparently recognized a fair division among producers of the fluid milk market and utilization of the rest of the available supply in other dairy staples as an appropriate method of attack for its solution."

The Supreme Court concluded further that marketwide pooling "* * * is ancillary to the price regulation, designed, as is the price provision, to foster, protect and encourage interstate commerce by smoothing out the difficulties of the surplus and cut-throat competition which burdened this marketing." Thus, marketwide pooling not only was found to be constitutional but also was found to complement the class price provisions in situations where there is an unequal distribution of the reserve milk supply among various handlers and producers.

A more recent example of problems arising under individual handler pooling in very similar circumstances involved the Delaware Valley order resulting in the need to change from individual handler pooling to a marketwide pool under such order. In the Assistant Secretary's April 1967 decision in this matter (32 F.R. 5876) official notice of which is taken, it was concluded that "* * * the basic problem under the Delaware Valley order stems from the disparity of returns which exists among producers in this and adjacent Federal order markets * * * Such problem can be resolved most effectively by providing a marketwide pool arrangement in lieu of existing handler pooling provisions. This change will eliminate or substantially reduce the financial incentive which is the basic cause of the disruptive marketing arrangements contrived to avoid and thereby compromise the minimum order prices for the Delaware Valley market. Short of such a change, there is no effective means, under existing statutory authority, of insuring the integrity of the regulation, and the prompt, effective and uniform application of pricing provisions to all handlers."

The Department may not ignore these kinds of experiences. The success of the milk order program over the years in furthering the aims of the statute in large measure has been the assurance of uniform and impartial application of the regulation to all handlers and equitable and full distribution of proceeds among producers, particularly where the burden of the reserve milk is not handled proportionately by all plants. Marketwide pooling has constantly demonstrated its ability to stabilize marketing conditions and insure the orderly marketing of the total volume of milk associated with a market under such circumstances.

The application of marketwide pooling under the Chicago Regional order has promoted a higher degree of market stability than existed prior to its promulgation by insuring that all producers supplying the entire market share on a uniform basis the Class I and Class II utilization of the market and thus has assisted in the handling of milk supplies in an economical manner. Under such pooling, producers and their cooperatives throughout the common supply area have tended to market their milk to those outlets which represent the least cost to them, normally the plants located nearest to their farms. Moreover, milk tends to move to distributing plants only in the amount needed for Class I uses, while the reserve supply is processed at manufacturing plants located near the farms.

Prior to the promulgation of the Chicago Regional order on July 1, 1968, nine counties and a portion of another, all in the State of Wisconsin, were regulated under the Milwaukee order. As previously stated, that order provided for the individual handler pooling of producer returns. On the basis of the Assistant Secretary's May 15, 1968, decision on the

Chicago Regional order, the territory then regulated under the Milwaukee order plus territory regulated under the Madison, Wis., Northeastern Wisconsin, Rock River Valley, and Northwestern Indiana orders were combined with the territory formerly regulated under the Chicago, Ill., order plus the remaining portions of five Illinois counties adjacent to the former Chicago marketing area into the Chicago Regional marketing area. On January 1, 1969, the Northwestern Indiana territory was deleted from the Chicago Regional marketing area and combined with two other Indiana markets to form the Indiana marketing area.

Milwaukee is an integral part of the Chicago Regional marketing area. It lies close to the center of the supply area for the entire market. Handlers with plants located in Milwaukee compete extensively throughout the marketing area with other handlers both for milk supplies and in the route disposition of fluid milk products. To carve out of the overall marketing area this small segment, thereby giving preferential price treatment through individual handler pooling to those producers who deliver to Milwaukee handlers, would encourage and abet the kind of market conditions cited above which must be avoided if orderly marketing is to prevail.

If the Milwaukee order were reinstated the difference in producer prices between Chicago and Milwaukee which existed previously when Milwaukee had an individual handler pool could be expected to be much greater now. This results mainly because the present Class I differential at Milwaukee of $1.20 is 31 cents higher in relation to the basic formula price than it was under the former Milwaukee order.

During 1965 (the last calendar year in which the former Chicago order was in effect) the annual average Chicago blend price was $3.70. This was 21 cents below the Milwaukee Class I price of $3.91. Thus, a producer under the Milwaukee order delivering to a handler who had 100 percent of his producer receipts utilized as Class I milk received 21 cents more than a Chicago producer who received the announced blend price.

Class I prices at Milwaukee under the Chicago Regional order during the 12-month period ending in June 1969 averaged $5.53 while the announced blend price averaged $5. Thus, this 53-cent spread between the Class I and blend price is 32 cents greater than it was in 1965.

If the Milwaukee individual handler pool had been in effect during the more recent 12-month period, some Milwaukee producers might have received as much as the $5.53 Class I price as their blend price. On the other hand, the Chicago Regional order blend price would not have been higher than the $5 average. Consequently, the difference in blend prices to neighboring producers could have been as great as 53 cents per hundredweight.

The assurance that all producers serving the Chicago Regional market will receive a pro rata share of the Class I sales is even more acute now than when the decision was made to establish a Chicago Regional order, including Milwaukee. In the Assistant Secretary's May 15, 1968, decision on the Chicago Regional order (33 F.R. 7516), official notice is hereby taken, it was concluded that marketwide pooling was "necessary to prevent unequal allocation of the burden of market reserves on certain groups of producers." Obviously, from the foregoing such conclusion continues to be applicable. The price difference between the Milwaukee area and the remainder of the Chicago market averaged 9 cents higher in favor of Milwaukee at the time of the hearing on the Chicago Regional order. Such price difference at this time would be, as above indicated, much greater in favor of Milwaukee.

Except for the representatives of about 1,500 producers who deliver their milk to handlers who were regulated under the former Milwaukee order, the proposal to return to the former Milwaukee order received no support from any other group. A witness representing more than half of the 16,700 producers supplying the Chicago Regional market expressed strong opposition to the proposal on the part of the producers he represented and indicated the likelihood that such producers would prefer no order than to return to the conditions of widely varying differences in blend prices among neighboring producers that existed prior to July 1968.

On the basis of the above considerations, both the suggestion to adopt individual handler pooling throughout the entire Chicago Regional market and the proposal to reinstate the former Milwaukee order are hereby denied.

3. *Pool plant performance requirements for supply plants and reload point.* The standards required to qualify a supply plant for pool status should be revised. The requirements for a reload operation that would qualify as a supply plant also should be revised.

A group of operating cooperative associations proposed several changes in the pooling requirements for supply plants. These changes would require shipments during each month of the year and would include the following as qualifying shipments: bulk milk moved to other order plants and as Class I milk to unregulated plants; condensed skim milk moved to distributing plants if allocated to Class I milk; and dispositions of packaged fluid milk products.

A large Wisconsin bargaining cooperative proposed that the disposition of packaged fluid milk products from supply plants should be included toward qualifying such plants as pool plants.

Two Wisconsin bargaining cooperatives would delete the unit pooling provision from the order or as an alternative disqualify any unit during August-December that dropped a plant from the unit.

An organization representing Wisconsin cheesemakers opposed any change in the supply plant shipping requirements for pool plant status. This organization maintained that any such changes would tend to exclude small cheese plants from qualifying as pool plants while permitting the larger manufacturing plants already associated with the market to take producers away from these small cheese plants.

Presently, a supply plant is a pool plant in any month it ships as fluid milk products (except filled milk) to pool distributing plants, producer-handlers, and any partially regulated distributing plant to the extent of its distribution of packaged Class I products in the marketing area, 40 percent of its Grade A receipts, including diversions, during each of the months September–November, or 30 percent of such receipts during each of the other 9 months of the year. Under certain conditions the Director of the Dairy Division may adjust these percentages during August–December up to 10 units higher or lower. Also supply plants which qualify as pool plants during each month of August–December retain their pooling status during the next 7 months regardless of their shipments.

A reloading facility serving as an assembly point where milk from smaller tank trucks is pumped over into larger over-the-road tankers also may qualify as a pool supply plant. Presently, however, there are no requirements as to the type of facilities that are recognized as "reload points".

Two or more supply plants currently are considered a unit for the purpose of meeting the shipping requirements under specified conditions. The handler or cooperatives establishing a unit must notify the market administrator by August 1 of each year of the plants to be included in the unit and no additional plants may be added prior to August 1 of the following year.

Monthly shipping percentages. The shipping performance requirements for supply plants are established to identify those plants engaged primarily in supplying the market and to aid the assurance of an adequate supply of milk for the market. All supply plants or units of supply plants which share in the marketwide pooling of producer returns should be expected to perform on an equitable basis in meeting the demands of the fluid market.

Distributing plants in the densely populated Chicago metropolitan segment of the marketing area depend on receipts of milk from distant supply plants in Wisconsin for a majority of their fluid milk requirements. The volume of milk needed each day by distributing plants, however, varies greatly during the week, since such plants usually operate only five days per week and the purchases of milk by consumers at stores as well as on home delivery routes served by distributing plants tend to be substantially greater at the end of the week than at the beginning. Supply plants, on the other hand, receive a relatively steady volume of milk from farms each day but there is a seasonal variation in such receipts, since milk production on farms is substantially lower during the fall months compared to the spring months.

Raw milk, as received from farms, is highly perishable. Consequently, the daily and seasonal variation between fluid milk sales and the production of milk result in substantial volumes of reserve milk supplies, associated with the supply plants, which must be processed into manufactured dairy products. The daily volume of such reserve supplies, however, ranges from virtually none on peak bottling days during the short production months to the entire volume of milk produced on those days in the flush-production months when bottling plants are not operating.

In these circumstances, there needs to be sufficient manufacturing facilities available to process all of the milk associated with the market yet on certain days, particularly in the fall months, such facilities are not needed, because distributing plants can use all the milk produced to meet their bottling requirements. There is an incentive, however, for supply plants to keep their manufacturing facilities in operation to the fullest extent possible by keeping their milk supplies for manufacturing rather than shipping any milk to distributing plants. This incentive is enhanced further by the marketwide blending of returns to producers, since the plant operator receives the competitive marketwide uniform price to attract a supply of milk from producers but accounts for the milk he manufactures at the lower surplus use value.

To afford a handler the opportunity to pool his milk and receive the uniform price, it is also necessary to assure that such supply of milk be made available for fluid use on the days that it is so needed. Otherwise the order would not be serving its purpose of assuring an adequate supply of milk for fluid uses. At the producer end of the marketing process it is the uniform price that attracts the supply of milk for the market, but other factors determine whether such milk is in turn made available for the fluid needs of the market.

Normally, operators of distributing plants pay a handling charge per hundredweight of milk purchased from supply plant operators to cover the cost of handling and accounting for the milk, including in some instances at least the cost of maintaining the unused manufacturing capacity on the days the milk is shipped.

Such handling charge in this market, however, is influenced by the fact that many of the manufacturing facilities are also used to process manufacturing grade milk which is not priced under the order. The prices paid for such milk used for manufacturing purposes also influence the handling charge. Because of influence from additional factors such as these, which cannot be directly attributed to the cost of handling milk for fluid uses but nevertheless have a bearing on a handler's willingness to make his milk available for fluid use, it is appropriate that the order contain provisions such as shipping requirements to guard against their having an undue effect.

Performance requirements are needed also in a marketwide pooling situation to aid efficient marketing by assuring that that milk produced within the area wherein the uniform price attracts such milk to pool plants is utilized for fluid purposes to the greatest extent possible before more distant supplies are so utilized. If pool plants that are located in the nearby zones are permitted to process their milk receipts into manufactured products when it is needed for fluid uses it would require that milk from more distant sources be obtained to meet the fluid milk needs of the market.

In view of the above mentioned considerations, it is essential that only those plants engaged in serving the fluid milk requirements of the market be permitted to share in the marketwide pooling of producer returns, if the order is to function properly in assuring a supply of milk for the market. Moreover, it is essential, in the interest of orderly marketing, that the order provide pool plant status for all plants that make their milk available for the fluid uses of the market, in order that all producers associated with the market will share uniformly in the money returns of the market.

Supply plant performance standards are used to identify such plants and to aid in carrying out the intent of the pricing provisions of the order (which attracts the supply of milk to pool plants). To accomplish these objectives the supply plant standards should reflect, to the extent practicable, the performance level needed on the part of such plants in meeting the fluid milk requirements of the market in an efficient and orderly manner. If performance requirements are too "loose" there is inadequate assurance that milk pooled under the order at supply plants will be made available, at a reasonable handling charge, for fluid use when needed. Contrariwise, if performance requirements are too "tight" it can result in some plants that are primarily engaged in serving the market not being able to qualify for pool plant status.

The present performance requirements under the order are not adequately accomplishing their intent. Most supply plants serve distributing plants in the traditional manner of shipping their quantity of milk requested. Such shipments are made at a predetermined handling charge per hundredweight (to cover the cost of handling and accounting for the milk, including the cost of maintaining the unused manufacturing capacity on the days the milk is shipped). Some supply plants, however, make specific prearrangements with distributing plants to receive their milk, but then return it for processing into manufactured products.

Obviously, the latter practice is wasteful. It also constitutes a predetermined commitment of pool milk to manufacturing use, contrary to the basic intent of the performance requirements of the order. The evidence in the record focuses on the extension of shipping requirements to every month of the year as a solution to the problem of some plants not making their milk available for fluid use. This would make it more costly for plants to circumvent the intent of the shipping requirements, but there is no assurance that it would stop the practice. The evidence in the record is insufficient to support an alternative solution to this problem, and alternative solutions were not explored on the record.

Hence, in the public interest, it is concluded that the hearing be reopened for the purpose of receiving additional pertinent evidence upon which a full and comprehensive reexamination of the supply plant performance requirements can be made to serve as a basis for an appropriate solution to this problem.

The proceeding therefore will be reopened on notice of hearing to be issued promptly, fully advising all interested parties of the time and place of the reopened hearing.

The hearing is not to be reopened, however, with respect to the issues decided elsewhere in this decision.

Unit pooling of supply plants. The provisions dealing with the qualification of supply plants as pool plants on a unit basis are inextricably related to the provisions dealing with their qualification independently. Accordingly, the hearing is reopened with respect to unit pooling provisions for supply plants also.

Packaged dispositions from supply plants. In determining the percentages set forth as the minimum shipping requirements, the receipts of milk at the supply plant would be reduced by the amount of any packaged fluid milk products (except filled milk) processed and packaged in the plant which are both disposed of on routes and shipped to nonpool plants for distribution outside the marketing area.

The dispositions of packaged products described above should be deducted from the plant's receipts rather than included in its qualifying shipments to prevent a distributing plant from increasing its milk supply and qualifying as a supply plant. Including such shipments in qualifying the supply plant would reduce, of course, the amount of the remaining receipts at the plant that must be available for fluid use in the marketing area.

The pooling requirements for distributing plants include shipments of packaged fluid milk products to other plants as a qualifying disposition. To afford comparable treatment to supply plants such shipments, if to nonpool plants for distribution outside the marketing area, should be deducted from the plant's receipts. Any shipment of packaged fluid milk products to pool plants, producer-handlers or to partially regulated distributing plants for distribution inside the marketing area should count as a qualifying shipment as at present.

A pool supply plant located outside the marketing area in Marshfield, Wis., distributes milk on routes in the unregulated portions of Marathon and Wood counties. The operator of this plant testified that less than 10 percent of his

total receipts are distributed on routes in the Marshfield area. His plant qualifies as a pool plant based on his shipments of fluid milk products to a distributing plant located in Madison.

The route sales from a supply plant should be deducted from the total receipts at the supply plant in determining its pool plant status because they represent a dependable and continuing market for a portion of the fluid milk products received at the plant. Permitting this handler to deduct his route sales from his total receipts will distinguish those receipts at his plant which are needed for his out-of-area routes and those which are continuously available for shipment to meet the fluid milk requirements of distributing plants. This will allow him the needed flexibility to continue his outside route business without it affecting his pool supply plant status under the order.

Shipments of bulk fluid milk products from supply plants to nonpool plants should not be included in determining the supply plant pooling qualifications. Such shipments do not demonstrate a supply plant's association with this market. Generally, they are made on an opportunity basis and represent supplemental fluid milk needs of other markets. The minimum performance requirements are established to distinguish between those plants substantially engaged in serving the fluid needs of this market and those plants which do not serve this market. This is essential for the order to aid in the assurance of a supply of milk for the market and to provide an equitable sharing of the burden of the reserve milk supply.

Shipments of condensed skim milk. The product pounds of condensed skim milk shipped from a supply plant to a distributing plant should be considered a qualifying shipment to the extent it is reused in a product disposed of as a fluid milk product.

The order presently does not include the shipments of condensed skim milk as a qualifying shipment since such condensed skim milk is not a fluid milk product. In the Assistant Secretary's May 15, 1968, decision he stated that "Class II milk would include all skim milk and butterfat used to produce any product other than a fluid milk product. It thus would include milk used in manufactured products such as * * * evaporated and condensed milk * * *"

Condensed skim milk is used to fortify some fluid milk products to make them more palatable. Proponents contended that to the extent such condensed skim milk is used to fortify fluid milk products the shipment of such skim milk should count toward qualifying the shipping plant as a pool plant. A large Wisconsin bargaining cooperative supported this proposal; however, they would give the supply plant credit at the fluid milk equivalent for such shipments.

Proponents' representative stated that there are some distributing plants that make their own cottage cheese (a Class II disposition) which might have as much as 25 percent of their receipts utilized as Class II milk. Presently, if such plant purchased fluid skim milk from a supply plant to make this cottage cheese, the shipment of the fluid skim milk would be considered a qualifying shipment. Since these shipments of fluid skim milk for Class II uses are included in qualifying the supply plant, it was concluded in the recommended decision that it is equally logical to also include shipments of condensed skim milk as qualifying supply plants, especially when to be a qualifying shipment the condensed skim milk must be used in a fluid milk product and classified as Class I milk. Further, it is a customary practice in this market to use condensed skim milk in fortifying fluid milk products.

Several exceptions stated that requiring the shipment of condensed skim milk to be allocated to Class I milk before considering it a qualifying shipment, as specified in the recommended decision, was of little or no value in accomplishing the purpose for which it was intended. They pointed out that a supply plant operator needs to know at the time of shipment whether the shipment counts toward qualifying his plant. Information on the allocation of such condensed skim milk at distributing plants would not be known for some period of time following the end of the month in which the condensed skim milk, was shipped. Moreover, there is little likelihood that receipts of condensed skim milk would be allocated to Class I use, since in the allocation sequence any receipt of other source milk in a form other than that of a fluid milk product is down allocated to Class II use.

Exceptors suggested that all shipments to distributing plants of condensed skim milk should be considered as qualifying shipments. They stated that since fluid milk products shipped to distributing plants qualify the supply plant even if the fluid milk products are used for manufacturing purposes at the distributing plant the same treatment should be given to shipments of condensed skim milk.

Obviously, some qualifying shipments of fluid milk products end up in Class II uses at the distributing plant. However, the performance requirements established in the order for distributing plants are determined on the basis of Class I use. These provisions are not intended to, in turn, pool a supply plant on the basis of its Class II use. A safeguard in the order with respect to shipments of fluid milk products for Class II is that the distributing plant, to qualify as a pool plant, must dispose of at least 45 percent of its receipts (including receipts of fluid milk products from supply plants) in the form of packaged fluid milk products. Since condensed skim milk is not a fluid milk product, receipts of such a product are not included in determining the distributing plants' total receipts for pooling purposes. Thus, if a pool distributing plant used condensed skim milk in the manufacture of ice cream or other products, it could qualify a substantial number of supply plants based on their shipments of condensed skim milk for manufacturing purposes without affecting the pooling status of his distributing plant.

Another deterrent to the unlimited shipment from supply plants to distributing plants of fluid milk products for Class II uses is the cost of transportation. Condensed skim milk, on the other hand, has about two-thirds of the water removed, thus the per unit cost of transportation is reduced considerably.

For the reasons set forth above it would not be appropriate at this time to consider for qualifying purposes, all shipments of condensed skim milk from supply plants to distributing plants.

The quantity of condensed skim milk shipped that would be a qualifying shipment should be revised from the recommended decision to include all such shipments which are used in fluid milk products.

Handlers at the time of purchase should know the quantity of condensed skim milk they plan to use in fluid milk products. Thus, the purchasing handler should be able to inform the supply plant handler at that time of the amount that would count toward qualifying his supply plant. If the handler receives condensed skim milk from more than one supply plant, the amount available for qualification purpose should be prorated to all such receipts of condensed skim milk.

This provision should accommodate those who desire to have shipments of condensed skim milk used to fortify fluid milk products count toward qualifying supply plants. If such shipments are used in fluid milk products, as contended by proponents, then this modification will assure that the supply plant receives qualifying credit.

Only the product pounds of condensed skim milk that are shipped and used in fluid milk products should be considered in determining a supply plant's pooling qualifications. In the classification provisions of the order, only the actual pounds of nonfat milk added to a fluid milk product are classified and priced as Class I milk. The difference between the actual pounds used and the fluid milk equivalent is classified as Class II milk.

Reload operations. The requirements for a reload operation under the order that may qualify as a pool plant should specify that it be a building approved by an appropriate health authority which has facilities adequate for cleansing tank trucks and at which milk is transferred from one tank truck to another where it is commingled with other milk for reshipment to another plant. Such an operation would be considered a supply plant and subject to the same pool plant requirements as supply plants.

Presently, the facility at which producer milk is transferred from one tank truck to another truck is considered a supply plant under the order and the producer milk is priced at that location. In some instances reloading operations have taken place at one producer's farm one day and at some other producer's farm another day. Under such circumstances the market administrator is placed in the difficult position of determining the proper location at which

to verify the receipt of such producer's milk or to price the milk. Conceivably, during the same delivery period the milk might be subject to pricing at several locations.

A group of operating cooperatives proposed that the definition of a reload point should be limited to a building designed for reloading operations and should be treated under the order as a supply plant. Any other type of reloading operation would not be a pricing point and the milk would be priced at the pool plant where the milk is received.

In most instances, the health authorities associated with the Chicago Regional marketing area require that reloading operations must take place inside a building that has adequate facilities for the cleansing of tank trucks.

Amending the order to provide that the pool supply plant definition shall include only buildings, approved by an appropriate health authority, with milk handling facilities will result in more equitable distribution of returns to producers by establishing a fixed point at which their milk is priced. Accordingly, the pool supply plant requirements should include a building, approved by an appropriate health authority, which has facilities adequate for cleansing tank trucks at which milk moved from the farm in a tank truck is transferred and commingled in another tank truck with other milk for reshipment to another plant.

A handler who operates a large distributing plant in Milwaukee favored defining reload points under the order but proposed that a reload point not be a pricing point. He stated that several nearby orders had provisions similar to the one he suggested. Reload operations in this market, however, serve as assembly points for milk supplies received from producers that are reshipped to other plants. Many of the pool supply plants associated with this market are only Grade A receiving stations and thus serve this same function. All pool supply plants serve as assembling points for milk shipped to distributing plants. Since both types of operations serve as assembling points, they should receive equal treatment under the order. Accordingly, reload operations, as defined previously, should meet the same pooling requirements as pool supply plants and be considered as pricing points.

Miscellaneous. A question arose at the hearing whether or not the present order precludes the operation, as a separate plant, of supply plant facilities which are located in a pool distributing plant. In setting forth the provisions presently in the order with respect to distributing plants and supply plants it was intended that all of the land, buildings and other facilities which constitute a single operating unit be considered part of the distributing or supply plant. The only exception is that portion of a plant which does not have Grade A approval for the receiving, processing or packaging of fluid milk and which is physically separated from the Grade A portion.

Even though the present provisions do not recognize as a separate operation supply plant facilities located in a pool distributing plant it is appropriate to revise the order to define a plant and specify that such dual operations are all a part of the pool distributing plant. This revision will remove any questions that may have arisen with respect to such operations.

The group of operating cooperatives also proposed that in the pool plant and producer milk definitions the words "received by" be replaced with "physically received in." They stated that some handlers are associating truck loads of milk with their plants by unloading only a small portion of it at their plant and unloading the remainder at another plant. The proposal was to prevent this type of receipt to assure the handler's accountability for all of the producer milk in the tank truck. However, there are a substantial number of small volume handlers in the market whose daily plant operations amount to less than a tank truckload of milk. Consequently, in the interest of efficient handling of the milk supply for such plants, there is a need to accommodate such split-load operations. Additional findings and conclusions on this matter are incorporated with the proposed revisions of the producer milk definition.

4. *Producer milk definition.* Presently, producer milk may be diverted from a pool plant to a nonpool plant during the months August–December to the extent the quantity diverted does not exceed the quantity of such producer's milk received at the pool plant. During the remaining months of the year unlimited diversions are permitted. The pricing of the first 6 days' production that is diverted each month is at the location of the plant from which diverted. All milk diverted in excess of 6 days' production each month is priced at the location of the plant of actual receipt. The order does not allow for diversions between pool plants.

There were numerous proposals to amend these provisions. One group of cooperative associations would reduce allowable diversions to nonpool plants each month to 3 days from supply plants and 8 days from distributing plants. This proposal was opposed by a cheesemaker's association. A Wisconsin bargaining association would keep the present diversion provisions and, in addition, allow handlers the alternative of diverting, on an unlimited basis, the milk of any producer to the extent the total amount diverted did not exceed 35 percent of the handler's total pooled receipts. A Rockford based cooperative would allow cooperative associations to establish, for diversion purposes, a diversion qualifying unit. Such unit, on a 12-month basis, would be permitted to divert up to 40 percent of the milk in the unit, provided that at least 60 percent of the milk was received at pool distributing plants. In addition, there were several other proposals to allow diversions between pool plants.

Diverted milk, as used in the following findings with respect to this issue, means producer milk not needed at a pool plant, and instead of being physically received at the pool plant, is hauled directly from the farms to a nonpool plant. Producer milk associated with a pool plant that is moved in a bulk tank truck directly from farms to another pool plant will, under certain conditions set forth below, be considered as a transfer between pool plants.

Diversion of producer milk. The diversion privilege is primarily intended to obtain efficiency in the marketing of the milk not needed at a pool plant. Only milk of dairy farmers whose status as producers is established and which is handled in such a manner that it is available for use in the fluid market, if needed at any time, should be considered as producer milk when it is diverted.

The identification of a dairy farmer as a "producer" under the order is established primarily on the basis of receipt of his Grade A milk at a pool plant. Moreover, if the order is to function to assure an adequate supply of milk for the market, it is necessary that each producer's milk be delivered regularly in a manner that demonstrates its availability at any time for use in the fluid market. A problem in formulating appropriate standards which affect performance is the fact that nonpool manufacturing plants are the outlets for about one-half of the market's reserve milk supply.

Many of the pool plants on the market do not have manufacturing facilities. Such plants include both distributing plants and supply plants. Some of the supply plants are simply receiving stations or reload points at which milk is assembled from farms for transshipment to distributing plants.

There is a substantial variation in the daily fluid milk needs of individual distributing plants. Most distributing plants do not process and package milk on Sundays. On the days that they do operate their processing and packaging schedule is generally varied in accordance with their sales volumes. The daily sales volumes of distributing plants are very uneven because the purchases of milk by consumers at stores tend to be greater during the latter part of the week and the home delivery route volume is greater on Fridays and Saturdays than during the remaining weekdays. The operators of distributing plants typically associate a sufficient supply of milk with their operation to cover their requirements on peak bottling days during the period of seasonally low production. Consequently, there are substantial quantities of milk produced on the other days of the week during the short production season as well as throughout the period of seasonally high production that is moved to plants where it can be utilized in manufactured dairy products. In many instances such plants are nonpool plants engaged primarily in processing manufacturing grade milk.

Virtually all of the milk supply for the market is hauled from the farm to plants in bulk tank trucks. On days when the milk is not needed at distributing plants it is usually more economical to move

the milk directly from the farm to nonpool manufacturing plants than to first assemble it at pool receiving stations, reload points and distributing plants for transshipment to such manufacturing plants. Because of this circumstance it would not be appropriate to curtail this practice significantly by adopting the proposal which would limit such diversion of milk to manufacturing plants on only 3 days per month from supply plants and 8 days from distributing plants, unless corresponding shipping performance standards are deemed necessary for supply plants that have facilities only for transshipment of milk to distributing plants; i.e., receiving stations and reload points.

Since the hearing is to be reopened with respect to additional performance requirements for supply plants, any changes in the limits on diversions should be considered in conjunction therewith.

The proposal of the market administrator's office to require handlers who divert milk to nonpool plants to report additional information thereon should be adopted. This proposal would require the diverting handler to maintain and submit to the market administrator's office a summary of the quantity of milk on each load diverted which would show the date the milk was picked up, the name and amount of milk received at each producer's farm and the location of the nonpool plant. Presently, the market administrator's office must devote a considerable amount of time verifying reports on diverted milk.

One handler presently is voluntarily submitting the additional information. Clerical verification of his claimed diverted milk is checked in the market administrator's office rather than in the handler's plant. This results in a savings in administrative costs.

The additional information to be filed by diverting handlers should assist the market administrator in verifying handlers' reports. Such information will aid him in determining whether the quantity of diverted milk exceeds the limits established in the order.

For these reasons, plus the savings in administrative costs, this order should provide for the reporting of this additional information. These reports should be made up daily and submitted to the market administrator at the time handlers monthly reports are filed, which is the 10th day of the following month. Any handler failing to report the additional information would have any claimed diverted milk disallowed as such.

Interhandler transfers of producer milk. A proprietary handler operating a pool distributing plant should be the handler accountable to the pool on producer milk he delivers to other pool distributing plants. Prior to the first month he becomes the handler on such milk he must notify the market administrator in writing of his intention in this regard and of the plants at which the milk will be received. The milk would be considered a transfer. If all milk on the load is removed at the plant of the transferee handler it will be priced at the location of his plant. In the case of a split load some of the milk must be received at the transferor's distributing plant and in such situation all of the milk would be priced at the transferor handler's plant.

For example, a Milwaukee handler who receives milk from about 50 producers supplies a small handler with partial loads of bulk tank milk. The quantity varies between 7,000 and 9,000 pounds per delivery depending upon the day of the week. Since this small handler's plant is located between the 50 producers' farms and his Milwaukee plant, it will be more economical for the Milwaukee handler to deliver the partial load of milk at the other plant while the truck is on its way to his Milwaukee plant. Since the small handler only needs part of the load, the remainder is delivered to Milwaukee and the entire load would be priced at the Milwaukee location. This provision will assist relatively small handlers who have essentially Class I operations but do not have plant capacity to handle a full bulk tank load of milk.

Government producer exemption. The producer milk definition should provide for the exemption of a Government institution which has its milk custom packaged at a pool plant.

One handler stated that he receives about 4,000 pounds of milk per day from a State prison farm which he processes and packages. This milk is then returned to the State prison farm for consumption on the premises. This is a custom bottling type operation for the State agency and does not involve the sale of milk in commerical channels in competition with other proprietary handlers and producers.

Under the present order provisions the handler receiving the milk from such an institution is required to pay the institution at least as much as the minimum order blend price for all deliveries. The milk returned to the institution is accounted for by the handler to the pool at the Class I price. Thus, the handler incurs an obligation under the order of the difference between the Class I and blend price on the milk so returned. This order obligation customarily is passed on to the institution as part of the cost of processing the milk.

The opportunity should be provided for complete exemption from the "producer" definition and pooling provisions of the order for milk produced by an institution operated under public authority. As a matter of public policy, the operation of a dairy farm by a State institution for the purpose of carrying out a sovereign, public function of the State need not meet interference from this Federal regulation designed to regularize commercial transactions. It is proposed, therefore, that governmental bodies which operate dairy farms be provided the option of pooling, as a producer, their entire deliveries of dairy farm production to a handler or having such milk exempt from the order. This comports with the intent of the present order provisions which exempt from the pooling and pricing provisions a distributing plant operated by a governmental agency.

The alternative of complete exemption of a dairy farm operated by a Government institution must be accompanied by appropriate procedures for eliminating any order pricing requirement as to such operations. Complete exemption would provide that any milk produced in excess of such institution's requirement and retained by the pool handler would be paid for by negotiation between the institution and the handler. The receiving handler would not be required to pay the institution the minimum blend price for such milk as announced under the order.

If an exemption were taken by the governmental body, the effect would be to eliminate the pooling of the milk retained by the handler as well as that returned to the institution for consumption. The surplus over the fluid needs of the market thus would not be increased by any excess of milk produced by the institution over its own fluid requirements. Milk that is received, processed and returned by the regulated handler to the institution would be designated "exempt milk" and any milk retained by the handler would receive credit only at the Class II price. Any such milk allocated to Class I by the handler would be subject to an equalization payment at the difference between the Class I and Class II prices.

The institution may at times purchase supplemental supplies of packaged fluid milk products from pool plants. The handler selling these supplemental supplies to the institution would include such sales with other disposition of fluid milk products which are classified and priced as Class I milk.

Because of the seasonal aspects of milk production the alternative of complete exemption should apply for not less than 12 consecutive months. If a governmental body elects the exemption, written notification to that effect should be given to the market administrator, and to the handler to which it delivers, on or before the last day of the first month for which the exemption would be applicable.

5. *Location adjustments.* The order should be amended to provide for three new zones within the present Zone I. Location differentials on Class I and producer milk would be applicable beyond 40 miles from the city hall in Chicago. To retain the present Class I prices beyond 70 miles of Chicago, the Class I differential applicable at Chicago, Illinois, should be increased from $1.20 to $1.26. The provisions for plus differential zones in the State of Indiana should be deleted.

Zone I, for which no location adjustment would apply, should include the city of Chicago, Ill., plus the territory within 40 miles of the Chicago city hall. Zone 2, in which an adjustment rate of minus 2 cents would apply, should be the territory beyond Zone I but within 55 miles of the city hall in Chicago. Except with respect to Zone 4, each additional 15 miles should be designated another zone with the minus adjustment rate

increasing 2 cents for each such zone. Zone 4, with a minus 6-cent rate, should be that territory beyond 70 miles but within 85 miles of the city hall in Chicago plus Milwaukee County, Wis., and Winnebago County, Ill.

These changes would increase minimum Class I prices 6 cents in Zone I, 4 cents in Zone 2 and 2 cents in Zone 3 but would not change Class I prices within the remaining zones. Minimum blend prices to producers delivering to plants located in Zone I, Zone 2, and Zone 3 would be increased an equivalent amount.

The presently defined Zone I consists of all territory outside the State of Indiana within 85 miles of the city hall in Chicago plus Milwaukee County, Wis., and Winnebago County, Ill. No location adjustment applies in such zone. Each area outside the State of Indiana within an additional 15-mile radius from Chicago is another zone with the minus adjustment rate of two cents for each additional zone. In the State of Indiana the location adjustment rate is plus 2 cents for each 15-mile distance, or fraction thereof, that such plant is from the city hall in Chicago.

A group of cooperative associations proposed changing the zoning structure within the present Zone I because of the additional cost involved in transporting milk from the major sources of supply in Wisconsin to Chicago handlers as compared to Milwaukee handlers. An association of Chicago milk dealers supported this proposal.

Several cooperatives whose members deliver their milk to Milwaukee handlers or to handlers who have their plants located in the more distant zones under the Chicago Regional order opposed the proposal on the ground it would reduce returns to producers who deliver milk to plants located more than 70 miles from Chicago.

A cooperative association whose members supply Rockford handlers also opposed this proposal because of its possible future implications with respect to the price alignment between the Rockford location and four nearby Federal order markets. The representative of this cooperative stated that the present Class I price in the Chicago Regional market at Rockford is in reasonable alignment with the Central and Southern Illinois, St. Louis and Quad Cities-Dubuque markets. All these markets receive part of their milk from producers located in northern Illinois. He maintained that if Class I prices are raised at Chicago, then at some future date, Class I prices in these four other markets might have to be increased to retain their price relationship with Chicago. If Class I prices are not raised accordingly at Rockford, then its Class I and producer prices will be low relative to such prices in these four competing markets. This, he claimed, would cause Rockford handlers to lose their supply of milk to these other markets.

The proposed changes would cause a one-cent reduction in the blend price of all producers about once every 6 months. This reduction in pool value results from the difference in the total Class I location differential value and the total producer location differential value.

The location differentials are established herein to achieve uniform prices to all handlers f.o.b. the market for milk which is received from producers at plants outlying from the principal consumption area by taking account of relative costs of supplying milk from varying distances. To achieve uniform prices for handlers and producers in similar circumstances, it is necessary to apply the location differentials to both the Class I price and the blend price.

More than 50 percent of the total population in the Chicago Regional marketing area is located in metropolitan Chicago and its suburbs, most of which are within 40 miles of the city hall in Chicago. This is the portion of the marketing area that is located the greatest distance from the Wisconsin supply area. More than 80 percent of the milk needed to supply metropolitan Chicago is received through a system of country supply plants, most of which are located in Wisconsin. The road systems in northern Illinois and Wisconsin are such that a substantial quantity of this milk passes near the city of Milwaukee, Wis., on its way to Chicago plants.

The May 15, 1968, decision established the present zone structure under the order. That decision found that handlers operating plants in Chicago, Milwaukee, and Rockford have extensive overlapping distribution in the portion of the marketing area intervening these three cities. Even though handlers operating plants in these three cities have overlapping distribution, the actual cost of moving milk to Chicago handlers is higher than to handlers located in these two other cities.

The average of the rates from 30 supply plant locations by one trucker for delivering milk to Milwaukee is 6 cents less than the average rate to Chicago. Since the receiving handler pays the cost of hauling milk from supply plants, the cost of supply plant milk to Chicago handlers is 6 cents more than the cost to Milwaukee handlers.

The cost of hauling milk from the farm to the plant of first receipt is generally paid by the producer. In areas where Chicago and Milwaukee handlers are procuring milk from producers the net farm price will be practically the same. If it cost 6 cents more to haul the milk to Chicago than to Milwaukee, the Chicago handler must pay the extra 6 cents or the producers will have their milk delivered to Milwaukee handlers. Whether a Chicago handler purchases his milk from Wisconsin producers or from supply plants his costs will be 6 cents greater than a Milwaukee handler. Thus, a nearby Illinois producer delivering his milk to a Chicago handler can negotiate a 6-cent higher price at his farm than a Wisconsin producer delivering his milk to a Milwaukee handler or to a Chicago handler. The cost of the milk to the Chicago handler will be the same whether it comes from an Illinois producer or a Wisconsin producer.

Handlers operating plants in the newly defined Zones 1 through 3 presently are paying the extra amounts here established for the nearby zones and producers delivering to these plants are now receiving the correspondingly higher blend prices. This decision does not increase total costs to handlers or result in any appreciable increase in returns to nearby producers but only makes payments more uniform in the near-in zones. To retain the same Class I prices and the same general level of producer prices in all zones it is appropriate, in changing the location of price announcement, to increase the Class I and blend prices at plants located in the recommended Zone 1 by 6 cents, in Zone 2 by 4 cents and in Zone 3 by 2 cents. Consequently, the Class I and blend prices as announced would be 6 cents higher than on the present basis. Beyond 70 miles such prices would be subject to a correspondingly higher location adjustment so that the price level applicable in those parts of the milkshed where the major portion of the milk is produced would remain unchanged.

As earlier indicated, the location differential structure in the Chicago Regional market reflects differences in the cost of transporting milk to Chicago from one supply plant as compared to another. This difference in costs is reflected in the 2-cent allowance for each 15 miles. Projecting these costs to the newly defined zones, Class I and producer prices in the new Zone 2 should be 2 cents less than in the new Zone I while in the new Zone 3 the prices would be 4 cents lower. The minus adjustment rate should increase 2 cents for each additional zone.

The representative of the Rockford cooperative proposed at the hearing that all of northern Illinois should be in Zone I. He stated that milk supplies in the northwest counties of Illinois are being attracted to other Federal order markets because of higher blend prices. Most producer members of this cooperative supply milk to Chicago Regional pool distributing plants in Rockford and Freeport, Ill.

There are several pool supply plants in southwestern Wisconsin at which prices will be 16 cents or more below the city of Chicago. These plants are located close enough to pool distributing plants in the Rockford area that they can supply milk to the latter plants at prices below the f.o.b. Chicago price. Also, the Rockford cooperative diverts its reserve milk supplies to a manufacturing plant located in an area of heavy milk production in Jo Daviess County, Ill. The inclusion of all northwestern Illinois in the newly defined Zone I undoubtedly would encourage producers in the vicinity of this manufacturing plant to deliver their milk to it rather than pay the extra hauling costs to have the milk delivered to distributing plants where it could be used in fluid outlets. Thus, it is appropriate to have northwestern Illinois fitted into the schedule of location differentials.

Class I and producer blend prices in the Illinois counties of Carroll, Jo

Daviess, and Stephenson under the Chicago Regional order presently are about equal to the prices under the Central and Southern Illinois, St. Louis, and Quad Cities-Dubuque orders in these counties. The competitive price relationships are such that the present price levels under the Chicago Regional order in these counties should be maintained.

Proponent proposing to include all of northern Illinois in Zone I stated that there is no reason to have prices in Freeport (Stephenson County) 4 cents lower than the prices in Rockford (Winnebago County). Freeport is west of Rockford and about 30 miles closer to the milk supplies in northwestern Illinois. At the transportation rate used in this order of 2 cents per 15 miles, prices in Freeport should be 4 cents less than in Rockford. Thus, the 4-cent difference in prices due to zoning accurately reflects the additional cost of transporting milk from northwestern Illinois farms to Rockford as compared to Freeport and no change in this relationship should be made on the basis of this record.

The provisions for plus location adjustments in the State of Indiana should be deleted from the order. Those provisions were incorporated at the time the order included Northwestern Indiana as part of the marketing area. On January 1, 1969, the Indiana portion of the Chicago Regional marketing area was deleted and added to the Indiana marketing area. Since that time the plus location adjustments have not been applicable at any pool plant. It would be inappropriate to establish a higher price at a pool plant located far outside the city of Chicago that might distribute milk in the city than is paid by handlers who operate plants within the city. Thus, these provisions are not needed in the order and should be removed.

Two Wisconsin based bargaining cooperatives proposed adopting three large zones that would encompass all the territory within 220 miles of Chicago. Zone 1 would include the territory within 100 miles of Chicago, Zone 2 would include the territory 100–160 miles from Chicago and Zone 3, 160–220 miles from Chicago. The Class I price in Zone 2 would be 8 cents higher than the Zone 3 price and in Zone 1 it would be 12 cents higher.

The monthly blend price would be announced for Zone 3. Monthly blend prices in Zone 1 would be the Zone 3 blend price plus an amount determined by multiplying the percentage of producer milk utilized in Class I in Zone 1 by 12 cents. The monthly blend prices in Zone 2 would be computed in the same manner except the percentage Class I utilization in Zone 2 would be multiplied by 8 cents.

This proposal was not supported by any other interested party. The group of cooperative associations who were proponents of dividing present Zone 1 into four zones and a handler located in Milwaukee, Wis., opposed this proposal.

It is not feasible in a market as large as this one where nearly 80 percent of its milk supply is received at supply plants to have location differentials which do not reflect varying transportation costs on a more refined basis. Further, the proposal would not contribute to the orderly marketing of milk as it would give some handlers an advantage over their competitors due to their source of supply and relative location to Chicago.

A 12-cent spread in the price of Class I milk would be established between Chicago city plants and supply plants located anywhere between 160–220 miles from Chicago. Under the present zoning structure, which fairly accurately reflects the variable costs of hauling milk, the price spread is 12 cents at 160 miles and 18 cents at 220 miles. A Chicago city handler buying milk from supply plants under the present location differential structure has no economic incentive insofar as location adjustments are concerned to buy milk from plants located 160 as compared to plants 220 miles from Chicago. Under the proposed zoning structure the Chicago handler would have an incentive to purchase his milk from the plant located 160 miles, since he would receive only a 12-cent location differential credit regardless of the supply plant's location in the 160–220-mile zone.

The prices received by neighboring producers could vary up to 8 cents per hundredweight depending upon the zone location of the plant to which they deliver milk. Between Zones 2 and 3 an 8-cent spread in Class I prices would occur. Fond du Lac, Wis., is just under 160 miles from Chicago and thus would be in Zone 2. Oshkosh, Wis., about 20 miles north of Fond du Lac, is just over 160 miles from Chicago and thus would be in Zone 3. Neighboring producers located equidistant from these two cities would have the same hauling costs if one producer delivered his milk to Fond du Lac while the other delivered to Oshkosh. Presently, the producer delivering to Fond du Lac receives 2 cents more for his milk because Fond du Lac is in a higher priced zone. Under the proposal this difference in prices probably would increase to around 5–7 cents. Differences in net farm prices of this magnitude could cause dissatisfaction among producers and lead to disorderly marketing conditions. Also, since the plant at Fond du Lac is a supply plant and at Oshkosh it is a distributing plant, this could cause a distortion in the allocation of milk supplies since producers would have an incentive to deliver to the supply plant rather than the distributing plant.

There are no distributing plants located in Fond du Lac. The nearest distributing plants to Fond du Lac are located in Oshkosh and in Waupun. Both of these plants are about 20 miles from Fond du Lac. However, Oshkosh would be in proposed Zone 3 and Waupun would be in Zone 2. The Waupun handler would have an 8-cent higher Class I price than the Oshkosh handler. This would give the Oshkosh handler a price advantage of nearly one-fourth cent per quart in competing for sales in Fond du Lac.

Since this proposal would not contribute to the orderly marketing of milk and would not assure uniform prices to producers and handlers, it should not be incorporated into the order. Accordingly, it is denied.

The location adjustment provisions should be refined to assure location adjustment credit on pool milk assigned to Class I use in a situation where such Class I assignment results from the disposition of packaged other source fluid milk products. The present provision subtracts all receipts of packaged other source milk in the computation of the net amount of producer milk on which a location adjustment credit is given. A situation could arise, however, where not all such other source milk would be assigned to Class I use.

6. *Class II milk price.* No change should be made in the computation of the monthly Class II milk price.

The Class II price is the basic formula price for the month. Such basic formula price is the average of prices paid for manufacturing grade milk at plants in Minnesota and Wisconsin, as reported by the Department, adjusted to a 3.5 percent butterfat basis by applying a butterfat differential determined by multiplying the Chicago butter price by 0.12.

The reported price, commonly called the Minnesota-Wisconsin price, is used in many Federal order markets to determine the value of milk used in manufacturing. It is used in most of the nearby markets which compete with Chicago Regional handlers for the Grade A milk supply in the region, namely the Iowa markets, St. Louis-Ozarks, Central and Southern Illinois, Michigan Upper Peninsula, Minneapolis-St. Paul, and Southeastern Minnesota-Northern Iowa.

The Minnesota-Wisconsin price was not opposed as the basic formula price for pricing Class II milk. However, two cooperatives (Manitowoc Milk Producers Cooperative and Milwaukee Cooperative Milk Producers) proposed that the Class II price should be 10 cents more than the Minnesota-Wisconsin price. A group of operating cooperatives, on the other hand, proposed, at the hearing, an alternative formula based on the market values of butter and nonfat dry milk which, if it were lower than the Minnesota-Wisconsin price, would become the effective Class II price.

Proponents for an increase in the Class II price urged that their proposal be adopted to discourage handlers from associating additional supplies of milk with the pool for manufacturing uses.

Some manufacturing plants in the milkshed are currently paying their bulk tank producers prices which exceed the Class II price under the order. At manufacturing plants in Wisconsin prices to bulk tank producers average about 20 cents per hundredweight above prices paid to can producers. To the extent that there are a significant number of can producers at manufacturing plants in the area it can be expected that the average of the prices paid at all manufacturing plants will be slightly below the prices paid at plants receiving milk from only bulk tank producers.

This may now be significant enough for some pool manufacturing plants to seek additional milk supplies. However, as the trend to bulk tank handling progresses this disparity in prices will continue to decline since more than one-half of the manufacturing milk in the area is now handled in bulk tanks.

Proponents for an alternative Class II price formula which would limit such price in relation to the market value of butter and nonfat dry milk urged that their proposal be adopted because of the cost of idle capacity in their manufacturing plants when their milk is shipped to distributing plants.

In the Assistant Secretary's May 15, 1968, decision (official notice of which has previously been taken) he rejected a similar alternative formula which could cause the effective Class II price to be lower than the Minnesota-Wisconsin price. That formula was proposed by the same group of operating cooperatives. In that decision he found that in view of the strong demand for milk to be used in manufacturing as demonstrated by the prices paid for ungraded milk and premiums paid for Grade A milk there was no basis for concluding that a Class II price as much as 16 cents less than the Minnesota-Wisconsin manufacturing milk price was needed to assure the orderly marketing of surplus Grade A milk.

The findings contained in that decision are equally applicable at this time. At the time of the hearing, the alternative formula would have yielded Class II prices about 15 cents less than the Minnesota-Wisconsin price. At the same time handlers were paying prices to producers which were in excess of the Class I prices established under the order. Prices paid for manufacturing grade milk were averaging about 20 cents per hundredweight more than they were a year earlier. No new reasons were given at this hearing for adopting a formula which would lower the Class II price relative to the Minnesota-Wisconsin price. Further, proponents offered no testimony to indicate that conditions have changed since the May 15, 1968, decision was issued with respect to the Class II price levels.

The Class II price level should be high enough to reflect the full value of producer milk disposed of in manufacturing uses yet not exceed the level at which the market's reserve milk can be moved to manufacturing outlets in an orderly fashion. Too high a Class II price will result in handlers' unwillingness to accept quantities of milk in excess of their Class I needs. Too low a Class II price on the other hand will encourage handlers to seek milk supplies solely for the purpose of converting them into Class II products.

The Minnesota-Wisconsin price adjusted to a 3.5 percent butterfat content should continue to be the Class II price. The Minnesota-Wisconsin price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scale. Any higher Class II price may cause producers under the order to encounter difficulties in marketing reserve supplies, while a lower price would tend to encourage manufacturers supply plants to be less willing to supply fluid milk outlets.

For the reasons set forth above, it would not be appropriate to increase or reduce the Class II price under this order and, accordingly, those proposals are denied.

7. *Seasonal incentive plan.* The proposals to provide a plan which would seasonally adjust the blend price computations under the order should be denied on the basis of this record.

An association of milk dealers in Chicago and a handler who operates a distributing plant located in Milwaukee proposed a seasonal incentive plan of payments to producers (commonly referred to as "Louisville plan"). Although their proposals differed in details, they both would have the same effect, a wider seasonal swing in prices to be paid to producers. Proponents maintained that such a plan is necessary in the Chicago Regional market to encourage producers to even out the seasonal swings in milk production and to align blend prices to producers under the Chicago Regional order with nearby markets that have Louisville plans and which compete with Chicago Regional handlers for milk supplies. These proposals were supported by two cooperative associations whose members are located generally within the direct delivery area for handlers in Chicago and Milwaukee.

A group of operating cooperatives, a bargaining cooperative and a Wisconsin handler opposed the adoption of a Louisville plan. Members of these cooperatives are located generally in the more distant areas of Wisconsin where substantial volumes of milk are produced for manufacturing purposes. Representatives of the cooperatives and handler stated that such a plan would cause the producer prices under the order to be lower than the prices paid for manufacturing grade milk in the farther out zones during the "take out" months. This would cause pool producers to switch from delivering to pool plants to delivering their milk to manufacturing plants during those months.

Louisville or seasonal incentive plans cause the blend prices computed under the order to vary seasonally. Money is deducted from the pool fund at a certain rate per 100 pounds of producer milk received during each of the months of seasonally highest production. The total amount of money accumulated from these deductions is then paid to producers by adding a certain proportion of the total deductions to the producer settlement fund during each of the months of seasonally lowest production. Through this adjustment of the monthly blend prices producers are encouraged to level out their seasonal milk production pattern. Such plans are used in many Federal order markets.

The operation of Louisville plans does not affect the obligations of handlers since such plans do not alter the class prices which handlers must pay. Thus, handlers do not have a direct monetary interest in the operation of Louisville plans.

Sufficient milk is available to meet handlers' needs at all times during the year. There was no contention that any handler has been short of milk at any time since the promulgation of the Chicago Regional order.

During the proposed take out month of June 1969 the order blend prices beyond Zone 8 would have been lower than the prices actually paid by some manufacturing plants for manufacturing grade milk. Under such conditions producers in the more distant territory would have had an incentive to shift their milk deliveries to nonpool manufacturing plants during the take out months and then to shift to pool plants during the pay back months. In this circumstance pool handlers in this distant area would likely be forced to pay higher than order prices to be assured a milk supply for fluid use during the period of peak production. This condition should not be encouraged.

Proponents stated that dairy farmers in southern Wisconsin and in Illinois supply milk to the Indiana, Central Illinois, Southern Illinois, and St. Louis, Mo., markets. The farms of these dairy farmers, they said, are generally interspersed with Chicago Regional producers. Although there are some Chicago Regional order producers with farms located among those of producers supplying these other markets, nearly 80 percent of the milk regulated under the Chicago Regional order is received first at supply plants in Wisconsin. Most of those plants are located beyond the area from which these other markets draw milk and consequently the main supplies of milk are not influenced to any great extent by the Louisville plans.

The record does not reveal any clear need to provide an incentive for more uniform production pattern in this market in order to assure an adequate supply. The proposals are denied at this time.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order

and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Chicago regional marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq., to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Chicago Regional marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be March 1970.

The agent of the Secretary to conduct such referendum is hereby designated to be Ralph F. Mraz.

Signed at Washington, D.C., on July 13, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Chicago Regional marketing area.*

Findings and Determinations

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held 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 (7 CFR Part 900).

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to: (a) Producer milk (including such handler's own farm production), (b) other source milk allocated to Class I pursuant to § 1030.46(a) (3) and (7) and the corresponding steps of § 1030.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants. A cooperative association handler pursuant to § 1030.13(e) shall make such payment set forth herein on the producer milk described in § 1030.16(c).

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on February 27, 1970, and published in the FEDERAL REGISTER on March 4, 1970 (35 F.R. 4064; F.R. Doc. 70-2645), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modifications:

Changes are made in §§ 1030.9, 1030.10, 1030.11, 1030.13, 1030.15, 1030.16, 1030.41, 1030.46, 1030.53, and 1030.82; and § 1030.16a is deleted.

1. Section 1030.6 is revised as follows:

§ 1030.6 Chicago Regional marketing area.

"Chicago Regional marketing area", hereinafter called the "marketing area" means the territory within the boundaries of the following places including piers, docks, and wharves and territory wholly or partly within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) In the State of Illinois:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(1) The counties of:

Boone.	Kendall.
Carroll.	Lake.
Cook.	Lee.
De Kalb.	McHenry.
Du Page.	Ogle.
Jo Daviess (except the city of East Dubuque).	Stephenson.
	Will.
	Winnebago.
Kane.	

(2) In Whiteside County:

(i) The townships of:

Caloma.	Jordan.
Hahnaman.	Montmorency.
Hopkins.	Sterling.
Hume.	Tampico.

(b) [Reserved]

(c) In the State of Wisconsin:

(1) The counties of:

Adams.	Menominee.
Brown.	Milwaukee.
Calumet.	Monroe.
Columbia.	Oconto.
Crawford.	Oneida.
Dane.	Outagamie.
Dodge.	Ozaukee.
Fond du Lac.	Portage.
Forest.	Racine.
Grant.	Richland.
Green.	Rock.
Green Lake.	Sauk.
Iowa.	Shawano.
Jefferson.	Sheboygan.
Juneau.	Vernon.
Kenosha.	Vilas.
Kewaunee.	Walworth.
La Crosse.	Washington.
Lafayette.	Waukesha.
Langlade.	Waupaca.
Lincoln.	Waushara.
Manitowoc.	Winnebago.
Marquette.	

(2) In Door County the city of Sturgeon Bay;

(3) In Marathon County:

(i) The towns of:

Bergen.	Marathon.
Berlin.	Mosinee.
Bevent.	Norrie.
Easton.	Plover.
Elderon.	Reid.
Franzen.	Rib Mountain.
Guenther.	Ringle.
Harrison.	Stettin.
Hewitt.	Texas.
Knowlton.	Wausau.
Kronenwetter.	Weston.
Maine.	

(ii) The villages of:

Brokaw.	Marathon.
Elderon.	Rothschild.
Hatley.	

(iii) The cities of:

Mosinee.	Wausau.
Schofield.	

(4) In Wood County:

(i) The towns of:

Cranmoor.	Rudolph.
Grand Rapids.	Saratoga.
Port Edwards.	Seneca.

(ii) The villages of:

Biron.	Port Edwards.

(iii) The cities of:

Nekoosa.	Wisconsin Rapids.

2. Section 1030.9 is revised as follows:

§ 1030.9 Exempt milk.

"Exempt milk" means milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer if:

(a) The dairy farmer is a government which is not engaged in the route disposition of any of the returned products; and

(b) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

3. Section 1030.10 is revised as follows:

§ 1030.10 Plant.

(a) "Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons constituting a single operating unit or establishment: including a building approved by an appropriate health authority which has facilities adequate for cleansing tank trucks and at which milk moved from the farm is transferred and commingled in another tank truck with other milk for transshipment, or at which milk is received from dairy farmers, or at which milk is processed and packaged or manufactured. Any building located on the premises of a pool distributing plant pursuant to § 1030.11(a) shall not be considered a supply plant unless it is located in a building that is entirely separate from the distributing plant. If a portion of the plant is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition and is physically separated from the Grade A portion, such unapproved portion shall not be considered a part of the plant.

(b) "Distributing plant" means a plant from which a Grade A fluid milk product that is processed or packaged in such plant is disposed of during the month in the marketing area on routes, either directly or through another plant.

(c) "Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant.

4. Section 1030.11 is revised as follows:

§ 1030.11 Pool plant.

"Pool plant" means a plant pursuant to § 1030.10 which is described in paragraph (a), (b), or (c) of this section (except an other order plant, exempt distributing plant or the plant of a producer handler). In determining the pool plant qualifications of plants pursuant to this section on milk subject to the conditions specified in § 1030.13(h) the receipts and disposition of the plant operated by the transferor handler shall exclude the milk described in § 1030.13(h)(3) but shall include the milk described in § 1030.13(h)(4).

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in subparagraphs (2) and (3) of this paragraph of the receipts specified in subparagraph (1). Two or more distributing plants of a handler shall be considered a unit for the purpose of subparagraph (3) of this paragraph in any month if the handler operating such plants has filed a written request with the market administrator prior to such month requesting that they be considered a unit.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted under § 1030.16, and milk received from a handler pursuant to § 1030.13(h), but excluding receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.46(a)(4)(i)(*a*) and (ii) and the corresponding step of § 1030.46(b).

(2) Not less than 10 percent of such receipts is disposed of from such plant in the marketing area in the form of packaged fluid milk products, except filled milk, either on routes or moved to other plants from which it is disposed of in the marketing area on routes. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Not less than 45 percent of such receipts is disposed of in the form of packaged fluid milk products, except filled milk, either on routes or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk moved during the month in accordance with subparagraphs (1) and (2) of this paragraph is not less than the percentages specified in subparagraph (4) of this paragraph subject to subparagraphs (6), (7) and (8) of this paragraph of the volume of Grade A milk received from dairy farmers and cooperative associations pursuant to § 1030.13(e), including produced milk diverted under § 1030.16. Such receipts shall be reduced by the disposition of packaged fluid milk products described in subparagraph (3) of this paragraph.

(1) Moved as fluid milk products to:

(i) Pool plants pursuant to paragraph (a) of this section;

(ii) Plants of producer handlers; and

(iii) Partially regulated distributing plants and assigned to Class I milk disposed of in the marketing area from such plants pursuant to § 1030.44(d)(3)(i);

(2) Moved as condensed skim milk to pool plants pursuant to paragraph (a) of this section to the extent it is used in a fluid milk product that is disposed of as a fluid milk product (except filled milk). Such use of condensed skim milk shall be prorated over receipts of condensed skim milk from all supply plants;

(3) The receipts of Grade A milk required to be included pursuant to this paragraph shall be reduced by the amount of packaged fluid milk products (except filled milk) that are disposed

of from such plant on routes or moved to a nonpool plant from which they are disposed of on routes outside the marketing area;

(4) Such percentage shall be not less than 40 percent in each of the months of September, October, and November and 30 percent in all other months, except that a plant which is a pool plant pursuant to this paragraph during each of the months of August through December shall be a pool plant for each of the following months of January through July unless:

(i) The milk received at the plant does not continue to meet the Grade A milk requirements for use in fluid milk products distributed in the marketing area; or

(ii) Written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting the plant be designated a nonpool plant for such month and such subsequent month through July during which it would not otherwise qualify as a pool plant;

(5) [Reserved]

(6) The percentages specified in subparagraph (4) of this paragraph applicable during the months August–December shall be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision: *Provided*, That if a plant which would not otherwise qualify as a pool plant during the month pursuant to subparagraph (4) of this paragraph would qualify as a pool plant as a result of this subparagraph, such plant shall be a nonpool plant for such month upon filing by the operator of such plant a written request for nonpool status with the market administrator;

(7) Two or more plants shall be considered a unit for the purpose of this paragraph if the following conditions are met:

(i) The plants included in a unit are owned or fully leased and operated by the handler establishing the unit. In the case of plants operated by cooperative associations two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives;

(ii) The handler or cooperatives establishing a unit notify the market administrator in writing of the plants to be included therein prior to August 1 of each year and no additional plants shall be added to the unit prior to August 1 of the following year;

(iii) The notification pursuant to subdivision (ii) of this subparagraph shall list the plants in the order in which they shall be excluded from the unit if the minimum shipping requirements are not met, such exclusion to be in sequence beginning with the first plant on the list and continuing until the remaining plants as a unit have met the minimum requirements.

(8) If a handler notifies the market administrator in writing that a plant is unable to meet the requirements set forth herein because of a work stoppage due to a labor dispute between employer and employees, the market administrator, upon verification of the handler's claim, shall not include the receipts and utilization of skim milk and butterfat at such plant for those days from the date of notification through the last day of the work stoppage in determining the percentage of skim milk and butterfat shipped pursuant to this paragraph. When the work stoppage includes an entire month, the plant shall be considered to have met the minimum percentage shippage requirements in that month for pool plant status pursuant to this paragraph, but such relief shall not be granted for more than 2 consecutive months.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a) or (b) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producers of such cooperative association is received at pool distributing plants of other handlers during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

5. In § 1030.13 a new paragraph (h) is added as follows:

§ 1030.13 Handler.

* * * * *

(h) Any person who is a handler operating a pool distributing plant pursuant to paragraph (a) of this section may be the handler on producer milk delivered to pool distributing plants of other handlers, subject to the following conditions:

(1) Prior to the first month he becomes the handler pursuant to this paragraph such handler shall notify the market administrator in writing of his election to do so and he shall provide the name and address of each transferee pool plant receiving the milk that is subject to the conditions of this paragraph.

(2) All of the producer milk on which he is the handler pursuant to this paragraph shall be considered a transfer from such handler's pool distributing plant to another pool distributing plant for the purposes of classification pursuant to §§ 1030.40 through 1030.46;

(3) If an entire tank truck load of milk is delivered to the pool plant of another handler, it shall be considered a receipt by the transferor handler pursuant to §§ 1030.40 through 1030.46; poses pursuant to §§ 1030.50 through 1030.53 and 1030.70 through 1030.86 at the location of the transferee plant; and

(4) If less than an entire tank truck load of milk is delivered to the pool plant of another handler, a portion of the milk on the tank truck load must be physically received at the transferor handler's pool distributing plant. Such split load shall be considered a receipt of producer milk at the transferor handler's plant for pricing purposes pursuant to §§ 1030.50 through 1030.53 and 1030.70 through 1030.86.

6. Section 1030.15 is revised as follows:

§ 1030.15 Producer.

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received as producer milk at a pool plant or diverted pursuant to § 1030.16 from a pool plant to a nonpool plant. The term shall not include:

(a) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.19a; or

(b) A producer handler as defined in any order (including this part) issued pursuant to the Act.

7. In § 1030.16 paragraph (a) is revised, a new paragraph (a–1) is added, and in paragraph (d) a new subparagraph (4) is added as follows:

§ 1030.16 Producer milk.

* * * * *

(a) Received at a pool plant directly from a dairy farmer except:

(1) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.9; or

(2) That milk received by diversion from other order plants which is assigned pursuant to § 1030.46(a)(4)(ii) and the corresponding step of § 1030.46(b).

(a–1) Received by a handler pursuant to § 1030.13(h).

* * * * *

(d) * * *

(4) Milk of a producer diverted by a handler who fails to report the information required pursuant to § 1030.31(b)(4) shall not be considered producer milk pursuant to this paragraph.

8. In § 1030.31 paragraph (b) is revised as follows:

§ 1030.31 Other reports.

* * * * *

(b) Each handler pursuant to § 1030.13(a), (c), (d), (e), and (h) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler pursuant to § 1030.13(c) shall report the quantities of skim milk and butterfat in fluid milk products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month;

(2) Each cooperative association handler pursuant to § 1030.13(d) shall

report the quantities of skim milk and butterfat in producer milk diverted for its account from each pool plant and the utilization of such skim milk and butterfat during the month;

(3) Each cooperative association handler pursuant to § 1030.13(e) shall report the quantities of skim milk and butterfat in its receipts of producer milk pursuant to § 1030.16(c) and producer milk delivered to each pool plant during the month;

(4) Each handler pursuant to § 1030.13 (a) and (d) shall report for each load of milk diverted for his account the quantity of each producer's milk included therein the date(s) and times of pickup and delivery to the nonpool plant, the name and location of that plant, and the plant from which diverted; and

(5) Each handler pursuant to § 1030.13(h) shall report for each load of milk transferred for his account the quantity of each producer's milk included therein the dates and times of pickup and delivery to the transferee plant, the name and location of that plant and the plant from which transferred. Also, he shall report the quantities of skim milk and butterfat in his receipts of producer milk and delivery of such milk to each pool distributing plant during the month;

* * * * *

9. In § 1030.46(a) a new subparagraph (1-a) is added and a new subdivision (vi) is added to subparagraph (3) as follows:

§ 1030.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1-a) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in exempt milk;

* * * * *

(3) * * *

(vi) Receipts of fluid milk products (other than exempt milk) from a government which has elected nonproducer status for the month pursuant to § 1030.9;

* * * * *

10. In § 1030.41 paragraph (b) (7) (i) is revised as follows:

§ 1030.41 Classes of utilization.

* * * * *

(b) * * *

(7) * * *

(i) Two percent of producer milk receipts described in §§ 1030.16(a) and 1030.16(a-1); plus

* * * * *

11. Section 1030.51(a) is revised as follows:

§ 1030.51 Class prices.

* * * * *

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $1.26.

* * * * *

12. Section 1030.53 is revised as follows:

§ 1030.53 Location adjustments to handlers.

A location adjustment for each handler who operates a pool plant shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part on the following basis:

(1) Zone I—adjustment rate—none. Zone I shall consist of the territory within 40 miles of the city hall in Chicago.

(2) Zone 2—adjustment rate—minus 2 cents per hundredweight of milk. Zone 2 shall consist of the territory beyond Zone 1 but within 55 miles of the city hall in Chicago.

(3) Zone 3—adjustment rate—minus 4 cents per hundredweight of milk. Zone 3 shall consist of the territory beyond Zone 2 but within 70 miles of the city hall in Chicago.

(4) Zone 4—adjustment rate—minus 6 cents per hundredweight of milk. Zone 4 shall consist of the territory beyond Zone 3 but within 85 miles of the city hall in Chicago, plus Milwaukee County, Wis., and Winnebago County, Ill.

(5) For plants located beyond Zone 4 the adjustment rate shall be an additional 2 cents per hundredweight of milk for each 15 miles or fraction thereof over 85 miles. The territory beyond 85 miles, but not to exceed 100 miles, shall be Zone 5 and each successive 15-mile area shall be an additional zone.

(b) (1) The mileages applicable pursuant to this section and § 1030.82 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago.

(2) The market administrator shall notify each handler of the zone or mileage determination.

(3) Mileage shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or all pool plants of such handler for which a single report is filed pursuant to § 1030.30 after eliminating duplication for transfer between such plants);

(2) Subtract the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of on routes or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.46;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in subdivisions (i) and (ii) of this subparagraph:

(i) Receipts at the handler's pool distributing plant(s) of producer milk, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If receipts during the month at such distributing plants of producer milk and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to subparagraph (6) of this paragraph, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to this subparagraph:

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk at such distributing plants pursuant to subparagraph (6) (i) and (7) of this paragraph;

(9) Multiply by the location adjustment rates applicable at the transferor plants, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to subparagraph (6) (ii) of this paragraph; or

(ii) Receipts specified in subparagraph (6) (ii) of this paragraph;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to subparagraph (7) of this paragraph to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rates applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of on routes or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to subparagraphs (8), (9), (10), (11), and (12) of this paragraph.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on producer milk at such plant classified as Class I that is not shipped as a bulk fluid milk product to a pool distributing plant.

13. In § 1030.70 paragraph (g) is revoked, paragraphs (e), (f), and the text preceding paragraph (a) are revised as follows:

* * * * *

§ 1030.70 Computation of the net pool obligation of each handler.

The net pool obligation (or credit) of each handler pursuant to § 1030.13 (a), (d), and (h), and of each cooperative association with respect to producer milk described in § 1030.16(c), shall be a sum of money computed for each month by the market administrator as follows:

* * * * *

(e) Add an amount equal to the value at the Class I milk price (after making the location adjustment rate for the nearest nonpool plant from which an equivalent volume was received) of the skim milk and butterfat subtracted from Class I pursuant to § 1030.46(a)(7) and the corresponding step of § 1030.46(b); and

(f) Subtract an amount equal to the minus location adjustment computed pursuant to § 1030.53 (c)(13) or (d).

14. In § 1030.71 paragraph (d) is revoked.

15. Section 1030.82 is revised as follows:

§ 1030.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1030.71 received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1030.53(a).

(b) For the purpose of computation pursuant to § 1030.84(b)(2) the uniform price shall be adjusted at the rates set forth in § 1030.53(a) applicable at the location of the nonpool plant from which the milk was received.

16. Section 1030.85 is revised as follows:

§ 1030.85 Payments from the producer-settlement fund.

On or before the 17th 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 § 1030.84(b) exceeds the amount computed pursuant to § 1030.70: *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 become available.

[F.R. Doc. 70-9171; Filed, July 16, 1970; 8:48 a.m.]

Food and Nutrition Service

[7 CFR Part 210]

NATIONAL SCHOOL LUNCH PROGRAM

Notice of Proposed Rule Making

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to revise the regulations governing the National School Lunch Program (35 F.R. 755, as amended by 35 F.R. 3900) for the purpose of incorporating the applicable provisions of Public Law 91-248, enacted May 14, 1970.

Comments, suggestions, or objections are invited and may be delivered within 20 days after publication hereof to Herbert D. Rorex, Director, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or submitted by mail postmarked not later than the 20th day following publication hereof. Communications should identify the regulation section and paragraph on which comments, etc. are offered. All comments, suggestions, or objections will be considered before the regulations are issued prior to the beginning of the 1970-71 school term.

The proposed revisions, with the proposed effective date as stated therein, are as follows:

Regulations are hereby amended and revised for the operation of the general cash-for-food assistance and the special cash assistance phases of the National School Lunch Act, as amended (42 U.S.C. 1751-1760).

1. The table of contents for Part 210, Chapter II, of Title 7 of the Code of Federal Regulations (35 F.R. 753) is amended to read as follows:

Sec.

210.1	General purpose and scope.
210.2	Definitions.
210.3	Administration.
210.4	Apportionment of funds to States.
214.4a	State Plan of Child Nutrition Operations.
210.5	Payments to States.
210.6	Matching of funds.
210.7	Use of funds.
210.8	Requirements for participation.
210.9	Free and reduced price lunches.
210.10	Requirement for lunches.
210.11	Reimbursement payments.
210.12	Effective date for reimbursement.
210.13	Reimbursement procedure.
210.14	Special responsibilities of State agencies.
210.15	Review of operating balances.
210.15a	Nonprofit lunch programs in commodity only schools.
210.15b	Regulation of competitive food services.
210.16	Claims against School Food Authorities.
210.17	Administrative analysis and audits.
210.18	Prohibitions.
210.19	Miscellaneous provisions.
210.20	Program information.

2. Section 210.2 is amended by adding the following:

§ 210.2 Definitions.

* * * * *

(c-1) "Community only school" means a school which does not participate in the national school lunch program, but which receives donated commodities under the authority of Part 250 of this chapter.

* * * * *

(e-1) "Distributing agencies" means State, Federal, or private agencies which enter into agreements with the Department for the distribution of commodities to eligible recipient agencies and recipients.

* * * * *

(n-1) "Reduced price lunch" means a lunch sold for not more than 20 cents but less than the price of the lunch.

* * * * *

(q-1) "Service institution" means a private, nonprofit institution or a public institution, such as a child day-care center, settlement house, or recreation center, which provides day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist or areas in which there are high concentrations of working mothers. The term "service institution" includes a private, nonprofit institution or a public institution that develops a special summer program providing for children from such areas food service similar to that available to children under the National school lunch or school breakfast programs during the school year, and includes a private, nonprofit institution or a public institution providing day care services for handicapped children.

* * * * *

3. The present definition of "participation rate" in § 210.2 is revised to read as follows:

(m) "Participation rate" means a number equal to the number of lunches meeting the minimum requirements prescribed for a type A lunch in § 210.10 served in the fiscal year beginning 2 years immediately prior to the fiscal year for which the funds are appropriated, by schools participating in the program as determined by the Secretary.

4. Section 210.4 (d) and (e) are revised and paragraphs (f) and (g) are eliminated in their entirety.

§ 210.4 Apportionment of funds to States.

* * * * *

(d) Any Federal funds made available for special cash assistance for any fiscal year shall be apportioned among the States in accordance with section 11 of the Act. Three percent of any such funds shall be apportioned to Puerto Rico, the Virgin Islands, Guam, and American Samoa. The apportionment to each of these States shall be in an amount which bears the same ratio to the total of such funds as the number of children aged 3 to 17, inclusive, in such State bears to the total number of such children in all such States. Any such funds so apportioned to any of these States which cannot be used for special cash assistance shall be further apportioned to any of these States which justify the need for additional funds on the basis of operating experience. The remaining amount

of such special cash assistance funds for any fiscal year shall be apportioned among the States, other than Puerto Rico, the Virgin Islands, Guam, and American Samoa. The amount apportioned to each such State shall bear the same ratio to such remaining funds as the number of children in such State aged 3 to 17, inclusive, in households with incomes less than $4,000 per annum bears to the total number of such children in all such States. Any such funds so apportioned which cannot be used for special cash assistance shall be further apportioned on the same basis as the initial apportionment to States which justify need for additional funds on the basis of operating experience.

(e) A share of the special cash assistance funds apportioned to any State shall be withheld by FNS for the nonprofit private schools of that State, if the State Agency does not administer the Program with respect to such schools. The funds so withheld by FNS shall be an amount which bears the same ratio to the special cash assistance funds apportioned to the State as the number of free and reduced price lunches served in accordance with § 210.10 in the fiscal year beginning 2 years immediately prior to the fiscal year for which funds are appropriated, by all nonprofit private schools participating in the Program in the State bears to the number of free and reduced price lunches so served during the year by all schools participating in the Program in the State.

(f) [Deleted]

(g) [Deleted]

5. A new § 210.4a is added as follows:

§ 210.4a State Plan of Child Nutrition Operations.

(a) Not later than January 1 of each year, each State Agency shall submit to FNS for approval a State plan of child nutrition operations for the following fiscal year. Such an approved plan shall be a prerequisite to the payment of cash assistance funds to the State Agency under the Act or the approval to distribute commodities donated by the Department for schools participating in the program and for commodity only schools by the State Agency or the distributing agency for the State.

(b) A State plan of child nutrition operations, at a minimum, shall include the following information: (1) The number of schools not participating in the program, together with the average daily attendance in such schools; (2) an estimate of the number of schools needing, but not participating in the school breakfast program, together with the average daily attendance in such schools; (3) an estimate of the number of service institutions needing a special food service program for children, on a year-round basis and on a summer basis only, together with an estimate of potential participation; and (4) estimated revenues available to and under the control of the State Agency for use in financing the programs under this Act and the Child Nutrition Act, other than Federal funds.

(c) The State plan of child nutrition operations shall also include the detailed action program the State Agency proposes to undertake to use the Federal funds available under this Act and the Child Nutrition Act of 1966 and other revenues available to and under the control of the State Agency to: (1) Extend the program to every school within the State; (2) to furnish a free or reduced price lunch to all children eligible for such lunches; and (3) to extend the benefits of the school breakfast program and the special food service program for children to children in need of such benefits.

(d) Except for the initial State plan of child nutrition operations submitted for approval, each subsequent plan shall report the accomplishments achieved under the plan for the current fiscal year, and how the goals of that plan will be achieved during the remainder of that fiscal year.

(e) The State Agency may include in its State plan of child nutrition operations or by amendment to such plan, any request for FNS approval for the transfer, between programs authorized by this Act and the Child Nutrition Act of 1966, of the funds apportioned to it for each of such programs. Any such request must include a justification which indicates the way in which the requested transfer will permit the State to better carry out the action program proposed under paragraph (c) of this section. If the requested transfer is approved by FNS, related apportionments of funds and letters of credit shall be so amended by FNS.

(f) The State Agency may submit for approval to FNS a revised plan of child nutrition operations, or amendments to its plan, at any time.

§ 210.5 [Amended]

6. Paragraph (b) of § 210.5 is revised to delete the phrase "cash-for-food assistance" in the first line and substitute "cash assistance".

7. Section 210.5(d) is revised as follows:

(d) The State Agency shall release to FNS any Federal funds made available to it under the Program which are unobligated at the end of each fiscal year. Any such funds shall remain available to FNS for the purposes of the program until expended. Release of funds by the State Agency shall be made as soon as practicable but in any event no later than 30 days following demand by FNSRO and shall be reflected by a related adjustment in the State Agency's letter of credit.

8. Section 210.5(c) is deleted.

9. In § 210.6 new paragraphs (b–1) and (b–2) are added as follows:

§ 210.6 Matching of funds.

* * * * *

(b–1) For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or specifically reserved and used for Program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement in paragraph (a) of this section; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement in paragraph (a) of this section; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement in paragraph (a) of this section; and for each fiscal year thereafter, at least 10 per centum of the matching requirement in paragraph (a) of this section.

(b–2) The State revenues made available pursuant to the preceding subsection shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of funds apportioned to the State for the same year under sections 4 and 11 of the Act and sections 4 and 5 of the Child Nutrition Act of 1966. The expenditure of State revenues to finance the cost of intra-State distribution of Federally donated commodities to programs operated under authority of the Act or the Child Nutrition Act of 1966 shall be considered to be in compliance with this paragraph.

* * * * *

10. Section 210.7 is revised to read as follows:

§ 210.7 Use of funds.

(a) Federal funds available as general cash-for-food assistance and as special cash assistance shall be used only to reimburse school food authorities in connection with lunches served to children of high school grade or under in accordance with the provisions of this part during the fiscal year for which such funds are made available.

(b) Income accruing to the lunch program in any school shall be used only for Program purposes: *Provided, however,* That such incomes shall not be used to purchase land, to acquire or construct buildings, or to make alterations of existing buildings: *And provided, further,* That only funds from sources other than Federal or children's payments for lunches shall be used to finance out-of-State travel of school lunch personnel or the purchase of passenger automobiles.

§ 210.8 [Amended]

11. Section 210.8(b) is revised by adding the following to the end thereof: "Such authorities shall also submit for approval a free and reduced price lunch policy statement in accordance with Part 245 of this chapter."

12. Section 210.8(c) is revised to read as follows:

(c) Schools shall be selected for participation in the general cash-for-food assistance phase of the program on the basis of need and attendance.

13. Section 210.8(e)(1) is revised by adding the following at the end thereof: "and observe the limitations on competitive food service as set forth in § 210.15(b)."

14. Section 210.8(e)(5) is revised by adding the following at the end thereof: "in accordance with its approved free and reduced price policy statement;".

15. Section 210.8(e)(6) is revised by adding the following at the end thereof: "in accordance with its approved free and reduced price lunch policy statement;".

16. Section 210.8(e)(13)(i)(*b*) is revised to read as follows:

(*b*) Daily number of lunches served free, and the daily number of lunches served at reduced price, to children meeting the school's eligibility standard for such lunches.

17. Section 210.8(e)(13)(i)(*d*) is added as follows:

(*d*) Estimates, as of October 1 and March 1 of each year, of the number of children in the school which are eligible for free or reduced-price lunches, under the school's eligibility standard for such lunches. The data used to make each such estimate shall be filed with such estimate.

18. Section 210.8(e)(15) is deleted.

19. Section 210.9 is revised to read as follows:

§ 210.9 Free and reduced price lunches.

The determination of the children to whom free or reduced price lunches are to be served because of inability to pay the full price thereof, and the serving of lunches to such children, shall be effected in accordance with the provisions of Part 245 of this chapter.

20. Section 210.11 is revised to read as follows:

§ 210.11 Reimbursement payments.

(a) Reimbursement shall be made only in connection with lunches meeting the requirements of § 210.10 and all such lunches shall be reimbursed from general cash-for-food assistance funds at a rate assigned by the State Agency, or FNSRO where applicable.

(b) The maximum rate of reimbursement for lunches served, from general cash-for-food assistance funds, shall be 12 cents for a type A lunch, and 2 cents for a type C lunch.

(c) Any school participating in the program may receive additional reimbursement from special cash assistance for lunches served free or at a reduced price to children meeting the school's approved eligibility standard for such lunches at a rate not to exceed 30 cents for each such lunch, based upon the school's need for such assistance: *Provided, however,* That if a school is still financially unable to meet the need for free and reduced price lunches, the school may apply to the State Agency, or FNSRO where applicable, for additional reimbursement from special cash assistance funds. If the State Agency, or FNSRO where applicable, determines that additional financial assistance is necessary, first it shall provide general cash-for-food assistance at the maximum rate of 12 cents from Federal funds, maximize assistance from State funds available for program purposes, and insure that donated commodities are being utilized to the full extent practicable. After these actions, it may then provide additional special cash assistance in such amount which, together with the income resulting from these actions and other income available, may finance up to 100 percent of the cost of operating the nonprofit lunch program including the cost of obtaining, preparing, and serving food: *And provided further,* That the total reimbursement from Federal cash assistance shall not exceed 60 cents for each free and reduced price lunch served to children meeting the school's approved eligibility standard for such lunches.

(d) In agreements with school food authorities, the State Agency, or FNSRO where applicable, shall assign rates of reimbursement within the maximum rates for each school in which the program will be operated and any variation between schools in the assigned rates for particular lunch types shall reflect the relative needs of the schools as determined by the State Agency, or FNSRO where applicable. Assigned rates may be changed by the State Agency, or FNSRO where applicable. Notice of any change shall be given to the school food authority.

(e) The last claim from a school food authority each fiscal year may be paid at rates in excess of the assigned or maximum rates for general cash-for-food assistance and for special cash assistance: *Provided, however,* That, (1) the total reimbursement from general cash-for-food assistance for any fiscal year shall not exceed the cost of obtaining food for such fiscal year; and (2) the total reimbursement for the fiscal year shall not exceed the sum of the following: (i) The number of lunches served to children during the fiscal year times the maximum general cash-for-food assistance rate; plus (ii) the number of free and reduced price lunches served to children meeting the school's approved eligibility standards for such lunches times 30 cents, or the higher maximum rate as provided for in paragraph (c) of this section if such rate is applicable to the school.

(f) If a school participates in only the general cash-for-food assistance phase of the program and in the school breakfast program authorized by the Child Nutrition Act of 1966, reimbursement may be computed by multiplying the number of meals served under each program by the assigned rate of reimbursement for each type of meal and paying the lesser of the following: Total reimbursement so computed, or the total cost of obtaining food for both programs.

§ 210.12 [Amended]

21. Section 210.12 is revised by adding the following to the end thereof: "except as this requirement may be modified for the fiscal year 1971 in Part 245 of this chapter."

22. Section 210.13 is revised to read as follows:

§ 210.13 Reimbursement procedure.

(a) Each State Agency, or FNSRO where applicable, shall require school food authorities to submit a "Claim for Reimbursement" on a calendar month basis: *Provided, however,* That not more than 10 days of the beginning or ending month of program operations in the fiscal year may be combined with the claim of the month immediately following the beginning month, or preceding the ending month. Any claim for reimbursement combining the ending month of 1 fiscal year and the beginning month of the next fiscal year shall not be permitted.

(b) The Claim for Reimbursement shall include the following data on the lunches served in the preceding month: (1) The month and year for which claim is made; (2) the name and address of the School Food Authority; (3) the number of schools in which lunches were served during the month; (4) the average number of days lunches were served; (5) the total number of lunches sold to children at regular prices; (6) the total number of reduced price lunches served to children meeting the school's eligibilty standard; (7) the total number of free lunches served to children meeting the school's eligibility standard; and (8) the amount of Federal reimbursement claimed for: (i) All lunches and (ii) additional reimbursement on free and reduced price lunches.

(c) The State Agency, or FNSRO where applicable, shall require additional program operating data at intervals determined by the State Agency, or FNSRO where applicable. Full or partial reimbursement may be made on the claims submitted by the school food authority subject to post audit. Program agreements with school food authorities may not be extended into subsequent fiscal years until all proper data is submitted and audited.

(d) The State Agency, or FNSRO where applicable, shall require each school food authority to submit the claim for reimbursement required under paragraph (a) of this section under a schedule which will result in the receipt of such claim for reimbursement by the 10th day of the month following the month covered by such claim. The claim for reimbursement shall include the items prescribed in paragraph (b) of this section.

(e) The claim for reimbursement for October and March of each year shall be accompanied by an estimate of the number of children in the school that are eligible for free or reduced price lunches under the school's eligibility standards for such lunches.

§ 210.14 [Amended]

23. Section 210.14(a)(2) is revised by adding the following to the end thereof: "Centralized city-wide or school district-wide food service systems which have as a minimum, central fiscal control of operations in all the participating attendance units may be covered by reviewing the central office operations and the food service operations in a representative sampling of the individual attendance units. In such case, credit may be claimed for administrative reviews of all the participating attendance units in the centralized system."

24. Section 210.14(d) is revised to add the following: "The State Agency shall

inform the distributing agency of the State of schools which are in need of additional food assistance and shall prescribe related variations in rates of distribution to meet variations of need.

25. Section 210.14(g) is revised to read as follows:

(g) *Records and reports.* (1) Each State Agency shall maintain current records on Program operations in schools and submit monthly reports to FNS on such operations on a form prescribed by FNS which shall summarize the information submitted by the school food authorities in their claims for reimbursement. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain.

(2) The monthly report required in subparagraph (1) of this paragraph shall contain the following information on a form provided by FNS: (i) The month and year being reported, (ii) the number of schools participating in the program, (iii) the number of schools included in the report, (iv) the average number of days lunches were served, (v) the total number of lunches sold to children at regular prices, (vi) the total number of reduced price lunches served to children meeting the school's eligibility standard, (vii) the total number of free lunches served to children meeting the school's eligibility standard, and (viii) the amount of Federal funds to be reserved for payment to school food authorities as reimbursement for (*a*) all lunches and (*b*) additional reimbursement on free and reduced price lunches. This report shall be submitted by each State Agency under a schedule which will result in the receipt by FNS of such report by the 15th day of the month following the month covered by such report.

(3) The monthly reports for October and March of each year submitted in accordance with subparagraph (1) of this paragraph shall be accompanied by an estimate of the total number of children in the State who are eligible for a free or reduced price lunch, compiled from the related estimates submitted by the School Food Authorities with their Claims for Reimbursement for October and March of each year.

(4) Each State Agency shall make all reasonable efforts to assure that the monthly report to FNS is submitted in accordance with the schedule in subparagraph (2) of this paragraph.

26. A new § 210.15a is added as follows:

§ 210.15a Nonprofit lunch programs in commodity only schools.

Schools desiring to receive only commodities donated by the Department may do so under the following provisions:

(a) Administration of this Program in commodity only schools shall be in the same manner as set forth in § 210.3.

(b) Commodity only schools shall receive no cash reimbursement for lunches served. Therefore, §§ 210.4, 210.5, 210.6, 210.7, 210.11, and 210.12 shall not be applicable.

(c) (1) Commodity only schools shall meet the same general criteria set forth in § 210.8 except that such schools shall be excluded from requirements contained in paragraph (e) (3), (4), (7), (8), and (13) (ii) (*b*) of that section and from § 210.10. In lieu of the above exception to § 210.10, commodity only schools shall serve well-balanced, nutritious lunches that contain, as a minimum, food components from the four basic food groups as defined in the Department's Daily Food Guide (Leaflet No. 424 USDA), that is, one from the milk group, one from the meat (or meat alternate) group, one from the vegetable and/or fruit group, and one from the bread and/or cereal group.

(2) Commodity only schools shall report each month to the State Agency, or FNSRO where applicable, on a prescribed form the number of lunches served in the preceding month which met the lunch type requirements of this subsection, the number of such lunches served free to needy children, and the number of such lunches served at reduced price to needy children and such other information as the State Agency, or FNSRO where applicable, may deem necessary. Such reports shall be submitted under a schedule which will result in the receipt of such reports by the State Agency, or FNSRO where applicable, by the 10th day of the month following the month covered by the reports.

(d) Responsibilities of the State Agencies, or FNSRO where applicable, shall be the same for commodity only schools as those required in § 210.14 for program schools, except that State Agencies will also provide to the State distribution agency information on section 32, section 416, section 709 commodities which commodity only schools are eligible to receive in a manner similar to that required in § 210.14 for section 6 commodities in program schools.

27. A new § 210.15b is added as follows:

§ 210.15b Regulation of competitive food services.

(a) The sale of extra food items at the same time and place as the nonprofit lunch program is in operation in the school shall be restricted to items having a recognized nutritional value, and income from the sale of such food items shall be deposited to the account of the nonprofit lunch program.

(b) Food services operated for profit in the school, separate and apart from the nonprofit lunch program, shall not operate at such time or place as will constitute competition with the nonprofit lunch program.

Effective date. These amendments and revisions shall be effective on date of issuance.

Dated: July 13, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-9173; Filed, July 16, 1970; 8:48 a.m.]

[7 CFR Part 245]

DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS

Notice of Proposed Rule Making

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to revise its regulation on determining eligibility for free and reduced price meals (notice dated Oct. 18, 1968, 33 F.R. 15674), presently applicable to the national school lunch program, school breakfast program, and the special food service program for children, as to school lunch programs only.

The purpose of the proposed revision is to incorporate the applicable provisions of Public Law 91-248, enacted May 14, 1970, into such regulation.

Comments, suggestions, or objections are invited and may be delivered within 20 days after publication hereof to Herbert D. Rorex, Director, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or submitted by mail postmarked not later than the 20th day following publication hereof. Communications should identify the regulation section and paragraph on which comments, etc. are offered. All comments, suggestions, or objections will be considered before the regulation is issued prior to the beginning of the 1970-71 school term.

The proposed revision, with proposed effective dates as stated therein, is as follows:

The regulations with respect to determining eligibility for free and reduced price meals, presently applicable to the national school lunch program, school breakfast program, and the special food service program for children (notice dated Oct. 18, 1968, 33 F.R. 15674), are revised herewith as to school lunch programs only.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES

Sec.
245.1 General purpose and scope.
245.2 Definitions.
245.3 Eligibility standards for free and reduced price lunches.
245.4 Public announcement of the eligibility standards.
245.5 Applications for free and reduced price lunches.
245.6 Nondiscrimination practice for children eligible to receive free and reduced price lunches.
245.7 Hearing procedure for families.
245.8 Exemption for certain nonprofit private schools.
245.9 Action by school food authorities.
245.10 Action by State agencies and FNSRO.
245.11 Effective date.

AUTHORITY: The provisions of this Part 245 issued under secs. 2-12, 60 Stat. 230, as amended; 42 U.S.C. 1751-1760; sec. 10, 80 Stat. 889, 42 U.S.C. 1779; Public Law 91-248.

§ 245.1 General purpose and scope.

(a) Section 9 of the National School Lunch Act, as amended, requires that schools participating in the national

school lunch program (Part 210 of this chapter), and schools not receiving cash for food assistance under that Program but utilizing commodities donated by the Department under section 32 of the Act of August 24, 1935, as amended, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agricultural Act of 1965, as amended, shall (1) serve lunches free or at a reduced price to children who are determined by local school authorities to be unable to pay the full price of the lunches; (2) follow specified minimum criteria in making such determinations under a publicly announced plan; and (3) make no physical segregation of, or other discrimination against, any child because of his inability to pay the full price of the lunch. Section 9 also requires that, by January 1, 1971, any child who is a member of a family which has an annual income not above the applicable family size income level set forth in income poverty guidelines prescribed by the Secretary as of July 1 of each year shall be served lunches free or at reduced cost and that first priority shall be given to providing free meals to the neediest children.

(b) This part sets forth the responsibilities of State agencies and the Food and Nutrition Service Regional Offices respecting the service of free and reduced price lunches. It also outlines procedural requirements for the guidance of school food authorities in determining eligibility for free and reduced price lunches and in assuring that there is no physical segregation of, or other discrimination against, children because of their inability to pay the full price for lunches.

(c) The requirements of this part with respect to the amount charged for reduced price lunches and to eligibility for free and reduced price lunches shall apply to nonprofit private schools which participate in the national school lunch program under section 10 of the Act, as amended, upon written notification to them by FNSRO that it has been determined that sufficient funds from sources other than children's payments are available to enable such schools to meet such requirements.

§ 245.2 Definitions.

(a) "Commodity only school" means a school which does not participate in the national school lunch program, but which receives donated commodities under Part 250 of this chapter.

(b) "Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

(c) "FNSRO where applicable" means the Food and Nutrition Service Regional Office when that agency administers the school lunch program in a private school.

(d) "Free lunch" means a lunch for which neither the child nor the parent pays.

(e) "Income poverty guidelines" means the family size annual income levels prescribed by the Secretary for use by local school authorities as the minimum annual family income levels for establishing eligibility for free and reduced price lunches.

(f) "Lunch" means a Type A lunch, or a lunch served to needy children in a commodity only school as prescribed in Part 210 of this chapter.

(g) "Reduced price lunch" means a lunch sold for not more than 20 cents but less than the full price of the lunch.

(h) "Service institution" shall have the meaning ascribed to it in Part 225 of this chapter.

(i) Other terms and abbreviations used in this part shall have the meanings ascribed to them in Part 210 of this chapter.

§ 245.3 Eligibility standards for free and reduced price lunches.

The school authorities of each school participating in the program or of a commodity only school shall establish standards to be used in determining the eligibility of children for free and reduced price lunches. Such standards, as a minimum, shall include the following criteria: (a) The level of family income (including welfare grants); (b) the number of individuals in the family; and (c) the number of children in the family attending school or service institutions. School authorities may include such additional criteria in their eligibility standards as they deem necessary to assure access to lunches by children who are not able to pay the full price of the lunch. On and after January 1, 1971, the family income criteria to be used by school authorities in their eligibility standards shall not be less than the income poverty guidelines prescribed by the Secretary.

§ 245.4 Public announcement of the eligibility standards.

The school food authority of each school participating in the program or of a commodity only school shall publicly announce the standards for determining the eligibility of children for free and reduced price lunches in such school. The public announcement of such standards, at a minimum, shall include the following actions:

(a) A letter or notice shall be distributed, on or about the beginning of each school term, to the parents of children in attendance at the school. Such letter or notice shall contain information on (1) the specific criteria used in the school's eligibility standards, (2) how a family may make application for a free or reduced price lunch for its children, and (3) how a family may file an appeal for an adjustment in the decision of the school food authority with respect to such application.

(b) A public release, containing the same information supplied to parents, shall be made available to the informational media in the area from which the school draws its attendance on or about the beginning of each school term.

(c) Copies of the public release shall be made available upon request to any interested party. Any subsequent changes in a school's eligibility standard during the school term which are approved by the State Agency, or FNSRO where applicable, shall be publicly announced in the same manner as the original standards were announced.

§ 245.5 Applications for free and reduced price lunches.

(a) The school food authority of each school participating in the program or of a commodity only school shall provide supplies of a form which families can use in making application for free and reduced price lunches for their children. The application shall be in such form as will permit a family to demonstrate how it meets the school's eligibility standards for free or reduced price lunches. In the application the family may be required to report the amounts of income available to the family, by source of income. The application shall include a statement that the information contained in the application is true and correct. The application shall be signed by an adult member of the family. Decisions with respect to the eligibility of any child for free or reduced price lunches shall be made on the basis of the information supplied in the application without further independent verification or investigation by school food authorities. If school food authorities wish to subsequently challenge the correctness of the information contained in any application, they shall do so in accordance with the hearing procedure established under § 245.7.

(b) School food authorities need not require the submission of an application from a family when alternative methods are available to determine the eligibility of a child for a free or reduced price lunch. School food authorities may also determine that the children, or certain categories of children, in a school meet the eligibility standards for free or reduced price lunches. In such event, they shall include in the public announcements distributed in accordance with § 245.4 information to such effect and advise the families of such children that an application is not required. In no event, however, shall the fact that a child has been determined eligible for a reduced price lunch under the provisions of this subsection preclude any family from making an application for a less expensive reduced price lunch, or for a free lunch, for such child.

§ 245.6 Nondiscrimination practices for children eligible to receive free and reduced price lunches.

The school food authority of each school participating in the program or of a commodity only school shall take such actions as are necessary to assure that the names of children eligible to receive free or reduced price lunches shall not be published, posted, or announced in any manner and to assure that there shall be no overt identification of any such children by the use of special tokens or tickets, or by any other means. Children eligible for a free or reduced price lunch shall not be required to work for their lunch, use a separate lunchroom, go through a separate serving line, enter the lunchroom through a

separate entrance, eat lunch at a different time, or eat a different lunch from the lunches offered to children not receiving free or reduced price lunches in the school.

§ 245.7 Hearing procedure for families.

(a) The school food authority of each school participating in the Program or of a commodity only school shall establish a hearing procedure under which a family can appeal from a decision of the school food authority with respect to an application it has made for free or reduced price lunches for its children. At a minimum, such hearing procedure shall provide: (1) A simple, publicly-announced method for a family to make an oral or a written request for a hearing; (2) an opportunity for the family to have the aid of others, including an attorney, in presenting its appeal; (3) that the hearing requested shall be held with reasonable promptness and convenience to the family; (4) that the hearing shall be conducted by, and the decision made by, a hearing official who did not participate in making the decision under appeal; (5) that the family requesting the hearing shall be notified in writing of the decision of the hearing official; and (6) that a written summary record shall be maintained with respect to each hearing requested which shall include the basis of the appeal, the information used by the hearing official in arriving at his decision, and a copy of the notification of the decision of the hearing official to the family.

(b) A similar hearing procedure shall be used by the school food authority in challenging the continued eligibility of any child for a free or reduced price lunch. In the event of such a challenge, the family shall have an opportunity, and a reasonable period in advance of the hearing, to review the information on which the challenge is based and shall be informed of the source of such information. During the pendency of the challenge, the child shall continue to receive the free or reduced price lunch to which it is entitled based upon the information supplied in the application made by the family.

§ 245.8 Exemption for certain nonprofit private schools.

The school food authority of a nonprofit private school participating in the program under section 10 of the Act shall furnish to FNSRO information in such form and by such date as FNSRO shall request which will be sufficient, together with other information available, for a determination to be made with respect to whether sufficient funds from sources other than children's payments are available to enable such school to meet the requirements of this part with respect to the amount charged for reduced price lunches and to eligibility for free and reduced price lunches.

§ 245.9 Action by school food authorities.

(a) The school food authority of each school desiring to participate in the Program or to receive commodities donated by the Department shall submit, for approval, to the State Agency, or FNSRO where applicable, a free and reduced price policy statement. Such policy statement, at a minimum, shall contain the following:

(1) The names, titles, and addresses of the local officials designated by the school food authority to determine the eligibility of children for free and reduced price lunches under the eligibility standards in effect for the school.

(2) The specific criteria which comprise the school's eligibility standard for free and reduced price lunches, including any criteria deemed to be necessary in addition to the mandatory criteria set forth in § 245.3.

(3) The specific procedures the school food authority will use in accepting applications from families for free and reduced price lunches and any alternative methods it intends to use in making eligibility determinations in accordance with § 245.5(b).

(4) A description of the method or methods to be used to collect payments from those children paying the full price of the lunch, or a reduced price, which will protect the anonymity of the children receiving a free or reduced price lunch.

(5) An assurance that the school will abide by the nondiscrimination practices set forth in § 245.6.

(b) The policy statement submitted by the school food authority shall be accompanied by a copy of the application form to be used by the school.

§ 245.10 Action by State agencies and FNSRO.

(a) State agencies, and FNSRO where applicable, shall issue such instructions as are necessary to assure that school food authorities are fully informed of the provisions of this part and of the requirements for the filing of free and reduced price policy statements.

(b) State agencies, and FNSRO where applicable, shall review the policy statements submitted by school food authorities for compliance with the provisions of this part and inform the school food authorities of any necessary changes or amendments required in the school's policy statement to bring such statement into compliance. They shall notify school food authorities in writing of approval of their policy statement and shall direct them to promptly distribute the public announcement required under the provisions of § 245.4.

(c) State agencies, and FNSRO where applicable, shall instruct school food authorities that they may not alter or amend the eligibility standards set forth in their approved policy statement without advance approval of the State Agency, or FNSRO where applicable.

(d) As promptly as possible after the Secretary's determination and announcement of the income poverty guidelines as of July 1 of each fiscal year, State agencies, or FNSRO where applicable, shall notify each school food authority in writing if an amendment to the school's policy statement is necessary to bring the school's family income criteria into conformance with the income poverty guidelines.

(e) Except as provided in § 245.11, the State Agency, or FNSRO where applicable, shall neither disburse any funds, nor authorize the distribution of commodities donated by the Department, to any school unless it has an approved free and reduced price policy statement on file with the State Agency, or FNSRO where applicable.

(f) State agencies, or FNSRO where applicable, shall review and evaluate the performance of school food authorities under the provisions of this part and the school's approved free and reduced price policy statement during the course of administrative reviews of individual school programs and by other means. They shall instruct school food authorities of any deficiencies found and any corrective actions required by such authorities.

§ 245.11 Effective date.

(a) For the fiscal year beginning July 1, 1970, the school food authority of each school participating in the program or of a commodity only school shall have an approved free and reduced price policy statement on file with the State Agency, or FNSRO where applicable, not later than the end of the second calendar month after it began the service of any lunch for which reimbursement will be claimed or in which commodities donated by the Department were utilized: *Provided*, That schools serving such lunches between July 1, 1970, and August 31, 1970, for purposes of this paragraph, shall be deemed to have begun the service of such lunches on September 1, 1970.

(b) Other provisions of this part shall be effective upon publication.

Dated: July 13, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-9172; Filed, July 16, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SO-50]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Orlando, Fla. (Herndon Municipal Airport and McCoy AFB), control zones and the Orlando, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be

submitted in triplicate to the Federal Aviation Administration, Area Manager, Miami Area Office, Air Traffic Branch, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Orlando (Herndon Municipal Airport and McCoy AFB) control zones described in § 71.171 (35 F.R. 2054) would be redesignated as:

ORLANDO, FLA. (HERNDON AIRPORT)

Within a 5-mile radius of Orlando (Herndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.); within 3 miles each side of Orlando VORTAC 125° and 315° radials, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC; excluding the portion south of a line connecting the two points of intersection with a 5-mile radius circle centered on McCoy AFB (lat. 28°25'55" N., long. 81°19'15" W.).

ORLANDO, FLA. (McCOY AFB)

Within a 5-mile radius of McCoy AFB (lat. 28°25'55" N., long. 81°19'15" W.); within 2 miles each side of Orlando VOR TAC 175° radial, extending from the 5-mile radius zone to 13.5 miles south of the VOR TAC; excluding the portion within Orlando (Herndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.) control zone.

The Orlando transition area described in § 71.181 (35 F.R. 2134) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Herndon Airport (lat. 28°32'40" N., long. 81°19'55" W.); within an 8.5-mile radius of McCoy AFB (lat. 28°25'55" N., long. 81°19'15" W.); within 3 miles each side of Orlando VORTAC 175° radial, extending from the 8.5-mile radius area to 23 miles south of the VORTAC; within a 6.5-mile radius of Kissimmee Municipal Airport; within 3 miles each side of the 322° bearing from Kissimmee RBN (lat. 28°17'-20.5" N., long. 81°26'05" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Orlando terminal, area, and a change in the name of "Herndon Municipal Airport" to "Herndon Airport" require the following actions:

1. Substitute "Herndon Airport" for "Herndon Municipal Airport" wherever it appears.

2. Control zones:

a. *Orlando (Herndon Airport).* (1) Increase the extension predicated on Orlando VORTAC 125° radial 2 miles in width and 1.5 miles in length.

(2) Increase the extension predicated on Orlando VORTAC 317° radial 2 miles in width and 1.5 miles in length, and redesignate it predicated on Orlando VORTAC 315° radial.

(3) Revoke the extensions predicated on Orlando ILS localizer east and west courses.

b. *Orlando (McCoy AFB).* (1) Designate an extension predicated on Orlando VORTAC 175° radial 4 miles in width and 13.5 miles in length.

(2) Revoke the extension predicated on McCoy ILS localizer south course.

(3) Revoke the extension predicated on McCoy TACAN 184° radial.

3. Transition area:

a. Increase the basic radius circle predicated on Herndon Airport from 6 to 8.5 miles.

b. Increase the basic radius circle predicated on McCoy AFB from 7 to 8.5 miles.

c. Designate a 6.5-mile basic radius circle predicated on Kissimmee Municipal Airport.

d. Designate an extension predicated on Orlando VORTAC 175° radial 6 miles in width and 23 miles in length.

e. Designate an extension predicated on the 322° bearing from Kissimmee RBN 6 miles in width and 8.5 miles in length.

f. Revoke the extension predicated on McCoy AFB ILS localizer south course.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Orlando terminal area in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface. A prescribed instrument approach procedure to Kissimmee Municipal Airport, utilizing the Kissimmee (private) NDB, is proposed in conjunction with the alteration of the transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on July 7, 1970.

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

[F.R. Doc. 70-9156; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-EA-46]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Westfield, Mass. control zone (35 F.R. 2130), and Chicopee Falls, Mass., transition area (35 F.R. 2159).

The U.S. Standard for Terminal Instrument Approach Procedures requires alteration of the control zone and 700-foot transition area to provide controlled airspace protection for aircraft executing the instrument approach procedures for Barnes Municipal Airport, Westfield, Mass.

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 Westfield, Mass. and Chicopee Falls, Mass., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Westfield, Mass., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass.; within 3 miles each side of the Westfield VOR 012° radial, extending from the 5-mile radius zone to 10 miles north of the VOR; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius zone to 7.5 miles northwest of the end of the runway, excluding the portion which coincides with the Westover, Mass., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Chicopee Falls, Mass. 700-foot transition area, all after: "a 10-mile radius of the center," and insert the following in lieu thereof:

"42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass., and within that airspace bounded by a line beginning at 42°11'50" N., 72°54'10" W. to 42°32'20" N., 72°49'20" W. to 42°30'00" N., 72°32'00" W. to 42°24'45" N.; 72°34'00" W. to 42°24'50" N.; 72°33'25" W. to 42°22'00"

N.; 72°34'00" W., thence to the point of beginning, excluding the portion which coincides with the Hartford, Conn. transition area."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 29, 1970.

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

[F.R. Doc. 70-9157; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-EA-49]

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 Auburn, Maine, transition area (35 F.R. 2142).

The U.S. Standard for Terminal Instrument Approach Procedures requires alteration of the 700-foot transition area to provide controlled airspace protection for aircraft executing the NDB (ADF) RWY 4 instrument approach procedure for Auburn-Lewiston Municipal 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 submited 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 Auburn, Maine, proposes the airspace action hereinafter set forth:

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

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°02'55" N., 70°17'00" W. of Auburn-Lewiston Municipal Airport; within 3 miles each side of the 215° and 035° bearing from the New Gloucester, Maine RBN, 43°59'14" N., 70°19'29" W., extending from the 5-mile radius area to 9 miles southwest of the RBN; and within 2 miles each side of the 049° bearing from the New Gloucester, Maine RBN extending from the RBN to 12 miles northeast of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y. on June 29, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-9158; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-56]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Beaufort, S.C., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Beaufort control zone described in § 71.171 (35 F.R. 2054 and 4948) would be redesignated as:

Within a 5-mile radius of Beaufort, MCAS (lat. 32°28'40" N., long. 80°43'20" W.); within 3.5 miles each side of Beaufort MCAS TACAN 037° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the TACAN; within 2.5 miles each side of the 042° bearing from Beaufort MCAS RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The Beaufort transition area described in § 71.181 (35 F.R. 2134) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Beaufort MCAS (lat. 32°28'40" N., long. 80°43'20" W.); within 5 miles each side of Beaufort MCAS TACAN 037° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the TACAN.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Beaufort terminal area requires the following actions:

Control zone. 1. Increase the extension predicated on Beaufort MCAS TACAN 037° radial 3 miles in width.

2. Increase the extension predicated on the 042° bearing from Beaufort MCAS RBN 1 mile in width and 0.5 mile in length.

Transition area. 1. Increase the basic radius circle from 8 to 8.5 miles.

2. Designate an extension predicated on Beaufort MCAS TACAN 037° radial 10 miles in width and 8.5 miles in length.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on July 6, 1970.

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

[F.R. Doc. 70-9159; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-49]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Brookhaven, Miss., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must

also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Brookhaven transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brookhaven Municipal Airport.

The proposed designation is required for the protection of IFR operations in climb from 700 to 1,200 feet above the surface and in descent from 1,500 to 1,000 feet above the surface. A prescribed instrument approach procedure to Brookhaven Municipal Airport, utilizing the McComb, Miss. VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga. on July 6, 1970.

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

[F.R. Doc. 70-9160; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-47]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone and transition area at St. Cloud, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the new St. Cloud, Minn., Municipal Airport, utilizing a State-owned VOR located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a control zone and transition area at St. Cloud. The new procedure will become effective concurrently with the designation of this airspace. IFR air traffic at St. Cloud will be controlled by the Minneapolis Air Route Traffic Control Center.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

ST. CLOUD, MINN.

That airspace within a 5-mile radius of St. Cloud Municipal Airport (latitude 45°32'45" N., longitude 94°03'40" W.); within 2½ miles each side of the 118° bearing from the St. Cloud Municipal Airport, extending from the 5-mile radius zone to 6 miles southeast of the airport.

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

ST. CLOUD, MINN.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the St. Cloud Municipal Airport (latitude 45°32'45" N., longitude 94°03'40" W.); and within 3 miles each side of the 118° bearing from St. Cloud Municipal Airport, extending from the 7-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 118° bearing from St. Cloud Municipal Airport, extending from the airport to 18½ miles southeast of the airport; and within 5 miles each side of the 298° bearing from the St. Cloud Municipal Airport, extending from the airport to 12 miles northwest of the airport.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 19, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-9161; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-50]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kirksville, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Kirksville, Mo., two new instrument approach procedures have been developed for Clarence Cannon Memorial Airport. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Kirksville transition area to adequately protect aircraft executing the new approach procedures and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

KIRKSVILLE, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Clarence Cannon Memorial Airport (latitude 40°05'45" N., longitude 92°32'50" W.); within 3 miles each side of the Kirksville VORTAC 316° radial, extending from the 6½-mile radius area to 8 miles northwest of the VORTAC; and within 5 miles each side of the 360° bearing from Clarence Cannon Memorial Airport, extending from the 6½-mile radius area to 11½ miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Kirksville VORTAC; within 4½ miles northeast and 9½ miles southwest of the Kirksville VORTAC, extending from the 13-mile radius area to 18½ miles northwest of the VORTAC; within 5 miles each side of the 180° bearing from Clarence Cannon Memorial Airport, extending from the 13-mile radius area to 13 miles south of the airport; and within 5 miles each side of a line from latitude 40°21'12" N., longitude 92°46'00" W., to latitude 40°15'50" N., longitude 92°33'00"W., to latitude 40°16'12" N., longitude 92°12'48" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C.

1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 19, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-9162; Filed, July 16, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-45]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Hibbing, Minn., and revoke the transition area at Eveleth, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two amended public use instrument approach procedures have been developed for the Chisholm-Hibbing Airport, Hibbing, Minn. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Hibbing, Minn., control zone and transition area to adequately protect aircraft executing the amended approach procedures and to comply with the new control zone and transition area criteria. The Hibbing transition area, as altered, encompasses the airspace contained in the presently designated Eveleth, Minn., transition area. Consequently, the latter transition area designation is no longer necessary and is being revoked.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

HIBBING, MINN.

That airspace within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'-10" N., longitude 92°50'15" W.); within 2 miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to 15 miles northwest of the VORTAC; within 1½ miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to the VORTAC; and within 2½ miles each side of a 210° bearing from the Chisholm-Hibbing Airport extending from the 5-mile radius zone to 6½ miles southwest of the airport.

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

HIBBING, MINN.

That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'15" W.); within 3 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile radius area to 23 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°25'40" N., longitude 92°29'50" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 097° radial, extending from the 11-mile radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 256° radial clockwise to the Hibbing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC, extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 256° radial; within 4½ miles northeast and 9½ miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile radius area to 33½ miles northwest of the VORTAC; and within 4½ miles northwest and 9½ miles southeast of the 210° bearing from Chisholm-Hibbing Airport, extending from the airport to 18½ miles southwest of the airport, excluding the portion which overlies the Duluth, Minn., transition area.

(3) § 71.181 (35 F.R. 234), the following transition area is revoked: Eveleth, Minn.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9163; Filed, July 16, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-49]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Lafayette, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

An amended LOC Runway 30 instrument approach procedure has been developed for the Purdue University Airport, Lafayette, Ind. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Lafayette, Ind., control zone and transition area to provide controlled airspace for the protection of aircraft executing the amended procedure and to comply with the new airspace criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

LAFAYETTE, IND.

Within a 5-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'15" W.).

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

LAFAYETTE, IND.

That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'15" W.); within 2 miles each side of the 144° radial of the Lafayette, Ind. VORTAC, extending from the 7½-mile radius area to the Lafayette VOR TAC; and within a 5½-mile radius of Halsmer Airport (latitude 40°23'40" N., longitude 86°48'25" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the east by longitude 86°33'00" W., on the south by latitude 40°07'00" N., on the west by longitude 87°23'00" W., and on the north by latitude 40°45'00" N.

These amendments are proposed under the authority of section 307(a) of the

Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9164; Filed, July 16, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-51]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Nappanee, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Nappanee, Ind., Municipal Airport, utilizing the Goshen, Ind., VORTAC as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot floor transition area at Nappanee, Ind. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic at this location will be controlled by the Chicago Air Route Traffic Control Center.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

NAPPANEE, IND.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Nappanee Municipal Airport (latitude 41°26'40" N., longitude 85°56'05" W.); and within 2 miles each side of the 138° radial of the Goshen, Ind., VORTAC extending from the 5½-mile radius area to 14 miles southeast of the VORTAC excluding the airspace which overlies the Goshen, Ind., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9165; Filed, July 16, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-54]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Grand Rapids, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal confcrences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Strect, Kansas City, Mo. 64106.

A new instrument approach procedure has been developed for the Kent County Airport, Grand Rapids, Mich. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Grand Rapids control zone and transition area to provide controlled airspace for the protection of aircraft executing the new approach procedure and to comply with the new airspace criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

GRAND RAPIDS, MICH.

Within a 5-mile radius of Kent County Airport (latitude 42°53'00" N., longitude 85°31'35" W.).

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

GRAND RAPIDS, MICH.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Kent County Airport (latitude 42°53'00" N., longtiude 85°31'35" W.); within 2 miles each side of the 261° bearing from the Kent County Airport extending from the 9-mile radius area to 15½ miles west of the airport; and that airspace extending upward from 1,200 feet above the surface bounded on the north by a line 6 miles north of and parallel to the centerline of V-216 east of the Muskegon, Mich., VORTAC and on the west, south, and east by the arc of an 18-mile radius circle centered on the Muskegon County Airport (latitude 43°10'16" N., longitude 86°14'09" W.); and a line beginning at latitude 42°54'35" N., longitude 86°13'00" W., extending to latitude 42°45'25" N., longitude 86°23'40" W.; to latitude 42°35'00" N., longitude 86°17'30" W.; to latitude 42°35'00" N., longitude 86°00'00" W.; to latitude 42°38'00" N., longitude 86°00'00" W.; to latitude 42°38'00" N., longitude 85°15'00" W.; to latitude 43°16'00" N., longitude 85°15'00" W.; to latitude 43°16'00" N., longitude 85°02'00" W.; to latitude 43°27'00" N., longitude 85°02'00" W.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9166; Filed, July 16, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-63]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Woodruff, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this

notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Woodruff, Wis. a new instrument approach procedure has been developed for Lakeland Airport, Minocqua-Woodruff, Wis. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Woodruff, Wis., transition area to adequately protect aircraft executing the new approach procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

WOODRUFF, WIS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lakeland Airport (latitude 46°55'45" N., longitude 89°43'45" W.); within 3 miles each side of the 347° bearing from Lakeland Airport, extending from the 5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the 197° bearing from Lakeland Airport extending from the 5-mile radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 167° and 347° bearings from Lakeland Airport, extending from 8 miles south to 18½ miles north of the airport; and within 4½ miles west and 9½ miles east of the 017° and 197° bearings from Lakeland Airport, extending from 6 miles north to 18½ miles south of the airport, excluding the portion which overlies the Rhinelander, Wis. transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Co., on June 30, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-9167; Filed, July 16, 1970; 8:48 a.m.]

Hazardous Materials Regulations Board

[49 CFR Part 173]

[Docket No. HM-54; Notice 70-14]

TRANSPORTATION OF HAZARDOUS MATERIALS

Extended Use of Class 111A-W-3 Tank Cars

The Hazardous Materials Regulations Board is considering amending Part 173 of the Hazardous Materials Regulations to authorize the use of class 111A-W-3 tank cars when class 111A-W-1 tank cars are prescribed.

The Board has received a petition, submitted by the Manufacturing Chemists' Association, to amend 49 CFR 173.31(a)(3). The petitioner states that tank cars built in compliance with specifications 111A100-W-1 and 111A100-W-3 are similarly constructed except that the W-3 type tanks are insulated and require valves for unloading when top loading and unloading devices are utilized. Specification 111A60-W-1 tank cars are similar to specification 111A100-W-1 tank cars except for a reduced test and bursting pressure, and safety-relief valve requirements. In accordance with the current provisions of § 173.31(a)(3), specification 111A100-W-1 tank cars may be used when specification 111A60-W-1 tank cars are prescribed. The proposal would extend the use of class 111A-W-3 tank cars by permitting the use of specification 111A100-W-3 tank cars when specification 111A60-W-1 or specification 111A100-W-1 tank cars are prescribed. This would increase the flexibility of class 111A tanks cars and contribute to the efficient utilization of tank car fleets.

The Board believes that the petition has merit and, in consideration of the foregoing, it is proposed to amend 49 CFR 173.31(a)(3) to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(3) Unless otherwise specifically provided in Part 173, when class DOT-105A-W, 105A-AL-W, 106A, 109A-AL-W, 110A-W, 111A, 112A-W, or 114A-W tank car tanks are prescribed, the same class tanks having higher marked test pressures than those prescribed may also be used. When class DOT-111A-W-1 tank car tanks are prescribed, class 111A-W-3 tank car tanks may also be used.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before September 22, 1970, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on July 14, 1970.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard,
By direction of Commandant,
U.S. Coast Guard.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

[F.R. Doc. 70-9205; Filed, July 16, 1970; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 212]

[Docket No. 22362; EDR-184]

CHARTER TRIPS BY FOREIGN AIR CARRIERS

Notice of Proposed Rule Making

JULY 13, 1970.

By order to show cause, Order 70-7-58, issued contemporaneously herewith,[1] the Board directed interested persons to show cause why the Board should not, subject to the approval of the President, amend applicable foreign air carrier permits to require that the holders shall, upon notice and to the extent specified by the Board, obtain advance Board approval for on-route charter flights operated by them, and specifically why the Board should not adopt, and make such foreign air carrier permits subject to, Part 212 of the Board's economic regulations, as revised in accordance with the proposed rule set forth below. The basis, purpose and principal features of the proposed amendments are set forth in that order. The amendments are proposed under the authority of sections 204(a) and 402 of the Federal Aviation Act, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.

Accordingly, notice is hereby given that pursuant to and in accordance with Order 70-7-58,[1] any interested person having objections to the proposed amendments shall file with the Board, by August 17, 1970, a memorandum of opposition stating objections supported by evidence.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[1] F.R. Doc. 70-9238; Notices Section, page 11527.

Proposed rule. It is proposed to amend Part 212 of the economic regulations (14 CFR Part 212) as follows:

1. Amend the Table of Contents (1) to add a new § 212.1a and (2) to revise the title of § 212.4. As amended, the Table of Contents will read in pertinent part:

Sec.
212.1a Applicability.
212.4 Limitation on the operation of charter trips.

2. Amend the definition of "off-route charter trip" in § 212.1(c) and add a definition of "on-route charter trip" as § 212.1(d), to read as follows:

§ 212.1 Definitions.

For the purposes of this part:

* * * * *

(c) "Off-route charter trip" means any charter trip which is not an "on-route charter trip."

(d) "On-route charter trip" means a charter trip in foreign air transportation performed by a foreign air carrier between points between which it holds authority under a foreign air carrier permit to engage in foreign air transportation on an individually ticketed or individually waybilled basis: *Provided,* That for the purposes of this part a charter trip between a point in the United States named in the foreign air carrier permit of the carrier performing such charter trip and a point outside the United States which is not so named, if such charter trip is operated via, and lands at, the homeland terminal point named in the foreign air carrier permit of such foreign air carrier, shall also be considered an "on-route charter trip."

3. Add a new § 212.1a to read as follows:

§ 212.1a Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation, both "on-" and "off-route," performed pursuant to a foreign air carrier permit issued under section 402 of the Act authorizing direct foreign air transportation on an individually ticketed or individually waybilled basis. The terms, conditions, and limitations applicable to charter foreign air transportation performed pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only are governed by Part 214 of the Board's Economic Regulations in this subchapter.

4. Amend § 212.2 by designating present § 212.2 as paragraph (b) and adding a new paragraph (a) to read as follows:

§ 212.2 Scope of authorization.

(a) On-route charter trips may be performed by all direct foreign air carriers who hold currently effective section 402 permits authorizing foreign air transportation on an individually ticketed or individually waybilled basis, subject to the terms, conditions, and limitations of this part. Unless a permit or the order authorizing issuance of the permit shall otherwise provide, there shall be attached to the exercise of the privileges to conduct on-route charters granted by any such permit such terms, conditions, and limitations as are set forth in this part or any amendment thereof, or as may from time to time be prescribed by the Board. Subject to the foregoing, foreign air carriers holding such permits may conduct on-route charter trips without prior authorization, unless and until the carrier is notified pursuant to § 212.4(b) that prior Board authorization will thereafter be required.

* * * * *

5. Amend § 212.4 by (1) revising the title of the section; (2) designating present § 212.4 as paragraph (a); and (3) adding a new paragraph (b). As amended, § 212.4 will read in part as follows:

§ 212.4 Limitation on the operation of charter trips.

* * * * *

(b) The Board, if it finds that the public interest so requires, may at any time, with or without hearing, notify a foreign air carrier subject to this part that it shall not thereafter perform on-route charter trips in the absence of prior Board authorization. The Board's notification shall be effective for such period or periods and with respect to such operations as the Board may specify. Following receipt of such a notice, the foreign air carrier shall not perform any on-route charter trip falling within the specification of the notice, unless specific authority in the form of a Statement of Authorization to conduct such charter trip has been granted by the Board.

6. Amend paragraph (b) of § 212.6 to read in part as follows:

§ 212.6 Issuance of Statement of Authorization.

* * * * *

(b) In passing upon the requirements of the public interest with respect to off-route charter trips the Board will consider the following things, among others:

* * * * *

[F.R. Doc. 70-9237; Filed, July 16, 1970; 8:52 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

CHARLES ALFRED DECELLES

Notice of Granting of Relief

Notice is hereby given that Charles Alfred Decelles, 59 Milton Avenue, Highland, N.Y. 12528, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on May 28, 1934, and February 18, 1936, in Kent County Superior Court, R.I., and on January 13, 1959, in Suffolk County Court, N.Y., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Decelles because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Mr. Decelles to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Charles Alfred Decelles' application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Charles Alfred Decelles be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 7th day of July 1970.

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

[F.R. Doc. 70-9197; Filed, July 16, 1970; 8:50 a.m.]

ARTHUR J. LOTTIE

Notice of Granting of Relief

Notice is hereby given that Arthur J. Lottie, 1600 South Liebold Street, Detroit, Mich. 48217, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on December 4, 1961, in Recorder's Court, Detroit, Mich., and on June 21, 1963, in Traffic Court, Detroit, Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Lottie because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Mr. Lottie to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Arthur J. Lottie's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Arthur J. Lottie be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 9th day of July 1970.

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

[F.R. Doc. 70-9198; Filed, July 16, 1970; 8:50 a.m.]

LOUIS N. MORANDI

Notice of Granting of Relief

Notice is hereby given that Louis N. Morandi, 5709 20th Avenue, Brooklyn, N.Y. 11204, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 6, 1956, U.S. District Court for the Eastern District of New York of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Morandi because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crimes Control and Safe Streets Act of 1963, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Morandi to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Louis N. Morandi's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Louis N. Morandi be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and

incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 6th day of July 1970.

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

[F.R. Doc. 70-9199; Filed, July 16, 1970; 8:50 a.m.]

GEORGE WILLIAM REA

Notice of Granting of Relief

Notice is hereby given that George William Rea, 8100 Troost, Kansas City, Mo., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 13, 1967, in the Circuit Court of Kansas City, Mo., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Rea because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Rea to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Rea's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Rea be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 2d day of July 1970.

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

[F.R. Doc. 70-9200; Filed, July 16, 1970; 8:51 a.m.]

ALVIS COLIN SMITH, JR.

Notice of Granting of Relief

Notice is hereby given that Alvis Colin Smith, Jr., 1110 Meadow Brook Lane Tylertown, Miss., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 15, 1968, in the U.S. District Court for the Eastern District of Virginia of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Alvis C. Smith, Jr. because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Alvis C. Smith, Jr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Alvis C. Smith, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Alvis C. Smith, Jr. be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 9th day of July 1970.

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

[F.R. Doc. 70-9202; Filed, July 16, 1970; 8:51 a.m.]

SHEARN LEE SPENARD

Notice of Granting of Relief

Notice is hereby given that Shearn Lee Spenard, 7050 Southwest 16th Street, Hollywood, Fla. 33023, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 1, 1956, in the Kankakee County Circuit Court, Kankakee, Ill., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Spenard because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such conviction, it would be unlawful for Shearn Lee Spenard to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Spenard's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Shearn Lee Spenard be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 10th day of July 1970.

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

[F.R. Doc. 70-9201; Filed, July 16, 1970; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER CO.

Order Confirming Order for Resumption of Hearing

In the matter of Consumers Power Co. (Palisades Plant).

In accordance with the provisions made at the evidentiary hearing which recessed on June 25, 1970:

It is ordered, That the evidentiary hearing in this prceeding shall resume in the Van Deusen Auditorium of the City Library System, 315 South Rose Street, Kalamazoo, Mich., at 9:30 a.m. on Tuesday, July 21, 1970.

Issued: July 14, 1970, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 70-9176; Filed, July 16, 1970; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

JULY 10, 1970.

1. Plat of survey of the land described below will be officially filed in the Fairbanks District and Land Office, Fairbanks, Alaska, effective 10 a.m., August 14, 1970.

FAIRBANKS MERIDIAN

T. 6 S., R. 7 W.,
Sec. 6, all.
Sec. 7, all.
Sec. 18, all.
Sec. 19, all.
Sec. 30, all.
Sec. 31, all.

Containing an aggregate of 3,696.14 acres.

2. The area surveyed is located about 10 miles south of Nenana, Alaska. The terrain is nearly level with a gentle slope to the North. The land is poorly drained, and has many swamps, marshes, small creeks and ponds. The land has dense stands of scrub spruce, birch and tamarack, with heavy thickets of alder and willow brush. The topsoil is peat, overlying frozen, silty clay.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582, dated January 17, 1969, and the requirements of applicable laws, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Fairbanks District and Land Office, Post Office Box 1150, Fairbanks, Alaska 99701.

ROBERT C. KRUMM,
Manager, Fairbanks District and Land Office.

[F.R. Doc. 70-9141; Filed, July 16, 1970; 8:46 a.m.]

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale

JULY 15, 1970.

The competitive oil and gas lease offering of blocks on the Outer Continental Shelf off Louisiana, scheduled for July 21, 1970, and announced in the FEDERAL REGISTER on Saturday, June 20, 1970, is hereby amended as shown below:

The following tracts, as described in the FEDERAL REGISTER on June 20, 1970, are withdrawn and deleted from the lease offering:

LOUISIANA

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1

(Approved June 8, 1954; Revised July 22, 1954; Apr. 28, 1966)

West Cameron Area

Tract No.	Block	Description	Acreage
La. 2064	28	N½; N½N½S½	2,039

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5

(Approved June 8, 1954; Revised Apr. 28, 1966; July 22, 1968)

Ship Shoal Area

Tract No.	Block	Description	Acreage
La. 2087	37	S½NE¼	936.5
	38	S½NW¼	

BOYD L. RASMUSSEN,
Director,
Bureau of Land Management.

Approved: July 15, 1970.

HARRISON LOESCH,
Assistant Secretary of the Interior.

[F.R. Doc. 70-9273; Filed, July 16, 1970; 9:05 a.m.]

Office of the Secretary

ALLAGASH WILDERNESS WATERWAY, MAINE

Notice of Approval for Inclusion in National Wild and Scenic Rivers System as State Administered Wild River Area

Pursuant to the authority granted the Secretary of the Interior by section 2 of the Wild and Scenic Rivers Act (82 Stat. 906, 907) and upon proper application of the Governor of the State of Maine, the Allagash Wilderness Waterway, Maine, is hereby designated a State administered wild river area of the National Wild and Scenic Rivers System.

The application which contains the management and development plan for the Allagash Wilderness Waterway submitted by the State of Maine has been evaluated by this Department.[1] It has been determined that the entire Allagash Wilderness Waterway meets the requirements for classification as a wild river area under the provisions of the Wild and Scenic Rivers Act and the supplemental guidelines adopted by this Department and the Department of Agriculture in February 1970.

[1] Copy filed with the Office of the Federal Register as part of the original document. Copies are also available at Bureau of Outdoor Recreation; Department of the Interior, Washington, D.C. 20240.

The application has been reviewed by the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Federal Power Commission, the Director of the Water Resources Council, the Chairman of the New England River Basins Commission and heads of other affected Federal departments and agencies. Their comments stated there were no conflicts and offered no objections to inclusion of the Allagash Wilderness Waterway in the National Wild and Scenic Rivers System as a State administered wild river area.

The following is my evaluation of the management and development plan for the Allagash Wilderness Waterway submitted by the State of Maine:

ALLAGASH WILDERNESS WATERWAY, MAINE

EVALUATION FOR INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM IN ACCORD WITH THE WILD AND SCENIC RIVERS ACT (82 STAT. 906) AS A STATE ADMINISTERED WILD RIVER AREA

1. The Allagash Wildnerness Waterway is specifically identified in section 2(a)(ii) of the Wild and Scenic Rivers Act as being an outstandingly remarkable free-flowing stream which, with its immediate environs, would be a worthy addition to the National Wild and Scenic Rivers System.

2. On May 11, 1966, the Allagash Wilderness Waterway Act, Title 12, Maine Rev. Stat. Ann., sec. 661 et seq. became effective. That Act:

a. Established the State policy to preserve, protect, and develop the natural scenic beauty and unique character, wildlife habitat and wilderness recreational resources of the Allagash Wilderness Waterway for this generation and all succeeding generations; and declared such policy is in the public interest, for the public benefit, and the good order of the people of Maine.

b. Established 400–800-foot restricted zone from the shores of the watercourse which has been purchased in fee title by the State to be maintained and administered in a wild state.

c. Provided permanent control of all land uses outside the restricted zone and within 1 mile of the high watermark of the watercourse.

d. Provided permanent and exclusive administration of the entire watercourse by the Maine State Park and Recreation Commission.

3. The entire Allagash Wilderness Waterway has been designated in a manner consistent with a Wild River Area.

4. The entire Allagash Wilderness Waterway is permanently administered without expense to the United States.

5. The entire Allagash Wilderness Waterway meets the criteria of a Wild River Area established by the Wild and Scenic Rivers Act, and the Guidelines for Evaluating Wild, Scenic and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System * * * February 1970 as follows:

a. *Impoundments.* There are three small dams within the Allagash Wilderness Waterway:

(1) Telos Dam 5± feet of Head.
(2) Lock Dam 5± feet of Head.
(3) Churchill Dam 8± feet of Head.

These existing structures do not form impoundments which distract from or disrupt the wilderness character of the waterway and are of historic significance in that they portray the development of the logging industry in the northeastern United States. Originally these structures permitted the Allagash and Penobscot Rivers to be used as a principle route for transporting timber to the sawmills. Wood is now trucked to the mills. Churchill Dam has been rebuilt and is operated for the primary purpose of controlling water flows for optimum canoeing throughout the entire recreation season. Telos Dam and Lock Dam are operated by Bangor Hydro Electric Co. for water storage. The operation of all three dams is governed by the policy established by the State of Maine in the Allagash Wilderness Waterway, "to preserve, protect, and develop the maximum wilderness character of the watercourse."

b. *Accessibility.* Public access over private roads will be permitted to and along a portion of Telos Lake at the southern end of the waterway and to the northern boundary at West Twin Brook. Existing private roads within the waterway which have been developed for logging purposes will be closed to public use. These private roads do not create a substantial impact on the overall wilderness character of the river. As new timber management plans are prepared, most of these roads will be removed from the immediate river area. There are six established and designated areas for the landing and take-off of passengers and equipment by aircraft:

(1) Telos Lake at Telos Landing.
(2) Chamberlain Lake at Nugents' Camp.
(3) Churchill Lake at its northerly end near Heron Lake.
(4) Umsaskis Lake at the Forest Warden's headquarters.
(5) Long Lake at Jalbert's Camp.
(6) Round Pond (T13, R12) at Jalbert's Camp.

During the winter, snowmobiles are permitted on designated roads, trails, and paths. The Allagash Lake and Stream are closed to all forms of motorized travel including aircraft.

Temporary bridges for short-term logging purposes may be authorized by the State. Any such crossing is designed to provide minimum impact on the wilderness character of the waterway.

c. *Essentially primitive.* The overall character of the Allagash Wilderness Waterway is an outstanding vestige of primitive America. There are no permanent habitations or agricultural lands within the waterway and other than the three existing low dams, there are no diversions, straightening, rip-rapping, or other modifications of the waterway. There is no substantial evidence of man's intrusion within the 400- to 800-foot restricted zone adjoining the watercourse. The watershed is free also of such evidence within the boundary. All existing structures have been removed except those essential to State service, maintaining water level control, and temporary structures necessary for watercourse crossing and access.

d. *Unpolluted.* There is no data on the existing quality of the water in the waterway. However, there are no sawmills, industries, permanent residences, or other activities of man within the drainage basin of the Allagash Wilderness Waterway which would suggest that the present water quality would not meet or exceed the minimum criteria for aesthetics and primary contact recreation as interpreted in the Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968. The Maine Environmental Improvement Commission has classified the Allagash Wilderness Waterway as Class B–1 which is suitable for water contact recreation; for use as potable water supply after adequate treatment; and for a fish and wildlife habitat. A concept of nondegradation will be followed whereby existing high water quality will be maintained to the maximum extent feasible. The waterway supports the propagation of aquatic life, including fish, which are typical of high quality streams in the north woods.

This action of approving the Allagash Wilderness Waterway for inclusion in the National Wild and Scenic Rivers System is fully within the meaning and intent of the provisions of the National Environment Policy Act of 1969 (83 Stat. 852) and Executive Order 11514.

Notice is hereby given that effective July 19, 1970, the Allagash Wilderness Waterway as described herein, is approved for inclusion in the National Wild and Scenic Rivers System as a wild river area to be administered by the State of Maine.

WALTER J. HICKEL,
Secretary of the Interior.

JULY 13, 1970.

[F.R. Doc. 70–9231; Filed, July 16, 1970; 8:52 a.m.]

PRESERVATION, USE AND MANAGEMENT OF FISH AND WILDLIFE RESOURCES

Notice of Proposed Policy Statement on Intergovernmental Cooperation

The Secretary of the Interior has developed a statement of policy to strengthen and support the missions of the various States and the Department of the Interior in the cooperative preservation, use and management of the Nation's fish and wildlife resources.

This statement, as set forth below, is published to solicit public comment. Within 30 days of the publication of this notice in the FEDERAL REGISTER, interested persons may submit their comments directly to the Secretary of the Interior, Washington, D.C. 20240.

It is proposed, after consideration of any comments received, to publish the following as a policy statement of the Department of the Interior:

REGULATION OF THE SECRETARY OF THE INTERIOR RELATING TO CERTAIN RESPONSIBILITIES OF INTERIOR AGENCIES AND THE STATES IN THE PRESERVATION, USE AND MANAGEMENT OF THE NATION'S FISH AND WILDLIFE RESOURCES

The Secretary of the Interior recognizes that fish and wildlife resources must be maintained for their aesthetic, scientific, recreation and economic importance to the people of the United States, and that because fish and wildlife populations are totally dependent upon their habitat, the several States and the Federal Government must work in harmony for the common objective of developing and utilizing these resources. It is the policy of the Secretary of the Interior further to strengthen and support, to the maximum extent possible, the missions of the States and the Department of the Interior in the attainment of this objective.

The effective husbandry of such resources requires the cooperation of State and Federal government because:

(a) The several States have the authority to control and regulate the capturing, taking and possession of fish and resident wildlife by the public within State boundaries;

(b) The Congress, through the Secretary of the Interior, has authorized and directed to various Interior agencies certain responsibilities for the conservation and development of fish and wildlife resources and their habitat.

Accordingly, the following procedures will apply to all areas administered by the Secretary of the Interior through the National Park Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, and Bureau of Reclamation (hereinafter referred to as the Federal agencies). These Federal agencies will:

1. Within their statutory authority, institute fish and wildlife habitat management practices in cooperation with the States which will assist the States in accomplishing their respective, comprehensive, statewide resource plans;

2. Permit public hunting, fishing, and trapping within statutory limitations and in a manner compatible with the primary objectives for which the lands are administered. Such hunting, fishing, and trapping and the possession and disposition of fish, game, and fur animals shall be conducted in all other respects within the framework of applicable State laws, including requirements for the possession of appropriate State licenses or permits. The Federal agencies may, after consultation with the States, close all or any portion of land under their jurisdiction to public hunting, fishing, or trapping in order to protect the public safety, to prevent damage to Federal lands or resources thereon, and may impose such other restrictions as are necessary to comply with management objectives;

3. Consult with the States and comply with State permit requirements in connection with the activities listed below, except in instances where the Secretary of the Interior determines that such compliance would prevent him from carrying out his statutory responsibilities:

(a) In carrying out research programs involving the capturing, taking, or possession of fish and wildlife or programs involving introduction of fish and wildlife;

(b) For the planned and orderly removal of surplus or harmful populations of fish and wildlife except where emergency situations requiring immediate action make such consultation and compliance with State permit requirements infeasible;

(c) In the disposition of fish and wildlife taken under (a) or (b) as provided above.

4. Exempted from this regulation are the following:

(a) The control and regulation by the United States, in the area in which an international convention or treaty applies, of the taking of those species and families of fish and wildlife expressly named or otherwise covered under any international treaty or convention to which the United States is a party;

(b) Any species of fish and wildlife control over which has been ceded or granted to the United States by any State;

(c) Areas over which the States have ceded exclusive jurisdiction to the United States.

5. Nothing contained herein shall be construed as permitting public hunting, fishing, or trapping on National Parks, Monuments or Historic areas of the National Parks System, except where Congress or the Secretary of the Interior has otherwise declared that hunting, fishing, or trapping is permissible.

6 The Federal agencies and States will enter into written cooperative agreements containing the plans, terms, and conditions of each party in carrying out the intent of this regulation when such agreements are desired by the States. Such agreements will be reviewed periodically by both parties and, when appropriate, adjusted to reflect changed conditions.

WALTER J. HICKEL,
Secretary of the Interior.

JULY 13, 1970.

[F.R Doc. 70-9143; Filed, July 16, 1970; 8:46 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING REGIONAL ADMINISTRATOR, SAN FRANCISCO REGIONAL OFFICE

Designation

Each of the officials named herein or appointed to the following listed positions in the San Francisco Regional Office is hereby designated to serve as Acting Regional Administrator, San Francisco Regional Office, during the present vacancy in the position of Regional Administrator, San Francisco Regional Office, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, That no official is authorized to serve as Acting Regional Administrator, San Francisco Regional Office, unless each official whose name or title precedes his in this designation is unable to act by reason of absence:

1. Ward Elliott.
2. The Assistant Regional Administrator for Model Cities.
3. The Assistant Regional Administrator for Renewal Assistance.
4. The Assistant Regional Administrator for FHA.
5. The Regional Counsel.

(Sec. 7(c), Department of HUD Act, 42 U.S.C. 3535(c))

Effective date. This designation shall be effective as of June 22, 1970.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[F.R. Doc. 70-9194; Filed, July 16, 1970; 8:50 a.m.]

ASSISTANT REGIONAL ADMINISTRATOR AND DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT, PHILADELPHIA REGIONAL OFFICE

Redelegation of Authority With Respect to Neighborhood Facilities Grant Program

SECTION A. *Redelegation of authority.* The Assistant Regional Administrator for Metropolitan Development and the Deputy Assistant Regional Administrator for Metropolitan Development, Philadelphia Regional Office, each is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development to the extent redelegated to the Regional Administrator and to the Deputy Regional Administrator in section A of the redelegations of authority of the Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8966-8967, June 29, 1966) with respect to the Neighborhood Facilities Grant Program under sections 703 and 705 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3103 and 3105), except the power and authority to authorize loans, grants, and advances and to amend or modify the terms thereof.

SEC. B. *Revocation.* The redelegation of authority to the Assistant Regional Administrator and Deputy Assistant Regional Administrator for Renewal Assistance, Region II (Philadelphia, Pa.) with respect to the Neighborhood Facilities Grant Program, section A 2, effective November 9, 1966 (32 F.R. 6224, Apr. 20, 1967) is hereby revoked as of the date of publication of this document in the FEDERAL REGISTER.

(Redelegations of authority by Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8966-8967, June 29, 1966) and continuation in effect of existing redelegations (35 F.R. 2750, Feb. 7, 1970))

Effective date. This redelegation of authority shall be effective as of July 10, 1970.

WARREN P. PHELAN,
Regional Administrator, Philadelphia Regional Office.

[F.R. Doc. 70-9193; Filed, July 16, 1970; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22362; Order 70-7-58]

ON-ROUTE CHARTER AUTHORITY OF FOREIGN AIR CARRIER PERMITS

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of July 1970.

Foreign air carrier permits issued under section 402 of the Act, authorizing carriers to engage in individually ticketed or individually waybilled foreign air transportation, or both, have long been construed by the Board as also including authorization to provide charter foreign air transportation between the points between which the carrier is authorized to serve.[1] Normally these permits also authorize off-route charter foreign air transportation, subject, however, to the requirement of prior Board approval pursuant to Part 212 of the Board's economic regulations. In addition, the exercise of the privileges granted by such permits are made subject to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board.

In Japan Air Lines, Foreign Air Carrier Permit, Order E-24295, approved October 14, 1966, the Board observed that the right to operate on-route charter trips is not included in bilateral agreements. Such rights are therefore dependent upon comity and reciprocity. Although the Board noted that Japanese policy toward the authorization of charter flights by U.S. charter carriers between the United States and Japan had been restrictive, the Board declined to limit or restrict Japan Air Lines' on-route authority in that proceeding. Instead, it announced that:

* * * [T]he Board has decided to reexamine its policy under which foreign air carriers issued section 402 permits have been authorized as a matter of course to conduct charter trips between the United States and all points on their routes even though rights to operate such charter trips were not included in bilateral agreements. The Board, of course, contemplates that such review will not be limited to Japan Air Lines but will extend to the on-route charter authority of other foreign air carriers holding section 402 permits. Our action here in granting new unrestricted charter authority to JAL

[1] Foreign Carrier, Off-Route Charter Investigation, 27 C.A.B. 196, 197 (1958); 30 C.A.B. 1547-48 (1960); Japan Air Lines, Foreign Air Carrier Permit, Order E-24295, approved Oct. 14, 1966.

for the time being will be subject to subsequent action by the Board to modify JAL's charter authority in the context of the Board's broader review of charter policy, or in the event such modification is subsequently deemed appropriate for other reasons.

In foreign air carrier permits authorizing scheduled service which have been issued since the Board's decision in the Japan Air Lines case, the Board has noted that such permits would be subject to modification in the event of the Board's revision of its "on-route" charter policy.

The Board firmly believes that the development of international air transportation will best be served by the liberal grant of charter rights between governments. However, it has recently become apparent that many foreign governments do not share this view. Most foreign governments require advance approval for charter operations of U.S. carriers. To an increasing extent, some governments have been exercising their powers in a manner which sharply restricts the charter operations of U.S. carriers. Indeed, some states are acting in concert to impose restrictions which would severely limit the availability of charters to the public; and other states have imposed an outright ban on various charters of certain U.S. carriers.

In light of these developments, and the tremendous growth and economic impact of charter services, the Board has tentatively concluded that the permits of all direct foreign air carriers authorized to engage in individually ticketed or individually waybilled foreign air transportation, or both, should be amended in a manner which will permit the Board to take prompt and effective action to require advance approval of individual carriers' on-route charters. This action will reserve to the Board the powers presently exercised by most foreign governments. It is not our intention, in proposing this action, to adopt a restrictive policy with respect to charter operations of foreign carriers. The purpose of such action would be to provide the Board with an effective retaliatory deterrent against carriers whose governments impose unwarranted restrictions upon the charter operations of U.S. carriers; and to establish a regulatory device appropriate to the requirements of the rapidly developing charter market, and responsive to Board determinations based on the principles of comity and reciprocity. The proposed amendments will, we believe, facilitate implementation of the Board's policy favoring a liberal exchange of charter rights in a manner consistent with those principles.

Specifically, the Board proposes to amend the permits of such foreign air carriers so that the on-route charter authorization contained therein will be subject to an amended Part 212 of the Board's economic regulations. Among other things, Part 212 already requires each foreign route carrier to secure advance authorization for its off-route charters. As amended, Part 212 will also require a foreign carrier to obtain similar permission for its on-route charters if—but only if—the Board specifically so notifies the carrier. Thereafter, the Board will authorize the carrier to conduct specific on-route charters if the Board finds that the proposed charter trip meets the requirements of Part 212, that the applicant's government grants a similar privilege to U.S. air carriers, and that the charter trip is otherwise in the public interest.

The Board emphasizes that the revised Part 212 will not be self-executing. Rather, unless the Board affirmatively invokes the regulation, each foreign air carrier will remain entirely free to conduct on-route charters without prior Board authorization. If, however, the Board considers that the public interest so requires, it will be in a position to direct foreign carriers to follow Part 212 informal procedures for securing advance approval of "on-route" as well as "off-route" charters.

The proposed amendments to Part 212, effectuating the above-described revisions, are set forth in the "Proposed Rule" attached to the Notice of Proposed Rule Making, EDR–184, issued contemporaneously herewith.[2]

Accordingly, pursuant to sections 204 (a) and 402 of the Federal Aviation Act:

It is ordered, That:

1. All holders of, and applicants for, foreign air carrier permits authorizing individually ticketed or individually waybilled foreign air transportation, or both, and any other interested persons, be and they hereby are directed to show cause why the Board should not, subject to the approval of the President, amend such foreign air carrier permits to require that the holders shall, upon notice and to the extent specified by the Board, obtain advance Board approval for on-route charter flights operated by them, and specifically why the Board should not adopt, and make such foreign air carrier permits subject to, Part 212 of the economic regulations, as revised in accordance with the "Proposed Rule" attached to the Notice of Proposed Rule Making, EDR–184, issued contemporaneously herewith; [3]

2. Any interested person having objections to the action taken hereinabove shall file with the Board, by August 17, 1970, a memorandum of opposition stating objections supported by evidence; [3]

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing; and

5. This order shall be served upon all holders of, and applicants for, foreign air carrier permits authorizing individually ticketed or individually waybilled foreign air transportation, or both, and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–9238; Filed, July 16, 1970; 8:52 a.m.]

[2] F.R. Doc. 70–9237, Proposed Rule Making Section, page 11521.

[3] Since provision is made for response to this order, petitions for reconsideration of this order will not be entertained.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15461, etc.; FCC 70–744]

CHAPMAN RADIO AND TELEVISION CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of William A. Chapman and George K. Chapman, doing business as Chapman Radio and Television Co., Homewood, Ala., Docket No. 15461, File No. BPCT–3282; Alabama Television, Inc., Birmingham, Ala., Docket No. 16760, File No. BPCT–3706; and Birmingham Broadcasting Co., Birmingham, Ala., Docket No. 16761, File No. BPCT–3707; for construction permit for new television broadcast station; and Birmingham Television Corp. (WBMG), Birmingham, Ala., Docket No. 16758, File No. BPCT–3663, for modification of construction permit.

1. The Commission has before it for consideration: The Decision of the Review Board in this proceeding, 19 FCC 2d 157, released August 28, 1969; an application for review of that Decision filed by Chapman Radio and Television Co. on September 29, 1969; [1] an application for review of the Review Board's decision filed by Birmingham Broadcasting Co. on November 4, 1969; [2] an application filed December 29, 1969, by Birmingham Television Corp. (WBMG) for review of the Review Board's decision and of the Review Board's memorandum opinion and order, 20 FCC 2d 624, released November 25, 1969, which denied WBMG's petition for reconsideration of the decision; [3] a petition to enlarge issues and to reopen the record for further hearing

[1] An opposition was filed by Alabama Television, Inc., on Oct. 14, 1969; comments were filed by Birmingham Television Corp. (WBMG) on Oct. 28, 1969; an opposition was filed by the Chief, Broadcast Bureau, on Oct. 28, 1969; and Chapman's reply to the opposition of the Broadcast Bureau was filed on Nov. 10, 1969.

[2] An opposition was filed by the Chief, Broadcast Bureau, on Dec. 1, 1969.

[3] An opposition was filed by Alabama Television, Inc., on Jan. 13, 1970; comments were filed by the Chief, Broadcast Bureau, on Jan. 13, 1970; comments were filed by Birmingham Broadcasting Co., on Jan. 22, 1970; and WBMG's reply to the oppositions was filed on Jan. 28, 1970.

filed by WBMG on December 15, 1969; [4] a petition to enlarge issues and to reopen the record for further hearing filed by Birmingham Broadcasting Co. on January 12, 1970; [5] a petition for leave to amend its application filed by WBMG on January 15, 1970; and a petition for leave to amend its application filed by Alabama Television on January 16, 1970.

2. Since favorable action on either of the petitions to reopen would moot the applications for review, we shall consider first the petitions. The basis for WBMG's petition is the involvement of John S. Jemison, Jr., president, director, and 16.2 percent owner of Alabama Television, in the refusal of the Elmwood Cemetery to inter the body of Bill H. Terry, Jr., a black soldier killed in Vietnam in July 1969. Mr. Jemison owns, or at least controls, the stock of the Elmwood Cemetery Corp., and WBMG asserts that the foregoing incident warrants the enlargement of issues against Alabama Television as follows: To determine the nature of the business practices of the Elmwood Cemetery Corp.; the responsibility of John S. Jemison, Jr., for such practices; and whether the matters adduced should disqualify Alabama Television, Inc., or only reflect adversely on it comparatively.

3. In opposition to the petition, Alabama Television alleges that Elmwood Cemetery has been in existence since approximately 1908; that since its inception the rules and regulations of the cemetery and all contracts and deeds delivered to the public have restricted interment to members of the Caucasian race; that Mr. Jemison did not acquire ownership of the Cemetery until 1965; that "Mr. Jemison, obviously, had nothing to do with the initiation and perpetuation of such restrictions." Asserting that Mr. Jemison had been advised by counsel that the cemetery corporation "could not remove these burial restrictions itself without violating existing contractual obligations, and thereby inviting an avalanche of legal claims and lawsuits," Alabama Television argues that the cemetery corporation had no alternative but to test the legal propriety of these racial restrictions in court pursuant to litigation instituted by a party who had been refused an opportunity to purchase a cemetery lot.

4. To support its contentions, Alabama Television submitted an affidavit by Sydney Lavender, Esq., counsel for Elmwood Cemetery Corp. Counsel states therein that he advised the cemetery that it could not ignore the racial restrictions in its deeds without incurring Civil liability for breach of contract with hundreds of persons whose relatives were buried in the cemetery unless a court determined that the restrictions were invalid. Alabama Television asserts that Jemison and the cemetery welcomed the suit brought by the parents of the deceased soldier and cooperated fully in its expeditious resolution. The Cemetery stipulated the facts in the case and agreed in advance to abide by the Court's declaration of the law, and not to appeal an adverse decision.[6]

5. Alabama Television objects to the petition on the ground that it was not timely filed since Mr. Jemison's connection with Elmwood Cemetery and the facts concerning the Cemetery's racial restrictions could readily have been ascertained before the issuance of the Hearing Examiner's and Review Board's decisions. This contention must be rejected. In view of the serious nature of the charges contained in the petition, we find that the public interest requires our consideration and close scrutiny of the matters raised in the petition irrespective of whether it was timely filed.

6. The refusal by the principal of an applicant for a broadcast facility to permit the burial of an individual solely because of the color of that individual's skin raises a serious question as to the applicant's qualifications to be a Commission licensee. Only if there are shown substantial mitigating or countervailing circumstances may a grant without hearing be made, or if made, be permitted to stand. In this case, there appears to be no controversy as to the facts. A Negro soldier who died in the military service of his country was denied interment in Elmwood Cemetery solely by reason of his color. The controlling stockholder of the Cemetery Corp., Mr. Jemison, is a principal of the winning applicant. However, it is also undisputed that Mr. Jemison acted upon advice of counsel and with the bona fide concern that the Cemetery Corp. was likely to be subjected to a multiplicity of lawsuits with the possibility of substantial financial losses unless a court determination of the invalidity of the restrictive provisions was first obtained. While Mr. Jemison might have taken the initiative by instituting a declaratory judgment, we do not believe that any adverse inferences are warranted because he chose to follow a different procedure. The fact remains that Mr. Jemison took affirmative action to expedite the disposition of this litigation by stipulating the facts and waiving in advance his right to appeal from an adverse decision. We believe that the explanation offered by Alabama Television, the details of which are uncontroverted, establishes the existence of extenuating circumstances for the conduct charged. Furthermore, we note that Mr. Jemison will not be involved in the day-to-day operation of the proposed station and that no question has been raised as to the qualifications of the principals of Alabama Television who will be responsible for its management and the making of policy decisions. Finding as we do that Elmwood Cemetery Corp. has proffered a wholly satisfactory, fully documented explanation for its conduct in the Terry incident, we do not think the public interest would benefit from a grant of WBMG's petition.

7. On the other hand, we believe that there is sufficient question as to whether or not Alabama Television has misrepresented the role of Mr. John J. Jemison, Jr., in the maintenance of racially restrictive policies by the Elmwood Cemetery Corp. to warrant our designating an issue in that regard. The substance of the charge of mispresentation, made by Birmingham Broadcasting, is as follows:

(1) In its opposition to WBMG's petition to enlarge issues and to reopen record for further hearing, Alabama Television stated, "Mr. Jemison, obviously had nothing to do with the initiation and perpetuation of such restrictions." (p. 3) appended to that opposition is an affidavit by Jemison, in which he states:

> Prior to 1965 I was a minority stockholder in a company which owned Elmwood Cemetery. This company was founded in about 1908, and the stock was widely held. I owned 117 shares out of a total of 27,000 outstanding shares.
>
> In 1965 I acquired Elmwood Cemetery for investment. (p. 1)
>
> All of these restrictions were in existence at the time I acquired the cemetery, and as nearly as I can determine, existed continuously from the founding of the cemetery in approximately 1908. (p. 2)

(2) An attachment to the same opposition, listing all of Jemison's business activities, discloses that Jemison has been "Chairman of the Board and Treasurer—since January 1965—Director—since 1948—Elmwood Cemetery Corp. (Cemetery), Birmingham, Ala." (p. 2)

(3) From Defendant's answer in the case of Terry v. Elmwood (submitted as an attachment by WBMG), we learn that "the rules and regulations promulgated by the Elmwood Cemetery Corp. and adopted September 17, 1954, provide in part that" whites only are to be buried in the cemetery.

(4) In an affidavit by Sydney Lavender, attorney for the cemetery, submitted

[4] A supplement to this petition was filed by WBMG on Dec. 19, 1969; an opposition was filed by Alabama Television on Dec. 30, 1969; an opposition was filed by the Chief, Broadcast Bureau, on Jan. 9, 1970; a statement in support of the petition and comments on the Broadcast Bureau's opposition was filed by Birmingham Broadcasting Co. on Jan. 19, 1970; WBMG's reply to the opposition was filed on Jan. 21, 1970; and a supplement to its opposition was filed by Alabama Television on Feb. 3, 1970.

[5] An opposition was filed by Alabama Television on Jan. 22, 1970; Birmingham Broadcasting's reply was filed on Feb. 2, 1970; a supplement to its opposition was filed by Alabama Television on Feb. 3, 1970; an opposition was filed by the Chief, Broadcast Bureau, on Feb. 6, 1970; and Birmingham Broadcasting's reply to this opposition was filed on Feb. 18, 1970.

[6] The Federal District Court for the Northern District of Alabama ruled that under 42 U.S.C. sec. 1982 the restrictions were invalid. On Jan. 29, 1970, the Court entered its final order. It stated, "in view of the voluntary compliance by the Elmwood Cemetery Corp. with the prior order and decree of this Court and in view of the nature of the legal questions involved in the cause, it is appropriate for the parties to effect an agreement providing for entry of judgment in the cause in favor of the plaintiff's which is limited to compensatory damages and attorneys' fees incurred by plaintiffs."

in opposition to Birmingham Broadcasting's petition, Mr. Lavender states that the racially restrictive provisions were adopted and published as the rules and regulations of Elmwood Cemetery on July 1, 1906; that these rules were republished as a formality in 1954, pursuant to the transfer of the domicile of the Elmwood Corp. from Alabama to Delaware; that Mr. Jemison was one of nine directors present at the meeting of September 17, 1954, when this transfer was accomplished; and that the actions taken at this meeting "did not result in the creation of any additional or new restrictions respecting interment at Elmwood Cemetery. Such restrictions existed, as stated above, since July 1, 1906."

8. It is apparent that Jemison did have something to do with at least the perpetuation of the racial restrictions. He became a member of the Cemetery's Board of Directors in 1948 and he sat on that Board in 1954, when the racially restrictive covenants were renewed in connection with the Cemetery's reincorporation in another state. At the same time, the statement that prior to 1965 Jemison was a minority stockholder in the Cemetery is misleading since prior to 1965 he was also a Director. Because the discrepancies between these statements of Alabama Television and what appear to be uncontroverted facts are in the nature of evidence discovered after (and not available during) the hearing, we have concluded that the record should be reopened. Alabama Television will have the opportunity to explain these discrepancies in a thorough evidentiary hearing. Accordingly, we shall enlarge the issues to include the following: To determine whether, in its pleadings filed December 30, 1969, and January 22, 1970, in opposition to petitions to enlarge issues, Alabama Television has made misrepresentations to or has been lacking in candor with the Commission.

9. We have also decided that the hearing record should be remanded to the Examiner to determine with greater precision the efforts made by Alabama Television to contact black persons in ascertaining the needs and interests of the community. We have often expressed our concern for the ascertainment of the needs and interests of minority groups. In City of Camden, 18 FCC 2d 412 (1969), we stressed the necessity of "consult[ing] with a representative range of groups, leaders, and individuals in the community life" (at 420) and expressed disapproval of the proposed transferee's failure to make a "systematic attempt to contact representatives of various local ethnic groups" (at 422) or to "explore and evaluate the pressing needs of the economically disadvantaged * * * in developing programming proposals." (at 423) On the basis of the present record, we cannot ascertain whether Alabama Television complied with these requirements, and the matter of the ascertainment of community needs and interests must be more fully developed in the evidentiary hearing. Since, however, the surveys in this case preceded City of Camden, we shall permit Alabama Television and the other applicants to amend and update their showings in this respect. Accordingly, we shall enlarge the issues to include the following: To determine the efforts made by each of the applicants to contact all segments of the community in fulfilling its obligation to ascertain the needs and interests of its potential listeners and the effect thereof upon its comparative qualifications.

10. Finally, we deem it appropriate to delve into the matter of Alabama Television's employment policies. In light of the cemetery incident (and particularly Alabama Television's possible misrepresentations concerning the incident) and Alabama Television's apparent failure to contact members of minority groups with regard to community needs, we are concerned about Alabama Television's willingness to practice equal-opportunity employment. We have recently adopted rules on Equal Employment Opportunities, FCC 70–545, May 20, 1970, which require applicants to describe their equal opportunity employment programs in some detail. We believe that Alabama Television should explain what steps it will take to comply with these rules and have added an issue in this regard, as follows: To determine whether the hiring policies and practices of Alabama Television comport with the Commission's equal opportunity employment requirements.

11. Petitions for leave to amend their respective applications were filed by WBMG on January 15, 1970; and by Alabama Television on January 16, 1970. The petitions are unopposed and they are granted.

12. In light of our determination to remand this proceeding, the applications for review filed by Chapman Radio, WBMG, and Birmingham Broadcasting, which, inter alia, request a grant of their respective applications, are dismissed as moot.

13. *Accordingly, it is ordered:*

(a) That the applications for review, filed September 29, 1969, by Chapman Radio and Television Co.; filed December 29, 1969, by Birmingham Broadcasting Co., are dismissed as moot.

(b) That the petition to enlarge issues and to reopen the record for further hearing filed December 15, 1969, by WBMG, is denied.

(c) That the petition to enlarge issues and to reopen the record for further hearing, filed January 12, 1970, by Birmingham Broadcasting Co., is granted and the issues in this proceeding are enlarged to include the following:

(1) To determine whether, in its pleadings filed December 30, 1969, and January 22, 1970, in opposition to petitions to enlarge issues, Alabama Television has made misrepresentations to or has been lacking in candor with the Commission.

(2) To determine the efforts made by each of the applicants to contact all segments of the community in fulfilling its obligation to ascertain the needs and interests of its potential listeners and the effect thereof upon its comparative qualifications.

(3) To determine whether the hiring policies and practices of Alabama Television comport with the Commission's equal opportunity employment requirements.

(4) To determine the effect, if any, of the evidence adduced pursuant to the foregoing issues on the basic and/or comparative qualifications of Alabama Television.

(d) That the petition for leave to amend its applications, filed January 15, 1970, by WBMG, is granted.

(e) That the petition for leave to amend its application, filed January 16, 1970, by Alabama Television, is granted.

(f) That the applicants are authorized within 90 days after the release date of this Memorandum Opinion and Order to amend and update their showings concerning their efforts to ascertain community needs and interests as set forth in paragraph 9, supra; and this proceeding is remanded to the Hearing Examiner for further proceedings consistent with this opinion and for the issuance of a Supplemental Initial Decision.

Adopted: July 8, 1970.

Released: July 13, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[7]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–9178; Filed; July 16, 1970; 8:49 a.m.]

[Docket No. 18672; FCC 70–743]

CATHRYN C. MURPHY

Memorandum Opinion and Order Amending Designation Order

In regard application of Cathryn C. Murphy for renewal of license of standard broadcast station KVAN, Vancouver, Wash.; Docket No. 18672, File No. BL–12263.

1. The Commission has under consideration: (a) An order (FCC 69–1025), released by the Commission on September 30, 1969, designating for hearing the application of Cathryn C. Murphy (hereinafter Mrs. Murphy) for renewal of the license of standard broadcast station KVAN, Vancouver, Wash.; (b) a petition for the addition of a "Forfeiture Issue" filed May 26, 1970, by Mrs. Murphy; (c) comments, filed June 5, 1970, by the Chief, Broadcast Bureau; and (d) a reply to the Broadcast Bureau's comments, filed June 8, 1970, by Mrs. Murphy.

2. This proceeding was initiated in part pursuant to an investigation by the Commission's staff which disclosed extensive improprieties by Mrs. Murphy including operating from an unauthorized transmitter site from July 31, to August 25, 1969. On the basis of all of the facts before it, we designated Mrs. Murphy's renewal application for hearing on various issues. (FCC 69–1025, released

[7] Commissioner Bartley absent; Commissioner Cox not participating.

Sept. 30, 1969). Although several of the improprieties and violations occurred within 1 year of the designation order, that order did not include a notice of apparent liability for a monetary forfeiture.

3. We believe that the public interest would best be served in this proceeding by our amending the designation order released September 30, 1969, to include a notice of apparent liability. The effect of this amendment will be to afford the Hearing Examiner and the Commission maximum flexibility in determining the appropriate sanction applicable to Mrs. Murphy if after the hearing any sanction is deemed to be warranted. It appears that Mrs. Murphy may be subject to a monetary forfeiture, totaling up to $10,000 for operating her transmitter on an unauthorized site from July 31, to August 25, 1969. In Issue 3, Mrs. Murphy is specifically charged with this violation in contravention of section 319(a) of the Communications Act and §§ 1.533(a)(1) and 1.571 of the Commission5s rules. We point out, in accord with WPRY Radio Broadcasters, Inc., FCC 70–650, released June 24, 1970, where we indicated that inclusion of a forfeiture notice would henceforth be a routine or standard procedure in hearings involving revocation or denial of renewal for alleged violations which also come within the purview of section 503(b) of the Act, that inclusion of the notice of apparent liability herein is not to be taken as in any way indicating what the initial or final disposition of the case should be. That judgment is of course to be made on the particular facts of this case.

4. *Accordingly, it is ordered,* That the petition for addition of a "Forfeiture Issue" filed May 26, 1970, by Cathryn C. Murphy is granted to the extent indicated herein; and the designation order (FCC 69–1025, released Sept. 30, 1970) is amended to include the following language which will serve as a notice of apparent liability for a monetary forfeiture:

If the Hearing Examiner should determine, in light of the evidence adduced pursuant to the foregoing issues, that the hearing record does not warrant denial of the renewal application, he shall make findings of fact as to whether any willful or repeated violations of the Communications Act or our rules, as specified in the amended designation order, has occurred within 1 year of the issuance of the amendment to the designation order and, if so, shall recommend to the Commission whether a forfeiture should be issued against the licensee in the amount of $10,000 or some lesser sum pursuant to section 503(b) of the Communications Act.

Adopted: July 8, 1970.

Released: July 13, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–9177; Filed, July 16, 1970; 8:49 a.m.]

[1] Commissioner Bartley absent.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 0061NV]

BACITRACIN WITH OR WITHOUT PENICILLIN

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Fortracin-25; each pound contains feed grade bacitracin methylene disalicylate equivalent to 25.0 grams bacitracin (master standard); by S. B. Penick & Co., Antibiotic Feed Division, 100 Church Street, New York, N.Y. 10007.

2. Bio-Best, B–100W; each ounce contains 6.25 grams of bacitracin activity; by Premier Malt Products, Inc., 1037 West McKinley Avenue, Milwaukee, Wis. 53201.

3. Baciferm-10; each pound contains feed grade zinc bacitracin equivalent to 10.0 grams of bacitracin (master standard); by Commercial Solvents Corp., 1331 South First Street, Terre Haute, Ind. 47802.

4. Baciferm-25; each pound contains feed grade zinc bacitracin equivalent to 25.0 grams of bacitracin (master standard); by Commercial Solvents Corp.

5. Baciferm-50; each pound contains feed grade zinc bacitracin equivalent to 40.0 grams bacitracin (master standard); by Commercial Solvents Corp.

6. Baciferm PB–10; each pound contains feed grade zinc bacitracin equivalent to 7.5 grams of bacitracin (master standard) and 2.5 grams of penicillin G master standard as procaine penicillin; by Commercial Solvents Corp.

7. Baciferm PB–25; each pound contains feed grade zinc bacitracin equivalent to 18.75 grams of bacitracin (master standard) and 6.25 grams of penicillin G master standard as procaine penicillin; by Commercial Solvents Corp.

8. Baciferm PB–50; each pound contains feed grade zinc bacitracin equivalent to 37.5 grams of bacitracin (master standard) and 12.5 grams of penicillin G master standard as procaine penicillin; by Commercial Solvents Corp.

9. Baciferm Soluble-50; each pound contains 50 grams of zinc bacitracin (master standard); by Commercial Solvents Corp.

10. Barker's Bartracin-50; each pound contains feed grade bacitracin methylene disalicylate equivalent to 50 grams of bacitracin (master standard); by Barker, Moore & Mein Co., Inc., Post Office Box 12, Lebanon, Pa. 17042.

11. Bartracin; each pound contains the equivalent of 10 grams of bacitracin activity (master standard) as bacitracin methylene disalicylate; by Barker, Moore & Mein Co., Inc.

12. Kemitracin-10; each pound contains 10 grams of bacitracin (from bacitracin methylene disalicylate); by Whitmoyer Laboratories, Inc., Myerstown, Pa. 17067.

13. Kemitracin-50; each pound contains 50 grams feed grade bacitracin (from bacitracin methylene disalicylate); by Whitmoyer Laboratories, Inc.

14. Aquatracin; each pound contains 25 grams of bacitracin (from bacitracin methylene disalicylate); by Whitmoyer Laboratories, Inc.

15. Bio-Best B–10; each pound contains bacitracin the equivalent of not less than 10.0 grams bacitracin (master standard); by Premier Malt Products, Inc.

16. Bio-Best B–20; each pound contains bacitracin the equivalent of not less than 20.0 grams bacitracin (master standard); by Premier Malt Products, Inc.

17. Bio-Best B–25; each pound contains bacitracin the equivalent of not less than 25.0 grams bacitracin (master standard); by Premier Malt Products, Inc.

18. Bio-Best B–40; each pound contains bacitracin the equivalent of not less than 40.0 grams of bacitracin (master standard); by Premier Malt Products, Inc.

19. Bio-Best B–50; each pound contains bacitracin the equivalent of not less than 50.0 grams of bacitracin (master standard); by Premier Malt Products, Inc.

20. Bio-Best B–100; each pound contains not less than 100 grams of bacitracin (master standard); by Premier Malt Products, Inc.

21. Kem-Pen–10; each pound contains 7.5 grams bacitracin (from bacitracin methylene disalicylate) and 2.5 grams penicillin (from procaine penicillin); by Whitmoyer Laboratories, Inc.

The Academy evaluated these products as probably effective for the growth claims in poultry and probably not effective for the growth claim in swine or for the therapeutic claims. The Academy stated:

1. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of."

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease cannot be so qualified the claim must be dropped.

3. The disease claims for these preparations must be restricted to diseases involving the gastrointestinal tract because of the chemical and pharmacologic properties of bacitracin.

4. Only by controlling pathogenic microorganisms may the use of this product aid in maintaining egg production and hatchability.

5. Claims for growth promotion or stimulation are disallowed and claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions." This is applicable to use in poultry.

6. The references regarding swine growth are inadequate and more information is needed.

7. Each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient.

8. The manufacturer's label should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail. As a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water or feed.

9. For poultry, it is recommended that a minimum of 25 grams of bacitracin per ton of complete feed is necessary for improving rate of gain and/or feed efficiency.

The Food and Drug Administration concurs in the Academy's evaluation; however, the Administration concludes the appropriate claim for faster weight gains and improved feed efficiency in poultry should be "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drugs of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drugs are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9133; Filed, July 16, 1970; 8:45 a.m.]

[DESI 6084V]

CERTAIN DRUG PRODUCTS CONTAINING SULFAMETHAZINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540:

1. Sodium Sulfamethazine Solution, 25 percent; contains 250 milligrams of sodium sulfamathazine per milliliter or 7.5 grams of sodium sulfamethazine per ounce.

2. Sulmet Soluble Powder; contains 99 percent of sodium sulfamethazine.

3. Sulmet Oblets; each oblet contains 2.5 grams or 5 grams of sulfomethazine.

4. Sulfamethazine Oblets; each oblet contains 15 grams of sulfamethazine.

5. Sulmet Drinking Water Solution 12.5 percent; contains 125 milligrams of sodium sulfamethazine per milliliter or 3.75 grams of sodium sulfamethazine per ounce.

The Academy evaluated these oral veterinary preparations as probably effective for infectious diseases caused by organisms sensitive to sulfamethazine. The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)"; if the disease claim cannot be so qualified the claim must be dropped; (2) the claim for coccidiosis should be qualified by listing the species for each respective host; (3) claims made regarding "for prevention" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; (4) the labels should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail; as a precaution that labels should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water or feed; (5) there is need for documentation of blood and tissue concentrations of the drug when used at the recommended dosage levels in order to establish efficacy of the bacterial disease claims; and (6) evidence should be furnished to demonstrate that the oblets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9134; Filed, July 16, 1970; 8:45 a.m.]

[DESI 9782V]

CHLORHEXIDINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Nolvasan Ointment which contains 1 percent chlorhexidine diacetate and is marketd by Fort Dodge Laboratories, Inc., Fort Dodge, Iowa 50501.

The Academy evaluated this product as probably effective as a topical ointment. The Academy states that: (1) The company has not documented the clinical use of chlorhexidine diacetate as a germicidal ointment; and (2) the label for this product should use the word "antiseptic" instead of "germicidal."

The Food and Drug Administration concurs in the findings of the Academy.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new animal drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a "deemed approved" new animal drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drugs is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9132; Filed, July 16, 1970; 8:45 a.m.]

[DESI 0182NV]

DRUG PRODUCT CONTAINING CHLORTETRACYCLINE, VITAMINS, AND MINERALS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Proleen 850 Dia-Rum Brand; each pound contains 3 grams of chlortetracycline hydrochloride plus a guaranteed amount of various vitamins and minerals; by Diamond Laboratories, Inc., 2538 Southeast 43d Street, Des Moines, Iowa 50317.

The Academy evaluated this product as not effective for respiratory infections in cattle and sheep and enterotoxemia in lambs. The Academy stated: (1) The dosage level recommended is inadequate for the therapeutic claims; (2) claims for growth promotion or stimulation are disallowed, however, claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions"; and (3) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease claim cannot be so qualified, the claim must be dropped.

The Food and Drug Administration concurs with the Academy's findings.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new animal drug application for this drug and approval of any other applications covering drugs of similar composition and labeling. Prior to initiating such action, however, the Commissioner invites the holders of new animal drug applications for such drugs, and any interested person who may be adversely affected by removal of such drugs from the market, to submit any pertinent data bearing on the matter within 30 days from the date of publication of this announcement in the FEDERAL REGISTER. Submissions should be addressed to the Bureau of Veterinary Medicine, Special Assistant for Drug Efficacy Study Implementation, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the drug listed above has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9131; Filed, July 16, 1970; 8:45 a.m.]

[DESI 0072NV]

PROCAINE PENICILLIN PREMIXES

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Micro-Pen; each pound contains 136 grams penicillin (from procaine penicillin); by Elanco Products Co., a division of Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206.

2. Micro-Pen 100; each pound contains 60 grams penicillin (from procaine penicillin); by Elanco Products Co., a division of Eli Lilly and Co.

3. Pro-Pen 50 percent; each pound contains 136 grams penicillin (from procaine penicillin); by Merck Chemical Division, Merck & Co., Inc., Rahway, N.J. 07065.

4. Pro-Pen "20–S"; each pound contains 12 grams penicillin (from procaine penicillin); by Merck Chemical Division, Merck & Co., Inc.

5. Pro-Pen "20"; each pound contains 12 grams penicillin (from procaine penicillin); by Merck Chemical Division, Merck & Co., Inc.

6. Pro-Pen "100"; each pound contains 60 grams penicillin (from procaine penicillin); by Merck Chemical Division, Merck & Co., Inc.

7. Pro-Pen 90 percent; each pound contains 245 grams penicillin (from procaine penicillin; by Merck Chemical Division, Merck & Co., Inc.

8. Penicillin Premix P–4; each pound contains 2.4 grams penicillin (equivalent to 4 grams procaine penicillin); by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

9. Penicillin Premix P–50; each kilogram contains 300 grams penicillin (equivalent to 500 grams procaine penicillin); by Chas. Pfizer & Co., Inc.

10. Penicillin Premix P–100; each pound contains 60 grams penicillin (equivalent to 100 grams procaine penicillin); by Chas. Pfizer & Co., Inc.

11. Cilopen Powder; each pound contains 17 million units procaine penicillin G and 22.6 grams methyl silicone; by Diamond Laboratories, Inc., 2538 Southeast 43d Street, Des Moines, Iowa 50303.

The Academy evaluated these products as probably effective for faster gains and/or feed efficiency. The Academy further stated: (1) Claims for growth promotion or stimulation are disallowed and should be stated as "May result in faster gains and/or improved feed efficiency under appropriate conditions"; (2) procaine penicillin G is probably effective for bloat protection in cattle, but its use should be limited to a 1–2-week period; and (3) each active ingredient in a preparation must contribute to the effectiveness of the preparation, therefore, additional documentation of the effect of silicone is required.

The Food and Drug Administration concurs in the findings of the Academy; however, the Administration concludes the appropriate claim for faster weight gains and improved feed efficiency should be "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drugs of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drugs are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9135; Filed, July 16, 1970; 8:45 a.m.]

FMC CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 120.8), FMC Corp., Niagara Chemical Division, 100 Niagara Street, Middleport, N.Y. 14105, has withdrawn its petition (PP 9F0845), notice of which was published in the FEDERAL REGISTER of August 9, 1969 (34 F.R. 12968), proposing the establishment of a tolerance (21 CFR 120.182) of 2.5 parts per million for residues of the insecticide endosulfan (6, 7, 8, 9, 10, 10-hexachloro-1, 5, 5a, 6, 9, 9a-hexahydro-6, 9-methano-2, 4, 3-benzodioxathiepin-3-oxide) and its metabolite endosulfan sulfate (6, 7, 8, 9, 10, 10-hexachloro-1, 5, 5a, 6, 9, 9a-hexahydro-6, 9-methano-2, 4, 3-benzodioxathiepin-3, 3-dioxide) in or on the raw agricultural commodity sweet corn forage.

Dated: July 8, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9129; Filed, July 16, 1970; 8:45 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2561) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of 2-3′-tert-butyl-5′-methyl-2′-hydroxyphenyl)-2*H*-5-chlorobenzotriazole as an antioxidant and/or stabilizer in the manufacture of olefin polymers that will contact food.

Dated: July 8, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9128; Filed, July 16, 1970; 8:45 a.m.]

4-AMINO-6-*TERT*-BUTYL-3-(METHYLTHIO)-*as*-TRIAZINE-5-(4*H*)-ONE

Notice of Establishment of Temporary Tolerances for Pesticide Chemical

At the request of Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, temporary tolerances are established for negligible residues of the herbicide 4-amino-6-*tert*-butyl-3-(methylthio)-*as*-triazine-5-(4*H*)-one in or on potatoes and soybeans at 0.02 part per million. The Commissioner of Food and Drugs has determined that these temporary tolerances are safe and will protect the public health.

A condition under which these temporary tolerances are established is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Chemagro Corp. name.

These temporary tolerances will expire July 7, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 7, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9130; Filed, July 16, 1970; 8:45 a.m.]

[Docket No. FDC–D–138; NADA No. 8–353V, etc.]

CHAS. PFIZER & CO. ET AL.

Certain Cattle Bloat Remedies; Notice of Withdrawal of Approval of New Animal Drug Applications

A notice of opportunity for a hearing was published in the FEDERAL REGISTER of January 3, 1970 (35 F.R. 116), in the matter of withdrawing approval of new animal drug applications covering drugs containing pelargonic acid, propylene glycol laurate, and isopropyl alcohol and recommended for use as bloat remedies for cattle. Said notice followed publication of an announcement (Jan. 17, 1969; 34 F.R. 771) of the findings of the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, after evaluation of reports received from the Academy by the Administration. The specific drug product named was Bloat Remedy.

Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, holder of new animal drug application No. 8–353V for the drug Bloat Remedy advised the Commissioner of Food and Drugs that they do not wish to avail themselves of the opportunity for a hearing. No other response to the notice of opportunity for a hearing was received.

Pitman-Moore, Inc., Camp Hill Road, Fort Washington, Pa. 19034, holds new animal drug application No. 7–459V for the drug Rumene Solution which is similar in composition and labeling to the

above-cited drug product. While Pitman-Moore did not furnish data for review by the Academy as requested in the notice published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9426), the findings of the Academy and of the Administration with regard to the drug Bloat Remedy apply equally to the drug Rumene Solution as do the FEDERAL REGISTER notices of January 17, 1969, and January 3, 1970, concerning such drug products to which the firm failed to respond.

Based on the grounds set forth in the notice of opportunity for hearing, the Commissioner concludes that approval of new animal drug application Nos. 7-459V and 8-353V should be withdrawn. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-47; 21 U.S.C. 360b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of said applications, including all amendments and supplements thereto, is hereby withdrawn effective on the date of signature of this document.

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9136; Filed, July 16, 1970; 8:45 a.m.]

[Docket No. FDC-D-197; NDA 5025]

COOPER LABORATORIES, INC.

Protamide; Notice of Opportunity for Hearing

In the FEDERAL REGISTER of March 27, 1969 (34 F.R. 5753), the Food and Drug Administration announced its conclusions pursuant to evaluation by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, of the preparation Protamide (colloidal solution of denatured proteolytic enzyme) Injection; Sherman Laboratories, 5031 Grandy Avenue, Detroit, Mich. 48221 (NDA 5-025). The present holder of the new-drug application is Cooper Laboratories, Inc., 229 Cleveland Avenue, Harrison, N.J. 07029.

The announcement stated that the Food and Drug Administration concludes that there is a lack of substantial evidence of effectiveness of the drug for the indications neuritis, herpes zoster, and tabes dorsalis and requested the holder of the new-drug application to submit, within 60 days of the date of publication of the announcement in the FEDERAL REGISTER, a supplement to his application to provide for labeling which deletes those indications for which the drug has been classified as lacking substantial evidence of effectiveness. The present holder of the application, Cooper Laboratories, Inc., has not submitted such supplement.

The announcement further stated that the drug is regarded as possibly effective for the indication ophthalmic herpes zoster and the holder of the new-drug application and any person marketing the drug without approval were allowed 6 months from the date of publication of the announcement in the FEDERAL REGISTER to obtain and submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness of the drug for use in ophthalmic herpes zoster. No supplemental or original new-drug application has been received pursuant to the announcement. On December 22, 1969, the holder of the new-drug application was notified that the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug application.

Therefore, notice is hereby given to Cooper Laboratories, Inc., 229 Cleveland Avenue, Harrison, N.J. 07029, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new-drug application for Protamide (colloidal solution of denatured proteolytic enzyme) Injection (NDA 5-025), and all amendments and supplements thereto on the grounds that:

New information evaluated together with the evidence available when the application was approved, shows there is a lack of substantial evidence that this drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of new-drug application No. 5-025 should not be withdrawn. Withdrawal of this approval will cause any drug for human use containing the same active substances and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file such a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after the publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing ,igiving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9138; Filed, July 16, 1970; 8:46 a.m.]

[Docket No. FDC-D-190; NADA No. 8-695V]

NORDEN LABORATORIES, INC.

Fomene; Notice of Opportunity for Hearing

An announcement published in the FEDERAL REGISTER of January 8, 1969 (34 F.R. 275), invited the holder of the new animal drug application No. 8-695V for Fomene (a drug containing soya oil fractions, mineral oil, isopropyl alcohol (15 percent), and alkylated aryl polyether alcohol) and any other interested person to submit pertinent data on the drug's effectiveness. Certain data were submitted in response to the announcement; however, available information still does not provide substantial evidence of effectiveness of the drug for its recommended use in the treatment of bloat in ruminants.

Therefore, notice is given to Norden Laboratories, Inc., 601 West Oak, Lincoln,

Nebr. 68501, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of new animal drug application No. 8–695V and all amendments and supplements thereto held by Norden Laboratories, Inc., for the drug Fomene on the grounds that:

Information before the Commissioner with respect to the drug, evaluated together with the evidence available to him when the application was approved, does not provide substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant, and any interested person who may be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 8–695V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to Fomene, and recommended for conditions of use similar to those recommended for Fomene, to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application.

Failure of such persons to file a written appearance of election within 30 said days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–9137; Filed, July 16, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

HELLENIC LINES, LTD., AND UNICORN SHIPPING LINES (PTY), LTD.

Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. C. N. Velokas, Hellenic Lines, Ltd., 39 Broadway, New York, N.Y. 10006.

Agreement No. 9878, between Hellenic Lines, Ltd., and Unicorn Shipping Lines (Pty) Ltd., establishes a through billing arrangement for the movement of packaged general cargo, consisting principally of Tea, Sisal, and Coffee, to U.S. ports in the Brownsville/Key West Range, inclusive, and Jacksonville/Boston Range, inclusive, from ports in Mauritius, Reunion, Malagasy Republic, Comoro Islands, and Seychelles, with transshipment at a port in South Africa in accordance with the terms and conditions set forth in the agreement.

Dated: July 13, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–9192; Filed, July 16, 1970; 8:50 a.m.]

WESTON SHIPPING CO., LTD., AND OVERLORD, INC.

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of Transportation No. P–53 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on Voyages No. C–1, 036.

Weston Shipping Co., Ltd., 40 Balfour Street, Tel Aviv, Israel and Overlord, Inc., 3020 Austin Highway, San Antonio, Tex.

Whereas, Weston Shipping Co., Ltd., and Overlord, Inc., have ceased to operate the passenger vessel "Jamaica Queen" subject to sections 2 and 3 of Public Law 89–777; and

Whereas, Weston Shipping Co., Ltd., and Overlord, Inc., have returned Certificate (Performance) No. P–53 and Certificate (Casualty) No. C–1, 036 for revocation:

It is ordered, That Certificate (Performance) No. P–53 and Certificate (Casualty) No. C–1, 036 be and are hereby revoked effective July 9, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon the certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–9191; Filed, July 16, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP71–1]

CITIES SERVICE GAS CO.

Notice of Application

JULY 10, 1970.

Take notice that on July 1, 1970, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP71–1 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities, and a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the relocation of other 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 abandon certain minor facilities either in place, by reclaim, or by transfer to the Gas Service Co. Applicant further proposes to construct and operate certain replacement facilities and to relocate certain facilities. Applicant states that these proposals are necessary to insure that it will continue to meet its customers' demands for natural gas with dependability and efficiency under peak day conditions.

The total estimated cost of the proposed facilities is $141,220, which will be financed from cash on hand. The total reclaim cost for the proposed abandonments is $9,250, with an estimated salvage value of $13,098.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70–9180; Filed, July 16, 1970; 8:49 a.m.]

[Docket No. G–4616, etc.]

TEXACO, INC., ET AL.

Findings and Order

JULY 7, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity canceling docket number, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating proceedings, making successor co-respondent, substituting respondents, redesignating proceedings, making rate changes effective, accepting agreements and undertakings for filing, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, or add to natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy 61–1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Schimmel Oil Co. (Operator), et al., applicant in Docket No. G–17470, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Rodney DeLange (Operator), et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicant. On September 8, 1969, Rodney DeLange filed with the Commission a notice of change in rate under his FPC Gas Rate Schedule No. 1. By order issued October 2, 1969, in Docket No. RI70–243, et al., the Commission suspended the proposed change in Docket No. RI70–255 until March 9, 1970, and thereafter until made effective. The notice of change was designated as Supplment No. 7 to said rate schedule. On March 18, 1970, Applicant filed a motion to make the change in rate effective subject to refund and an agreement and undertaking to assure the refund of any amounts collected in excess of the amount determined to be just and reasonable in Docket No. RI70–255. Therefore, applicant will be substituted in lieu of Rodney DeLange (Operator), et al., as respondent in said proceeding; said proceeding will be redesignated accordingly; the change in rate will be made effective subject to refund and the agreement and undertaking will be accepted for filing.

National Cooperative Refinery Association (Operator), et al., applicant in Docket No. CI 63–226, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Tommy Ward Drilling Co. (Operator), et al., FPC Gas Rate Schedule No. 2. Said rate schedule will be redesignated as that of applicant. On February 13, 1967, Tommy Ward Drilling Co., filed a notice of change in rate under its FPC Gas Rate Schedule No. 2. By order issued March 7, 1967, in Docket No. RI67–311, et al., the Commission suspended the proposed change in Docket No. RI67–314 until August 16, 1967, and thereafter until made effective. The notice of change was designated as Supplement No. 2 to the subject rate schedule. On March 18, 1970, applicant filed a motion to make the rate effective subject to refund, together with an agreement and undertaking to assure the refund of any amounts collected in excess of the amount determined to be just and reasonable in Docket No. RI67–314.[1] Therefore, applicant will be substituted in lieu of Tommy Ward Drilling Co. as respondent; said proceeding will be redesignated accordingly; the change in rate will be made effective subject to refund; and the agreement and undertaking will be accepted for filing.

Prudential Minerals Exploration Corp., as applicant in Dockets Nos. CI66–974 and CI70–56, and Prudential Minerals Exploration Corp. (Operator), et al., as applicant in Dockets Nos. CI64–1179, CI 64–1472, CI65–840, CI66–71, and CI67–1467, proposes to continue the sale of natural gas heretofore authorized in said dockets to be made pursuant to Longhorn Production Co. FPC Gas Rate Schedule Nos. 6 and 8 and Longhorn Production Co. (Operator), et al., FPC Gas Rate Schedule Nos. 1, 2, 3, 5, and 7, respectively. Said rate schedules will be redesignated as those of applicant. The presently effective rates under Longhorn's FPC Gas Rate Schedule Nos. 1, 2, 3, 5, 6, 7, and 8 are in effect subject to refund in Dockets Nos. RI70–389, RI70–389, RI70–389, RI70–389, RI70–390, RI70–568, and RI67–299, respectively. Therefore, Prudential

[1] The Commission's notice issued April 23, 1970, and published in the FEDERAL REGISTER on May 2, 1970, 35 F.R. 7035, erroneously stated that the motion was filed concurrently with the certificate application.

will be made a co-respondent in each of said proceedings and said proceedings will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on July 2, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the constructiion and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. CI70–952 should be canceled and that the application filed therein should be treated as a petition to amend the order issuing a certificate in Docket No. CI69–100.

(6) 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 in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(7) The sale of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) The abandonments proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(10) The revenues received for sales at the increased rate under Getty Oil Co. (Operator), et al., FPC Gas Rate Schedule No. 78 which were collected subject to refund in Docket No. RI65–129 are de minimis; and, therefore, the proceeding pending in Docket No. RI65–129 should be terminated and Getty should be relieved from any refund obligation with respect to such sales.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate proceeding pending in Docket No. RI70–1329 should be terminated only with respect to sales made pursuant to Houston Natural Gas Production Company FPC Gas Rate Schedule No. 24.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Schimmel Oil Co. (Operator), et al., should be substituted in lieu of Rodney DeLange (Operator), et al., as respondent in the proceeding pending in Docket No. RI70–255; that said proceeding should be redesignated accordingly; that the proposed change in rate suspended in said proceeding should be made effective subject to refund; and that the agreement and undertaking submitted by Schimmel should be accepted for filing.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that National Cooperative Refinery Association (Operator), et al., should be substituted in lieu of Tommy Ward Drilling Co. (Operator), et al., as respondent in the proceeding pending in Docket No. RI67–314; that said proceeding should be redesignated accordingly; that the proposed change in rate suspended in said proceeding should be made effective subject to refund; and that the agreement and undertaking submitted by National Cooperative Refinery Association should be accepted for filing.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Prudential Minerals Exploration Corp. should be made a co-respondent in each of the proceedings pending in Dockets Nos. RI67–299 and RI70–390; that Prudential Minerals Exploration Corp. (Operator), et al., should be made a co-respondent in each of the proceedings pending in Dockets Nos. RI7–389 and RI70–568; and that said proceedings should be redesignated accordingly.

(15) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The rate for the sale authorized in Docket No. G–4616 shall be the applicable area base rate prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality of gas, or the contract rate, whichever is lower. Within 90 days from the date of initial delivery applicant shall file a rate schedule quality statement in the form prescribed in Opinion No. 468–A.

(E) If the quality of the gas delivered by Applicant in Docket No. G–4616 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act; provided, however, that adjustments reflecting changes in

B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(F) The rate for the sale authorized in Docket No. CI62–710 shall be 17 cents per Mcf at 14.65 p.s.i.a plus B.t.u. adjustment.

(G) The initial rate for the sale authorized in Docket No. CI70–767 shall be 17.35 cents per Mcf at 15.025 p.s.i.a. including tax reimbursement.

(H) Applicant in Docket No. CI70–767 shall not require buyer to take-or-pay for an annual quantity of gas well gas which is in excess of an average of 1 Mcf per day for each 7,300 Mcf of determined gas reserves or the specified contract quantity, whichever is the lesser amount. This condition shall remain in effect pending further Commission order in the subject docket or in other matters relating to the buyer's take-or-pay obligation under the subject contract.

(I) Docket No. CI70–952 is canceled.

(J) The orders issuing certificates in Dockets Nos. G–4616, CI62–710, CI69–100 and CI70–595 are amended by adding thereto authorization to sell natural gas as described in the tabulation herein.

(K) The order issuing a certificate in Docket No. CI67–248 is amended by authorizing the gathering and compression of gas for Pennzoil Producing Co. as described in the tabulation herein.

(L) The order issuing a certificate in Docket No. CI63–226 is amended to reflect the change in operator as described in the tabulation herein.

(M) The orders issuing certificates in Dockets Nos. G–17470, CI60–608, CI61–130, CI61–1355, CI62–902, CI63–173, CI63–1380, CI64–735, CI64–1179, CI64–1259, CI64–1472, CI65–840, CI66–71, CI66–945, CI66–974, CI66–1206, CI67–1467, CI67–1563, CI67–1608, CI67–1648, CI68–546, CI69–50, CI70–56, CI70–177 and CI70–486 are amended to reflect the successors in interest as certificate holders.

(N) The authorization granted in Docket No. CI63–173 in paragraph (M) above involving the sale of gas by Excelsior Oil Corp. (Operator), et al., to its affiliate, Kansas-Nebraska Natural Gas Co., Inc., determines the rate which legally may be paid by the buyer to the seller, but is without prejudice to any action which the Commission may take in any rate proceeding involving either company.

(O) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(P) The certificates heretofore issued in Dockets Nos. G–16928, G–20504, CI65–425, CI65–576 and CI67–586 are terminated.

(Q) The rate proceeding pending in Docket No. RI65–129 is terminated and Getty Oil Co. (Operator), et al., is relieved from any refund obligations in said proceeding.

(R) The rate proceeding pending in Docket No. RI70–1329 is terminated only with respect to sales made pursuant to Houston Natural Gas Production Co., FPC Gas Rate Schedule No. 24.

(S) Schimmel Oil Co. (Operator), et al., is substituted in lieu of Rodney DeLange (Operator), et al., as respondent in the proceeding pending in Docket No. RI70–255; said proceeding is redesignated accordingly; and the agreement and undertaking submitted by Schimmel in said proceeding is accepted for filing. The rates, charges, and classifications set forth in Supplement No. 7 to Schimmel Oil Co. (Operator), et al., FPC Gas Rate Schedule No. 1 (formerly Rodney DeLange (Operator), et al., FPC Gas Rate Schedule No. 1) shall be effective subject to refund as of March 18, 1970. Schimmel shall charge and collect the rate of 13.1664 cents per Mcf at 14.65 p.s.i.a. from March 1, 1970, through March 17, 1970, and the rate of 16.6 cents per Mcf at 14.65 p.s.i.a. from March 18, 1970. Schimmel shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(T) National Cooperative Refinery Association (Operator), et al., is substituted in lieu of Tommy Ward Drilling Co. (Operator), et al., as respondent in the proceeding pending in Docket No. RI67–314; said proceeding is redesignated accordingly; and the agreement and undertaking submitted by National Cooperative Refinery Association in said proceeding is accepted for filing. The rates, charges, and classifications set forth in Supplement No. 2 to National Cooperative Refinery Association (Operator), et al., FPC Gas Rate Schedule No. 16 (formerly Tommy Ward Drilling Co. (Operator), et al., FPC Gas Rate Schedule No. 2) shall be effective subject to refund as of March 18, 1970. National Cooperative Refinery Association shall charge and collect the rate of 14 cents per Mcf at 14.65 p.s.i.a. from November 1, 1969, through March 17, 1970, and the rate of 15 cents per Mcf at 14.65 p.s.i.a. from March 18, 1970, subject to refund in Docket No. RI67–314. National Cooperative Refinery Association shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(U) Prudential Minerals Exploration Corp. is made a co-respondent in each of the proceedings pending in Dockets Nos. RI67–299 and RI70–390; Prudential Minerals Exploration Corp. (Operator), et al., is made a co-respondent in each of the proceedings pending in Dockets Nos. RI70–389 and RI70–568; and said proceedings are redesignated accordingly. Prudential shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(V) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–4616 C 4–27–70	Texaco Inc.	El Paso Natural Gas Co., Langlie-Mattix Field, Lea County, N. Mex.	Supplemental agreement 3–18–70,[1]	36	15
G–17470 E 3–18–70	Schimmel Oil Co. (Operator) et al. (successor to Rodney DeLange (Operator) et al.).	United Gas Pipe Line Co., Poehler Field, Goliad County, Tex.	Rodney DeLange (Operator) et al., FPC GRS No. 1.	1	-------
			Supplement Nos. 1–7.	1	1–7
			Notice of succession 3–17–70.	-------	-------
			Assignment 3–1–70,[2]	1	8
			Effective date: 3–1–70.	-------	-------
CI60–608 E 4–20–70	Go Distribution Co., Inc. (successor to Petroleum Drilling Corp.).	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	Petroleum Drilling Corp., FPC GRS No. 1.	3	-------
			Notice of succession 4–16–70.	-------	-------
			Assignment 2–10–70,[3]	3	1
			Assignment 3–12–70,[4]	3	2
			Effective date: 7–1–70.	-------	-------
CI61–130 E 4–20–70	Terra Resources, Inc. (successor to CRA, Inc.).	Natural Gas Pipeline Co. of America, Panhandle Field, Carson County, Tex.	CRA, Inc., FPC GRS No. 7.	2	-------
			Supplement Nos. 1–10.	2	1–10
			Notice of succession 4–17–70.	-------	-------
			Assignment 3–26–70.	2	11
CI61–1355 E 4–23–70	Turneo, Inc., and Fiske (successor to Turner & Fiske).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., El Puerto Field, Starr County, Tex.	Turner & Fiske, FPC GRS No. 1.	1	-------
			Supplement Nos. 1–3.	1	1–3
			Notice of succession 4–20–70.	-------	-------
			Assignment 3–1–70.	1	4
			Effective date: 3–1–70.	-------	-------
CI62–710 C 4–17–70	PetroDynamics, Inc.,[5] (Operator), et al.	Panhandle Eastern Pipe Line Co., Mocane-Laverne Gas Area, Beaver County, Okla.	Amendment 3–10–70,[1]	3	2

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI62-902 E 11-14-69	E. A. Trinkle (successor to N. G. Clark et al., d.b.a. Grundy Associates).	Consolidated Gas Supply Corp., Freemans Creek District, Lewis County, W. Va.	N. G. Clark et al., d.b.a. Grundy Associates, FPC GRS No. 4.	1	
			Notice of succession 11-12-69.		
			Assignment 8-1-69 [6]	1	1
			Assignment 11-4-69 [7]	1	2
			Effective date: 11-4-69		
CI63-173 E 4-17-70	Excelsior Oil Corp. (Operator) et al. (successor to Associated Programs, Inc. (Operator), et al.).	Kansas-Nebraska Natural Gas Co., Inc., Bijou Field, Morgan County, Colo.	Associated Programs, Inc. (Operator), et al., FPC GRS No. 5.	9	
			Supplement Nos. 1-2	9	1-2
			Notice of succession 4-13-70.		
			Assignment 1-15-70	9	3
			Effective date: 11-1-69		
CI63-226 E 2-20-70 [8]	National Cooperative Refinery Association (Operator) et al. (successor to Tommy Ward Drilling Co. (Operator) et al.).	Northern Natural Gas Co., Carthage Field, Texas County, Okla.	Tommy Ward Drilling Co. (Operator), et al., FPC GRS No. 2.	16	
			Supplement Nos. 1-2	16	1-2
			Notice of succession 2-16-70.		
			Effective date: 11-1-69		
CI63-1380 E 4-20-70	Go Distribution Co., Inc. (successor to George L. Yaste, d.b.a. Oil States Sales Co. et al.).	Consolidated Gas Supply Corp., Grant District, Ritchie County, W. Va.	George L. Yaste, d.b.a. Oil States Sales Co. et al., FPC GRS No. 10.	1	
			Notice of succession 4-16-70.		
			Assignment 4-22-69 [6]	1	1
			Assignment 3-12-70 [4]	1	2
			Effective date: 7-1-70		
CI64-735 E 4-23-70	PetroDynamics, Inc. (Operator) et al. (successor to Jas. F. Smith).	Kansas-Nebraska Natural Gas Co., Inc., Dombey Field, Beaver County, Okla.	Jas. F. Smith, FPC GRS No. 12.	22	
			Supplement Nos. 1-4	22	1-4
			Notice of succession (undated).		
			Effective date: 7-2-68		
CI64-1179 E 3-11-70	Prudential Minerals Exploration Corp. (Operator) et al. (successor to Longhorn Production Co. (Operator) et al.).	Natural Gas Pipeline Co. of America, Boonsville Field, Wise County, Tex.	Longhorn Production Co. (Operator) et al., FPC GRS No. 1.	1	
			Supplement Nos. 1-6	1	1-6
			Notice of succession (undated).		
			Assignment 3-9-70	1	7
			Effective date: 6-9-69		
CI64-1259 E 4-16-70	White Shield Oil & Gas Corp. (successor to Marvin E. Wilhite, et al.).	Consolidated Gas Supply Corp., Warren District, Upshur County, W. Va.	Marvin E. Wilhite et al., FPC GRS No. 1.	18	
			Supplement No. 1	18	1
			Notice of succession 4-11-70.		
			Assignment 6-13-69	18	2
			Effective date: 6-13-69		
CI64-1472 E 3-11-70	Prudential Minerals Exploration Corp. (Operator) et al. (successor to Longhorn Production Co. (Operator) et al.).	Natural Gas Pipeline Co. of America, Boonsville Field, Wise County, Tex.	Longhorn Production Co. (Operator) et al., FPC GRS No. 2.	2	
			Supplement Nos. 1-2	2	1-2
			Notice of succession (undated).		
			Assignment 3-9-70	2	3
			Effective date: 6-9-69		
CI65-840 E 3-11-70	do	do	Longhorn Production Co. (Operator) et al., FPC GRS No. 3.	3	
			Supplement Nos. 1-2	3	1-2
			Notice of succession (undated).		
			Assignment 3-9-70	3	3
			Effective date: 6-9-69		
CI66-71 E 3-11-70	do	do	Longhorn Production Co. (Operator) et al., FPC GRS No. 5.	4	
			Supplement Nos. 1-2	4	1-2
			Notice of succession (undated).		
			Assignment 3-9-70	4	3
			Effective date: 6-9-69		
CI66-945 E 4-2-70	Sun Oil Co. (successor to Van-Grisso Oil Co.).	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	Van-Grisso Oil Co., FPC GRS No. 6.	483	
			Supplement No. 1	483	1
			Notice of succession 3-26-70.		
			Assignment 9-1-68	483	2
			Effective date: 9-1-68		
CI66-974 E 3-11-70	Prudential Minerals Exploration Corp. (successor to Longhorn Production Co.)	Natural Gas Pipeline Co. of America, Boonsville Bend, Conglomerate Field, Wise County, Tex.	Longhorn Production Co., FPC GRS No. 6.	5	
			Supplement Nos. 1-2	5	1-2
			Notice of succession (undated).		
			Assignment 3-9-70	5	3
			Effective date: 6-9-69		
CI66-1206 E 4-17-70	Ray A. Jones (successor to E. B. Clark, d.b.a. E. B. Clark Drilling Co. et al.).	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	E. B. Clark, d.b.a. E. B. Clark Drilling Co. et al., FPC GRS No. 3.	5	
			Notice of succession 4-13-70.		
			Assignment 2-19-70	5	1
			Effective date: 3-1-70		
CI67-248 3-2-70 [10]	Beacon Gasoline Co.	Pennzoil Producing Co. [10] Welcome Field, Columbia County, Ark.	Contract 2-13-70	23	
			Letter Agreement 2-13-70	23	1
			Agreement 2-13-70	23	2
CI67-1467 E 3-11-70	Prudential Minerals Exploration Corp. (Operator) et al. (successor to Longhorn Production Co. (Operator) et al.).	Natural Gas Pipeline Co. of America, Wise County Area, Wise County, Tex.	Longhorn Production Co. (Operator) et al., FPC GRS No. 7.	6	
			Supplement Nos. 1-3	6	1-3
			Notice of succession (undated).		
			Assignment 3-9-70	6	4
			Effective date: 6-9-69		
CI67-1563 E 4-17-70	Phillip H. Brown Oil & Gas Co. (successor to Hays & Co., agent for Parker Petroleum Co. et al.).	Consolidated Gas Supply Corp., Parkersburg District, Wood County, W. Va.	Hays & Co., agent for Parker Petroleum Co. et al., FPC GRS No. 278.	1	
			Notice of succession 4-13-70.		
			Assignment 3-1-69	1	1
			Effective date: 3-1-69		
CI67-1608 E 4-20-70	Go Distribution Co., Inc., et al. (successor to Petroleum Drilling Corp., et al.).	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	Petroleum Drilling Corp. et al., FPC GRS No. 3.	2	
			Notice of succession 4-16-70.		
			Assignment 2-10-70 [11]	2	1
			Assignment 3-12-70 [12]	2	2
			Effective date: 7-1-70		
CI67-1648 E 4-17-70	Phillip H. Brown Oil & Gas Co. (successor to Hays & Co., agent for Parker Petroleum Co. et al.).	Consolidated Gas Supply Corp., Williams District, Wood County, W. Va.	Hays & Co., agent for Parker Petroleum Co. et al., FPC GRS No. 281.	2	
			Notice of succession 4-13-70.		
			Assignment 12-23-66 [13]	2	1
			Assignment 3-1-69 [14]	2	2
			Assignment 8-4-69 [15]	2	3
			Effective date: 3-1-69		
CI68-546 E 4-17-70	do	Consolidated Gas Supply Corp., Parkersburg District, Wood County, W. Va.	Hays & Co., agent for Parker Petroleum Co. et al., FPC GRS No. 298.	3	
			Notice of succession 4-13-70.		
			Assignment 5-15-66 [16]	3	1
			Assignment 3-1-69 [16]	3	2
			Effective date: 3-1-69		
CI69-50 E 4-17-70	do	Consolidated Gas Supply Corp., Williams District, Wood County, W. Va.	Hays & Co., agent for Parker Petroleum Co. et al., FPC GRS No. 311.	4	
			Notice of succession 4-13-70.		
			Assignment 3-1-69 [17]	4	1
			Effective date: 3-1-69		
CI69-100 (CI79-952) C 4-20-70 [18]	Patriek Petroleum Co.	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	Supplemental agreement 2-19-70.1 [19]	1	2

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
C170-56..... E 3-11-70	Prudential Minerals Exploration Corp. (successor to Longhorn Production Co.).	Natural Gas Pipeline Co. of America, Wise County Area, Wise County, Tex.	Longhorn Production Co., FPC GRS No. 8.	7	.....
			Supplemental Nos. 1-2....	7	1-2
			Notice of succession (undated).	.....	.....
			Assignment 3-9-70 [1].....	7	3
C170-177..... E 3-11-70	do.....	Natural Gas Pipeline Co. of America, acreage in Denton and Wise Counties, Tex.	Longhorn Production Co., FPC GRS No. 9.	8	.....
			Notice of succession (undated).	.....	.....
			Assignment 3-9-70 [1].....	8	1
C170-486..... E 4-20-70	White Shield Oil & Gas Corp. (successor to Whitney Operating Co.).	Arkansas Louisiana Gas Co., Ames Area, Major County, Okla.	Whitney Operating Co., FPC GRS No. 1.	17	.....
			Supplement No. 1.....	17	1
			Notice of succession 4-2-70.	.....	.....
			Effective date: 2-4-70.....	.....	.....
C170-595..... C 4-20-70	Patrick Petroleum Co.....	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Supplemental agreement 2-26-70.[1]	2	1
C170-767..... A 2-25-70	Pennzoil Producing Co. [20]	Texas Gas Transmission Corp., Welcome Field, Columbia County, Ark.	Contract 2-17-70.....	275	.....
C170-954..... (C165-425) B 4-20-70	Sierra Petroleum Co., Inc.	Cities Service Gas Co., Northeast Rhodes Field, Barber County, Kans.	Notice of cancellation 4-15-70.[21 22]	5	1
C170-955..... (C167-586) B 4-20-70	Terteling Land Co.....	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	Notice of cancellation (undated).[22 23]	1	1
C170-958..... A 4-22-70	J. L. Trittipo et al., d.b.a. Trittipo and Clark.	United Fuel Gas Co., various districts, Gilmer and Braxton Counties, W. Va.	Contract 3-26-70 [1].....	5	.....
C170-959..... (C165-576) B 4-20-70	Thos. H. Allan (Operator) et al.	Northern Natural Gas Co., acreage in Pawnee County, Kans.	Notice of cancellation 4-16-70.[21 22]	1	2
C170-963..... A 4-22-70	Savery Oil & Gas, Inc....	Western Transmission Corp., Savery Field, Carbon County, Wyo.	Contract 4-1-70.....	1	.....
			Amendment 6-1-70 [24].....	1	1
C170-969..... (G-20504) B 4-23-70	Houston Natural Gas Production Co.	United Gas Pipe Line Co., North LaWard Field, Jackson County, Tex.	Notice of cancellation 4-7-70.[21 22]	[25] 24	7
C170-971..... (G-16928) B 4-24-70	Getty Oil Co. (Operator) et al.	Wunderlich Development Co., SW Ponca City Field, Kay County, Okla.	Notice of cancellation (undated).[21 22]	[25] 78	5
C170-982..... A 4-20-70	Cities Service Oil Co.....	United Fuel Gas Co., Union, Ripley, and Ravenswood Districts, Jackson County, W. Va.	Contract 3-23-70 [1 26].....	327	.....

[1] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[2] Assigns acreage from the estate of Rodney DeLange to G. R. Schimmel and O. Neuthery, Jr.
[3] From Petroleum Drilling Corp. to D.L.Y., Inc.
[4] From D.L.Y., Inc. to Go Distribution Co., Inc.
[5] Contract rate is 18 cents per Mcf. By letter dated Apr. 24, 1970, applicant states willingness to accept a permanent authorization conditioned to an initial rate of 17 cents per Mcf plus Btu adjustment.
[6] From N. G. Clark, et al. to Lewis Stephen DeBrular.
[7] From DeBrular to E. A. Trinkle.
[8] Amendment to the certificate to reflect change in operator.
[9] From George L. Yaste d.b.a. Oil States Sales Co. et al., to D.L.Y., Inc.
[10] Beacon will gather the subject gas from Pennzoil Producing Co., process and compress the gas in its Webster Parish plant and deliver the gas to Texas Gas Transmission Corp.
[11] From Petroleum Drilling Corp. to D.L.Y., Inc.
[12] From D.L.Y., Inc., to Go Distribution Co., Inc., et al.
[13] From Parker Petroleum Co. to Ohi-Oil Funds, Inc.
[14] From Ohi-Oil Funds, Inc., to Ohio Valley National Bank and Phillip H. Brown, Jr.
[15] From William B. Rezek to Ohio Valley National Bank and Phillip H. Brown, Jr.
[16] From William B. Rezek and Ohi-Oil Funds, Inc., to Ohio Valley National Bank and Phillip H. Brown, Jr.
[17] From William B. Rezek and Parker Petroleum Co. to Ohio Valley National Bank and Phillip H. Brown, Jr.
[18] Application erroneously assigned Docket No. C170-952 being construed as a petition to amend the order issuing a certificate in Docket No. C169-100 and Docket No. C170-952 will be canceled.
[19] Gas produced from Newburg Sand only.
[20] The proposed initial rate is 20 cents per Mcf at 15.025 p.s.i.a.; however, applicant has indicated its willingness to accept a permanent certificate conditioned to an initial rate of 17.35 cents per Mcf at 15.025 p.s.i.a. including tax reimbursement and limiting buyer's take-or-pay obligation to a 1-to-7,300 ratio of takes to reserves.
[21] Source of gas depleted.
[22] Effective date: Date of this order.
[23] Commission order dated June 23, 1969, in Docket No. CI69-227 authorized Texas Gas Transmission Corp. to convert the Midland Kentucky Gas Field to a gas storage field.
[24] Deletes indefinite pricing provision from contract.
[25] Rate of 15.0375 cents suspended in Docket No. R170-1329 but has not been placed in effect; therefore, the rate proceeding pending in Docket No. R170-1329 will be terminated only insofar as it pertains to applicant's FPC GRS No. 24 since no monies have been collected thereunder.
[26] Rate of 7.2 cents effective subject to refund in Docket No. R165-129. Applicant filed a motion to terminate the rate proceeding pending and to release the refund obligation as de minimus. Amount collected subject to refund is $11.91.
[27] Production limited to the Newburg Formation.

[F.R. Doc. 70-8962; Filed, July 16, 1970; 8:45 a.m.]

[Docket No. RI71-4]

HUMBLE OIL & REFINING CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JULY 9, 1970.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consisted with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.[1]

[1] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before August 26, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-4....	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	365	9	Northern Natural Gas Co. (Coyanosa Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	$28,147	6-15-70	[1] 7-6-70	[2] 7-7-70	16.50	[3][4] 16.5619	

[1] The stated effective date is the effective date of underlying rate of 16.50 cents per Mcf.
[2] The suspension period is limited to 1 day.
[3] Tax reimbursement increase.
[4] Pressure base is 14.65 p.s.i.a.

The proposed rate increase filed by Humble Oil & Refining Co. (Humble) reflects partial reimbursement of the increase in the Texas production tax from 7.0 percent to 7.5 percent. The underlying renegotiated rate of 16.5 cents, which equals the ceiling rate established by the related quality statement, becomes effective as of July 6, 1970. Pursuant to Commission Order No. 390, issued October 10, 1969, we believe that Humble's proposed rate increase should be suspended for 1 day from July 6, 1970, the effective date of the underlying rate.

[F.R. Doc. 70-9181; Filed, July 16, 1970; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL CHARTER CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First National Charter Corp., which is a bank holding company located in Kansas City, Mo., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of National Bank of Boonville, Boonville, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors, July 13, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-9127; Filed, July 16, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JULY 14, 1970.

Protests to the granting of an application must be prepared in accordance with § 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. 41997—*White cement from specified points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B-172), for interested rail carriers. Rates on white cement, in carloads, as described in the application, from Atco, Bayport, East Baytown, and Houston, Tex., to points in Indiana, Michigan, and Ohio. Grounds for relief—Market competition and rate relationship. Tariff—Supplement 174 to Southwestern Freight Bureau, agent, tariff ICC 4587.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[F.R. Doc. 70-9185; Filed, July 16, 1970; 8:49 a.m.]

[Notice 115]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 14, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 400 TA), filed July 9, 1970. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in initial movements, in driveaway service, from Kent, Ohio, to points in the United States (except Hawaii), for 180 days. Supporting shipper: Highway Products, Inc., Kent, Ohio 44240 (Martin P. Marek). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 106644 (Sub-No. 107 TA), filed July 9, 1970. Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916, 2770 Peyton Road NW.,

Atlanta, Ga. 30321. Applicant's representative: K. Edward Wolcott (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning, cooling, heating, and humidifying equipment*, from Decatur, Ala., to points in California, for 180 days. Supporting shipper: Climatrol Corp., Decatur, Ala. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107544 (Sub-No. 96 TA), filed July 8, 1970. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, Va. 24354. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural Latex*, in bulk, in tank vehicles, from Savannah, Ga., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Maine, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Stein, Hall & Co., Inc., 605 Third Avenue, New York, N.Y. 10016. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 109584 (Sub-No. 149 TA), filed July 9, 1970. Applicant: ARIZONA-PACIFIC TANK LINES, 3201 Ringsby Court, Denver, Colo. 80216. Applicant's representative: Eugene Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow*, in bulk, in tank vehicles, from points in Maricopa County, Ariz., to points in Imperial County, Calif., for 180 days. Supporting shipper: International Commodities, 1095 West Highway 98, Calexico, Calif. 92231. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 111397 (Sub-No. 90 TA), filed July 8, 1970. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: Bert Jody, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid synthetic latex*, in stainless steel trailers, in bulk, from plantsite of General Tire & Rubber Co., at or near Mayfield, Ky., to plantsite of Owens-Corning Fiberglas Corp., at or near Jackson, Tenn., for 180 days. Supporting shipper: The General Tire & Rubber Co., Post Office Box 951, Akron, Ohio 44309 (Richard E. Ridle, Assistant General Traffic Manager). Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 390 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 114143 (Sub-No. 4 TA), filed July 10, 1970. Applicant: L. D. LAUGHLIN, doing business as L. D. LAUGHLIN TRUCK COMPANY, Route No. 1, Cyril, Okla. 73029. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, asphalt, asphalt roof coating, and asphalt undercoating materials*, from Oklahoma City, Okla., to points in Kansas, for 180 days. Supporting shipper: G. A. Homeier, Director of Traffic, Lloyd A. Fry Roofing Co., 5818 Archer Road, Summit, Ill. 60501. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 117765 (Sub-No. 106 TA), filed July 10, 1970. Applicant: HAHN TRUCK LINES, INC., 5315 Northwest Fifth, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer compounds and ingredients, and urea, dry* from the plantsite of Nipak, Inc., Tonkawa, Okla., to points in Kansas, for 150 days. Supporting shipper: J. B. Mullino Nipak, Inc., 301 South Harwood Street, Box 2820, Dallas, Tex. 75221. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 117815 (Sub-No. 163 TA), filed July 8, 1970. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carricr Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Great Markwestern Packing Co., at Allen Township, Hillsdale County, Mich., to points in Iowa, Nebraska, Minnesota, Kansas, and Missouri, restricted to traffic originating at the plantsite and/or warehouses utilized by Great Markwestern Packing Co. at Allen Township, Hillsdale County, Mich., for 180 days. Supporting shipper: Great Markwestern Packing Co., 1825 Scott Street, Detroit, Mich. 48207. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134060 (Sub-No. 3 TA), filed July 10, 1970. Applicant: DAVINDER FREIGHTWAY's LTD. 9341 Trans-Canada Highway, Chemainus, British Columbia, Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, 1200 Fifth Avenue, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points of entry on boundary line between the United States and Canada located in Washington to Portland, Oreg., for 180 days. Supporting shipper: Oregon Woodwork, Ltd., 6507 North Richmond, Portland, Oreg. 97203. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 134750 TA, filed July 8, 1970. Applicant: ROBERT S. BYRNES, doing business as B & H TRUCKING CO., Route 3, Box 52C, Harrisonburg, Va. 22801. Applicant's representative: C. F. Germelman, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Small boats, canoes, kayaks, set up, knocked down, or folded, in packages or loose, and parts or appurtenances such as, but not limited to, paddles, oars, masts, and sails, but not including engines or motors*, from New York, N.Y., to Wilmington, Del.; Atlanta, Ga.; Ruxton, Md.; Denville and Scotch-Plains, N.J.; Cincinnati and Cleveland, Ohio, to points in the Philadelphia commercial zone, the Pittsburgh commercial zone and Springfield (Delaware County), Pa.; Chattanooga and Johnson City, Tenn., and Arlington, Norfolk, and Salem, Va., for 180 days. Supporting shipper: Hans Klepper Corp., 35 Union Square West, New York, N.Y. 10003. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 134752 TA, filed July 8, 1970. Applicant: HILL & WILLIAMS BROS., INC., 1904 Mount Vernon Road SE., Cedar Rapids, Iowa 52403. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Banking equipment and supplies, security systems, and parts and materials* for banking equipment and security systems, from Cedar Rapids, Iowa, to points in the United States and the District of Columbia (except Alaska and Hawaii), for 180 days. Supporting shipper: LeFebure Corp., 308 29th Street NE., Cedar Rapids, Iowa 52406. Send protests to: District Supervisor Ellis L. Annett, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-9183; Filed, July 16, 1970; 8:49 a.m.]

[Notice 560]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 14, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person many 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–72178. By order of July 9, 1970, the Motor Carrier Board approved the transfer to De'Carli's Express, Inc., Rockville, Conn., of certificate in No. MC–75602 issued May 15, 1958, to Regan's Express, Inc., Springfield, Mass., authorizing the transportation of: General commodities, with the usual exceptions, between Springfield, Mass., and points in Massachusetts within 15 miles of Springfield, on the one hand, and, on the other, points in Hartford, Tolland, Middlesex, and New Haven Counties, Conn. William L. Mobley, 1694 Main Street, Springfield, Mass. 01103, representing applicants.

No. MC–FC–72238. By order of July 9, 1970, the Motor Carrier Board approved the transfer to R. B. Duncan & Son, a corporation, Buckeye, Ariz., of the certificate of registration in No. MC–121071 (Sub-No. 1) issued October 8, 1965, to R. B. Duncan and R. B. Duncan, Jr., a partnership, doing business as R. B. Duncan & Son, Buckeye, Ariz., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Arizona, corresponding in scope to the service authorized in certificate of convenience and necessity No. 2610, dated December 5, 1961, issued by the Arizona Corporation Commission; and the certificate of registration in No. MC–121071 (Sub-No. 2) issued December 8, 1969, to the said partnership, evidencing a right to engage in interstate or foreign commerce solely within the State of Arizona, corresponding in scope to the service authorized in certificate of convenience and necessity No. 3853, dated October 30, 1959, transferred and reissued August 1, 1967, by the Arizona Corporation Commission. A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012, attorney for applicants.

No. MC–FC–72244. By order of July 8, 1970, the Motor Carrier Board approved the transfer to William H. Lane, doing business as G. C. Lane Movers, Chester, Pa., of the operating rights in certificate No. MC–26321, issued May 31, 1949, to Samuel Donaldson, doing business as Jesse R. Weber, Darby, Pa., authorizing the transportation of household goods, between points in Philadelphia and Delaware Counties, Pa., on the one hand, and, on the other, points in New York, New Jersey, Massachusetts, Connecticut, Delaware, Maryland, Virginia, Ohio, and the District of Columbia. Raymond A. Thistle, Jr., Suite 1301, 1500 Walnut Street, Philadelphia, Pa. 19102, attorney at law.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–9184; Filed, July 16, 1970; 8:49 a.m.]

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