Pages 6159–6230

FEDERAL REGISTER

VOLUME 25 NUMBER 128

Washington, Friday, July 1, 1960

Contents

(*Continued on next page*)

Codification Guide

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

5 CFR

325---- 6162

6 CFR

421---- 6161
474---- 6161

7 CFR

928---- 6162
968---- 6169

9 CFR

131---- 6178

14 CFR

507---- 6178
601 (6 documents)---- 6178–6180
602---- 6180

PROPOSED RULES:
507 (2 documents)---- 6213, 6214
601 (5 documents)---- 6214–6216

16 CFR

13 (4 documents)---- 6180–6183

18 CFR

PROPOSED RULES:
141---- 6212

26 (1954) CFR

1---- 6183
170---- 6184
240---- 6184
250---- 6196
251---- 6204

29 CFR

1401---- 6209

39 CFR

168---- 6210

43 CFR

PUBLIC LAND ORDERS:
2136---- 6210

Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplements are now available:

Title 7, Parts 400–899, Revised.. $5.50
Title 14, Parts 40–399---- $0.75

Previously announced: Title 3 ($0.60); Titles 4–5 ($1.00); Title 7, Parts 1–50 ($0.45); Parts 51–52 ($0.45); Parts 53–209 ($0.40); Parts 210–399, Revised ($4.00); Parts 900–959 ($1.50); Part 960 to End ($2.50); Title 8 ($0.40); Title 9 ($0.35); Titles 10–13 ($0.50); Title 14, Parts 1–39 ($0.65); Title 15 ($1.25); Title 16, Revised ($6.50); Title 17 ($0.75); Title 18 ($0.55); Title 19 ($1.00); Title 20 ($1.25); Title 21 ($1.50); Titles 22–23 ($0.45); Title 24 ($0.45); Title 25 ($0.45); Title 26 (1939), Parts 1–79 ($0.40); Parts 80–169 ($0.35); Parts 170–182 ($0.35); Parts 300 to End ($0.40); Title 26, Part 1 (§§ 1.01–1.499) ($1.75); Parts 1 (§ 1.500 to End)–19 ($2.25); Parts 20–169 ($1.75); Parts 170–221 ($2.25); Part 300 to End ($1.25); Titles 28–29 ($1.75); Titles 30–31 ($0.50); Title 32, Parts 1–399 ($2.00); Parts 400–699 ($2.00); Parts 700–799 ($1.00); Parts 800–999, Revised ($3.75); Parts 1000–1099, Revised ($6.50); Part 1100 to End ($0.60); Title 33 ($1.75); Title 35, Revised ($3.50); Title 36, Revised ($3.00); Title 37, Revised ($3.50); Title 38 ($1.00); Title 39 ($1.50); Title 42, Revised ($4.00); Title 43 ($1.00); Title 46, Parts 1–145 ($1.00); Parts 146–149, Revised ($6.00); Part 150 to End ($0.65); Title 47, Parts 1–29 ($1.00); Part 30 to End ($0.30); Title 49, Parts 1–70 ($1.75); Parts 71–90 ($1.00); Parts 91–164 ($0.45); Part 165 to End ($1.00); Title 50 ($0.70).

Order from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 7]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—Provisions for Participation of Financial Institutions in Pools of CCC Price Support Loans on Certain Commodities

RATE OF INTEREST AND SPECIAL SERIES CERTIFICATES

The regulations issued by the Commodity Credit Corporation published in 23 F.R. 3913, as amended, containing the terms and conditions for participation in pools of CCC price support loans on certain commodities are hereby further amended to reduce from 4 to 3¼ percent per annum, effective August 1, 1960, the rate of interest on certificates evidencing participation in financing 1960 crop price support loans and to provide that applications for issuance of special series certificates will not be considered after June 30, 1960.

1. Section 421.3803 is amended, as of August 1, 1960, to read as follows:

§ 421.3803 Rate of interest and basis of computation of interest earned.

(a) *1960 crop programs.* Certificates evidencing participation in financing 1960 crop price support program loans shall earn interest at the rate of 4% per annum through and including July 31, 1960, and 3¼ percent per annum thereafter.

(b) *Rate increases or decreases.* The rate of interest as specified in paragraph (a) of this section may be increased or decreased by CCC upon publication in the FEDERAL REGISTER of an amendment to these regulations providing for such increase or decrease: *Provided,* That with respect to any decrease in the interest rate, the effective date of such decrease shall be at least 30 days subsequent to publication of such amendment in the FEDERAL REGISTER.

(c) *Basis of computation of interest earned.* Interest earned will be paid on a 365-day basis from and including the date disbursed shown on the certificate to, but not including, the maturity date of the certificate, the date the certificate is presented, at option of holder, to CCC for purchase or the date a certificate is to be presented to CCC for purchase or cancellation in accordance with notice given the holder of record pursuant to § 421.3802, whichever date first occurs.

2. Section 421.3812(c) is amended to read as follows:

§ 421.3812 Special series certificates of interest.

* * * * *

(c) *Acceptance of applications.* Applications will be considered in the order received: *Provided,* That no applications will be considered for acceptance after June 30, 1960. CCC reserves the right to reject any application, in whole or in part. Notification of acceptance or rejection will be made by mail unless CCC is requested to notify applicant bank by collect telegram. The notice of acceptance will designate the Federal Reserve bank or branch at which payment for credit to CCC's account shall be made.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; 15 U.S.C. 714c)

Issued this 28th day of June 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-6134; Filed, June 30, 1960; 8:53 a.m.]

[C.C.C. Farm Storage Facility Loan Bulletin 1, Rev. 1, Amdt. 4]

PART 474—FARM STORAGE FACILITIES

Subpart—Farm Storage Facility Loan Program

TERMS AND CONDITIONS OF LOANS

The purpose of this amendment is to amend the bulletin setting forth the conditions under which loans may be made to eligible borrowers on immovable facilities to be located on railroad-owned property.

Section 474.726(a) of the bulletin (23 F.R. 9686) setting forth the terms and conditions of loans is amended to read as follows:

§ 474.726 Terms and conditions of loans.

(a) *Term of loan.* The maximum term of the loan will be five years from the date of the disbursement of the loan, except that the term of an individual loan may be extended and re-extended for terms of not to exceed one year each if the county committee determines in writing that the borrower is unable to meet the current payment when due, because of catastrophic loss of crops or other comparable condition beyond the control of the borrower. Such extensions, as authorized in this paragraph, shall merely defer the date upon which each of the respective payments shall become due and payable. Loans will be secured (1) by chattel mortgages on the storage facility, which shall constitute the sole lien on such facility, or (2) by a first lien in the form of a real estate mortgage, deed of trust, or other security instrument, approved by CCC, on the borrower's farm or other property on which the facility is to be located, or on such acreage of the farm as will, in the judgment of the county committee, (i) make the site easily accessible for use of other farmers in the area, and (ii) constitute a salable unit. A first lien on the real estate will be required in connection with all loans relating to immovable facilities, except that applications for loans for immovable facilities to be located on railroad-owned property may be considered subject to the following conditions: (*a*) Each such application, regardless of the amount of the proposed loan must be approved by the Board of Directors, CCC, before the application and the loan commitment is approved by the county committee; (*b*) the applicant must obtain an assignable lease on the railroad-owned property and the written consent of the lessor to construct the facility and to remove the same; (*c*) the loan must be secured (*1*) by a real estate mortgage, or a deed of trust covering the leasehold interest, and (2) by a first lien on the facility; (*d*) the application and note shall provide that if, at any time during the life of the loan, the facility is used for the storage or handling of commodities owned by others, or for commodities purchased by the borrower, or, if all or any part of such facility is leased to others, or becomes a part of, or is made use of in connection with any commercial operation, the full unpaid amount of the loan plus interest shall be subject to immediate call by CCC; and (*e*) the applicant shall comply with such other conditions as the Board of Directors, at the time it considers the application, deems warranted in order to protect the interest of CCC under any special circumstances affecting the loan. A first lien on real estate may also be required in connection with any other loan at the discretion of the person authorized by CCC to approve the loan, provided, however, that such first lien may be obtained through a subordination agreement where the real estate is subject to any other lien. In case of chattel mortgage loans, a severance agreement must be executed and acknowledged by all persons having an interest in the land on which the structure will be placed, except that a severance agreement will not be required if the storage structure is movable, not attached to a permanent foundation, and (*1*) is not in excess of 2,500 bushels capacity, or (2) in the case of a structure for the storage of cottonseed, is not in excess of 60 tons. The cost of recording or filing all documents required in connection with the loan shall be paid by the borrower. Upon approval of the application for loan, the county committee will execute a commitment for the loan. Unless the loan has been totally disbursed, the loan commitment shall become null and void in four months after its date unless extended in writing by the county com-

mittee on or before its expiration date. Every application for a farm storage facility loan secured by a chattel mortgage shall be accompanied by an instrument, duly acknowledged for recording purposes, under which the owner of the premises on which the facility is to be located consents that if the farm storage facility is acquired by CCC through foreclosure or other means, such facility may, at the option of CCC, remain on the property for a period not to exceed six months at no expense to CCC. Such covenant may be included in a severance agreement or in such other instrument as may be approved by the Attorney in Charge, in cases where the severance agreement is not required.

Issued at Washington, D.C., this 28th day of June, 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-6112; Filed, June 30, 1960; 8:53 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Departmental Reg. 108.438]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

Designation of Differential Posts

Section 325.15, *Designation of differential posts* is amended as follows, effective as of the beginning of the first pay period following June 25, 1960:

1. Paragraph (a) is amended by the deletion of the following:

Entre Rios, Guatemala.
Nigeria, all posts except Kaduna and Lagos.
Saint Maarten Island, Netherlands Antilles.

2. Paragraph (c) is amended by the deletion of the following:

New Delhi, India.
Subic Bay (including Cubi Point), Philippines.

3. Paragraph (a) is amended by the addition of the following:

Nigeria, all posts except Kaduna, Lagos and Shika.

4. Paragraph (b) is amended by the addition of the following:

Shika, Nigeria.

5. Paragraph (d) is amended by the addition of the following:

New Delhi, India.
Subic Bay (including Cubi Point), Philippines.

(Secs. 102, 401, E.O. 10000, 13 F.R. 5453, 3 CFR, 1948 Supp., E.O. 10623, E.O. 10636, 20 F.R. 5297, 7025, 3 CFR, 1955 Supp.)

Washington, D.C., June 13, 1960.

For the Secretary of State.

LANE DWINELL,
Assistant Secretary.

[F.R. Doc. 60-6110; Filed, June 30, 1960; 8:53 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order No. 28]

PART 928—MILK IN NEOSHO VALLEY MARKETING AREA

Order Amending Order

AUTHORITY: §§ 928.0 to 928.111 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 928.0 Findings and determinations.

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

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

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

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

(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, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to (a) milk from producers including such handler's own production and (b) other source milk which is classified as Class I.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than July 1, 1960. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued May 11, 1960, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued June 17, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

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

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

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

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

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Neosho Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended:

DEFINITIONS

§ 928.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreements Act of 1937, as amended (7 U.S.C., 1940 ed., 601 et seq.).

§ 928.2 Secretary.

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

§ 928.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 928.4 Person.

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

§ 928.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

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

(b) Is authorized by its members to make collective sales or to market milk or its products for its members.

§ 928.6 Neosho Valley marketing area.

"Neosho Valley marketing area," hereinafter called the "marketing area" means all of the territory within the counties of Allen, Bourbon, Chautauqua, Cherokee, Crawford, Labette, Montgomery, Neosho and Wilson all in the State of Kansas, and the counties of Barton, Jasper, Newton and Vernon, all in the State of Missouri.

§ 928.7 Approved plant.

"Approved plant" means any milk plant, except that of a producer-handler which is approved by the appropriate health authority having jurisdiction in the marketing area:

(a) From which 10 percent or more of the total receipts of Grade A milk is disposed of during the delivery period on wholesale or retail routes (including routes operated by vendors and disposition at plant stores) as Class I milk in the marketing area; or

(b)(1) From which during the delivery period no less than 50 percent of the Grade A milk received from dairy farmers is shipped to a plant(s) described in paragraph (a) of this section: *Provided,* That if such plant is an approved plant during each of the months of August through November, it shall be designated as an approved plant through the following July, unless the market administrator is requested by means of written application on or before the 7th day after the end of the month that the plant should not be an approved plant.

(2) All plants described in subparagraph (1) of this paragraph which are operated by one handler may be considered as a unit, upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and the notice of any change in designation, shall be furnished on or before the 7th day following the month to which the notice applies. In any of the months of December through July a unit shall not contain plants which were not qualified as approved plants either individually or as members of another unit, during each of the previous months of August through November.

§ 928.8 Handler.

"Handler" means: (a) Any person in his capacity as the operator of an approved plant, (b) a producer-handler, (c) any person, except a producer-handler, in his capacity as the operator of an unapproved plant from which milk is disposed of during the delivery period on wholesale or retail routes (including routes operated by vendors and disposition at plant stores) as Class I milk in the marketing area, and

(d) Any cooperative association, with respect to milk of producers (1) which it causes to be diverted to an unapproved plant for the account of such association; (2) delivered for its account to the approved plant of another cooperative association; and (3) for which it elects to report as a handler and which is delivered to the pool plant(s) of another handler in a tank truck owned, operated, or controlled by, such association (such milk shall be considered as having been received by the cooperative association at the plant to which it is delivered).

§ 928.9 Producer.

"Producer" means any person, other than a producer-handler, who produces milk under a dairy farm permit or rating issued by the appropriate health authority having jurisdiction in the marketing area over the production of milk disposed of for consumption as Grade A milk which milk is (a) received at an approved plant, or (b) diverted from an approved plant to any milk distributing or milk manufacturing plant: *Provided,* That such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted: *And provided further,* That this definition shall not include a person with respect to milk produced by him which is received by a handler who is partially exempted from the provisions of this part pursuant to §§ 928.61 and 928.62.

§ 928.10 Producer-handler.

"Producer-handler" means any person who, with the approval of any health authority having jurisdiction in the marketing area, processes milk from his own farm production and disposes of all or a portion of such milk as Class I milk within the marketing area, but who receives no milk from producers.

§ 928.11 Other source milk.

"Other source milk" means all skim milk and butterfat received in any form from a producer-handler or from a

source other than producers or another handler either in his capacity as the operator of an approved plant or as a cooperative association acting pursuant to § 928.8(d) except any nonfluid milk product received and disposed of in the same form.

§ 928.12 Delivery period.

"Delivery period" means a calendar month, or any portion thereof during which this part is in effect.

MARKET ADMINISTRATOR

§ 928.20 Designation.

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

§ 928.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 928.22 Duties.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performances of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds provided by § 928.97 the cost of his bond and those of his employees, his own compensation, and all other expenses, except those incurred under § 928.96, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office or by such other means as he deems appropriate, the name of any person, who after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 928.30 through 928.32, or (2) payments pursuant to §§ 928.90 through 928.97.

(i) On or before the 12th day after the end of each delivery period, report to each cooperative association which so requests, the amount and class utilization of the milk caused to be delivered to each handler by such cooperative association, either directly or from producers who are members of such cooperative association. For purposes of this report, the milk so delivered by a cooperative association shall be prorated to each class in the proportion that the total quantity of producer milk received by such handler was to the quantity of milk in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 12th day of each delivery period the minimum price for Class I milk computed pursuant to § 928.51(a) and the Class I butterfat differential computed pursuant to § 928.52, both for the current delivery period; and on or before the 5th day of each delivery period the minimum price for Class II milk computed pursuant to § 928.51(b) and the Class II butterfat differential computed pursuant to § 928.52, both for the preceding delivery period.

(2) On or before the 12th day of each delivery period the uniform price(s) computed pursuant to §§ 928.71 and 928.72 and the butterfat differential computed pursuant to § 928.52, both for the previous delivery period; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 928.30 Delivery period reports of receipts and utilization.

On or before the 7th day after the end of each delivery period each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in:

(1) All receipts at his approved plant(s) within such delivery period of:

(i) Milk received from producers,

(ii) Skim milk and butterfat in any form from other pool handlers,

(iii) Other source milk, and

(iv) Milk received from a cooperative association pursuant to subparagraphs (2) and (3) of § 928.8(d).

(2) Milk diverted pursuant to § 928.9 (b).

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section; and

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

§ 928.31 Payroll reports.

On or before the 20th day of each delivery period each handler shall submit to the market administrator his producer payroll for the preceding delivery period which shall show (a) the total pounds of milk received from each producer or cooperative association, and the total pounds of butterfat contained in such milk; (b) the net amount of such handler's payment to each producer or cooperative association; and (c) the nature and amount of any deductions or charges involved in such payments.

§ 928.32 Other reports.

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

(b) Each handler who causes milk to be diverted shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 928.33 Records and facilities.

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

(a) The receipts and utilization of all skim milk and butterfat contained in producer milk and other source milk;

(b) The weights of butterfat and skim milk in all milk, skim milk, cream and milk products handled; and

(c) Payments to producers and cooperative associations.

§ 928.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In

either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 928.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the delivery period by a handler and which is required to be reported pursuant to § 928.30 shall be classified by the market administrator pursuant to the provisions of §§ 928.41 through 928.46.

§ 928.41 Classes of utilization.

Subject to the conditions set forth in §§ 928.43 and 928.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form (except as livestock feed) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, any mixture of cream and milk or skim milk (except bulk ice cream mix, eggnog and aerated cream), all skim milk and butterfat in inventory at the end of the delivery period in the form of Class I items, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section;

(b) Class II milk shall be all skim milk and butterfat accounted for (1) as having been used to produce any products other than those specified in paragraph (a) of this section, (2) as disposed of for livestock feed.

(3) In shrinkage of milk received directly from producers that is not in excess of 2 percent (5 percent with respect to skim milk during the months of April, May and June), plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May and June) of receipts of skim milk and butterfat, respectively, transferred in bulk from approved plants, less 1.5 percent (4.5 percent with respect to skim milk during the months of April, May and June) of skim milk and butterfat, respectively, disposed of in bulk to approved plants, and (4) in actual plant shrinkage of skim milk and butterfat in other source milk.

§ 928.42 Shrinkage.

If producer milk and other source milk are both received at a handler's approved plant during the same delivery period the shrinkage of skim milk and butterfat, respectively, allocated to each source shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their totals.

§ 928.43 Responsibility of handlers.

All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified as Class II milk.

§ 928.44 Transfers.

Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred: *Provided,* That in no event shall the amount of the skim milk or butterfat so assigned to Class II exceed the total utilization of skim milk or butterfat, respectively, in the plant of the transferee-handler: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants to give priority to producer milk in the allocation of Class I utilization.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk and as Class II milk if so transferred in the form of cream to an unapproved plant located more than 250 miles from the square of Chanute, Kansas, by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 250 miles from the square at Chanute, Kansas (by shortest highway distance as determined by the market administrator) and from which Class I milk is disposed of unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both the operator of the unapproved plant and the handler on or before the 7th day after the end of the delivery period within which such transfer occurred; and

(2) The operator of the unapproved plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if the Class I utilization of skim milk and butterfat in such plant exceeds receipts at such plant of skim milk and butterfat in milk directly from dairy farmers who the market administrator determines constitutes the regular source of supply for fluid usage of such unapproved plant in markets supplied by it, an amount of skim milk and butterfat equal to such excess shall be classified as Class I milk.

(e) As Class II milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 250 miles from the square at Chanute, Kansas, and from which no Class I milk is disposed of.

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

For each delivery period the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 928.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 928.45, the market administrator shall determine the classification of producer milk as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 928.41(b)(3);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk contained in the Class I items in inventory at the beginning of the delivery period;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk received in other source milk other than that to be subtracted pursuant to subparagraph (4) of this paragraph;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing order issued pursuant to the act;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers and assigned to such class pursuant to § 928.44(a);

(6) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; or if the remaining pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be called "overage."

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

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to paragraphs (a) and (b) of this section and determine the percent of butterfat content in such milk in each class.

MINIMUM PRICES

§ 928.50 Basic formula price to be used in determining Class I price.

The basic formula price to be used in determining the price per hundredweight of Class I milk for the delivery period shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 928.51 (b), all for the preceding delivery period.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of

3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Oxfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

divided by 3.5 and multiplied by 4.0.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray, and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 928.51 Class prices.

Subject to the provisions of §§ 928.52 and 928.53, each handler shall pay producers at the time and in the manner set forth in §§ 928.90 through 928.95 not less than the following prices per hundredweight for milk received from such producers during the delivery period:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.00 during the delivery periods April through June, and $1.45 during the delivery periods of July through March: *Provided,* That for each of the delivery periods of September through December, such price shall not be less than that for the preceding delivery period, and that for each of the delivery periods of April through June such price shall be not more than that for the preceding delivery period: *And provided further,* That the price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than the lower of the following:

(1) The price for Class I milk of 4.0 percent butterfat content established for the same month or delivery period pursuant to Part 906 of this chapter regulating the handling of milk in the Oklahoma metropolitan marketing area less 33 cents; or

(2) The price for Class I milk of 4.0 percent butterfat content established for the same month or delivery period under Part 921 of this chapter regulating the handling of milk in the Ozarks marketing area, plus 15 cents.

(b) *Class II milk.* The price per hundredweight for Class II milk for the delivery periods of July through March shall be the basic formula price for the current delivery period, and for the delivery periods of April through June the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The basic formula price for the current delivery period minus ten cents.

(2) The arithmetic average of the basic, or field prices reported to have been paid or to be paid per hundredweight for ungraded milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the delivery period by the companies listed below:

Pet Milk Company, Neosho, Missouri.
Borden Company, Fort Scott, Kansas.
Carnation Company, Mount Vernon, Missouri.
Pet Milk Co., Iola, Kansas.

§ 928.52 Butterfat differentials to handlers.

If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class utilization for a handler pursuant to § 928.46(c) is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one tenth of 1 percent that such weighted average butterfat test is above, or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated as follows:

(a) *Class I milk.* Multiply by 1.25 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the preceding delivery period, and divide the result by 10.

(b) *Class II milk.* Multiply by 1.15 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period and divide the result by 10.

§ 928.53 Location adjustments to handlers.

For milk which is received from producers at an approved plant located more than 50 miles by shortest highway distance, as determined by the market administrator, from the City Hall in Joplin or Nevada, Missouri, or Chanute or Independence, Kansas, whichever is closest, and which is classified as Class I milk the prices computed pursuant to § 928.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such city hall and by an additional 2.0 cents for each 15 miles or fraction thereof that such distance exceeds 60 miles: *Provided,* That for the purposes of calculating such adjustment transfers between approved plants shall be assigned to Class I milk in a volume not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the receipts from producers at such plant, such assignment to transferor plants to be made first to plants at which no adjustment credit is applicable and then in the sequence at which the lowest location adjustment credit would apply.

§ 928.54 Use of equivalent price.

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

APPLICATION OF PROVISIONS

§ 928.60 Producer-handlers.

Sections 928.40 through 928.46, 928.50 through 928.52, 928.70 through 928.72, 928.80 through 928.83 and 928.90 through 928.97 shall not apply to a producer-handler.

§ 928.61 Handlers subject to other orders.

In the case of any handler (as defined in this section) who the Secretary determines disposed of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, or who otherwise is determined pursuant to the provisions of another milk marketing agreement or order to be subject to the pricing and payment provisions of such agreement or order, the provisions of the order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts and utilization of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator pursuant to § 928.33.

(b) If the value of skim milk and butterfat disposed of as Class I milk on routes in the marketing area, as determined under the other order to which such handler is subject, is less than its value as computed pursuant to this subpart, such handler shall pay the difference to the market administrator. The amount of the payment so computed

shall be reduced by the amount of any contra differences in the values of Class I milk so disposed of in the immediately preceding eleven delivery periods which have not served to reduce the payment for any intervening delivery period.

(c) On or before the 14th day after the end of the delivery period payment of the net amount computed pursuant to paragraph (b) of this section shall be made to the market administrator who shall:

(1) Transfer the amount of such payment to the market administrator of the order to which the handler is subject, if such order provides for receipt of such funds and their distribution to producers whose milk is priced under such order; or

(2) Otherwise deposit such amount in the producer-settlement fund.

§ 928.62 Handlers doing less than 10 percent of their business in the marketing area.

In the case of any handler (except a handler who would be covered under § 928.61) who the Secretary determines disposes of less than 10 percent of his milk, qualified for distribution as Grade A milk in the marketing area, as Class I milk in the marketing area, the provisions of this part shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator shall require and shall allow verification of such reports by the market administrator pursuant to § 928.33.

(b) Pay to the market administrator for deposit into the producer-settlement fund, with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area, an amount equal to the difference between the Class I and Class II value of such skim milk or butterfat as computed pursuant to this part;

(c) As his prorata share of the expense of administration of this part, such handler shall pay to the market administrator on each hundredweight of milk disposed of as Class I milk in the marketing area the amount per hundredweight in the manner specified in § 928.97.

DETERMINATION OF UNIFORM PRICES

§ 928.70 Computation of value of milk.

The value of milk received during each delivery period by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices adjusted by the butterfat differential to handlers specified in § 928.52 and adding together the resulting amounts: *Provided,* That if the handler had an overage of either skim milk or butterfat there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 928.46 (a)(5) or (b) by the applicable class prices.

§ 928.71 Computation of uniform price.

For each delivery period of August through January the market administrator shall compute the uniform price per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 928.70 for all handlers who made the reports prescribed in § 928.30 and who made the payments required pursuant to § 928.93 for the preceding delivery period

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 928.95;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 928.91 and multiply the resulting figure by the total hundredweight of such milk;

(d) Add the aggregate of the value of all allowable location adjustments to producers pursuant to § 928.91(b);

(e) Divide the resulting amount by the total hundredweight of milk included in this computation, and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount per hundredweight computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

§ 928.72 Computation of the uniform prices for base milk and for excess milk.

For each of the delivery periods of February through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 928.70 for all handlers who make the reports prescribed in § 928.30 and who made the required payments pursuant to § 928.93 for the preceding delivery period.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 928.95;

(c) Subtract if the average butterfat content of producer milk represented if the values in paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 928.91 and multiply the resulting figure by the total hundredweight of such milk.

(d) Add the aggregate of the value of all allowable location adjustments to producers pursuant to § 928.91(b);

(e) Compute the total pounds of milk delivered by producers which are not in excess of their respective bases;

(f) Compute the total value of producer milk in excess of the delivered bases of all producers as follows: (1) Allocate in series beginning with Class II the total pounds of producer milk in excess of the total pounds of delivered base milk computed pursuant to paragraph (d) of this section; (2) multiply the total pounds of excess milk allocated to each class by the appropriate class prices computed pursuant to § 928.51 and add the resulting totals;

(g) Subtract from the value computed pursuant to paragraph (c) of this section the value of excess milk computed pursuant to paragraph (e)(2) of this section and divide the resulting total by the total hundredweight of base milk as computed in paragraph (d) of this section.

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (f) of this section. The resulting price shall be the uniform price per hundredweight for base milk containing 4.0 percent butterfat.

(i) Divide the value obtained pursuant to paragraph (e)(2) of this section by the total hundredweight of excess milk and round to the nearest full cent. The resulting price shall be the uniform price per hundredweight of excess milk containing 4.0 percent butterfat content.

BASE RATING

§ 928.80 Determination of daily base for each producer.

For each of the delivery periods of February through July the daily base for each producer shall be an amount of milk computed by the market administrator by dividing the total pounds of milk received from such producer by handlers during the preceding delivery periods of September through December by the total number of days for which such producer made deliveries of milk in such period, or by 90, whichever is greater: *Provided,* That with respect to any producer on "every-other-day" delivery the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 928.81: *And provided further,* That in the case of producers delivering milk to an approved plant which first qualifies as such during any month other than September, a daily average base for each such producer shall be calculated pursuant to this section on the basis of his verifiable deliveries of milk to such plant during the September through December immediately preceding.

§ 928.81 Determination of the delivery period base of each producer.

For each of the delivery periods of February through July, the base of each producer shall be an amount of milk computed by the market administrator by multiplying the daily base of such producer by the number of days on which milk was received during such delivery period from such producer by a handler.

§ 928.82 Base rules.

(a) A base shall apply to deliveries of milk by the producer for whose ac-

count that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month in which such base applies that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operation.

(2) If a base is held jointly and such joint holding is terminated, the entire base only may be transferred to one of the joint holders.

§ 928.83 Announcement of daily bases.

On or before February 15, of each year, the market administrator shall notify each producer of his daily base.

PAYMENTS

§ 928.90 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the last day of each delivery period to each producer for milk received from him during the first 15 days of such delivery period at not less than the Class II price for the preceding delivery period: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payments for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association at least 2 days before the end of the delivery period, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the 17th day after the end of each delivery period, for all milk received during such delivery period from such producer at not less than the applicable uniform prices for such delivery period computed pursuant to §§ 928.71 and 928.72, subject to the following adjustments: (1) The butterfat and location differentials pursuant to § 928.91 (a) and (b); (2) payment made pursuant to paragraph (a) of this section; (3) marketing service deductions pursuant to § 928.96; (4) deductions authorized by the producer; and (5) any error in payments to such producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for milk for such delivery period pursuant to § 928.94, he may reduce uniformly per hundredweight, for all producers his payments pursuant to this paragraph, by an amount not in excess of the per hundredweight reduction in payments from the market administrator: *Provided further,* That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments, pursuant to this paragraph, next following that on which such balance of payment is received from the market administrator: *And provided further,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 15th day after the end of each delivery period an amount equal to the sum of the individual payments otherwise payable to such producer in accordance with this paragraph, and

(c) On or before the 17th day after the end of each delivery period, to each cooperative association, with respect to receipts of milk for which such cooperative association is defined as a handler pursuant to § 928.8(d), not less than the value of such milk as is classified pursuant to § 928.44(a) at the applicable class prices.

§ 928.91 Producer butterfat and location differentials.

(a) *Butterfat differential.* In making payments pursuant to § 928.90(b), there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

(b) *Location differential.* For milk which is received from producers at an approved plant located more than 50 miles by shortest highway distance, as determined by the market administrator, from the City Hall in Joplin or Nevada, Missouri or Chanute or Independence, Kansas, whichever is closest, there shall be deducted 10 cents per hundredweight of milk if such plant is located more than 50 miles but not more than 60 miles from such city hall, and an additional 2.0 cents for each 15 miles or fraction thereof that such distance exceeds 60 miles.

§ 928.92 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit payments made by handlers pursuant to §§ 928.61(c)(2), 928.62(b), 928.93, and 928.95 and out of which he shall make payments to handlers pursuant to §§ 928.94 and 928.95: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 928.93 Payments to the producer-settlement fund.

On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of the milk received by such handler from producers as determined pursuant to § 928.70 for such delivery period is greater than an amount computed by multiplying the total hundredweight of milk, or during the delivery periods of February through July the total hundredweight of base milk and excess milk, respectively, received from producers during the delivery period by the applicable uniform price(s), adding together the respective totals and adjusting for the butterfat differential provided for in § 928.91.

§ 928.94 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each delivery period the market administrator shall pay to each handler for payment to producers, or a cooperative association, any amount by which the value of the milk received by such handler from producers as determined pursuant to § 928.70 for the delivery period is less than an amount computed by multiplying the total hundredweight of milk, or during the delivery periods of February through July the total hundredweight of base milk and excess milk, respectively, received from producers during the delivery period by the applicable uniform price(s), adding together the respective totals and adjusting for the butterfat differential provided for in § 928.91: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. *And provided further,* That any payments hereunder shall be reduced by the amount of any unpaid balances due the market administrator from such handler pursuant to §§ 928.93, 928.95, 928.96 or 928.97.

§ 928.95 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 928.96 Marketing services.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 928.90 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers who are members

of a cooperative association, or who have given written authorization for the rendering of marketing services and the taking of deductions therefor by a cooperative association, and for whom the Secretary determines such a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by such producers and on or before the 15th day after the end of such delivery period pay over such deduction to the cooperative association rendering such services.

§ 928.97 Expenses of administration.

As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 16th day after the end of the month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the delivery period of: (a) Milk from producers including such handler's own production, and (b) other source milk which is classified as Class I.

§ 928.98 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 928.100 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 928.101.

§ 928.101 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 928.102 Continuing obligations.

If upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 928.103 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 928.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 928.111 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington D.C., this 28th day of June 1960, to be effective on and after the 1st day of July 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-6081; Filed, June 30, 1960; 8:48 a.m.]

[Milk Order No. 68]

PART 968—MILK IN WICHITA, KANS., MARKETING AREA

Order Amending Order

Sec.

AUTHORITY: §§ 968.0 to 968.111 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 968.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than July 1, 1960. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued May 4, 1960 and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued June 17, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Section 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

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

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

DEFINITIONS

§ 968.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 968.2 Secretary.

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

§ 968.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 968.4 Person.

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

§ 968.5 Wichita, Kansas, marketing area.

"Wichita, Kansas, marketing area" means all the territory within Sedgwick, Cowley, Sumner, Butler, Marion, and Harvey counties, all in the State of Kansas, and all Federal, State and municipal institutions and bases located therein.

§ 968.6 Cooperative association.

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

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

(b) To have and to be exercising full authority in the sale of milk of its members.

§ 968.7 Approved dairy farmer.

"Approved dairy farmer" means any person who produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk or produces milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area.

§ 968.8 Producer.

"Producer" means any approved dairy farmer whose milk is (a) received at a pool plant, or (b) caused to be diverted from a pool plant by a handler to a nonpool plant for the account of such handler. Milk so diverted shall have been deemed to have been received at the pool plant from which it was diverted.

§ 968.9 Approved plant.

"Approved plant" means any plant which is:

(a) Approved by a duly constituted health authority for the handling of milk for consumption as Grade A milk in the marketing area; or

(b) Approved for supplying milk for fluid consumption to any agency of the United States Government located within the marketing area.

§ 968.10 Pool plant.

"Pool plant" means any approved plant other than that of a producer-

handler or a plant exempt pursuant to § 968.61.

(a) During any of the months of March, April, May, June or July within which such plant disposes of as Class I milk an amount equal to 25 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such plant's total receipts from approved dairy farmers;

(b) During any of the other months within which such plant disposes of as Class I milk an amount equal to 35 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such plant's total receipts from approved dairy farmers;

(c) From which during the month not less than 50 percent of its total receipts from approved dairy farmers and approved plants is shipped to a plant(s) described in paragraphs (a) and (b) of this section: *Provided,* That any plant which has shipped to a plant(s) described in paragraphs (a) and (b) of this section the required percentage of its receipts during each of the months of August through November shall be designated a pool plant in each of the following months of December through July unless written request for nonpool status is furnished to the market administrator;

(d) Which is operated by a cooperative association and 60 percent or more of the milk delivered during the current month by approved dairy farmers who are members of such association, is delivered directly or is transferred by the association to pool plants as described in paragraphs (a) and (b) of this section; and

(e) For the purpose of this definition the following shall apply:

(1) Milk diverted from an approved plant for the account of the handler operating such approved plant shall be considered a receipt at the approved plant from which it was diverted;

(2) Milk for which a cooperative association is defined as the handler pursuant to § 968.11 shall be deemed to have been received by such cooperative association at the pool plant; and

(3) Milk transferred as Class I milk from an approved plant to another approved plant shall be credited as a Class I disposition as follows:

(i) Except as provided in subdivision (ii) of this subparagraph, milk so transferred will be credited as a Class I disposition of the transferring plant only to the extent that classification as Class I milk is required pursuant to § 968.44(a)(2);

(ii) In any case in which the entire quantity of Class I milk disposed of in packages of a particular size and form is received in such packages from another approved plant, all such Class I disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate Class I disposition of the receiving plant.

§ 968.11 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of an approved plant;

(b) Any cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted to a nonpool plant for the account of such cooperative association;

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to a pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association for the account of such cooperative association. (Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered); or

(d) Any cooperative association with respect to the milk of any member producer delivered for the account of such cooperative association to the pool plant of another cooperative association.

§ 968.12 Producer-handler.

"Producer-handler" means any approved dairy farmer who operates an approved plant at which no fluid milk products are received during the month except from his own production or as transfers from a pool plant(s).

§ 968.13 Producer milk.

"Producer milk" means all the skim milk and butterfat received at a pool plant directly from producers, diverted pursuant to § 968.8, or received from a cooperative association pursuant to § 968.11 (c) or (d).

§ 968.14 Other source milk.

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

(a) Receipts of fluid milk products and cottage cheese during the month except (1) fluid milk products and cottage cheese received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 968.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream (except frozen and aerated cream), cultured sour cream, and any mixture (except frozen dessert mixes and eggnog) of cream and milk or skim milk.

§ 968.16 Route.

"Route" means any delivery (including delivery by a vendor or a sale from a plant or a plant store) of any fluid milk product other than a delivery to any milk processing plant.

§ 968.17 Base milk.

"Base milk" means producer milk received by handlers from a producer which is not in excess of such producer's daily base determined pursuant to § 968.90 multiplied by the number of days during the month for which milk was received from such producer: *Provided,* That during the months of June and July of 1959 all producer milk received by handlers from a producer shall be considered as base milk: *And provided further,* That with respect to any producer "on every-other-day" delivery to a pool plant the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 968.90.

§ 968.18 Excess milk.

"Excess milk" means producer milk received by handlers from a producer which is in excess of base milk received from such producer during the month.

MARKET ADMINISTRATOR

§ 968.20 Designation.

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

§ 968.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend to the Secretary amendments thereto.

§ 968.22 Duties.

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

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of funds provided by § 968.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 968.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments by each handler by inspection of such handler's records and of the records of

any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 968.30 to 968.32, or

(2) Made payments pursuant to §§ 968.80 to 968.87.

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 968.51(a) and the Class I butterfat differential pursuant to § 968.52(a) both for the current month; and the minimum prices for Class II and Class III milk computed pursuant to § 968.51 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 968.52 (b) and (c), all for the previous month;

(2) On or before the 11th day of each month the uniform price computed pursuant to § 968.71 and the butterfat differential computed pursuant to § 968.81 (a) both for the previous month;

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

(k) On or before the 13th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers in each class by each handler who in the previous month received milk from members of such cooperative association.

REPORTS, RECORDS, AND FACILITIES

§ 968.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler, shall, with respect to milk or milk products which were received or produced by such handler during such month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in milk received from each producer or approved dairy farmer, and the number of days for which milk was received from each producer;

(b) The quantities of skim milk and butterfat contained in receipts of milk, and milk products from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class III products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat the receipt of which is required to be reported pursuant to this section;

(e) The pounds of skim milk and butterfat contained in fluid milk products on hand at the beginning and at the end of the month;

(f) Such other information with respect to the receipts and use of milk as the market administrator may request, including a separate statement of skim milk and butterfat disposed of as Class I milk on routes within the marketing area.

§ 968.31 Payroll reports.

On or before the 20th day after the end of each month each handler shall submit to the market administrator his producer payroll for such month which shall show for each producer and each approved dairy farmer:

(a) His total deliveries of base milk and total deliveries of milk in excess of base milk;

(b) The average butterfat content of his milk; and

(c) The net amount of such handler's payments to such producer or approved dairy farmer with the prices, deductions, and charges involved.

§ 968.32 Reports of producer-handlers.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall require.

§ 968.33 Records and facilities.

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

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

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

§ 968.34 Retention of records.

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

CLASSIFICATION

§ 968.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 968.30 shall be classified by the market administrator pursuant to the provisions contained in § 968.41 to § 968.46.

§ 968.41 Classes of utilization.

Subject to the conditions set forth in §§ 968.43 and 968.44, classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of fluid milk products except those classified pursuant to paragraph (c)(7) of this section, (2) used to produce concentrated (including frozen) milk, flavored milk or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II or Class III milk.

(b) Class II shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat used to produce cottage cheese in plants approved for the sale of cottage cheese in jurisdictions within the marketing area which require that cottage cheese be made from Grade A milk.

(c) Class III milk shall be all skim milk and butterfat: (1) Used to produce any product other than those products designated as Class I or Class II pursuant to paragraphs (a) and (b) of this section; (2) used for starter churning, wholesale baking and candy making; (3) disposed of as livestock feed; (4) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (5) in shrinkage of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers or received directly from cooperative associations pursuant to § 968.11(c), less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk lots to the pool plants of other handlers; (6) in shrinkage of other source milk; and (7) in inventory at the end of the month as any product specified in paragraph (a) of this section.

§ 968.42 Shrinkage.

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

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

(b) Prorate the resulting quantities between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 968.11 (c) and (d); and in bulk from pool plants of other handlers, and (2) the receipts of skim milk and butterfat in other source milk.

§ 968.43 Responsibility of handlers and reclassification of milk.

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

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

§ 968.44 Transfers.

Skim milk and butterfat transferred or diverted by a handler shall be classified:

(a) At the class mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month which such transaction occurred, otherwise as Class I milk, if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler, subject in either event to the following conditions:

(1) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat, respectively; and

(2) Such skim milk or butterfat shall be classified so as to allocate to producer milk the highest-priced possible utilization.

(b) As Class I milk if transferred in the form of milk, skim milk, or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in bulk in the form of milk, skim milk or cream to an unapproved plant located more than 250 miles from the approved plant by the shortest highway distance as determined by the market administrator, except that (1) cream so transferred may be classified as Class III milk if its utilization as Class III milk is established through the operation of another Federal order for another milk marketing area; or (2) cream so transferred with prior notice to the market administrator, and with each container labeled or tagged with a certificate of the transferor that such cream is sold as "Grade C cream for manufacturing only", may be classified as Class III milk, subject to such verification of alternative utilization as the market administrator may make.

(d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream in bulk to an unapproved plant located less than 250 miles from the pool plant from which transferred, unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at such unapproved plant from dairy farmers who the market administrator determines constitute the regular source of supply for Class I or Class II usage as defined in §§ 968.41 (a) and (b), respectively, by such unapproved plant in markets supplied by such plant.

(e) If any skim milk or butterfat is transferred to a second plant under paragraph (d) of this section the same conditions of audit classification and allocation shall apply.

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

For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in each class for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 968.46 Allocation of skim milk and butterfat classified.

After making the computation pursuant to § 968.45 the market administrator shall determine the classification of producer milk as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk determined pursuant to § 968.41 (c) (5);

(2) Subtract from the remaining pounds of skim milk, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract from the remaining pounds of skim milk, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in series beginning with the lowest priced utilization, the pounds of skim milk in inventory at the beginning of the month in the form of any product specified in § 968.41(a);

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 968.44(a);

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

(7) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with the lowest priced utilization. Any amount so subtracted shall be called "overage."

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

(c) Determine the weighted average butterfat content of producer milk in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 968.50 Basic formula price to be used in determining Class I prices.

The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department divided by 3.5 and multiplied by 3.8:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Carnation Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 3.8.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.962.

§ 968.51 Class prices.

Subject to the provisions of §§ 968.52 and 968.53, the minimum prices per hundredweight to be paid by each handler for milk received at his plant during the month shall be as follows:

(a) *Class I milk.* The price per hundredweight shall be the basic formula price for the preceding month plus $1.65 during all months of the year, plus or minus a supply-demand adjustment computed as follows: *Provided,* That the Class I price so computed shall be not less than the Class I price computed for

the same period pursuant to Federal Order No. 13 (Greater Kansas City) minus ten cents during each month of the period August through March and plus twenty-five cents for each of the months of April through July nor more than the Kansas City Class I price plus fifty cents during each of the months of the period August through March and plus eighty-five cents for each of the months of April through July.

(1) Divide the total receipts of milk from producers in the second and third months preceding by the total volume of Class I milk at pool plants (excluding interhandler transfers) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "net deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero,

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage", and

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage".

Delivery period for which price applies	Delivery period used in computation	Percentages	
		Minimum	Maximum
January	October–November	125	135
February	November–December	124	134
March	December–January	125	135
April	January–February	125	135
May	February–March	132	142
June	March–April	136	146
July	April–May	143	153
August	May–June	137	147
September	June–July	131	141
October	July–August	131	141
November	August–September	130	140
December	September–October	126	136

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One cent times each such percentage point of net deviation; plus

(ii) One cent times the lesser of:

(*a*) Each such percentage point of net deviation, or

(*b*) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One cent times the least of:

(*a*) Each such percentage point of net deviation;

(*b*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding, or

(*c*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

(b) *Class II milk.* The price per hundredweight shall be the Class III price for the month, plus 80 cents.

(c) *Class III milk.* The price per hundredweight shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 3.8 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator or the Department:

Present Operator and Location

American Foods Co., Miami, Okla.
Borden Co., Ft. Scott, Kans.
Kraft Foods Co., Nevada, Mo.
Pet Milk Co., Iola, Kans.
Swift and Co., Parsons, Kans.

(2) The average price reported by the Department for the current month for milk used in the manufacture of American Cheese, evaporated milk, and butter and by-products, f.o.b. plant, United States, adjusted to 3.8 percent butterfat basis by direct ratio.

§ 968.52 Handler butterfat differential.

If the average butterfat test of Class I, Class II or Class III milk as calculated pursuant to § 968.46 is more or less than 3.8 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of one percent that such average butterfat test is above or below 3.8 percent, a butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the applicable factor listed, and rounding to the nearest one-tenth cent:

(a) *Class I milk.* Multiply such price for the preceding month by 0.120;

(b) *Class II milk.* Multiply such price for the current month by 0.120;

(c) *Class III milk.* Multiply such price for the current month by 0.115.

§ 968.53 Location differentials to handlers.

For milk which is received at a plant located more than 70 miles by the shortest highway distance, as determined by the market administrator, from the courthouse at Wichita, Kansas, and which is classified as Class I milk, the prices computed pursuant to § 968.51(a) shall be reduced by 12 cents if such plant is located more than 70 miles but not more than 80 miles from such courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles: *Provided,* That for the purposes of calculating such differential, transfers between approved plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plants, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence at which the lowest location differential credit would apply.

§ 968.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 968.60 Producer-handlers.

Sections 968.40 to 968.46, 968.50 to 968.54, 968.61, 968.62, 968.70, 968.72 and 968.80 to 968.88 shall not apply to a producer-handler.

§ 968.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a plant specified in paragraph (a) or (b) of this section except as follows: The operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

(a) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to § 968.10 (a) or (b) and the Secretary determines that more Class I milk is disposed of from such plant to retail or wholesale outlets (except pool plants) in the Wichita marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to the provisions of § 968.10(c) or § 968.10(d).

§ 968.62 Handler operating an approved plant which is not a pool plant.

Each handler who operates an approved plant which is not a pool plant during a month, shall in lieu of the payments required pursuant to § 968.80 to § 968.85, pay to the market administrator, for the producer-settlement fund, on or before the 25th day after the end of such month, the amount resulting from the computation of paragraph (a) of this section unless the handler elects the computation specified in paragraph (b) of this section.

(a) The product of the quantity of milk received by such handler which was (1) disposed of during the month in the marketing area on routes as Class I milk by the difference between the applicable Class I and the Class III prices or (2) used to produce cottage cheese so disposed of as Class II by the difference between the Class II and Class III prices.

(b) Any plus amount resulting from the following computation: From an amount equal to the net pool obligation which would be computed pursuant to § 968.70 for such handler for such month if such handler operated a pool plant deduct the gross payments made by such handler to approved dairy farmers for milk received during such month.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 968.70 Net pool obligations of handlers.

The net pool obligation for milk received during each month by each handler shall be computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 968.46(c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 968.46(a)(7) and the corresponding step of § 968.46(b) by the applicable respective class prices;

(c) Add any amount obtained through multiplying by the difference between the Class III price for the preceding month and the Class I price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b); or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month;

(d) Add an amount obtained through multiplying by the difference between the Class III price for the preceding month and the Class II price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class II pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b); or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month less the hundredweight of milk subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b).

(e) During any month in which the total receipts of producer milk are more than 120 percent of the total Class I utilization at all pool plants, add an amount equal to the difference between the values (subject to butterfat and location differentials) at the Class I price and the Class III price with respect to:

(1) Other source milk subtracted from Class I pursuant to § 968.46(a)(2) and the corresponding step of § 968.46(b);

(2) Milk in inventory subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b) which is in excess of the sum of:

(i) The quantity of milk for which a payment is computed pursuant to paragraph (c) of this section; and

(ii) The quantity of milk subtracted from Class III pursuant to § 968.46(a)(3) and the corresponding step of § 968.46(b) for the month preceding.

(f) During any month in which the total receipts of producer milk are more than 120 percent of the total Class I utilization at all pool plants, add an amount equal to the difference between the values (subject to butterfat and location differentials) at the Class II price and the Class III price with respect to:

(1) Other source milk subtracted from Class II pursuant to § 968.46(a)(2) and the corresponding step of § 968.46(b).

(2) Milk in inventory subtracted from Class II pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b) which is in excess of the sum of:

(i) The quantity of milk for which a payment is computed pursuant to paragraph (d) of this section; and

(ii) The quantity of milk subtracted from Class III pursuant to § 968.46(a)(3) and the corresponding step of § 968.46(b) for the month preceding.

§ 968.71 Computation of uniform prices for base milk and excess milk.

For each month, the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk as follows:

(a) Combine into one total the values computed pursuant to § 968.70 for all handlers who made the reports prescribed in § 968.30 and who made the payments pursuant to §§ 968.80 and 968.83 for the preceding month;

(b) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 3.8 percent; or add if such average butterfat content is less than 3.8 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 968.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Add the total of the values of the applicable location differentials pursuant to § 968.81(b);

(e) Compute the total value on a 3.8 percent butterfat basis of the excess milk included in these computations by assigning such milk in series beginning with the lowest-priced utilization, multiplying the quantity so assigned to each use classification by the applicable class price, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.8 percent butterfat content received from producers;

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (c) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations;

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 3.8 percent butterfat content received from producers at plants within the 70-mile zone.

§ 968.72 Notification of handlers.

On or before the 11th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 968.46 and 968.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 968.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 968.80 and 968.83; and

(e) The amount to be paid by such handler pursuant to §§ 968.86 and 968.87.

PAYMENTS

§ 968.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the second working day following the 11th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform prices computed pursuant to § 968.71(i) and (f) for such producers' deliveries of base milk and excess milk, respectively, adjusted by the butterfat and location differentials computed pursuant to § 968.81, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date, such handler has not received full payment pursuant to § 968.84 he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 27th day of each month, to each producer (1) to whom payment is not made pursuant to paragraph (c) of this section, and (2) who is still delivering Grade A milk to such handler, an advance payment with respect to milk received from him during the first 15 days of such month computed at not less than 110 percent of the Class III price for 3.8 percent milk for the preceding month, without deduction for hauling.

(c) On or before the 14th day after the end of each month and on or before the 24th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which it caused to be delivered to such handler from producers, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to

such producers. Such payments due on or before the 14th day after the end of the month shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 968.31, and payments due on or before the 24th day of the month shall be accompanied by a statement of the amount of money for each producer.

(d) On or before the 10th day after the end of each month, to each cooperative association, with respect to receipts of milk for which such cooperative association is defined as the handler pursuant to § 968.11 (c) and (d), not less than the value of such milk as classified pursuant to § 968.44(a) at the applicable respective class price(s).

§ 968.81 Producer butterfat and location differentials.

(a) *Producer butterfat differential.* In making payments pursuant to § 968.80(a) the uniform prices per hundredweight shall be adjusted for each one-tenth of one percent that the average butterfat content is above or below 3.8 percent by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 968.52, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

(b) *Producer location differential.* In making payments to producers and cooperative associations, a handler may deduct from the applicable uniform price with respect to all milk received from producers at a pool plant located more than 70 miles, by the shortest highway distance, as determined by the market administrator, from the courthouse at Wichita, Kansas, the same amount per hundredweight as is applicable to the plant, pursuant to § 968.53.

§ 968.82 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 968.83, 968.85, and 968.62, and out of which he shall make all payments to handlers pursuant to §§ 968.84 and 968.85. Immediately after computing the uniform prices for each month, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum obtained by multiplying the hundredweight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to § 968.80 and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

§ 968.83 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the net pool obligation of such handler is greater than the sum required to be paid producers by such handler pursuant to § 968.80.

§ 968.84 Payments out of the producer-settlement fund.

(a) On or before the 13th day after the end of each month, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to § 968.80 is greater than the net pool obligation of such handler.

(b) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available, and

(c) Any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler pursuant to §§ 968.82, 968.83, 968.85, 968.86 or 968.87.

§ 968.85 Adjustment of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 968.83, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 968.84, the market administrator shall, within 5 days make payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure.

(b) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation payment to such producer was in an amount more than was required to be paid pursuant to § 968.80, no handler shall be deemed to be in violation of § 968.80 if he reduces his payment to such producer next following discovery of such error by not more than such overpayment.

§ 968.86 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 968.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 968.80(a) as are authorized by such producers, and, on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative asociation a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

§ 968.87 Expense of administration.

As his pro rata share of the expense of administration of this part each handler (1) with respect to all milk received from approved dairy farmers, except that in the case of a handler who elects to compute his obligation under § 968.62(a) only with respect to the quantity of milk disposed of as Class I or Class II in the marketing area and (2) with respect to other source milk allocated to Class I or Class II pursuant to § 968.46 during the month, shall pay to the market administrator, on or before the 12th day after the end of such month, an amount not exceeding 4 cents per hundredweight, which amount shall be determined by the market administrator subject to review by the Secretary. In the case of any handler operating a nonpool plant which is also subject to the assessment of administrative expense under another order, the payments due under this section shall be reduced by the amount of administrative expense payments under the other order.

§ 968.88 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such pro-

ducer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such oblication are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed, and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler, if a refund on such payment is claimed unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

BASE RATING

§ 968.90 Determination of daily base.

(a) The daily average base of each producer who regularly delivered milk to a handler for 60 days or more during August through November of the next preceding calendar year shall be computed by the market administrator by dividing the total pounds of milk received by a handler from such producer during such months by the number of days within the period during which such producer made regular deliveries of milk in such months, or 90, whichever is greater: *Provided,* That in the case of producers delivering milk to a pool plant which was not a pool plant during all of the preceding months of August through November a daily average base for each such producer shall be computed pursuant to this paragraph on the basis of his verifiable deliveries of milk to such plant during the period August through November preceding the month in which the plant became a pool plant.

(b) The daily average base of each producer for whom no daily base may be established pursuant to paragraph (a) of this section shall be computed by the market administrator as follows:

(1) Multiply such producer's daily average deliveries of milk during the current month by the percentage that total deliveries of base milk in the current month by producers for whom daily bases are computed pursuant to paragraph (a) of this section are to total deliveries of milk in the current month by all producers; and

(2) For the months of January through July only, divide the result obtained in subparagraph (1) of this paragraph by 2.

§ 968.91 Base rules.

(a) Any producer who ceases to deliver milk to a handler for a period of more than 30 consecutive days shall forfeit his base. In the event such producer thereafter commences to deliver milk to a handler he shall be allotted a daily base computed in the manner provided in § 968.90(b).

(b) A landlord who rents on a share basis shall be entitled to the entire daily base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire daily base to the exclusion of the landlord, if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(c) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided,* That at the beginning of a tenant and landlord relationship the base of each landlord and tenant may be combined and may be divided when such relationship is terminated.

(d) Base may be transferred only under the following conditions: (1) In case of the death of a producer, his base may be transferred to a surviving member or members of his family who carry on the dairy operations, and (2) on the retirement of a producer, his base may be transferred to an immediate member of his family who carries on the dairy operations.

(e) The base of two producers may be combined in the case of forming a partnership, or may be divided in the case of the dissolution of a partnership.

(f) For the purposes of this section and § 968.90 only, the term "producer" shall include any person who has been a producer as defined in § 968.8 but who has been suspended temporarily for failure to produce milk in conformity with the applicable health regulations.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 968.100 Effective time.

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 968.101.

§ 968.101 Suspension or termination.

Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

§ 968.102 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate, shall (1) continue in such capacity until removed, (2) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 968.103 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 968.110 Agents.

The Secretary may by designation, in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 968.111 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 28th day of June 1960, to be effective on and after the 1st day of July 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-6082; Filed, June 30, 1960; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Determination Relative to Budget of Expenses and Fixing Rates of Assessment for 1960

On June 4, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 109) regarding the budget of expenses and the fixing of the rates of assessment for the calendar year 1960, under the marketing agreement and the marketing order (9 CFR 131.1 et seq.), regulating the handling of anti-hog-cholera serum and hog-cholera virus. This regulatory program is effective pursuant to Public Law No. 320, 74th Congress, approved August 24, 1935 (7 U.S.C. 851 et seq.).

The notice provided a period of 15 days for interested parties to file data, views or arguments with the Hearing Clerk. After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, it is hereby found and determined that:

a. Section 131.160 is added to read as follows:

§ 131.160 Budget of expenses and rates of assessment for the calendar year 1960.

(a) *Budget of expenses.* The expenses which will necessarily be incurred by the Control Agency, established pursuant to the provisions of the marketing agreement and of the marketing order (§§ 131.1 to 131.113), for the maintenance and functioning of said Agency during the calendar year 1960, will amount to $46,815.00 under the recommendation of the Control Agency, from which shall be deducted the unexpended balance of $7,229.66 on hand with said Control Agency on January 1, 1960, from assessments collected during the calendar year 1959, leaving a balance of $39,585.34 to be collected during the calendar year 1960.

(b) *Rates of assessment.* Of the amount of $39,585.34 to be collected during the calendar year 1960, the sum of $30,836.98 shall be assessed against handlers who are manufacturers, and $8,748.36 shall be assessed against handlers who are wholesalers. The pro rata share of the expenses of the Control Agency to be paid for the calendar year 1960 by each handler who is a manufacturer shall be $16.54 for each ten thousand dollars or fraction thereof of serum and virus sold by such handler during the calendar year 1959 and the pro rata share of such expenses to be paid for the calendar year 1960 by each handler who is a wholesaler shall be $25.00 for the first ten thousand dollars or fraction thereof and $8.48 for each additional ten thousand dollars or fraction thereof of serum and virus sold by such handler. Such assessments shall be paid by each respective handler in accordance with the applicable provisions of the marketing agreement and order (§§ 131.1 to 131.113).

(c) *Terms.* As used in this section, the terms "handler", "manufacturer", "wholesaler", "virus", and "serum" shall have the same meaning as is given to each such term in said marketing agreement and marketing order (§§ 131.1 to 131.113).

Findings relative to effective date. It is hereby further found that (1) the fiscal year of the Control Agency established pursuant to the provisions of the marketing agreement and the marketing order corresponds to the calendar year, and the current calendar year 1960 is already well advanced; (2) the expenses of operating this regulatory program since January 1, 1960, have been paid with funds representing assessments collected in excess of expenses incurred during the calendar year 1959 and prepayments of a portion of their 1960 assessments by manufacturer and wholesaler handlers; (3) nearly all such funds have now been expended; (4) in order for the administrative assessments to be collected, it is essential that the specification of the assessment rates be effective immediately so as to enable the Control Agency to perform its respective duties and functions under the aforesaid marketing agreement and marketing order; and (5) no preparation with respect to this determination is required of persons regulated which cannot be completed prior to the effective date hereof. Wherefore, it is hereby determined that good cause exists for making this determination effective upon its publication in the FEDERAL REGISTER.

(Sec. 60, 49 Stat. 782; 7 U.S.C. 855)

Done at Washington, D.C., this 27th day of June 1960, to become effective upon publication in the FEDERAL REGISTER.

M. R. CLARKSON,
Acting Administrator, Agricultural Research Service.

[F.R. Doc. 60-6083; Filed, June 30, 1960; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 374; Amdt. 177]

PART 507—AIRWORTHINESS DIRECTIVES

Convair 340 and 440 Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring visual inspection for cracks and replacement or rework if cracks are found in the main landing gear cylinder rod assembly on Convair 340 and 440 aircraft was published in 25 F.R. 4085.

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

In consideration of the foregoing, § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

CONVAIR. Applies to all Model 340/440 aircraft.

Compliance required as indicated.

Fatigue failures have occurred in the threaded area (piston end) of the main landing gear actuating cylinder rod assembly, P/N 340-5150107. In at least two instances complete failure of the rod end occurred allowing the main gear to free fall to the down position causing excessive loads to be placed on the airframe. As a result, the following must be accomplished on rod assemblies with more than 5,000 hours' time in service.

Within the next 425 hours' time in service, and every 425 hours thereafter, conduct a visual inspection using at least a 10-power magnifying glass or equivalent for cracks in the threaded portion of the main landing gear actuating cylinder rod assembly, P/N 340-5150107. If cracks are found, the cylinder rod assembly must be replaced or reworked in accordance with Convair Service Letter 15-4-340-12-440-11 or equivalent prior to further flight. Reworked salvaged parts or reworked sound parts are not subject to the special inspections.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on June 27, 1960.

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-6052; Filed, June 30, 1960; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-318]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone and Control Area Extensions; Change of Effective Date

On February 17, 1960, there were published in the FEDERAL REGISTER (25 F.R.

1400) amendments to §§ 601.2125 and 601.1244 of the regulations of the Administrator. These amendments, to be effective August 25, 1960, modified the Terre Haute, Ind., control zone and control area extensions, concurrently with the relocation of the Terre Haute VOR.

Subsequently, the commissioning date of the relocated Terre Haute VOR was rescheduled, necessitating a change in the effective date of these amendments to October 20, 1960. A modification of amendments accomplishing this change was published in the FEDERAL REGISTER (25 F.R. 5331).

The commissioning of the Terre Haute VOR at its new site has again been rescheduled. Therefore, it is necessary to further postpone the effective date of the above-mentioned amendments until November 17, 1960.

Since this action does not impose a burden on the public, compliance with the notice, public procedure and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), effective immediately, Airspace Docket No. 59-WA-318 is hereby modified as follows: "effective 0001 e.s.t. October 20, 1960." is deleted and "effective 0001 e.s.t. November 17, 1960." is substituted therefor.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6054; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 59-KC-71]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Area Extension

On January 30, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 814) stating that the Federal Aviation Agency proposed to modify the Des Moines, Iowa, control area extension.

Mr. Frank Krohn, owner and operator of the Prairie City Airport, Prairie City, Iowa, objected to the proposal. However, this objection was subsequently withdrawn. No other comments were received.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), and for the reasons stated in the notice, § 601.1278 (24 F.R. 10561) is amended to read:

§ 601.1278 Control area extension (Des Moines, Iowa).

All that area N of VOR Federal airway No. 6 within a 25-mile radius of the Des Moines, Iowa, VORTAC and within 5 miles either side of the Newton, Iowa, VOR 209° True radial, extending from the Des Moines 25-mile radius control area extension to the Newton VOR.

This amendment shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6055; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 60-FW-21]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Designation of Control Zone

On April 20, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 3425) stating that the Federal Aviation Agency proposed to designate a control zone at Esler Field, Alexandria, La.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, Part 601 (24 F.R. 10530) is hereby amended by adding the following section:

§ 601.2470 Alexandria, La. (Esler Field) control zone.

Within a 5-mile radius of the geographical center of Esler Field (latitude 31°23'45" N., longitude 92°17'35" W.), within 2 miles either side of the 327° True bearing from the Esler Field radio beacon, extending from the 5-mile radius zone to the beacon.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6057; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 60-AN-5]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On April 20, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 3424) stating that the Federal Aviation Agency proposed to modify the Big Delta, Alaska, control zone by adding a control zone extension.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following actions are taken:

1. In Part 601 (24 F.R. 10530) § 601.2472 is added to read:

§ 601.2472 Big Delta, Alaska, control zone.

Within a 5-mile radius of the geographical center of the Big Delta Airport (latitude 63°59'45" N., longitude 145°43'00" W.) and within 2 miles either side of the Big Delta RR NW course extending from the 5-mile radius zone to a point 12 miles NW of the RR.

§ 601.1984 [Amendment]

2. In the text of § 601.1984 (24 F. R. 10570) "Big Delta, Alaska: Big Delta Airport." is deleted.

These amendments shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6058; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 60-AN-7]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On April 20, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 3245) stating that the Federal Aviation Agency proposed to modify the Gulkana, Alaska, control zone by adding a control zone extension.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the

making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following actions are taken:

1. In Part 601 (24 F.R. 10530) § 601.2473 is added to read:

§ 601.2473 Gulkana, Alaska, control zone.

Within a 5 mile radius of the geographical center of the Gulkana Airport (latitude 62°09'20" N., longitude 145°27'15" W.) and within 2 miles either side of the Gulkana RR N course extending from the 5 mile radius zone to a point 12 miles N of the RR.

§ 601.1984 [Amendment]

2. In the text of § 601.1984 (24 F.R. 10570) "Gulkana, Alaska: Gulkana Airport." is deleted.

These amendments shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6059; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 59-LA-25]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On March 26, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 2591) stating that the Federal Aviation Agency was proposing to modify the Hobbs, N. Mex., control zone by designating the control zone within a 5-mile radius of the Lea County Airport; within 2 miles either side of the south course of the Hobbs radio range extending from the 5-mile radius zone to the radio range and within 2 miles either side of the 213° True radial of the Hobbs VOR extending from the 5-mile radius zone to the VOR. Subsequent to publication of the notice, a modification of the proposal was published in the FEDERAL REGISTER (25 F.R. 4087) on May 7, 1960, changing the extension on the 213° True radial of the Hobbs VOR to the 225° True radial.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice and the modification of proposal, § 601.2280 (24 F.R. 10584) is amended to read:

§ 601.2280 Hobbs, N. Mex., control zone.

Within a 5-mile radius of the geographical center of the Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.); within 2 miles either side of the S course of the Hobbs RR extending from the 5-mile radius zone to the RR and within 2 miles either side of the 225° True radial of the Hobbs VOR extending from the 5-mile radius zone to the VOR.

These amendments shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6060; Filed, June 30, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-95]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Establishment of Coded Jet Route

On April 26, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 3597) stating that the Federal Aviation Agency was considering the establishment of VOR/VORTAC jet route No. 103 from St. Petersburg, Fla., to Orlando, Fla.

No adverse comments were received regarding the proposed amendment. The Air Transport Association, in stating that they strongly endorsed the proposed route, recommended a change in the numbering of the route, assigning a single number identifying the connecting routes from Orlando to New York. Following development of procedures to extend jet routes beyond the continental limits of the United States, the Federal Aviation Agency intends proposing the extension of J-103-V from Orlando via J-81-V; Barracuda Intersection; control area extension 1150 to Wilmington, North Carolina; J-79-V to Idlewild, New York. This will simplify flight planning, in accord with the ATA recommendation, for those flights proceeding from New York to St. Petersburg.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, Part 602 (14 CFR, 1958 Supp., Part 602) is amended by adding the following section:

§ 602.5103 VOR/VORTAC jet route No. 103 (St. Petersburg, Fla., to Orlando, Fla.).

From the St. Petersburg, Fla., VORTAC to the Orlando, Fla., VOR.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6056; Filed, June 30, 1960; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7757 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Chudik Furs, Inc., and Edward H. Chudik

Subpart—Concealing, obliterating or removing law required and informative marking: § 13.512 *Fur products tags or identification.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845-30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865-40 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900-40 *Fur Products Labeling Act:* § 13.1900-40(b) *Place.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Chudik Furs, Inc., et al., Detroit, Mich., Docket 7757, May 18, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging furriers in Detroit, Mich., with violating the Fur Products Labeling Act by mutilating labels attached to fur products prior to ultimate sale; by labels falsely identifying furs with respect to the name of the animal producing them; by failing to set forth the term "Dyed Broadtail-processed Lamb" on invoices and in advertising; by newspaper advertising which failed to disclose the names of animals producing certain furs, the country of origin of imported furs, or the fact that some products contained artificially colored fur, and which made claims respecting prices and values of fur products without adequate records as a basis therefor; and by failing in other respects to comply with requirements of the Act.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on May 18 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Chudik Furs, Inc., a corporation, and its officers, and Edward H. Chudik, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, or the transportation or distribution in commerce of fur products; or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

B. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

C. Setting forth on labels affixed to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information;

(3) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting;

D. Failing to set forth all the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on one side of labels;

E. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section;

F. Failing to set forth on labels the item number or mark assigned to a fur product;

2. Mutilating, or causing the mutilation, or participating in the mutilation of labels required to be affixed to fur products, prior to the time fur products are sold and delivered to the ultimate purchaser of such products;

3. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

B. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

C. Failing to set forth the term "Dyed Broadtail processed Lamb" when an election is made to use that term instead of "Lamb";

D. Failing to set forth on invoices the item number or mark assigned to a fur product;

4. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of fur products, and which:

A. Fails to disclose:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur when such is the fact;

(3) The name of the country of origin of any imported furs contained in a fur product;

B. Fails to set forth the term "Dyed Broadtail processed Lamb" when an election is made to use that term instead of "Lamb";

C. Sets forth the term "blended" as part of the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

D. Fails to set forth separately, in advertisements relating to fur products composed of two or more sections containing different animal furs, the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, with respect to the fur comprising each section;

5. Making claims and representations in advertisements respecting prices and values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Chudik Furs, Inc., a corporation, and Edward H. Chudik, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: May 18, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-6069; Filed, June 30, 1960; 8:47 a.m.]

[Docket 7758 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Milgrim, Inc.

Subpart—Advertising falsely or misleadingly: § 13.130 *Manufacture or preparation:* § 13.130-20 *Fur Products Labeling Act.* Subpart—Concealing, obliterating or removing law required and informative marking: § 13.512 *Fur products tags or identification.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845-30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865-40 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900-40 *Fur Products Labeling Act:* § 13.1900-40(b) *Place.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Milgrim, Inc., Cleveland, Ohio, Docket 7758, May 18, 1960]

The complaint in this case charged Cleveland, Ohio, merchandisers with violating the Fur Products Labeling Act by mutilating labels on fur products prior to ultimate sale; by advertising in newspapers which failed to disclose the names of animals producing the fur in certain products or the fact that some fur products contained artificially colored fur, and used the term "blended" to describe the bleaching, tip-dyeing, etc., of furs; and by failing in other respects to comply with labeling, invoicing, and advertising requirements of the Act.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on May 18 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Milgrim, Inc., an Ohio corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in

commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

B. Setting forth on labels affixed to fur products:

1. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with nonrequired information;

2. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting;

3. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section;

2. Mutilating, or causing the mutilation or participating in the mutilation of, labels required to be affixed to fur products, prior to the time fur products are sold and delivered to the ultimate purchaser of such products;

3. Falsely or deceptively invoicing fur products by failing to furnish to purchasers of fur products an invoice showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

4. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

A. Fails to disclose:

1. The name or names of the animal or animals producing the fur or furs contained in the fur products, as set forth in the Fur Products Name Guide, and as prescribed under the rules and regulations;

2. That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur when such is the fact;

B. Fails to set forth separately in advertisements relating to fur products composed of two or more sections containing different animal furs, the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, with respect to the fur comprising each section;

C. Sets forth the term "blended" as part of the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered; That respondent Milgrim, Inc., an Ohio corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: May 18, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-6070; Filed, June 30, 1960; 8:47 a.m.]

[Docket 7759 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Milgrim, Inc.

Subpart—Advertising falsely or misleadingly: § 13.130 *Manufacture or preparation:* § 13.130-20 *Fur Products Labeling Act.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185-30 *Fur Products Labeling Act;* § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845-30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900-40 *Fur Products Labeling Act:* § 13.1900-40(b) *Place.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Milgrim, Inc., Detroit Mich., Docket 7759, May 19, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Detroit, Mich., merchandisers with violating the Fur Products Labeling Act by labeling which falsely identified the animal producing the fur in certain products; by failing to set forth the term "Dyed Broadtail processed Lamb" on invoices and in advertising; by advertising in newspapers, which failed to disclose the names of animals producing certain furs or the country of origin of imported furs or the fact that some furs were artificially colored, which used the term "blended" to describe the bleaching, dyeing, etc., of furs, and which failed to maintain adequate records for pricing and value claims; and by failing in other respects to comply with labeling, invoicing, and advertising requirements.

On the basis of a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on May 19 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Milgrim, Inc., a Michigan corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution, in commerce, of fur products; or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

B. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

C. Setting forth on labels affixed to fur products:

1. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

2. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations mingled with non-required information;

3. Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting;

D. Failing to set forth all the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on one side of labels;

E. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section;

F. Failing to set forth on labels the item number or mark assigned to a fur product;

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

B. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

C. Failing to set forth the term "Dyed Broadtail processed Lamb" when an election is made to use that term instead of "Lamb";

D. Failing to set forth on invoices the item number or mark assigned to a fur product;

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Fails to disclose:

1. The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed by the rules and regulations;

2. That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

3. The name of the country of origin of any imported furs contained in a fur product;

B. Fails to set forth the term "Dyed Broadtail processed Lamb" when an election is made to use that term instead of "Lamb";

C. Sets forth the term "blended" as part of the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

D. Fails to set forth separately in advertisements relating to fur products composed of two or more sections containing different animal furs, the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, with respect to the fur comprising each section;

4. Making claims and representations in advertisements respecting prices and values of fur products unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Milgrim, Inc., a Michigan corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: May 19, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-6071; Filed, June 30, 1960; 8:47 a.m.]

[Docket 7264 o.]

PART 13—PROHIBITED TRADE PRACTICES

Sidney J. Kreiss, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.75 *Free goods or services;* § 13.155 *Prices:* § 13.155–40 *Exaggerated as regular and customary;* § 13.155–45 *Fictitious marking;* § 13.235 *Source or origin:* § 13.235–25 *Fashion designers.*[1] Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Sidney J. Kreiss, Inc., et al., New York, N.Y., Docket 7264, May 19, 1960]

In the Matter of Sidney J. Kreiss, Inc., a Corporation, Picturesque Hosiery Company, Inc., a Corporation, and Sidney J. Kreiss, and Mildred Kreiss, Individually and as Officers of Said Corporations

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City distributors of women's hosiery to retail stores with representing falsely—in advertising in magazines and newspapers and in "mailers" supplied their customers for use in promoting sales—that certain of their hosiery was created, designed or fashioned by famous fashion designers, that exaggerated amounts were the usual retail prices, that with purchases of nine pairs of hosiery customers would receive three additional pairs free, and that certain of their hosiery was created and designed by famous fashion designers.

Denying cross-appeals from the initial decision, which dismissed the first two charges, the Commission on May 19 adopted the initial decision with slight modification as the decision of the Commission.

The order to cease and desist, as modified, is as follows:

It is ordered, That respondents Sidney J. Kreiss, Inc., a corporation, and Picturesque Hosiery Company, Inc., a corporation, and their respective officers, and respondent Mildred Kreiss as an officer of said corporations, and respondent Sidney J. Kreiss, individually and as officer of said corporations, and their respective agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of hosiery or other similar products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing, directly or by implication, that respondents' hosiery or any other similar product has been created, designed, styled or manufactured by anyone other than the respondents or the person who actually did create, design, style or manufacture such hosiery or other similar products.

(2) Placing in the hands of others a means or opportunity of representing to purchasers or prospective purchasers that the hosiery or other products supplied by the respondents were created, designed, styled or manufactured by famous fashion designers or any other person who did not actually create, design, style or manufacture such hosiery or other product.

[1] New.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to respondent Mildred Kreiss in her individual capacity but not in her capacity as an officer of respondent corporations.

It is further ordered, That all charges of the complaint not prohibited by this order be dismissed.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained in the initial decision as modified.

Issued: May 19, 1960.

By the Commission (Chairman Kintner and Commissioner Secrest dissenting).

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-6072; Filed, June 30, 1960; 8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6476]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

On July 10, 1956, notice of proposed rule making regarding amendments to § 1.305–2 and paragraph (a) of § 1.312–11 of the Income Tax Regulations (26 CFR Part 1), prescribed under sections 305 (b)(2) and 312 of the Internal Revenue Code of 1954, relating to distributions by corporations, was published in the FEDERAL REGISTER (21 F.R. 5104). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the following amendments to the regulations are hereby adopted. The amendments adopted do not include regulations pertaining to the election of shareholders as to the medium of the payment of a dividend and the nature of an election, as set forth in proposed paragraphs (a) and (b) of § 1.305–2 of the aforesaid notice of proposed rule making. Paragraph (a), except the last sentence in subparagraph (1) thereof, and paragraph (b) of § 1.305–2 continue in effect under notice of proposed rule making and will be given further consideration before final action is taken thereon.

PARAGRAPH 1. Section 1.305–2 is amended by providing a heading for paragraph (a), reserving paragraph (b), and revising existing paragraph (b) and redesignating such paragraph as para-

graph (c). These amended provisions read as follows:

§ 1.305–2 Election of shareholders as to medium of payment.

(a) *General.* • • •

(b) [Reserved]

(c) *Amount of distribution.* (1) Where a distribution of stock or rights to acquire stock of a corporation is treated as a distribution of property to which section 301 applies by reason of section 305(b)(2), the amount of the distribution, in accordance with section 301(b) and § 1.301–1, is the fair market value of such stock or rights on the date of distribution. Accordingly, where a corporation makes a distribution, to which section 305(b)(2) is applicable, which is payable either in property or in its own stock or rights to acquire its stock the amount distributed with respect to all shareholders receiving stock or rights is the fair market value, on the date of distribution, of the stock or rights received. The amount distributed with respect to shareholders receiving property is the fair market value, on the date of distribution, of such property received or, in the case of corporate distributees, the adjusted basis of such property in the hands of the distributing corporation if less than its fair market value. Where a corporation which regularly distributes its earnings and profits, such as a regulated investment company, declares a dividend pursuant to which the shareholders may elect to receive either money or stock of the distributing corporation of equivalent value and, on a date shortly before the distribution, there is a determination of the amount of stock to be distributed to those shareholders who elect to receive stock equal in value to the amount of money that could be received instead, the amount of the distribution of the stock received by any shareholder will be considered to equal the amount of the money which could have been received instead.

(2) The application of section 305(b) may be illustrated by the following examples:

Example (1). (i) Corporation X declared a dividend payable in additional shares of its common stock to the holders of its outstanding common stock on the basis of two additional shares for each share held on the record date but with the provision that, at the election of any shareholder made within a specified period prior to the distribution date, he may receive one additional share for each share held on the record date plus $12 principal amount of securities of Corporation Y owned by Corporation X. The fair market value of the stock of Corporation X on the distribution date was $10 per share. The fair market value of $12 principal amount of securities of Corporation Y on the distribution date was $11 but such securities had a cost basis to Corporation X of $9.

(ii) The distribution to all shareholders of one additional share of stock of Corporation X (with respect to which no election applies) for each share outstanding is not a distribution to which section 301 applies.

(iii) The distribution of the second share of stock of Corporation X to those shareholders who do not elect to receive securities of Corporation Y is a distribution of property to which section 301 applies, whether such shareholders are individuals or corporations. The amount of the distribution to which section 301 applies is $10 per share of stock of Corporation X held on the record date (the fair market value of the stock of Corporation X on the distribution date).

(iv) The distribution of securities of Corporation Y in lieu of the second share of stock of Corporation X to the shareholders of Corporation X, whether individuals or corporations, who elect to receive such securities, is also a distribution of property to which section 301 applies.

(v) In the case of the individual shareholders of Corporation X who elect to receive such securities, the amount of the distribution to which section 301 applies is $11 per share of stock of Corporation X held on the record date (the fair market value of the $12 principal amount of securities of Corporation Y on the distribution date).

(vi) In the case of the corporate shareholders of Corporation X electing to receive such securities, the amount of the distribution to which section 301 applies is $9 per share of stock of Corporation X held on the record date (the basis of the securities of Corporation Y in the hands of Corporation X).

Example (2). On January 10, 1960, Corporation X, a regulated investment company, declared a dividend of $1 per share on its common stock payable on February 11, 1960, in cash or in stock of Corporation X of equivalent value determined as of January 22, 1960, at the election of the shareholder made on or before January 22, 1960. The amount of the distribution to which section 301 applies is $1 per share whether the shareholder elects to take cash or stock and whether the shareholder is an individual or a corporation. Such amount will also be used in determining the dividend paid deduction of Corporation X and the reduction in earnings and profits of Corporation X.

PAR. 2. The title of § 1.312–11 and paragraph (a) of that section are amended to read as follows:

§ 1.312–11 Effect on earnings and profits of certain other tax-free exchanges, tax-free distributions and tax-free transfers from one corporation to another.

(a) If property is transferred by one corporation to another, and, under the law applicable to the year in which the transfer was made, no gain or loss was recognized (or was recognized only to the extent of the property received other than that permitted by such law to be received without the recognition of gain), then proper adjustment and allocation of the earnings and profits of the transferor shall be made as between the transferor and the transferee. Transfers to which the preceding sentence applies include contributions to capital, transfers under section 351, transfers in connection with reorganizations under section 368, transfers in liquidations under section 332 and intercompany transfers during a period of affiliation. However, if, for example, property is transferred from one corporation to another in a transaction under section 351 or as a contribution to capital and the transfer is not followed or preceded by a reorganization, a transaction under section 302(a) involving a substantial part of the transferor's stock, or a total or partial liquidation, then ordinarily no allocation of the earnings and profits of the transferor shall be made. For specific rules as to allocation of earnings and profits in certain reorganizations under section 368 and in certain liquidations under section 332 see section 381 and the regulations thereunder. For allocation of earnings and profits in certain corporate separations see section 312(i) and § 1.312–10.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

Approved: June 28, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 60–6096; Filed, June 30, 1960; 8:51 a.m.]

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6475]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

PART 240—WINE

Miscellaneous Amendments

On May 12, 1960, a notice of proposed rule making to amend 26 CFR Part 170, Miscellaneous Regulations Relating to Liquor, and 26 CFR Part 240, Wine, was published in the FEDERAL REGISTER (25 F.R. 4244).

In accordance with the notice, interested parties were afforded an opportunity to submit written comments or suggestions or to request a public hearing. No written comments or suggestions or requests for a public hearing having been received, the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the following changes:

1. By adding an amendment of § 240.133 striking the fourth sentence and changing the citation.
2. By adding a revision of § 240.204.
3. By adding a revision of § 240.256.
4. By adding a revision of § 240.296.
5. By changing the revision of § 240.376.
6. By changing the amendment of the third sentence, the last sentence, and the citation of § 240.377.
7. By adding an amendment of § 240.379, striking in the third sentence the number "1520" and inserting in lieu thereof the number "2629", striking in the parenthetical phrase of the fourth sentence the number "1520" and inserting in lieu thereof "2629 and Form 2630, if any,", and changing the citation.
8. By changing the amendment of § 240.441 by striking in paragraph 2, immediately after the words "be submitted", the word "with" and inserting in lieu thereof the phrase "under separate cover at the time of filing".
9. By changing the amendment of § 240.444 in its third, fourth, and fifth sentences.
10. By changing new § 240.539.
11. By changing the amendment of § 240.561 in its last sentence.
12. By changing the amendment of the first sentence of § 240.562.
13. By changing new § 240.596 by changing the period at the end of the first sentence to a colon and by striking

that portion of the second sentence preceding the proviso clause.

14. By changing the revision of § 240.822.

15. By changing the revision of § 240.823.

16. By changing the revision of § 240.824.

17. By changing the revision of § 240.826.

18. By changing the amendment of § 240.832 in its fourth sentence, last sentence and citation.

19. By changing the amendment of § 240.833.

20. By changing the amendment of § 240.834.

21. By changing the amendment of § 240.836 in its headnote, third sentence, and citation.

22. By adding an amendment of § 240.837 by striking the number "1520" wherever it appears and inserting in lieu thereof the number "2630", and by changing the citation.

23. By adding an amendment of § 240.904.

24. By changing the amendment of § 240.921 by revising the headnote of § 240.921 to read "Taxpaid room records."

25. By changing new § 240.1042.

26. By changing new § 240.1051.

Because this Treasury decision is a part of an integrated recodification program under Chapter 51, I.R.C., and in order that the entire program may be effective on July 1, 1960, it is found that it is contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly, this Treasury decision shall become effective on July 1, 1960.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] WILLIAM H. LOEB,
Acting Commissioner of Internal Revenue.

Approved: June 24, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

In order to (1) incorporate in permanent regulations the temporary regulations relating to the semimonthly return system for taxpayment of wine now in Subpart S of 26 CFR Part 170; (2) authorize the use of distillates containing aldehydes in the fermentation of wine for use as distilling material; (3) make certain clarifying, liberalizing, and simplifying changes; (4) provide for taking credit on tax returns of drawback allowed under section 5062, I.R.C.; (5) authorize the return to bond of certain wines withdrawn without payment of tax; and (6) in conformity with administrative decisions to incorporate into 26 CFR Part 252 all procedures relating to exportation of liquors, to remove from 26 CFR Part 240 those procedures relating to the exportation of wine, use on certain vessels and aircraft, transfers to customs manufacturing warehouses, class six, and transfer to and deposit in a foreign-trade zone, the regulations in 26 CFR Part 170, "Miscellaneous Regulations Relating to Liquor" and 26 CFR Part 240, "Wine", are amended as follows:

In Part 170, § 170.452 is amended to read:

§ 170.452 General.

Notwithstanding any other provision of Part 240 of this chapter relating to the payment of taxes on wines by proprietors of bonded wine cellars qualified under chapter 51, I.R.C., such taxes determined on and after June 24, 1959, and before July 1, 1960, shall be paid and collected on the basis of a semimonthly or prepayment return as provided in this subpart.

Part 240 is amended in the following respects:

Section 240.19a is amended to read:

§ 240.19a Distilled spirits plant.

"Distilled spirits plant" shall mean an establishment qualified under Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations:

By inserting a new section immediately after § 240.21:

§ 240.21a Executed under penalties of perjury.

Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this _____ (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Section 240.27 is amended to read:

§ 240.27 In bond.

When used with respect to wine spirits, "in bond" means such spirits possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax has not been determined as provided in this chapter, and includes such spirits withdrawn without payment of tax under section 5214(a)(5), I.R.C., and with respect to which relief from liability has not yet occurred. When used with respect to wine "in bond" means wine possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax thereon has not been determined as provided in this chapter, and includes such wines on the bonded premises of a bonded wine cellar, in transit to a bonded wine cellar, and such wine withdrawn without payment of tax under section 5362, I.R.C., and with respect to which relief from liability has not yet occurred.

Section 240.53 is amended to read:

§ 240.53 United States wine.

"United States wine" shall mean wine produced on bonded wine cellar premises in the United States.

Section 240.124 is amended to read:

§ 240.124 Bottling of taxpaid wine.

Every person desiring to bottle or rebottle taxpaid wine at premises other than the bottling premises of a distilled spirits plant shall establish taxpaid wine bottling house premises in compliance with the provisions of regulations set forth in Part 231 of this chapter.

§ 240.133 [Amendment]

Section 240.133 is amended:

1. By striking the fourth sentence; and

2. By changing the citation to read "(72 Stat. 1380, 1381; 26 U.S.C. 5361, 5365)".

§ 240.140 [Amendment]

Section 240.140 is amended:

1. By changing the last sentence to read "Except for necessary openings for ventilation and for the passage of water, electric, sewer, or similar lines, the wine cellar must be separated from adjoining buildings or rooms by solid unbroken partition: *Provided,* That where a bonded wine cellar, a distilled spirits plant, a taxpaid wine bottling house, another bonded wine cellar, or a wine vinegar plant are located in contiguous buildings or rooms, pipelines may be installed for the transfer of wine or wine spirits, and, if approved by the assistant regional commissioner, doors may be placed in the partitions separating the bonded wine cellar from the production facility of a distilled spirits plant, taxpaid wine bottling house, wine vinegar plant, other bonded wine cellar, or a contiguous taxpaid room operated by the proprietor"; and

2. By changing the citation to read "(72 Stat. 1379; 26 U.S.C. 5357)".

Section 240.143 is amended to read:

§ 240.143 Office facilities.

Where wine spirits are to be used in the production of wine, other than use in small quantities for dosages or preparation of essences, the proprietor shall provide and maintain on the wine cellar premises in a convenient location suitable office facilities, including a desk, chair, file case, and such other office furniture as may be necessary for the keeping of Government records for the use of internal revenue officers: *Provided,* That where the proprietor operates a distilled spirits plant on adjacent premises, and a Government office conforming to the requirements specified in Part 201 of this chapter is provided on such premises, and such office is so located as to be suitable for the use of internal revenue officers assigned at the wine cellar, separate office facilities need not be provided on the wine cellar premises. There shall also be provided a metal cabinet of adequate strength and size, suitably equipped for locking with a Government seal lock, for use in safeguarding Government seals, keys, and other Government property. Each such cabinet shall contain shelving or compartments of proper size for the filing of Government records. Conveniently located toilet and lavatory facilities shall also be provided and made available for

the use of internal revenue officers. Such facilities shall be subject to approval by the assistant regional commissioner.

(72 Stat. 1379; 26 U.S.C. 5357)

§ 240.144 [Revocation]

Section 240.144 is revoked.

§ 240.169 [Amendment]

Section 240.169 is amended:

1. By changing the first sentence to read, "Pipelines used for the conveyance of wine spirits from the bonded premises of a distilled spirits plant to wine spirits storage tanks, measuring tanks, weighing tanks, and wine spirits addition tanks shall be constructed in accordance with the requirements of regulations prescribed in Part 201 of this chapter"; and

2. By changing the citation to read "(72 Stat. 1395; 26 U.S.C. 5552)".

§ 240.171 [Amendment]

Section 240.171 is amended:

1. By changing the first sentence to read "The pipeline used to transfer taxpaid wine from the bonded wine cellar to the bottling premises of a distilled spirits plant or to a taxpaid wine bottling house shall be a fixed unbroken line of permanent character, securely constructed and connected, and so arranged as to be exposed to view throughout its entire length"; and

2. By changing the citation to read "(72 Stat. 1395; 26 U.S.C. 5552)".

§ 240.172 [Amendment]

Section 240.172 is amended:

1. By striking in the first sentence immediately after the words "bonded wine cellars" the words "fruit distilleries" and inserting in lieu thereof the words "distilled spirits plants"; and

2. By changing the citation to read "(72 Stat. 1379; 26 U.S.C. 5357)".

§ 240.174 [Amendment]

Section 240.174 is amended:

1. By striking in the first sentence immediately after the words "an adjacent" the words "distillery or internal revenue warehouse" and inserting in lieu thereof the words "distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1395; 26 U.S.C. 5552)".

§ 240.193 [Amendment]

Section 240.193 is amended:

1. By changing the first sentence to read "If the activities to be conducted on the bonded wine cellar premises are such that a wine producer's basic permit is required under the Federal Alcohol Administration Act and regulations, the applicant may request on Form 698, for designation of the premises as a bonded winery."; and

2. By changing the citation to read "(72 Stat. 1378; 26 U.S.C. 5351)".

Section 240.197 is amended to read:

§ 240.197 Description of equipment.

All equipment, including tanks, crushing and pressing equipment, instruments and measures for testing and measuring wine must be described on the Form 698. Each tank shall be listed by serial number and capacity. Barrels or other readily portable containers under sixty gallons capacity need not be listed but the approximate number of such containers used for the storage of wine shall be shown. Unless required by the assistant regional commissioner, hoses, filters, pumps, pasteurizers, coolers, and similar equipment need not be listed on the Form 698.

(72 Stat. 1379; 26 U.S.C. 5356)

Section 240.204 is amended to read:

§ 240.204 List of officers, directors, and stockholders.

In the case of corporations and similar legal entities, there shall be submitted with Form 698 at the commencement of business, a list, in triplicate, giving the names and addresses (business and residence) of all officers, directors, stockholders, and other persons interested in the corporation, or other legal entity, and the amount and nature of the stock holding or other interests of each, whether such interest appears in the name of the interested party or in the name of another for him: *Provided,* That if there are more than ten holders of any class of stock, only the names, addresses and holdings of the ten persons having the largest ownership or other interest in each of the classes of stock need be included in the list of stockholders.

Section 240.222 is amended to read:

§ 240.222 Tax deferral bond, Form 2053.

Each proprietor of a bonded wine cellar desiring to remove wine for consumption or sale, where the tax unpaid at any one time amounts to more than $100, shall file a bond, Form 2053, to insure payment of the tax on such wine. The penal sum of a tax deferral bond, Form 2053 (or the total penal sums where original and strengthening bonds are filed), shall be in an amount equal to the tax on the maximum quantity of wine to be removed for consumption or sale during any semimonthly return period: *Provided,* That the maximum penal sum of such bond shall not exceed $250,000, and in no case shall the penal sum be less than $500.

(72 Stat. 1379; 26 U.S.C. 5354)

§ 240.223 [Revocation]

Section 240.223 is revoked.

§ 240.224 [Revocation]

Section 240.224 is revoked.

Section 240.251 is amended to read:

§ 240.251 Termination of bond, Form 1676.

Bond on Form 1676, covering the removal of wine for transfer to a wine vinegar plant, will be terminated as to future liability (a) pursuant to application by the surety as provided in § 240.252; (b) pursuant to approval of a superseding bond as provided in § 240.257; or (c) upon discontinuance of the business covered by the bond as provided in § 240.257.

(72 Stat. 1380; 26 U.S.C. 5362)

Section 240.255 is amended to read:

§ 240.255 Extent of relief, Form 1676.

If notice has been filed as provided in § 240.252 in respect to a bond on Form 1676 and is not in writing withdrawn, the surety shall be relieved of liability for tax on wine withdrawn for manufacture of vinegar, after the date stated in the notice. Where such withdrawal is made wholly on or before the date named in the notice, the surety shall remain liable for the tax on wine so withdrawn, until the wine is fully accounted for.

(72 Stat. 1380; 26 U.S.C. 5362)

Section 240.256 is amended to read:

§ 240.256 Release or termination of Form 700 or 2053.

When the proprietor of a bonded wine cellar discontinues business and the notice of discontinuance has been approved, the assistant regional commissioner will issue Notice of Termination or Release of Bond, Form 1490, and will forward copies to the principal and to the surety; or, in the case of bond, Form 2053, Notice of Termination or Release of Bond, Form 1490, will be issued upon receipt from the proprietor of written advice that he has discontinued removals of wine requiring a tax deferral bond. When a valid superseding bond has been approved, the assistant regional commissioner will issue Notice of Termination of Release of Bond, Form 1490, and will forward copies to the principal and to the surety.

(72 Stat. 1379; 26 U.S.C. 5354)

Section 240.257 is amended to read:

§ 240.257 Release or termination, Form 1676.

When the principal on a bond, Form 1676, notifies the assistant regional commissioner that he has discontinued the withdrawal of wine without payment of tax for use in the manufacture of vinegar, the assistant regional commissioner will issue Notice of Termination or Release of Bond, Form 1490. When a superseding bond on Form 1676 is approved by the assistant regional commissioner, he will issue Notice of Termination or Release of Bond, Form 1490, for the superseded bond.

(72 Stat. 1380; 26 U.S.C. 5362)

Section 240.259 is amended to read:

§ 240.259 Release of collateral, Form 1676.

Collateral pledged and deposited to support a bond on Form 1676 will ordinarily be released by the assistant regional commissioner upon issuance of Notice of Termination or Release of Bond, Form 1490, provided all liabilities under the bond have been satisfied.

(61 Stat. 646; 6 U.S.C. 15)

Section 240.273 is amended to read:

§ 240.273 Contiguous or adjacent premises.

Where a distilled spirits plant, taxpaid wine bottling house, wine vinegar plant, or another bonded wine cellar, is maintained on contiguous or adjacent premises, the relative position of such

premises and the bonded wine cellar, communicating doors and other openings, and all pipeline connections for transfer of wine and wine spirits between the premises, must be shown on the plat. The pipeline used for conveying wine spirits from bonded premises of a distilled spirits plant to the bonded wine cellar, or for transfer of wine spirits within the bonded wine cellar premises shall be shown in blue on the plat. Pipelines for the conveyance of wine between noncontiguous portions of the bonded wine cellar will be shown.

Section 240.296 is amended to read:

§ 240.296 Changes in officers, directors, or stockholders of a corporation.

Where there is a change in officers or directors, or in the stockholders required to be listed under § 240.204, the proprietor shall submit, within ten days of such change, a written notice to the assistant regional commissioner. The notice shall be filed in triplicate, shall describe the changes, and be prepared as required by § 240.204.

§ 240.312 [Amendment]

Section 240.312 is amended:

1. By striking in the first sentence the word "triplicate" and inserting in lieu thereof the word "duplicate";

2. By changing the third sentence to read "Upon approval, the assistant regional commissioner will return one copy of the report to the proprietor for attachment to the copy of Form 698 retained at the bonded premises and retain one copy in his office for filing with Form 698."; and

3. By changing the citation to read "(72 Stat. 1379; 26 U.S.C. 5356)".

§ 240.320 [Amendment]

Section 240.320 is amended:

1. By changing the first sentence to read "When the proprietor desires to discontinue operation of the bonded wine cellar, all wine and wine spirits must (except as provided herein) be lawfully removed from the premises or destroyed, and any outstanding approved Forms 257 authorizing the transfer of wine spirits to the wine cellar shall be procured from the distilled spirits plant to which they were sent and returned to the assistant regional commissioner for cancellation."; and

2. By striking the period at the end of the last sentence and inserting "and, in lieu of the statement that all wine and wine spirits have been lawfully removed from the premises or destroyed, that all wine and wine spirits will be transferred to the successor as of the date the discontinuance is to be effective. All wine and wine spirits so transferred shall be identified as "Transferred to successor" on the Form 702 filed by the outgoing proprietor (in accordance with § 240.321); and identified as "Received from predecessor" on the initial Form 702 filed by the successor."

§ 240.361 [Amendment]

Section 240.361 is amended:

1. By changing paragraph (c) to read:

(c) Yeast foods, sterilizing agents, or other fermentation adjuncts under the provisions of Subpart ZZ of this part.

2. By changing the citation to read "(72 Stat. 1383, 1384; 26 U.S.C. 5381, 5382, 5383)".

§ 240.364 [Amendment]

Section 240.364 is amended:

1. By changing the fourth sentence to read "If it is desired to use other acids, the requirements of § 240.1052 shall be followed."; and

2. By changing the citation to read "(72 Stat. 1383; 26 U.S.C. 5382)".

§ 240.365 [Amendment]

Section 240.365 is amended:

1. By striking in paragraph (b) "§§ 240.529 and 240.530" and inserting in lieu thereof "Subpart ZZ of this part"; and

2. By changing the citation to read "(72 Stat. 1384; 26 U.S.C. 5383)".

Section 240.376 is amended to read:

§ 240.376 Gauge of wine spirits.

If the wine spirits to be used are on deposit in the bonded wine cellar, or are received immediately prior to use from a distilled spirits plant not adjacent to the bonded wine cellar, the proprietor, under the supervision of the internal revenue officer, will gauge the wine spirits released to him for use in wine production and shall prepare Form 2629, in triplicate, to cover each release of wine spirits; where the wine spirits are in packages he shall also prepare Form 2630, in triplicate. A copy of Form 2629 and Form 2630, if any, shall be attached to each copy of Form 275.

(72 Stat. 1381; 26 U.S.C. 5367, 5368)

§ 240.377 [Amendment]

Section 240.377 is amended:

1. By changing the third sentence to read "If the wine spirits are received by pipeline from adjacent bonded premises of a distilled spirits plant, and are run directly into the wine spirits addition tank, the gauge of the wine spirits made on the adjacent premises will be used.";

2. By changing the last sentence to read "The internal revenue officer at the adjacent premises will deliver two copies of Form 2629 to the proprietor of the bonded wine cellar who shall acknowledge receipt of the wine spirits on both copies of the form and shall forward one copy to his assistant regional commissioner."; and

3. By changing the citation to read "(72 Stat. 1381, 1382; 26 U.S.C. 5367, 5373)".

§ 240.378 [Amendment]

Section 240.378 is amended:

1. By changing the third sentence to read "If the packages have been received from contiguous bonded premises of a distilled spirits plant for immediate use, the packages need not be regauged in the bonded wine cellar unless there is some indication that the contents of the packages may not be in agreement with the withdrawal gauge."; and

2. By changing the citation to read "(72 Stat. 1381, 1382; 26 U.S.C. 5366, 5367, 5368, 5373)".

§ 240.379 [Amendment]

Section 240.379 is amended:

1. By striking in the third sentence the number "1520" and inserting in lieu thereof the number "2629";

2. By striking in the parenthetical phrase of the fourth sentence the number "1520" and inserting in lieu thereof "2629 and Form 2630, if any,"; and

3. By changing the citation to read "(72 Stat. 1381, 1382, 1383; 26 U.S.C. 5367, 5373, 5382)".

§ 240.385 [Amendment]

Section 240.385 is amended:

1. By changing the second sentence to read "A statement of process on Form 698—Supplemental, in triplicate, giving details of the production process, shall be filed with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., and approved prior to the commencement of production."; and

2. By changing the citation to read "(72 Stat. 1382, 1383; 26 U.S.C. 5373, 5382)".

§ 240.401 [Amendment]

Section 240.401 is amended:

1. By changing paragraph (b) to read:

(b) Yeast foods, sterilizing agents, or other fermentation adjuncts under the provisions of Subpart ZZ of this part.

2. By changing the citation to read "(72 Stat. 1383; 26 U.S.C. 5381)".

§ 240.404 [Amendment]

Section 240.404 is amended:

1. By changing the sixth sentence to read "If it is desired to use other acids, the requirements of § 240.1052 shall be followed."; and

2. By changing the citation to read "(72 Stat. 1383; 26 U.S.C. 5382)".

§ 240.405 [Amendment]

Section 240.405 is amended:

1. By striking in paragraph (b) "§§ 240.529 and 240.530" and inserting in lieu thereof "Subpart ZZ of this part"; and

2. By changing the citation to read "(72 Stat. 1385; 26 U.S.C. 5384)".

§ 240.441 [Amendment]

Section 240.441 is amended:

1. By changing the second sentence to read "The formula and process will be described on Form 698—Supplemental, which will be filed, in triplicate with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C.";

2. By changing the third sentence to read "Two ⅘ quart samples of the base wine used and two ⅘ quart samples of the finished special natural wine shall be submitted under separate cover at the time of filing the formula."; and

3. By changing the citation to read "(72 Stat. 1386; 26 U.S.C. 5386)".

§ 240.444 [Amendment]

Section 240.444 is amended by striking the third, fourth, and fifth sentences and inserting in lieu of such sentences "Caramel, pure dry sugar, liquid sugar, or invert sugar syrup, or pure dry sugar-water solution of not less than 60 degrees

(Brix) may be used in special natural wine made under this section: *Provided,* That the minimum 60 degrees (Brix) limitation contained in §§ 240.40a and 240.40b, and in this section, shall not apply to such materials used in the manufacture of vermouth. Where vermouth is produced under this section the finished product shall contain not less than 80 percent by volume of natural wine."

Section 240.447 is amended to read:

§ 240.447 Essences made elsewhere.

Before an essence, not made on bonded wine cellar premises, may be used in the production of special natural wine, the manufacturer of such essence must secure approval from the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., for its use in special natural wine. The manufacturer will file a statement, in duplicate, of the materials and processes used in the manufacture of the essence, with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C. A sample, not less than four ounces in amount, will be submitted with the statement. The essence will be identified by the name of the manufacturer, and the name of the essence, or an identifying number. A separate statement and sample must be submitted for each essence to be used for special natural wine production. The required statement and sample shall be submitted for only those essences that are not manufactured pursuant to an approved formula on Form 1678, for a nonbeverage product. The Director, Alcohol and Tobacco Tax Division, will notify the manufacturer of approval or disapproval of the essence for use in wine production. If approved, the proprietor of a bonded wine cellar may describe the essence on Form 698—Supplemental by showing the name of the manufacturer, the manufacturer's nonbeverage drawback formula number, if any, and the date of approval by the Director; without submitting additional samples of the essence.

(72 Stat. 1386; 26 U.S.C. 5386)

§ 240.465 [Amendment]

Section 240.465 is amended:

1. By changing the last sentence to read "The formula and process will be described in detail on Form 698—Supplemental which will be filed in triplicate with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C."; and

2. By changing the citation to read "(72 Stat. 1386; 26 U.S.C. 5387)".

§ 240.482 [Amendment]

Section 240.482 is amended by changing the second sentence to read "The formula will be filed on Form 698 Supplemental, in triplicate, with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C."

§ 240.485 [Amendment]

Section 240.485 is amended:

1. By striking in the last sentence the words "assistant regional commissioner" and inserting in lieu thereof the words "Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C.,"; and

2. By changing the citation to read "(72 Stat. 1380, 1381, 1387; 26 U.S.C. 5361, 5364, 5388)".

§ 240.486 [Amendment]

Section 240.486 is amended:

1. By inserting, immediately after the second sentence, a new sentence reading. "Distillates containing aldehydes may be used in the fermentation of wine to be used as distilling material as provided in §§ 240.490 and 240.491 and Subpart YY of this part."; and

2. By changing the citation to read "(72 Stat. 1380, 1381, 1382; 26 U.S.C. 5361, 5364, 5373)".

§ 240.489 [Amendment]

Section 240.489 is amended:

1. By changing the parenthetical phrase in the second sentence to read "(49 Stat. 977; 27 U.S.C. 201)"; and

2. By changing the citation to read "(72 Stat. 1381, 1383; 26 U.S.C. 5364, 5381)".

By inserting immediately after § 240.489 an undesignated center heading and new §§ 240.490 and 240.491:

USE OF DISTILLATES CONTAINING ALDEHYDES

§ 240.490 General.

Distillates containing aldehydes, withdrawn under the provisions of Part 201 of this chapter may be used in fermentation of wine to be used as distilling material at the distilled spirits plant from which such distillates were withdrawn. Distillates produced from one kind of fruit shall not be used in the fermentation of wine made from a different fruit.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.491 Application.

Where a distillate containing aldehydes is to be used in fermentation of wine to be used as distilling material the proprietor of the bonded wine cellar, unless he is also the proprietor of the distilled spirits plant from which the distillates are to be withdrawn, shall submit an application, in duplicate, to the assistant regional commissioner, and state therein (a) the name, address, and registry number of the distilled spirits plant from which the distillate is to be withdrawn, (b) the kind of distillate, (c) the kind of wine in which the distillate will be used, and (d) a statement describing the method by which such distillate will be added in fermentation of wine to be used as distilling material. Where the proprietor of the bonded wine cellar is also the proprietor of the distilled spirits plant, the approval of the application required under Part 201 of this chapter will also authorize the receipt and use of the distillates at the bonded wine cellar. Distillates containing aldehydes will be procured under the provisions of Subpart YY of this part. Record of receipt and use of such distillates will be kept in accordance with Subpart UU of this part and reported on Form 702.

(72 Stat. 1381, 1382; 26 U.S.C. 5367, 5373)

Section 240.500 is amended to read:

§ 240.500 General.

Wine or wine lees may be refermented except that wine or wine lees in which sugar sweetening was used may not be refermented for use as distilling material at a distilled spirits plant for the production of brandy or wine spirits.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.501 [Revocation]

Section 240.501 is revoked.

§ 240.510 [Amendment]

Section 240.510 is amended:

1. By striking the second sentence in its entirety; and

2. By changing the citation to read "(72 Stat. 1383; 26 U.S.C. 5382)".

§ 240.513 [Amendment]

Section 240.513 is amended:

1. By striking in the first sentence the words "assistant regional commissioner" and inserting in lieu thereof the words "Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C.,";

2. By striking in the fifth sentence the word "quadruplicate" and inserting in lieu thereof the word "triplicate"; and

3. By changing the citation to read "(72 Stat. 1383, 1387; 26 U.S.C. 5382, 5387)".

§ 240.524 [Amendment]

Section 240.524 is amended:

1. By changing the last sentence to read "Specifically authorized materials are listed in Subpart ZZ of this part."; and

2. By changing the citation to read "(72 Stat. 1338, 1383; 26 U.S.C. 5082, 5382)".

§ 240.528 [Amendment]

Section 240.528 is amended:

1. By striking in the last sentence the numbers "§ 240.530" and inserting in lieu thereof "Subpart ZZ of this part"; and

2. By changing the citation to read "(72 Stat. 1383; 26 U.S.C. 5382)".

§ 240.529 [Revocation]

Section 240.529 is revoked.

§ 240.530 [Revocation]

Section 240.530 is revoked.

By inserting immediately after § 240.535 an undesignated center heading and new §§ 240.536 to 240.539:

REDUCTION OF ACID CONTENT

§ 240.536 General.

Standard wine may have the acid content reduced below 5 parts per thousand by use of authorized neutralizing materials or methods: *Provided,* That such neutralizing materials or methods does not change the character of the wine to an extent inconsistent with good commercial practice and does not result in any increase in the volume of the wine.

(72 Stat. 1383; 26 U.S.C. 5382)

§ 240.537 Application.

Where a proprietor desires to reduce the acid content of wine below 5 parts per thousand he shall file an application with the assistant regional commissioner.

The application shall be filed in letter form and in triplicate. The application shall contain the following information:

(a) Name, address, and registry number of the proprietor;
(b) Statement of process or method to be used in effecting the acid reduction;
(c) Gallons of wine to be treated; and
(d) Kind of wine to be treated.

A one pint sample of the wine prior to treatment shall be submitted by the proprietor, direct to the regional laboratory at the same time the application is filed. The sample will be labeled and marked in a manner that it may be readily identified. The proprietor shall not proceed to reduce the acid content of the wine until he receives approval of the application by the assistant regional commissioner.

(72 Stat. 1383; 26 U.S.C. 5382)

§ 240.538 Sample of treated wine.

After completion of the acid reduction treatment a one pint sample of the wine shall be submitted by the proprietor to the regional laboratory. The sample will be labeled and marked in a manner that it may be readily identified and associated with the sample submitted prior to treatment.

(72 Stat. 1383; 26 U.S.C. 5382)

§ 240.539 Addition of acid.

Acid may be added to wine treated under §§ 240.536–240.538 only for stabilization.

(72 Stat. 1383; 26 U.S.C. 5382)

§ 240.540 [Amendment]

Section 240.540 is amended:

1. By striking in the first sentence the word "still"; and

2. By changing the citation to read "(72 Stat. 1331; 26 U.S.C. 5042)".

§ 240.541 [Amendment]

Section 240.541 is amended:

1. By changing paragraph (d) to read: "Wine made by a partnership, except as provided in § 240.730, or produced at a bonded wine cellar by two or more heads of families jointly;"; and

2. By changing the citation to read: "(72 Stat. 1331; 26 U.S.C. 5042)".

Section 240.561 is amended to read:

§ 240.561 Serial numbers.

All containers used for removing wine shall be marked with a serial number at the time the containers are prepared for removal, except as provided herein. Serial numbers shall commence with "1" and continue in order until the number 1,000,000 is reached, when the series may start again with "1": *Provided,* That a new series may be commenced when 100,000 has been reached if no number will be used more than once during a 12-month period. If desired, separate series of numbers preceded by identifying letters may be used for bulk containers and for cases, or for cases filled on different bottling lines, or for removals from different loading docks. On filing a notice with the assistant regional commissioner the proprietor may, unless notified by the assistant regional commissioner to the contrary, (a) mark the serial numbers on the cases at the time of filling the cases or (b) mark the cases with the filling date in lieu of serially numbering the cases. The notice shall be filed in duplicate not less than 10 days prior to the date on which the proprietor intends to commence marking the serial numbers on the cases at the time of filling the cases or the date on which the proprietor intends to commence marking cases with the filling date. A proprietor who marks cases with the filling date shall maintain appropriate cellar records to identify the wine. A proprietor who marks serial numbers on the cases at the time of filling shall maintain a daily record of cases filled, by serial number, and type of wine. A proprietor who marks serial numbers on containers at the time of removal shall maintain a daily record, by serial numbers, of containers removed. Where the assistant regional commissioner has approved the numbering of cases at the time of filling, such numbers need not be shown on Form 703 covering transfer of the cases in bond. A proprietor who has given notice of his intention to mark serial numbers on the cases at the time of filling the cases or to mark the filling dates on the cases shall use such procedure exclusively until the assistant regional commissioner requires or authorizes the cases to be marked as otherwise provided in this section. Where domestic or foreign wine is recased in the taxpaid room the proprietor shall mark such cases preparatory to shipment with the date of repackaging, preceded by the letter "R", in lieu of serially numbering the cases. The serial numbering and alternate marking provision of this section shall also apply to domestic or foreign wines reconditioned on the bonded wine cellar premises. The provisions of this section do not apply to foreign wines except as specifically stated herein.

(72 Stat. 1381; 26 U.S.C. 5367, 5368)

§ 240.562 [Amendment]

Section 240.562 is amended:

1. By changing the first sentence to read "Each cask, barrel, keg, tank, tank truck, railroad tank car, or case, or other approved container, used to remove wine shall be marked in a plain and durable manner with (a) the serial number, or the alternate marks in lieu of the serial numbers as provided in § 240.561, or (if recased in the taxpaid room) with the marks authorized in § 240.561 in lieu of the serial number, (b) the name of the proprietor and the registry number and location (by State, or city or town and State) of the wine cellar, (c) the kind (class and type) and the alcohol content of the wine, (d) the contents of the container in wine gallons, and (e) except for cases, the date of removal or shipment.";

2. By changing the period at the end of the last sentence to a colon followed by *"Provided,* That the serial number, or the alternate marks in lieu of a serial number, may be placed on a side other than the Government side as described in § 240.564 where such other side bears no marks in conflict with such serial numbers or alternate marks."; and

3. By changing the citation to read "(72 Stat. 1381, 1387, 1407; 26 U.S.C. 5368, 5388, 5662)".

Section 240.575 is amended to read:

§ 240.575 Remarking, reshipping, or taxpaying containers received from other premises.

When wine received in bond from other premises is removed, in the containers in which received, for consumption or sale, the proprietor shall mark the containers with "Taxpaid" or "TP", followed by the registry number and State of the taxpaying premises on the same side of the container as the original marks. When containers of wine received in bond are reshipped in bond, the proprietor of the reshipping premises shall mark the containers with "Transferred", followed by the registry number and State of the bonded premises to which the wine is shipped on the same side of the container as the original marks. The transfer marks may be abbreviated, as "Trans. BW 100–NY".

Subpart AA consisting of §§ 240.590 through 240.597 is stricken and in lieu thereof a new Subpart AA consisting of §§ 240.590 through 240.600 is inserted:

Subpart AA—Taxpayment of Wine

§ 240.590 Time for determination of tax liability.

The tax on wine shall be determined at the time of removal from the bonded wine cellar premises (or transfer to a taxpaid room on the premises) for consumption or sale. Upon determination, the quantity of wine removed will be entered on the record prescribed by § 240.920.

(72 Stat. 1331; 26 U.S.C. 5041)

§ 240.591 Time for payment of tax.

The tax on wine shall be paid by return, Form 2050, which will be filed with remittance for the full amount of tax due as shown by the return. The quantities of wine by taxable grades removed daily for consumption or sale during the period covered by the return and the aggregate quantities thereof, shall be reported on the tax return, Form 2050, prepared in quadruplicate. All entries in the return shall be fully supported by accurate and complete records satisfactory to the assistant regional commissioner. The proprietor shall include for payment on his return, Form 2050, the full amount of tax required to be determined (and not prepaid) on all wine removed daily from the bonded wine cellar premises (or transferred to a taxpaid room on the premises) for consumption or sale during the period covered by the return. Prepayments of tax on wine during the period covered by the return shall be separately shown thereon. The proprietor shall file a tax return, Form 2050, with remittance for the full amount of tax due, semimonthly, covering the period from the 9th day of a month through the 23d day of the same month and the period from the 24th day of a month through the 8th day of the next succeeding month. The tax return shall be filed not later than the close of the

3d calendar day next succeeding the 8th or 23d calendar day of the month, as the case may be, excluding any Saturday, Sunday, or legal holiday of the District of Columbia or any statewide legal holiday of the State in which the return is required to be filed: *Provided,* That the return for the period ending on June 23d of each year shall be filed not later than the close of the 2d next succeeding calendar day after June 23d, excluding any Saturday, Sunday, or a legal holiday of the District of Columbia or a statewide legal holiday of the particular State in which the return is required to be filed. Except as provided in § 240.592 a return shall be filed covering each return period even though no wine was removed for consumption or sale during the period.

(68A Stat. 896, 72 Stat. 1335; 26 U.S.C. 5061, 7503)

§ 240.592 Exception.

Where a tax deferral bond is not given under the provisions of § 240.222 and the proprietor has notified the assistant regional commissioner in writing that, until further notice, no wine in respect to which tax is required to be paid will be removed from the bonded wine cellar premises, and where no such wine is so removed, a proprietor will not be required to file a semimonthly return on Form 2050. This exception also applies where substandard wine only is removed for shipment to a vinegar plant for the production of vinegar. This exception shall not apply where intermittent removals subject to tax are made, but only where future removals subject to tax are not anticipated. Notices required under this section shall be filed in letter form, in duplicate.

§ 240.593 Failure to pay tax or file return at the time required.

The law provides penalties for failure to pay tax at the time required, for willful refusal to pay such tax and for fraudulent nonpayment of tax. In addition to such penalties, there is a penalty for the delinquent filing of tax returns imposed as an addition to the tax shown by such returns, amounting to 5 percent for each month or fraction thereof of delinquency, not exceeding 25 percent in the aggregate, unless it is shown that such delinquency is due to reasonable cause and not to willful neglect.

(68A Stat. 821, 72 Stat. 1407, 1410; 26 U.S.C. 5661, 5684, 6651)

§ 240.594 Prepayment of tax.

Where a proprietor is required to prepay tax under § 240.595, or the penal sum of any tax deferral bond, Form 2053 (or the total penal sums where original and strengthening bonds are filed), is insufficient for deferral of payment of tax on wine to be removed for consumption or sale, the proprietor shall, before removal of the wine, file with the district director a wine tax return, Form 2052, with remittance: *Provided,* That where an approved tax deferral bond is not on file the tax need not be prepaid where the total amount of tax unpaid does not exceed $100. The return, with remittance, shall be filed by forwarding or delivering it to the district director before the wine is removed for consumption or sale. For the purpose of complying with this section, the term "forwarding" shall mean deposit in the United States mail, properly addressed to the district director.

(68A Stat. 777, 72 Stat. 1335; 26 U.S.C. 5061, 6311)

§ 240.595 Proprietor in default; prepayment of tax.

Where a check or money order tendered in payment of taxes on wine is not paid on presentment, or where the proprietor is otherwise in default in payment of tax under § 240.591, no wine shall be removed for consumption or sale until the tax has been paid as provided in § 240.594, for the period of such default and until the assistant regional commissioner finds the revenue will not be jeopardized by payment of tax as provided in § 240.591. Any remittance made during the period of such default shall be in cash, or shall be in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or money order, as provided in § 301.6311–1 of this chapter.

(68A Stat. 777, 72 Stat. 1335; 26 U.S.C. 5061, 6311)

§ 240.596 Date of mailing and delivering of returns.

Where the return, Form 2052 or Form 2050, as the case may be, and remittance are delivered by United States mail to the office of the district director, the date of the official postmark of the United States Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery of such return and remittance: *Provided,* That where the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the proprietor: *Provided further,* That where the return is sent by registered mail the date of registry, or where the return is sent by certified mail the date of the postmark on the sender's receipt shall be treated as the postmark date of the return and remittance.

§ 240.597 Tax on wine.

Section 5041, I.R.C., imposes a tax, at rates prescribed therein, on all wines (including imitation, substandard, or artificial wine, and compounds sold as wine, which contain 24 percent or less of alcohol by volume) in bond in, produced in, or imported into, the United States; such tax to be determined as of the time of removal for consumption or sale. Wine containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and taxed accordingly. The tax shall be determined and paid on the quantity of wine required to be marked on the containers as provided in §§ 240.562 and 240.567, or (in case of pipeline removals) on the quantity determined as provided in § 240.600.

(72 Stat. 1331; 26 U.S.C. 5041)

§ 240.598 Marking of containers.

All containers of wine removed taxpaid, except cases, will be marked with the word "Taxpaid" in addition to the marks required by § 240.562: *Provided,* That cases must be so marked when required by § 240.575.

(72 Stat. 1381; 26 U.S.C. 5368)

REMOVAL OF TAX DETERMINED WINE BY PIPELINE

§ 240.599 General.

The assistant regional commissioner may authorize the removal of tax determined wine by pipeline from a bonded wine cellar to the bottling premises of a distilled spirits plant or to a taxpaid wine bottling house, contiguous to, or in the immediate vicinity of the bonded wine cellar. Authorization will be given only if the proprietor has installed pipelines and tanks as prescribed by §§ 240.170 and 240.171.

(72 Stat. 1331; 26 U.S.C. 5041)

§ 240.600 Procedure for determination of tax.

When the proprietor desires to transfer wine to the taxpayment tank, he will make certain that the outlet valve is closed, and open the inlet valve of the taxpayment tank. When the tank is filled, or the desired quantity of wine has been run into the tank, the proprietor will close the inlet valve, accurately determine the quantity of wine in the tank, make entry in his cellar record showing the date, the wine taxpayment tank number; the kind, quantity, and alcohol content of the wine; and the plant to which the wine will be transferred. The proprietor shall close the outlet valve immediately after the tank has been emptied. The quantities of wine so removed will be shown in Form 2056 as taxable removals. The quantity of wine removed by pipeline will be recorded to the nearest whole gallon, 5 tenths gallon being converted to the next full gallon.

Section 240.611 is amended to read:

§ 240.611 Marking containers.

In addition to the marks required by § 240.562, each container, except cases, of wine transferred in bond from one bonded wine cellar to another shall be plainly marked "Transferred", followed by the registry number and state of the bonded premises to which the wine is shipped. The transfer marks may be abbreviated as "Trans. BW 100–N.Y.". Containers reshipped in bond shall be marked in accordance with § 240.575.

(72 Stat. 1381; 26 U.S.C. 5368)

§ 240.616 [Amendment]

Section 240.616 is amended:

1. By changing the last sentence to read: "Where there is a loss in transit from any shipment the consignee shall as required by § 240.785 file a claim for allowance of the loss."; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

Section 240.630 is amended to read:

§ 240.630 General.

Still wine may be removed without payment of tax, under the provisions of this subpart, to the production facility of a distilled spirits plant for use as distilling material in the production of spirits. Form 703 will be prepared and handled in accordance with §§ 240.613 through 240.616 for all such removals.

(72 Stat. 1380; 26 U.S.C. 5362)

Section 240.631 is amended to read:

§ 240.631 Pipeline to production facility of a distilled spirits plant.

Where a bonded wine cellar and the production facilities of a distilled spirits plant are operated on adjacent premises, wine for use as distilling material may be transferred by fixed pipeline from the wine cellar to measuring or storage tanks in the plant. The quantity of distilling material may be determined at either the bonded wine cellar or the distilled spirits plant. Short detachable hose connections may be used between the tank and pipeline.

(72 Stat. 1395; 26 U.S.C. 5552)

Section 240.632 is amended to read:

§ 240.632 Special natural wine.

Special natural wine may not be removed for use as distilling material at a distilled spirits plant for the production of wine spirits or brandy.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 240.634 [Amendment]

Section 240.634 is amended:

1. By changing the last sentence to read "Where wine made with sugar other than the kinds, or fermented with sugar in excess of the quantities, authorized for a standard wine is removed for distilling material, the composition of the material must be marked on the containers and such wine may be transferred only to the production facilities of distilled spirits plants for the production of spirits other than wine spirits or brandy."; and

2. By changing the citation to read "(72 Stat. 1364, 1381; 26 U.S.C. 5215, 5368)".

Subpart EE consisting of §§ 240.670 through 240.681 is stricken and in lieu thereof a new Subpart EE consisting of §§ 240.670 through 240.672 is inserted:

Subpart EE—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse Class Six

§ 240.670 General.

Wine may be removed from bonded wine cellars without payment of tax for exportation, for use on vessels and aircraft, for transportation to and deposit in a manufacturing bonded warehouse class six, and for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation. Such removals shall be in accordance with the procedures in Part 252 of this chapter.

(72 Stat. 1380; 26 U.S.C. 5362)

Return of Wine to Bonded Storage

§ 240.671 General.

Wines which have been lawfully withdrawn without payment of tax under the provisions of Part 252 of this chapter may, subject to the provisions of Part 252 applicable thereto, be returned to the bonded wine cellar from which withdrawn for storage pending subsequent removal for lawful purposes.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 240.672 Receipt and record of returned wine.

On return of wine to the bonded wine cellar under the provisions of § 240.671 and receipt of an approved application therefor as provided in Part 252 of this chapter, the proprietor shall record the receipt on the records required by this part, showing the gallonage of each tax classification so received and returned to storage on the bonded wine cellar premises; and shall report such return in Part I of Form 702 for the month with an explanatory notation in Part X of Form 702. All provisions of this part applicable to wine in bond on the bonded premises of a bonded wine cellar and to removals thereof shall be applicable to such wine returned to such bonded premises.

(72 Stat. 1380; 26 U.S.C. 5362)

Subpart FF consisting of §§ 240.690 through 240.702 and Subpart GG consisting of §§ 240.710 through 240.715 are revoked.

§ 240.730 [Amendment]

Section 240.730 is amended:

1. By changing the first sentence to read. "Where the head of a family as defined in § 240.541, operates a bonded wine cellar as an individual owner, or in partnership solely with members of such family, wine of his own production not exceeding 200 gallons per year, may be removed without payment of tax for use of his family, the year to be reckoned as commencing on July 1."; and

2. By changing the citation to read "(72 Stat. 1331; 26 U.S.C. 5042)".

§ 240.760 [Amendment]

Section 240.760 is amended:

1. By striking in the last sentence immediately after the words "received on" the words "fruit distillery" and inserting in lieu thereof the words "distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1380; 26 U.S.C. 5361)".

§ 240.771 [Amendment]

Section 240.771 is amended by adding at the end thereof, a new sentence, as follows: "The assistant regional commissioner may grant, until further notice, continuing authority to convert effervescent wine to still wine in amounts in excess of thirty gallons where he finds the revenue will not be jeopardized."

§ 240.780 [Amendment]

Section 240.780 is amended:

1. By changing the last sentence to read "Claim for allowance of losses by theft shall be filed as provided in this Subpart."; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

§ 240.782 [Amendment]

Section 240.782 is amended:

1. By striking in the last sentence immediately after the words "to file" the words "an application" and inserting in lieu thereof the word "claim"; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

§ 240.783 [Amendment]

Section 240.783 is amended:

1. By striking in the fourth sentence the word "application" and inserting in lieu thereof the word "claim"; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

Section 240.785 is amended to read:

§ 240.785 Losses in transit.

Where the loss of wine in transit from any shipment in bond to another bonded wine cellar exceeds one percent (two percent on transcontinental shipments) of the quantity so shipped therein, the proprietor of the receiving wine cellar shall immediately notify the assistant regional commissioner or nearest designated internal revenue officer. A claim for allowance of the entire loss shall be prepared in accordance with § 240.787 and be attached to the report, Form 702, for the month in which the wine is received. If the loss does not exceed one percent (two percent on transcontinental shipments), claim for allowance of the loss will be required if there are circumstances indicating that the wine lost, or any part thereof, was diverted to an unlawful purpose.

(72 Stat. 1381; 26 U.S.C. 5370)

§ 240.786 [Amendment]

Section 240.786 is amended:

1. By striking in the last sentence the word "Application" and inserting in lieu thereof the word "Claim"; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

The undesignated center heading preceding § 240.787 is amended to read "Claim for Allowance".

Section 240.787 is amended to read:

§ 240.787 Preparation and submission.

Claim for allowance of wine reported lost shall be prepared by the proprietor or his duly authorized agent on Form 2635 and, except in the case of losses in transit, by fire or other casualty, or any other extraordinary or unusual losses, the claim shall be attached to and submitted with report, Form 702, for the month of June, or in the case of discontinuance of the premises or change in proprietorship, attached to the final report. Where for a valid reason the required claim cannot be submitted with the Form 702, a statement must be attached to the report setting forth the reason the claim cannot be filed at that time, and specifying when it will be filed with the assistant regional commissioner.

(72 Stat. 1381; 26 U.S.C. 5370)

§ 240.788 [Amendment]

Section 240.788 is amended:

1. By changing the headnote to read "Form 2635, Claim—Alcohol and Tobacco Taxes.";

2. By changing the first sentence to read "Claim for allowance of losses of wine in bond shall be made on Form 2635, in duplicate, and shall set forth the following information:";

3. By striking in paragraphs (b), (c), and (f) the word "application" and inserting in lieu thereof the word "claim"; and

4. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

§ 240.789 [Amendment]

Section 240.789 is amended:

1. By striking the word "Applications" and inserting in lieu thereof the word "Claims"; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

§ 240.800 [Amendment]

Section 240.800 is amended by adding after the last sentence "Tax may not be refunded or credited under the provisions of this Subpart in respect to tax paid on unmerchantable wine for which a claim has been or will be filed under Subpart O of Part 170 of this chapter."

Section 240.806 is amended to read:

§ 240.806 Claim for allowance of credit for tax.

A proprietor may file with the assistant regional commissioner a claim, Form 2635, Claim—Alcohol and Tobacco Taxes, for allowance of credit for the tax paid on unmerchantable, taxpaid United States wine returned to bond. Such claim shall not be filed for a quantity on which credit of tax would be in an amount of less than $10.00: *Provided,* That, as to any returned wine on which the 6 month period for filing a claim will expire, a claim for allowance of tax on a lesser quantity of wine may be filed. Any such claim shall be submitted in triplicate and executed by the proprietor under penalties of perjury. The proprietor shall state in the body of the claim that the wine covered by the claim was returned to bond and so recorded on the records required by this part. A copy of each notice filed under § 240.802, covering wine for which the claim is filed, shall be attached to the claim. When allowance of the credit or any part thereof is made by the assistant regional commissioner, the proprietor shall make a proper adjusting entry and explanatory statement in the next subsequent wine tax return (or returns) to the extent necessary to exhaust the credit.

(72 Stat. 1332; 26 U.S.C. 5044)

§ 240.807 [Amendment]

Section 240.807 is amended by changing the next to last sentence to read "The proprietor shall state in the body of the claim that the wine covered by the claim was returned to bond and so recorded on the records required by this part."

By inserting immediately after § 240.808 a new section:

§ 240.809 Insurance coverage.

The remission, abatement, or refund, or credit of, or other relief from, taxes on wine shall be allowed only to the extent that the proprietor is not indemnified or recompensed for such tax.

(72 Stat. 1382; 26 U.S.C. 5371)

§ 240.821 [Amendment]

Section 240.821 is amended:

1. By striking in the first sentence immediately after the word "from" the words "any registered fruit distillery or internal revenue bonded warehouse" and inserting in lieu thereof the words "the bonded premises of a distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

Section 240.822 is amended to read:

§ 240.822 Application, Form 257.

Where it is desired to withdraw wine spirits for wine production, from the bonded premises of a distilled spirits plant, application will be made by the proprietor on Form 257. The proprietor shall specify in the application the approximate desired date of receipt of wine spirits and whether the wine spirits are to be withdrawn in packages, railroad tank cars, tank trucks, or by pipeline. The same application may not include wine spirits from more than one distilled spirits plant, nor two or more lots to be removed from the same bonded premises of a distilled spirits plant at different times, except where the bonded premises of the distilled spirits plant is adjacent to the bonded wine cellar, as provided in § 240.825.

(72 Stat. 1382; 26 U.S.C. 5373)

Section 240.823 is amended to read:

§ 240.823 Filing of Form 257.

Application, Form 257, shall be filed with the assistant regional commissioner or with such officer as he may designate. The assistant regional commissioner will notify each designated internal revenue officer of the amount of the proprietor's bond. He will also notify each proprietor concerned where Forms 257 are to be submitted to a designated internal revenue officer.

(72 Stat. 1382; 26 U.S.C. 5373)

Section 240.824 is amended to read:

§ 240.824 Transfer of wine spirits.

On receipt of the wine spirits at the bonded wine cellar they will be deposited in the wine spirits storage room or tank. If an internal revenue officer is not assigned to the bonded wine cellar, the proprietor will on receipt of the wine spirits request the assistant regional commissioner or designated officer to detail an officer to supervise the deposit or immediate use.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.825 [Amendment]

Section 240.825 is amended:

1. By striking the words "distillery or warehouse" wherever they appear and inserting in lieu thereof the words "distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

Section 240.826 is amended to read:

§ 240.826 Receipt of wine spirits in packages.

When packages of wine spirits are received at the bonded wine cellar the proprietor will examine the packages and satisfy himself that the wine spirits are the same as described in Forms 2629 and 2630 (received from the distilled spirits plant) and then will deposit the wine spirits in the spirits storage room under the supervision of the internal revenue officer. The proprietor, under the supervision of the officer, will gauge any packages which appear to have been tampered with or from which wine spirits appear to have been abstracted or lost. The details of packages so regauged will be reported on Form 2630, in quadruplicate, by the proprietor with a statement setting forth fully the apparent cause of the loss.

(72 Stat. 1381, 1382; 26 U.S.C. 5368, 5373)

Section 240.827 is amended to read:

§ 240.827 General.

Where the distilled spirits plant and the bonded wine cellar are located on adjacent premises wine spirits may be transferred from the bonded premises of the distilled spirits plant to the wine cellar by pipeline for immediate use in wine production, or may be transferred to wine spirits tanks for subsequent use.

(72 Stat. 1360, 1362, 1382; 26 U.S.C. 5206, 5214, 5373)

§ 240.828 [Amendment]

Section 240.828 is amended:

1. By striking the words "distillery or the warehouse" wherever they appear and inserting in lieu thereof the words "bonded premises of the distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

§ 240.829 [Amendment]

Section 240.829 is amended:

1. By striking the words "distillery or warehouse" wherever they appear and inserting in lieu thereof the words "bonded premises of the distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

§ 240.830 [Amendment]

Section 240.830 is amended:

1. By changing the first sentence to read "Wine spirits may be withdrawn in railroad tank cars (where shipping and receiving premises have suitable railroad siding facilities) and tank trucks, provided appropriate weighing tanks or tanks suitable for measuring the spirits are provided in both the bonded premises of a distilled spirits plant and the bonded wine cellar for gauging the wine spirits, or the wine spirits are transferred in accurately calibrated tank cars or tank trucks with calibration charts available at the distilled spirits plant and the wine cellar, and a wine spirits storage tank (or tanks) of sufficient capacity to hold the wine spirits is provided in the wine cellar."; and

2. By changing the citation to read "(72 Stat. 1360, 1362, 1382; 26 U.S.C. 5206, 5214, 5373)".

Section 240.831 is amended to read:

§ 240.831 Tank car and tank truck requirements.

Railroad tank cars and tank trucks used to transport wine spirits for use in wine production must be constructed, marked, filled, labeled, and inspected, in the manner required by regulations in Part 201 of this chapter.

(72 Stat. 1360, 1362; 26 U.S.C. 5206, 5214)

§ 240.832 [Amendment]

Section 240.832 is amended:

1. By changing the fourth sentence to read "In any case where a volume gauge is made, the actual measurements of the spirits in the gauging tank, tank car, or tank truck, and the temperature of the spirits, shall be recorded on Form 2629.";

2. By striking in the last sentence the words "distillery or warehouse" and inserting in lieu thereof the words "distilled spirits plant"; and

3. By changing the citation to read "(72 Stat. 1360, 1362, 1381; 26 U.S.C. 5206, 5214, 5366)".

Section 240.833 is amended to read:

§ 240.833 Report of gauge at wine cellar.

The proprietor will prepare a report of his gauge on Form 2629, in quadruplicate, of the wine spirits received by tank car or tank truck, and will attach a copy of the form to each copy of Form 2629 received from the distilled spirits plant. If there is a loss in excess of one percent the proprietor will submit a report to the internal revenue officer supervising the receipt, stating the apparent cause of the loss and all circumstances having a bearing thereon.

(72 Stat. 1360, 1362; 26 U.S.C. 5206, 5214)

Section 240.834 is amended to read:

§ 240.834 Disposition of Form 2629.

When the wine spirits have been deposited in the wine spirits storage room or storage tank, or run directly into a wine spirits addition tank, the proprietor will acknowledge receipt of the wine spirits on each copy of Form 2629, forward promptly one copy, with Form 2630, if any, to the assistant regional commissioner, and retain the remaining copy as a part of the bonded wine cellar records.

(72 Stat. 1381; 26 U.S.C. 5368)

§ 240.836 [Amendment]

Section 240.836 is amended:

1. By changing the headnote to read "Withdrawal from distilled spirits plant.";

2. By changing the third sentence to read "Such wine spirits shall be received by the proprietor and placed under his lock in a secure room or locker on the bonded premises, and he shall acknowledge receipt of such wine spirits on Form 2629."; and

3. By changing the citation to read "(72 Stat. 1381, 1383; 26 U.S.C. 5373, 5382)".

§ 240.837 [Amendment]

Section 240.837 is amended:

1. By striking the number "1520" wherever it appears and inserting in lieu thereof the number "2630"; and

2. By changing the citation to read "(72 Stat. 1382, 1383; 26 U.S.C. 5373, 5382)".

§ 240.838 [Amendment]

Section 240.838 is amended:

1. By changing the last sentence to read "All spirits produced at the same production facility of a distilled spirits plant on the same day, if received in the same shipment, will be considered as constituting a lot of spirits."; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

§ 240.855 [Amendment]

Section 240.855 is amended:

1. By changing the first sentence to read "Where any loss by theft occurs, claim for remission of tax on Form 2635, Claim—Alcohol and Tobacco Taxes, shall be made by the proprietor."; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5370)".

§ 240.857 [Amendment]

Section 240.857 is amended:

1. By changing the headnote to read "Form 2635, Claim—Alcohol and Tobacco Taxes.";

2. By changing the first two sentences to read "Claim for remission of tax shall be made on Form 2635 and shall set forth the following information:";

3. By striking in paragraph (a) the word "Distillery" and inserting in lieu thereof the words "distilled spirits plant";

4. By striking in paragraph (f) the words "distiller, warehouseman" and inserting in lieu thereof the words "proprietor of a distilled spirits plant";

5. By changing the next to last sentence to read "The claim will be executed by the proprietor or his authorized agent under penalties of perjury.";

6. By striking the last sentence in its entirety; and

7. By changing the citation to read "(68A Stat. 649, 72 Stat. 1323; 26 U.S.C. 6065, 5008)".

Section 240.870 is amended to read:

§ 240.870 General.

Wine spirits withdrawn by the proprietor of a bonded wine cellar and not used in wine production may be disposed of by transfer to the bonded premises of a distilled spirits plant or another bonded wine cellar, or by taxpayment and removal to a person authorized to receive such spirits, or may be voluntarily destroyed without payment of tax as authorized in § 240.874: *Provided*, That packages from which a portion of the contents have been used may not be transferred to the bonded premises of a distilled spirits plant.

(72 Stat. 1323, 1382; 26 U.S.C. 5011, 5373)

§ 240.871 [Amendment]

Section 240.871 is amended:

1. By striking in the first sentence immediately after the words "wine spirits to" the words "an internal revenue bonded warehouse" and inserting the words "the bonded premises of a distilled spirits plant";

2. By striking in the last sentence immediately after the words "number of the" the word "distiller" and inserting in lieu thereof the words "distilled spirits plant."; and

3. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

Section 240.872 is amended to read:

§ 240.872 Transfer to a distilled spirits plant or wine cellar.

When it is desired to transfer wine spirits to the bonded premises of a distilled spirits plant or to a bonded wine cellar the application shall specify the name, number and location of such premises, and the means or containers by or in which it is proposed to transfer the wine spirits thereto. The application shall also specify whether the proprietor of the designated distilled spirits plant or wine cellar has agreed to receive the wine spirits and file consent of surety on his bond, extending the terms of the bond to cover transfer to his premises and storage thereat.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.874 [Amendment]

Section 240.874 is amended:

1. By striking in the third sentence immediately after the words "bonded wine cellar or" the words "internal revenue bonded warehouse" and inserting in lieu thereof the words "bonded premises of a distilled spirits plant"; and

2. By changing the citation to read "(72 Stat. 1382; 26 U.S.C. 5373)".

§ 240.900 [Amendment]

Section 240.900 is amended:

1. By changing the first sentence to read "The proprietor of each bonded wine cellar shall prepare at the close of each month Form 702, in duplicate, verified and executed under penalties of perjury and, on or before the tenth day of the succeeding month, will forward the original of the report to the assistant regional commissioner."; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5367".

Section 240.901 is amended to read:

§ 240.901 Form 2050.

The proprietor of every bonded wine cellar removing wine subject to tax will prepare Form 2050, in quadruplicate, showing thereon the number of gallons of wine of each tax class so removed during the period covered by the return, the amount of tax due by tax class, and the total tax due. There shall also be shown any increases or decreases in tax due to errors in previous returns, Form 2050, or credit under the provisions of Subpart OO for unmerchantable wines returned to bond, or credit under the provisions of Part 252 of this chapter where such a credit is authorized by the assistant regional commissioner on Form 2639, and credit for the prepayment of tax as shown on Form 2052. Form 2050 will be serially numbered by the proprietor, commencing with "1" on January 1 of each year. Form 2050 shall be executed by the proprietor under penalties of perjury. The original and two copies

of the Form 2050 shall be filed with the district director as provided in § 240.591, and at the same time, a copy shall be forwarded to the assistant regional commissioner.

Section 240.902 is amended to read:

§ 240.902 Form 2052.

When the proprietor is required to prepay tax, as provided in §§ 240.594 and 240.595, he shall first prepare Form 2052, in quadruplicate, covering a specific quantity of wine to be removed on that day. The original and two copies of Form 2052 shall be delivered to the district director of internal revenue or deposited in the United States mail properly addressed to him, together with a remittance as provided in § 240.594, prior to removal of the wine. At the same time a copy shall be forwarded to the assistant regional commissioner. Form 2052 will be serially numbered by the proprietor, commencing with "1" on January 1 of each year. Form 2052 shall be executed by the proprietor under penalties of perjury. Credit for the amount prepaid on Form 2052 will be taken on the tax return, Form 2050, covering all removals for consumption or sale for the period covered by the return.

Section 240.904 is amended to read:

§ 240.904 Forms 275, 2629, and 2630.

The proprietor of every bonded wine cellar using wine spirits in the production of wine shall prepare Forms 275 and 2629 (and also Form 2630 if the wine spirits are in packages), at the time wine spirits are gauged and added to wine, as prescribed in §§ 240.376 and 240.379.

(72 Stat. 1381; 26 U.S.C. 5367)

§ 240.906 [Amendment]

Section 240.906 is amended:

1. By inserting in the last sentence immediately after the word "sugar" the words "or ameliorating material"; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5367)".

Section 240.912 is amended to read:

§240.912 Form 2621, Record of Bottled Wine.

Each proprietor who bottles wine or receives bottled wine, in bond, shall keep Form 2621, Record of Bottled Wine, showing the gallons of wine bottled, the gallons of bottled wine received in bond, and the gallons of bottled wine removed each day.

(72 Stat. 1381; 26 U.S.C. 5367)

§ 240.918 [Amendment]

Section 240.918 is amended:

1. By striking in the first sentence immediately after the words "treatment of wine" the words "as authorized in this part,";

2. By changing the last sentence to read "Record of use of all chemicals except filter aids, inert fining agents, sulphur dioxide compounds, oxygen, and the acids listed in § 240.917, shall be maintained, showing the kind, quantity, and date of use, and kind and quantity of wine in which used."; and

3. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5367)".

Section 240.919 is amended to read:

§ 240.919 Record of wine baked.

Where wine is baked on bonded wine cellar premises, any claim for allowance of losses due to such baking shall be supported by a complete and up-to-date record maintained by the claimant showing (a) the serial number of each tank, (b) date wine is placed in the tank, (c) quantity and alcohol content of the wine, (d) date baking commenced, (e) date baking completed, (f) date wine removed from tank, and (g) quantity of wine removed and alcohol content thereof. In case wine is baked in barrels or puncheons, the record may be maintained on the basis of groups of such containers filled at one time, rather than for each individual container.

(72 Stat. 1381; 26 U.S.C. 5367)

§ 240.920 [Amendment]

Section 240.920 is amended:

1. By changing the second sentence to read "The record shall show the date of removal, the name and address of the person to whom shipped, the kind (class and type) and quantity of wine, alcohol content (taxable grade), and serial numbers of containers other than cases: *Provided*, That if the wine is not sold for resale or shipped for sale the name and address of the person to whom sold or shipped may be omitted from the record."; and

2. By changing the citation to read "(72 Stat. 1381; 26 U.S.C. 5367)".

Section 240.921 is amended to read:

§ 240.921 Taxpaid room records.

Where a taxpaid room has been provided in accordance with § 240.145, or is maintained off the bonded premises, the proprietor shall maintain records at such taxpaid room. Such records shall show, as to all wine received, the date of receipt, the quantities, kind, and alcohol content (taxable grade) of the wine. Also, such records shall show, as to all wine sold for resale or shipped for sale at another location, the date of removal, the quantities, kind, and alcohol content (taxable grade) of the wine, and the names and addresses of the consignees. The required record shall consist of (a) copies of invoices, or other commercial papers if the invoices or other commercial papers contain all of the required information or (b) a book record containing all of the required information. A daily record shall also be kept of the total gallons of wine of each tax class removed, and not required to be recorded in the detailed removal record prescribed in this section. Removals from the taxpaid room of packages of bottles containing two gallons or less need not be serially numbered or marked in accordance with §§ 240.561 and 240.562.

(72 Stat. 1381; 26 U.S.C. 5367)

The following new subparts, Subpart YY and Subpart ZZ, are added immediately following § 240.1029:

Subpart YY—Withdrawal of Distillates Containing Aldehydes

Sec.

§ 240.1041 Who may withdraw.

The proprietor of a bonded wine cellar may, as provided in this part, withdraw, without payment of tax, distillates containing aldehydes, for use in the fermentation of wine which is to be used as distilling material. Such withdrawals may be made only from an adjacent distilled spirits plant. Application for withdrawal of distillates containing aldehydes will not be approved unless facilities for the receipt, storage, and use of such distillates have been approved by the assistant regional commissioner. A proprietor of a bonded wine cellar who is operating under bond, Form 700, and who intends to receive and use distillates containing aldehydes, shall furnish a consent of surety, Form 1533, which consent shall contain the following statement of purpose:

To extend the terms and conditions of said bond to cover payment of all taxes imposed by law now or hereinafter in force (plus penalties, if any, and interest) for which the principal may become liable on all distillates containing aldehydes removed from the bonded premises of a distilled spirits plant to his bonded wine cellar.

Such facilities may include short detachable hose connections between pipelines and tanks on the bonded wine cellar premises. The proprietor shall notify the assistant regional commissioner, or officer designated by him, sufficiently in advance of withdrawals so that an internal revenue officer may be designated to supervise the receipt of the distillates at the wine cellar.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.1042 Application, Form 257.

A proprietor who intends to withdraw distillates containing aldehydes will make application on Form 257. The proprietor shall specify in the application the approximate desired date of receipt of the distillates and the method of conveyance, such as pipeline or packages. The same application may not include distillates from more than one distilled spirits plant.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.1043 Receipt and deposit of distillates containing aldehydes.

Distillates containing aldehydes which are received at the bonded wine cellar (if not immediately used) shall be placed under the proprietor's lock in a secure room or tank on the bonded premises. Distillates containing aldehydes shall not be mingled with wine spirits. If such distillates contain less than one-tenth of one percent of aldehydes, they shall be subject to such additional conditions re-

lating to the receipt, storage, and use as the assistant regional commissioner shall require to assure that such distillates will be properly used and accounted for.

(72 Stat. 1382; 26 U.S.C. 5373)

§ 240.1044 Other provisions applicable.

The provisions of Subpart PP relative to the filing, execution, and disposition of Form 257, bond coverage, withdrawals (including monthly withdrawals) in packages, tank cars, tank trucks, and by pipeline, and the transfer, receipt, deposit in wine spirits addition tanks or stored on bonded wine cellar premises, and records and supervision (including waiver of supervision), in respect of wine spirits, shall, subject to the provisions of this subpart, be applicable in respect of distillates to be deposited in fermenters or stored on bonded wine cellar premises, as the case may be, for use under the provisions of this part.

Subpart ZZ—Materials Authorized for Treatment of Wine

Sec.

§ 240.1051 Materials authorized for treatment of wine.

The following materials are approved, as being consistent with good commercial practice, for use by proprietors of bonded wine cellars in the production, cellar treatment, or finishing of wine (including distilling material), within the general limitations of § 240.524, or the specific limitations shown in the table, or given in the sections referred to:

Materials	Use	Reference or limitation
Actiferm (Roviferm)	Fermentation adjunct	2 pounds per 1,000 gallons.
Activated carbon	To assist precipitation during fermentation.	§§ 240.361, 240.366, 240.401, 240.405.
	To clarify and purify wine	§ 240.524.
	To remove excess color in white wine.	§ 240.527.
Aferrin	To reduce trace metals from wine.	No insoluble or soluble residue in excess of one part per million may remain in the finished wine, and the basic character of the wine may not be changed by such treatment. § 240.524.
Anion exchange resins: Amberlite IR-45. Duolite A-7 (Tartex 180). Duolite A-30 (Tartex 181). SAF.	To reduce the natural acidity of wine.	May be used in a continuous column process for reducing the natural acidity of wine provided the resins are essentially in the hydroxyl (OH) state; the inorganic anion content of the wine is not increased more than 10 mg. per liter (10 parts per million) calculated as chlorine, sulfur, phosphorous, etc.; the treatment does not remove color in excess of that normally contained in the wine; and the basic character of the wine is not altered. Further, the natural or fixed acids may not be reduced below five parts per 1,000.
Duolite A-6	Treatment of white wines	Restrictions (above) imposed on use of other approved anion exchange resins applicable.
AMA special gelatine solution.	To clarify wine.	
Antifoam "A"	To reduce the foam in fermenters.	
Antifoam AF emulsion.		
Ascorbic acid	To prevent darkening of color and deterioration in flavor of wines and wine materials, and the over oxidation of vermouth and other wines.	May be added to fruit, grapes, berries, and other materials used in wine production, to the juice of such materials, or to the wine, within limitations which do not alter the class or type of the wine. Its use need not be shown on labels.
Iso-ascorbic acid.		
Bentonite (Wyoming clay)	To clarify wine	§ 240.524.
Bentonite slurry	do	One pound of Bentonite to not more than two gallons of water. Total quantity of water not to exceed 1% of volume of wine treated.
Calcium carbonate	To reduce the excess natural acids in high acid wine.	§ 240.524. The natural or fixed acids may not be reduced below five parts per 1,000.
Calcium sulphate (gypsum)	Production of Spanish type or Flor Sherry wine.	§ 240.385. Finished wine may contain no more than 2 grams of gypsum per 1,000 ml. of wine.
Carbon	To clarify and purify wine	§ 240.524.
Carbon Dioxide, CO_2	To stabilize and preserve	§§ 240.531 through 240.535.
Casein	To clarify wine	§ 240.524.
Cation exchange resins: Amberlite IR-120-H. Amberlite IR-120. Duolite C-3 Na (Tartex 160). Duolite C-20 Na (Tartex 161). Duolite C-25 Na (Tartex 162). Permutit Q. Permutit Q Spec 157. SAF.	To stabilize wines. To exchange sodium ions for undesirable metallic ions.	May be used in a continuous column process. The resin must be essentially in the sodium state so that certain of the metallic elements in the wine will be replaced with sodium ions. After regeneration and before reuse the resin must again be essentially in the sodium state. The overall change in the pH of the wine before and after treatment shall not be greater than 0.2 pH Units. The wine water eluate from the column during the "sweetening on" process of any wine contained in the wash water during the "sweetened off" process should be discarded or used solely for distilling material.
Citric acid	To increase the acidity of wine.	§§ 240.364, 240.404.
	To stabilize grape wine	§§ 240.526, 240.539.
Cufex	To remove trace metals from wine.	No insoluble or soluble residue in excess of one part per million may remain in the finished wine, and the basic character of the wine may not be changed by such treatment.
Duolite C-3 (Tartex 160)	To stabilize table wines	May be used in a batch process employing no more than 4 pounds per 100 gallons of wine.
Eggs (albumen or yolks)	To clarify wine	§ 240.524.
Gelatin	do	§ 240.524.
Glycine (amino acetic acid)	Yeast food in fermentation of wines.	Not more than 2 pounds per 1,000 gallons of wine.
Granular cork	To treat wines stored in redwood and concrete tanks.	Not more than 10 pounds per 1,000 gallons of wine.
Gum arabic	To clarify and stabilize wine.	2 pounds per 1,000 gallons of wine. § 240.524.
Gypsum (see calcium sulphate).		
Isinglass	To clarify wine	§ 240.524.
Malic acid	To increase acidity of wine	§§ 240.364, 240.404.
Mineral oil	On surface of wine in storage tanks to prevent the access of air to the wine.	None of the oil may remain in the finished wine when marketed.
Nitrogen gas	To maintain pressure during filtering and bottling of sparkling wine. To prevent oxidation of wine.	May not be contained in sparkling or still wine.
Non-ionic and conditioning resins: Duolite S-30 (Tartex 260). Duolite A-7. Duolite A-30. Amberlite IRA-401. Amberlite IRA-401-S.	For removing excessive oxidized color, forcign flavors and odors, and for stabilizing wines by the removal of heavy molecules and proteinaceous material.	May be used in a continuous column process after suitable conditioning and/or regeneration. Conditioning agents and regenerants consisting of fruit acids common to the wine, and inorganic acids and bases may be employed provided the conditioned or regenerated resin is rinsed with ion-free water until the pH of the effluent water is the same as that of the influent water. (Water equal in quality to water obtained by distillation will be considered to be ion-free water.) Tartaric acid may not be used as a conditioning agent when the resin is to be used in treating wines other than grape. The inorganic anions or cations may not be increased more than 10 mg. per liter; color may not be removed in excess of that normally contained in the wine; the overall change in the pH of the wine before and after treatment shall not be greater than 0.2 pH units; nor the acidity more than 0.5 grams per liter; and the basic character of the wine may not be altered.
Oak chips (uncharred and untreated).	To treat wines	§ 240.524.
Oak chips (charred)	To treat Spanish type blending Sherry.	The finished product, after addition of oak chips must have the flavor and color of Spanish Type Blending Sherry commonly obtained by storage of sherry wine in properly treated used charred oak whisky barrels.
Oxygen	In baking or maturing wine	May be used provided it does not cause changes in the wine other than those occurring during the usual storage in wooden cooperage over a period of time. Application must be filed.

Materials	Use	Reference or limitation
Pectolytic Enzymes: Pectinol 59L.	To clarify wine	0.3 pounds per 1,000 gallons of wine.
Klerzyme	do	One half pound per 1,000 gallons of wine.
Pectinol 100D	do	1 pound per 1,000 gallons of wine.
Pectinol 10M. Pectinol R10. Pectinase concentrate	do	10 pounds per 1,000 gallons of wine.
Pectinol A. Pectinol M. Pectinol O. Pectinase Regular. Pectinase D Regular. Pectolase.		
Phosphates	To start secondary fermentation in manufacturing champagne and sparkling wines.	Small quantity only may be used. (The use of ammonium phosphate, ammonium sulphate or potassium acid phosphate as yeast food in the production of still wine is not permitted.)
Potassium metabisulphite	Sterilizing and preserving wine.	The sulphur content of the finished wine shall not exceed the limits prescribed in Part 4, Title 27, CFR.
Potassium salt of sorbic acid.	As a sterilizing and preservative agent and to inhibit mold growth and secondary fermentations.	Not more than 0.1% of sorbic acid or salts thereof may be used in wine or in materials for the production of wine.
Protovac PV-7916	To clarify wine	Two pounds to 1,000 gallons of wine.
Sparkaloid No. 1. Sparkaloid No. 2.		
Sodium bisulfite	As a sterilizing or preserving agent.	§ 240.523.
Sodium carbonate	To reduce excess natural acidity in wine.	Natural or fixed acids may not be reduced below 5 parts per thousand. § 240.523.
Sodium caseinate	To clarify wine	§ 240.523.
Sodium metabisulphite	Sterilizing and preserving wine.	§ 240.523.
Sodium salt of sorbic acid	As a sterilizing and preservative agent and to inhibit mold growth and secondary fermentations.	Not more than 0.1% of the sorbic acid or salts thereof may be used in wine or in materials for the production of wine.
Sorbic acid	As a sterilizing and preservative agent and to inhibit mold growth and secondary fermentations.	Not more than 0.1% of the sorbic acid or salts thereof may be used in wine or in materials for the production of wine.
Sulphur dioxide	Sterilizing and preserving wine.	§ 240.523.
Sulphuric acid	To effect a favorable yeast development in distilling material.	§ 240.486.
Tannin	Clarifying grape wine	When fining agents, such as gelatin and isinglass, which require the presence of a certain amount of tannin in grape wine in order to work effectively, are used for clarification of grape wine, and the wine to be clarified does not contain sufficient tannin to permit the fining agents to precipitate completely, a small amount of tannin may be added to the grape wine for the purpose of assisting the fining agents. Tannin may also be added to grape wine after clarification to the extent necessary to raise the tannin content of the wine to that normally contained therein: *Provided*, That white wines in which tannin is used shall not contain more than 0.08 gram of tannin per 100 ml. after clarification, and red grape wine in which tannin is used shall not contain more than 0.3 gram of tannin per 100 ml. after clarification, unless the assistant regional commissioner authorizes a higher tannin content, pursuant to a showing of necessity therefor. Only tannin of a yellowish white or very light brown color, which does not color the wine, may be used in the cellar treatment of wine. The records required by § 240.918 will be kept covering the use of tannin.
Tartaric acid	To increase acidity of grape wine.	§ 240.364.
Urea	To facilitate fermentation of wine.	Not more than 2 pounds per 1,000 gallons of wine.
Wine clarifier (containing pure U.S.P. agar agar and standard supercel).	To clarify wine	2 pounds per 1,000 gallons of wine.

(72 Stat. 1383; 26 U.S.C. 5382)

§ 240.1052 Notice.

If the proprietor desires to use materials or methods not specifically authorized in § 240.1051 or elsewhere in this part, he must file notice, in triplicate, with the assistant regional commissioner. The notice will show the name and description of the material or method, the purpose, the manner and the extent to which it is to be used, together with any pertinent information in regard to the material or method. A sample of the material, if requested by the assistant regional commissioner, will be forwarded. There may be forwarded with the notice any data or written statements tending to show that the proposed use of the material or method is a cellar treatment consistent with good commercial practice. If the assistant regional commissioner has been advised by the Director, Alcohol and Tobacco Tax Division, that the use of the method or material is approved, he will so inform the proprietor and state limitations, if any, which must be observed. However, if the assistant regional commissioner has not been so advised, he will forward the notice, with pertinent data, to the Director, Alcohol and Tobacco Tax Division for a decision regarding the use of the method or material. The proprietor should not use the proposed method or material until receipt of advice that the Director, Alcohol and Tobacco Tax Division has found its use not to be contrary to the provisions of this part.

(72 Stat. 1383; 26 U.S.C. 5382)

[F.R. Doc. 60-6035; Filed, June 30, 1960; 8:45 a.m.]

[T.D. 6478]

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Miscellaneous Amendments

On May 6, 1960, a notice of proposed rule making with respect to the amendments of regulations in 26 CFR Part 250 was published in the FEDERAL REGISTER. The amendments would conform this regulation in respect of changes made in certain other regulations of this title effective July 1, 1960.

In accordance with the notice interested parties were afforded an opportunity to submit written comments or suggestions or to request a public hearing. No comments or suggestions or requests for a public hearing were received within the 30 days prescribed in the notice. However, it has been administratively determined to make further conforming changes in the proposed amendments in respect to (1) use of distilled spirits stamps in lieu of wholesale liquor dealer stamps, (2) preparation and disposition of Form 2260, (3) filing and disposition of Form 27-B Supplemental, and (4) other changes clarifying or technical in nature. Accordingly, the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the following changes:

1. Immediately following amendatory paragraph 13, new paragraphs 13a, 13b, and 13c, are added.

2. Paragraph 20 is changed by revising the last two sentences of § 250.146.

3. Paragraph 22 is changed by striking in the first sentence of § 250.193 immediately after "(a)" the word "distilled" and inserting in lieu thereof the word "industrial".

4. Immediately after paragraph 25, new paragraphs 25a and 25b are added.

5. Paragraph 26 is changed:

(A) By striking in the first sentence of § 250.235 immediately after the words "in this" the word "part" and inserting in lieu thereof the word "subpart";

(B) By striking in the second sentence of § 250.252, the word "denomination" and inserting in lieu thereof the word "size"; and

(C) By striking in the headnote for § 250.253 the words "diverted by the" and inserting in lieu thereof the words "returned to a".

6. Paragraph 28 is changed by striking in the first sentence of § 250.291 immediately after "(a)" the word "distilled" and inserting in lieu thereof the word "industrial".

Because this Treasury decision is a part of an integrated recodification program under Chapter 51, I.R.C., and in order that the entire program may be effective on July 1, 1960, it is found that it is contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Ac-

cordingly, this Treasury decision shall become effective on July 1, 1960.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] WILLIAM H. LOEB,
Acting Commissioner of Internal Revenue.

RALPH KELLY,
Commissioner of Customs.

Approved: June 28, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

In order to conform this regulation in respect of changes made in certain other regulations of this title effective July 1, 1960, 26 CFR Part 250 is amended as follows:

1. Section 250.1 is amended to read:

§ 250.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

This part, "Liquors and Articles from Puerto Rico and the Virgin Islands," relates to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and to the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

2. The following new section is inserted immediately following § 250.15:

§ 250.15a Executed under penalties of perjury.

Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this _____ (insert type of document, such as, statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

§ 250.25 [Amendment]

3. Section 250.25 is amended by striking the number "5008" and inserting in lieu thereof the number "5205".

4. Section 250.28 is amended to read:

§ 250.28 United States.

"United States" shall mean the States and the District of Columbia.

5. Section 250.30 is amended to read:

§ 250.30 United States Internal Revenue Service office.

"United States Internal Revenue Service office," as used in this part, shall mean the United States Internal Revenue Service office in Puerto Rico operating under the direction of the Director of the International Operations Division of the Internal Revenue Service.

§ 250.36b [Amendment]

6. Section 250.36b is amended by striking the phrase "subpart OO of Part 182 of this chapter in respect of alcohol, denatured alcohol, and products containing denatured alcohol, shall respectively apply to:" from the first sentence and inserting in lieu thereof the phrase "subpart Ia shall apply to:".

7. Section 250.44 is amended to read:

§ 250.44 Liquor dealer's special taxes.

Every person bringing liquors into the United States from Puerto Rico, who sells, or offers for sale, such liquors must file Form 11 with the district director of internal revenue and pay special (occupational) tax as a wholesale dealer in liquor or as a retail dealer in liquor in accordance with the law and regulations governing the payment of such special taxes (Part 194 of this chapter).

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5112, 5121, 5122)

§ 250.53 [Amendment]

8. The second sentence of § 250.53 is amended to read: "The statement of process must also show whether there are to be blended together in the manufacture of the finished product, liquors of less than 190 degrees of proof (a) distilled (1) from different materials, (2) by different distillers, (3) at different distilleries, or (4) from different combinations of the same materials; or (b) of different ages; or (c) which differ in kind according to the standards of identity prescribed in 27 CFR Part 5."

§§ 250.62 and 250.64 [Amendment]

9. Sections 250.62 and 250.64 are amended by changing the number "1520" to the number "2630" wherever it appears in such sections.

§ 250.65 [Amendment]

10. Section 250.65 is amended as follows:

(A) By changing the number "1520" to the number "2630" wherever it appears in the section and

(B) By striking the last sentence.

§§ 250.66 and 250.67 [Amendment]

11. Sections 250.66 and 250.67 are amended by changing the number "1520" to the number "2630" wherever it appears in such sections.

§ 250.70 [Amendment]

12. Section 250.70 is amended by changing the word "denomination" to the word "size" in the first sentence.

§§ 250.74, 250.75, and 250.90 [Amendment]

13. Sections 250.74, 250.75, and 250.90 are amended by changing the number "1520" to the number "2630" wherever it appears in such sections.

§ 250.77 [Amendment]

13a. Section 250.77 is amended:

(A) By striking in the last sentence the words "wholesale liquor dealer's" and inserting in lieu thereof the words "distilled spirits"; and

(B) By changing the statutory citation to read "(72 Stat. 1356, 1358; 26 U.S.C. 5201, 5205)".

§ 250.78 [Amendment]

13b. Section 250.78 is amended:

(A) By striking in the headnote and the first sentence the words "wholesale liquor dealer's" and inserting in lieu thereof the words "distilled spirits"; and

(B) By changing the statutory citation to read "(72 Stat. 1358; 26 U.S.C. 5205)".

13c. Section 250.79 is amended to read:

§ 250.79 Issuance of distilled spirits stamps.

Upon receipt of the approved request therefore, and permit Form 487B, the United States Internal Revenue Service office will issue the requested distilled spirits stamps to the proprietor. The issuing officer shall enter on each stamp, the name of the proprietor removing the spirits, and the serial number of the container for which the stamp is issued. When the stamps have been issued, the issuing officer will enter the serial numbers thereof, preceded by the symbols "DS", on each copy of the request; return the Form 487B and one copy of the request, with the stamps, to the applicant; forward one copy of the request to the treasurer; and retain one copy for the files of the office. At the time the proprietor affixes the stamp to the container, as provided in § 250.80, he shall enter on the stamp the date the stamp is affixed.

(72 Stat. 1358; 26 U.S.C. 5205)

14. Section 250.137 is amended to read:

§ 250.137 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of ½ pint capacity or more, and in a small size for bottles or containers of less than ½ pint capacity.

(72 Stat. 1358; 26 U.S.C. 5205)

15. Section 250.138 is amended to read:

§ 250.138 Affixing strip stamps.

Strip stamps shall be securely affixed to the containers with a strong adhesive, and shall be affixed in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons and wrappings on such cartons must bear the words, "This package may be opened for examination by Internal Revenue Officers." Internal revenue and customs officers have the right to open such cartons or wrappings and examine the container. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.139 and 250.140 [Deletion]

16. Sections 250.139 and 250.140 are deleted.

§ 250.141 [Amendment]

17. Section 250.141 is amended as follows:

(A) By deleting the phrase ", Hawaii, or Alaska," and

(B) By changing the citation at the end of the section to read "(72 Stat. 1358; 26 U.S.C. 5205)".

§ 250.142 [Amendment]

18. Section 250.142 is amended as follows:

(A) By deleting the phrase ", Hawaii, or Alaska" and

(B) By changing the citation at the end of the section to read "(72 Stat. 1358; 26 U.S.C. 5205)".

19. Section 250.145 is amended to read:

§ 250.145 Marking of cases.

The distiller, rectifier, or bottler shall plainly and legibly mark upon each case containing bottles of distilled spirits to which red strip stamps are attached, the following legend:

The red strip stamps required by section 5205, Internal Revenue Code, are affixed to the _____, _____, containers of distilled spirits in this case.
(Number) (Size)

_____
(Name of distiller, rectifier, or bottler)

This legend when stamped on the case may be accepted by customs officers as evidence that the containers bear the stamps as indicated by the certification.

(72 Stat. 1358; 26 U.S.C. 5205)

20. Section 250.146 is amended to read:

§ 250.146 Record and report of red strip stamps.

Insular internal revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½ pint capacity shall be recorded as one item. No form is prescribed for the daily records but such records shall be retained to support the monthly report. At the close of the month, or within 10 days thereafter, the insular internal revenue agent will prepare a report, in triplicate, of the strip stamps received and used during the month on Form 2260, properly modified. The agent will retain one copy and forward two copies to the treasurer; the treasurer will retain one copy and forward one copy to the assistant regional commissioner.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.182 and 250.184 [Amendment]

21. Sections 250.182 and 250.184 are amended by changing the number "1520" to the number "2630" wherever it appears in such sections.

22. The following new subpart, Subpart Ia, is inserted immediately following § 250.186:

Subpart Ia—Tax-Free Shipments to the United States From Puerto Rico

Sec.
250.191 Samples and analysis.
250.192 Action by assistant regional commissioner.
250.193 Certificate.
250.194. Marking containers.
250.195 Arrival in the United States.

§ 250.191 Samples and analysis.

Whenever completely denatured spirits, produced and denatured under the provisions of this subchapter, or proprietary or special industrial solvents, proprietary antifreeze solutions, and toilet preparations (bay rum, hair lotions, skin lotions, and similar products) manufactured under the provisions of this subchapter with denatured spirits produced and denatured under the provisions of this subchapter are shipped in containers larger than 5 wine gallons from Puerto Rico to the United States exempt from tax under the provisions of § 250.36, the shipper shall notify the chemist in charge in Puerto Rico, who will have representative samples taken from each shipment for examination. Such samples must definitely represent the products which are to be shipped. It will not be necessary to sample every container, as samples taken at random from large shipments will be considered as representative of the entire lot. The samples will be examined promptly by the chemist who will forward a copy of his chemical report to the assistant regional commissioner of the region where the port of arrival is located. The report will show whether the product conforms to authorized formulas for completely denatured spirits, or to the formulas on approved Form 1479–A for such products, and must contain sufficient data to definitely identify the particular shipment involved.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.192 Action by assistant regional commissioner.

If the chemical report discloses to the assistant regional commissioner that the product conforms to an approved formula, he will promptly advise the collector of customs at the port of arrival that the shipment may be released free of tax. If the report discloses that the product does not conform to an approved formula, the assistant regional commissioner will request the collector of customs to detain the product and will forward a copy of the report to the Director, Alcohol and Tobacco Tax Division, for advice as to the disposition of the product.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.193 Certificate.

Every person shipping into the United States from Puerto Rico free of tax, pursuant to §§ 250.36 and 250.36a, (a) industrial spirits produced and withdrawn in Puerto Rico in accordance with the provisions of this subchapter relating to the production, bonded warehousing, and the withdrawal from bond of spirits in the United States, (b) distilled spirits produced, warehoused (if applicable), denatured, and withdrawn in Puerto Rico in accordance with the applicable provisions of this subchapter relating to the production, bonded warehousing, denaturation, and the withdrawal from bond of denatured spirits in the United States, and (c) products containing such denatured spirits and manufactured in accordance with the provisions of this subchapter relating to the use of denatured spirits in the United States, shall certify, in the English language, to such fact on the face of the shipper's waybill. Where the product is made pursuant to approved Form 1479–A, the shipper shall also certify as follows:

Made with _____
(Completely or specially)
denatured spirits, Formula No. _____, pursuant to Form 1479–A, approved _____, 19__.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.194 Marking containers.

In addition to such other data as may be required by Part 211 of this chapter to be marked on packages of products containing denatured spirits, the name, address, and permit number of the manufacturer shall appear on each shipping container of such products shipped from Puerto Rico to the United States free of tax.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.195 Arrival in the United States.

When industrial spirits, denatured spirits, and products containing denatured spirits, coming into this country from Puerto Rico, are covered by shipper's documents bearing the manufacturer's certificate prescribed in § 250.193, the collector of customs will inspect and verify the consignment. If no discrepancies are found, the products may be released free of tax: *Provided*, That in the case of products required to be examined by the chemist in charge in Puerto Rico in accordance with § 250.191, release shall be withheld until advice is received from the assistant regional commissioner that the shipment may be released free of tax, as provided in § 250.192.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.201b [Amendment]

23. Section 250.201b is amended by striking the phrase "Subpart PP of Part 182 of this chapter in respect of alcohol, denatured alcohol, and products containing denatured alcohol, shall respectively apply to:" from the first sentence and inserting in lieu thereof the phrase "Subpart O shall apply to:".

24. Section 250.210 is amended to read:

§ 250.210 Liquor dealer's special taxes.

Every person bringing liquors into the United States from the Virgin Islands, who sells, or offers for sale, such liquors must file Form 11 with the district director of internal revenue and pay special (occupational) tax as a wholesale dealer in liquor or as a retail dealer in liquor, in accordance with the law and

regulations governing the payment of such special taxes (Part 194 of this chapter).

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5112, 5121, 5122)

§ 250.223 [Amendment]

25. The second sentence of § 250.223 is amended to read: "The statement of process must also show whether there are to be blended together in the manufacture of the finished product, liquors of less than 190 degrees of proof (a) distilled (1) from different materials, (2) by different distillers, (3) at different distilleries, or (4) from different combinations of the same materials; or (b) of different ages; or (c) which differ in kind according to the standards of identity prescribed in 27 CFR Part 5."

25a. Section 250.225 is amended to read:

§ 250.225 Filing.

Each formula and process shall be filed with the Director, Alcohol and Tobacco Tax Division, on Form 27–B Supplemental, in quintuplicate, properly modified. Two additional copies of each formula and process shall be submitted for each additional port of entry. A separate communication listing the port or ports shall be submitted with each formula. When, after approval of the formula, the product is to be entered at an additional port or ports, two additional copies of the approved formula (for each additional port) for distribution to the collector of customs and assistant regional commissioner concerned shall be filed with the Director, Alcohol and Tobacco Tax Division with a separate communication stating the additional port or ports.

25b. Section 250.226 is amended to read:

§ 250.226 Disposition.

When the formula and process have been examined, the rate of tax applicable thereto will be indicated on each copy of Form 27–B Supplemental, one copy each will be forwarded to the collector of customs at each designated port of entry, to the Governor of the Virgin Islands, to the assistant regional commissioner of the region in which such port is located, and to the manufacturer, and one copy will be retained in the files of the Director, Alcohol and Tobacco Tax Division.

26. Subpart L is amended to read:

Subpart L—Red Strip Stamps for Distilled Spirits From the Virgin Islands

GENERAL

§ 250.230 Containers of distilled spirits to bear red strip stamps.

No person shall transport, possess, buy, sell, or transfer any distilled spirits brought into the United States from the Virgin Islands unless the immediate container thereof is stamped with a red strip stamp evidencing the determination or payment of all internal revenue taxes thereon. The provisions of this section shall not apply to:

(a) Distilled spirits in customs custody;

(b) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale;

(c) Distilled spirits on which no internal revenue tax is required to be paid;

(d) Distilled spirits in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto; or

(e) Any regularly established common carrier, receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.231 Persons authorized to affix red strip stamps.

Red strip stamps shall be affixed to containers of distilled spirits as follows:

(a) By the bottler or exporter in the Virgin Islands; or

(b) By the importer or owner under customs supervision.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.232 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of ½ pint capacity or more, and in a small size for bottles or containers of less than ½ pint capacity.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.233 Affixing strip stamps.

Strip stamps shall be securely affixed to the container with a strong adhesive, and shall be affixed in such manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons and wrappings on such cartons must bear the words, "This package may be opened for examination by Internal Revenue Officers." Internal revenue and customs officers have the right to open such cartons or wrappings and examine the container. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.234 Power of attorney.

Where an importer gives power of attorney to another person to sign Form 96, Form 428, Form 1627, or Form 1627A, such power of attorney shall be filed with the collector of customs who approves the issuance of red strip stamps and shall be in such form as is required by Customs Regulations (19 CFR Chapter I). Where any of the above forms are signed by a duly authorized agent, the name of the importer shall be given, followed by the signature of the agent and the words "Attorney in Fact".

§ 250.235 Breach of regulations, or failure to properly account for strip stamps.

Where an importer fails to render an accounting for strip stamps as prescribed in this subpart, or where the collector of customs is not able to reconcile his records with those of the importer and is not satisfied with the accounting as rendered by the importer, or where there has been any breach of the provisions of this part by the importer, or use of stamps for a purpose other than that for which they were procured, the collector of customs shall refuse to approve any further requisitions, Form 428, submitted by the importer. The collector of customs may also require of the importer an immediate accounting of all strip stamps outstanding in the name of the importer. Such accounting shall be made at a time and place to be specified by the collector of customs, and shall be of such a nature as to satisfy the collector of customs that there has been no unlawful diversion or use of said stamps. If deemed necessary, the collector of customs may require the importer to call in all unused strip stamps, wherever they may be, and deliver them so they may be counted. Where the collector of customs has evidence that any of the provisions of this part have been willfully violated, he shall refer the matter to the Director for appropriate action.

(72 Stat. 1358; 26 U.S.C. 5205)

RED STRIP STAMPS TO BE AFFIXED IN THE VIRGIN ISLANDS

§ 250.236 Conditions.

Red strip stamps may be procured by an importer, or his duly authorized agent, to be affixed to containers of distilled spirits by the bottler or exporter in the Virgin Islands as provided in this subpart.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.237 Requisition, Form 428.

Requisition for red strip stamps shall be made by the importer, or his duly authorized agent, or by the subsequent purchaser of the distilled spirits, on Form 428, in triplicate. The local address of the importer, or his agent, shall be given on Form 428. At the time the importer presents his first Form 428 for approval, he shall present and file (if he has not already done so) with the collector of customs a certified or photostatic copy of his importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder. All Forms 428 shall be submitted to the collector of customs of the district in which the place of business of the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, is located. Collectors of customs shall refuse to approve requisi-

tions, Forms 428, submitted by any person or his agent when the collector has knowledge that such person or his agent has, because of failure to account for stamps, been denied approval of a requisition, Form 428, and has not yet accounted for such stamps. All strip stamps issued on Form 428 shall be accounted for, in the manner prescribed in this part, within 18 months from the date of requisition, or within such additional extension of time as may be granted under § 250.239.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.238 Statement, Form 1627.

The importer, or his duly authorized agent, shall submit, with Form 428 for stamps to be sent to the Virgin Islands, a statement on Form 1627, executed under the penalties of perjury:

(a) That the stamps are requisitioned for sending to the Virgin Islands and are required to supply existing orders and/or represent a reasonable anticipation of current requirements;

(b) That a complete accounting for such stamps will be made within eighteen months from the date of requisition (or within such additional extension of time as may be granted under § 250.239) in accordance with the provisions of this part;

(c) Either that no Form 428 from the importer or his duly authorized agent is and has been open beyond eighteen months, or, if any Forms 428 are open, specifying those that are open beyond eighteen months; and

(d) That the requisitionist understands that failure to account for the strip stamps will be grounds for rejection of subsequent requisitions for red strip stamps.

(68A Stat. 749, 852, 72 Stat. 1358; 26 U.S.C. 6065, 7206, 5205)

§ 250.239 Extension of time for final accounting of strip stamps.

Where an importer is not able, within the eighteen-month period prescribed in § 250.237, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, prior to the expiration of the eighteen-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension or extensions, not to exceed a total of twelve months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the Commissioner of Customs who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in § 250.235.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.240 Approval of requisition.

The collector of customs will approve Form 428 if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(2) That the quantity requisitioned is reasonable and necessary for distilled spirits to be brought into the United States from the Virgin Islands to supply existing orders and/or anticipated requirements, or to be removed from customs custody, as provided in this part; and

(3) That his records show that all strip stamps which may have been previously issued to the importer have been properly and timely accounted for as provided in this part; and

(b) Has not been informed that the importer or his agent has been denied approval of a requisition and has not accounted for the stamps on account of which such denial was given.

When satisfied that Form 428 may be approved, the collector of customs shall signify his approval on all copies of Form 428, retain Form 1627 (if any) and one copy of Form 428, and return the original and remaining copy of Form 428 to the applicant for submission to the proper district director of internal revenue.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.241 Procurement of red strip stamps.

Red strip stamps shall be procured by the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, from the district director of internal revenue of the district in which the place of business of such applicant is located. The applicant shall forward to the district director of internal revenue the original and copy of the approved Form 428. The district director of internal revenue may issue the exact number of stamps requisitioned thereon even though it is necessary to use portions of sheets. The district director of internal revenue shall enter the serial numbers of the stamps issued and stamp the date of issue on both copies of Form 428, retain the original copy, and send the remaining copy to the collector of customs who approved it.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.242 Overprinting of red strip stamps.

The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps overprinted with the importer's real name and/or one of his approved trade names, consistent with the name of the importer as shown on the labels of the imported spirits to which the red strip stamps are to be applied. He shall submit the stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on Form 428 or on the retained original of Form 1627 where such form is submitted: *Provided,* That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter in the Virgin Islands.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.243 Marking of cases.

Where red strip stamps are affixed in the Virgin Islands, the bottler or exporter will plainly and legibly mark the following legend on each case of distilled spirits so stamped:

The red strip stamps required by section 5205, I.R.C., are affixed to the ----------, (Number) ---------, containers of distilled spirits in this (Size) case.

(Name of bottler or exporter)

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.244 Endorsement of entries.

Upon arrival of the distilled spirits in this country, entries required to be filed under Customs Regulations (19 CFR Ch. I) shall have endorsed thereon by the importer, or his duly authorized agent, the following legend:

The red strip stamps required by section 5205, I.R.C., were affixed abroad. These stamps were procured by ----------
(Name of importer)
on a requisition, Form 428, Importer's No. -----, approved by the collector of customs at ----------
(Port where Form 428 was approved)
on ----------.
(Date of approval of Form 428)

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.245 Request for credit of red strip stamps on distilled spirits deposited in a foreign-trade zone at specified port.

When red strip stamps are affixed in the Virgin Islands to containers of distilled spirits and, on arrival in the United States, the spirits are stored in a foreign-trade zone located at the port specified in the requisition, the importer may obtain credit of the red strip stamps against the appropriate requisition. In such cases, the zone application shall have endorsed thereon, by the importer or his duly authorized agent, the legend required by § 250.244. In addition, and as a condition of obtaining approval from the collector of customs for admission of the spirits to the zone, the importer or his duly authorized agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed under customs supervision prior to exportation. The collector of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed as provided in § 250.252.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 250.246 Credit of red strip stamps against requisition on arrival of distilled spirits at specified port.

Where entries required to be filed under Customs Regulations (19 CFR Chapter I) are filed at the port where the requisition was approved, the collector of customs who approved the requisition will credit the Form 428 described in the endorsement on the entry referred to in § 250.244 with the number and size of red strip stamps shown by the usual customs examination to have been attached to the containers. When distilled spirits are placed in a foreign-trade zone at the port of requisition and where the zone application complies with the provisions of § 250.245, the collector of customs shall credit the appropriate strip stamp record with the number and size of red strip stamps shown by the usual customs examination to have been affixed to the containers.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 250.247 Credit of red strip stamps against requisition on diversion of spirits to other than specified port.

In the event of diversion of all or part of the spirits to a port or ports, or to a foreign-trade zone at a port, other than the port specified in Form 1627 filed with the Form 428, the importer who requisitioned the stamps, or the importer at the port of diversion, or the duly authorized agent of either, shall prepare Form 1627A, in triplicate, for each such diversion. One copy of Form 1627A shall be promptly sent to the collector of customs at the port of requisition, and the original and remaining copy shall be filed with the collector of customs at the port of diversion at the time the required entry, or zone application, is filed. The corresponding entry or zone application at the port of entry shall be marked with the requisition and diversion numbers, and the name of the port of requisition, as shown on the Form 1627A. The provisions of § 250.245 shall, as applicable, cover stamps on spirits diverted to a foreign-trade zone located at a port other than the port specified in Form 1627. Such diverted spirits may not be released from customs custody or admitted into a foreign-trade zone until the required Form 1627A has been filed. The collector of customs at the port of diversion shall certify on both copies of Form 1627A as to the disposition of the spirits and of the stamps shown by the usual customs examination to have been affixed to the containers, and forward the original Form 1627A to the collector of customs at the port of requisition. He shall retain the copy of Form 1627A as a record copy in a separate file. On receipt of Form 1627A from the collector of customs at the port of diversion, the collector of customs at the port of requisition shall enter the appropriate credit on his strip stamp record, stamp "Strip stamps used and credited except as noted" on the Copy of Form 1627A originally received by him for such diversion, and send such copy to the importer, or importer's agent, who requisitioned the stamps. Such importer or agent may then take credit for the stamps on his strip stamp record.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 250.248 Follow-up procedure for Forms 1627A.

When the importer, or importer's agent, who requisitioned the stamps on Form 428 has not, within two months from the date of arrival of the spirits, received from the collector of customs the copy of Form 1627A noted as to credit of strip stamps by the collector, as provided for in § 250.247, he shall inquire of the collector of customs who approved the requisition, Form 428, whether the required report on Form 1627A has been received from the collector of customs at the port of diversion. If the collector of customs reports the nonreceipt of Form 1627A from the collector at the port of diversion, the importer, or the importer's agent, shall make a written inquiry, either directly or through the importer at the port of diversion, of the collector of customs at the port of diversion whether such collector has reported on the diversion. The inquiry shall show the entry number, or identify the zone application, and shall be accompanied by two copies of the original Form 1627A marked "Follow-up: Prepared _____." On receipt of the inquiry, the collector of customs of the port of diversion will compare the "Follow-up" copies with his file of record copies of Form 1627A. If he has a record copy showing that he forwarded the original Form 1627A, he shall insert any stamp data on the "Follow-up" copies, return one copy to the party who presented it, and forward the other copy to the collector of customs at the port of requisition. If the collector of customs at the port of diversion finds no corresponding record copy of Form 1627A, he shall use the "Follow-up" copies as original copies. In such case, he shall strike out the words "Follow-up," enter the stamp data thereon, retain one copy as his record copy, and forward the other copy to the collector of customs at the port of requisition. On receipt of the copy by the collector of customs at the port of requisition, the copy will be compared with the records. If the original Form 1627A has been received and the triplicate copy has already been forwarded to the importer, or to the importer's agent, the "Follow-up" copy shall also be sent to him without further action. If the collector of customs at the port of requisition finds that he has not received the original Form 1627A from the port of diversion, he shall use the "Follow-up" copy as the original of Form 1627A, and process it in accordance with § 250.247. On receipt of the copy of Form 1627A, the importer, or the importer's agent, may, unless he has already received his copy of Form 1627A, take credit for the stamps on his strip stamp record.

(Date)

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.249 Irregularities or discrepancies in shipments.

In case any irregularities or discrepancies are found, the collector of customs at the port of entry will make demand for redelivery of unexamined packages, and will not release examined or redelivered packages until satisfactory explanation and/or proper corrections have been made.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.250 Transfer of red strip stamps in the Virgin Islands.

Where an importer has shipped red strip stamps to a Virgin Islands bottler or exporter, to be affixed to containers of distilled spirits to be brought into the United States, and he desires to transfer all or a part of these stamps to a bottler or exporter in the Virgin Islands other than the one named on the initial Form 1627, he shall first submit a written application, in duplicate, to the collector of customs who approved the requisition, Form 428. The application shall show:

(a) The serial number and date of the requisition, Form 428, covering issuance of the stamps;

(b) The name of the Virgin Islands bottler or exporter holding the stamps;

(c) The number and size of the stamps desired to be transferred; and

(d) The name and address of the bottler or exporter to whom the stamps are to be transferred.

If the collector of customs has no reason to believe that the transfer would constitute a jeopardy to the revenue, he shall indicate his approval on the copy of the application, return the copy to the importer, and retain the original for filing with the requisition, Form 428. On receipt of the approved copy, the importer shall effect the requested transfer of strip stamps.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.251 Unused red strip stamps.

Unused red strip stamps returned to the importer by the Virgin Islands bottler or exporter shall be submitted to the collector of customs who approved the original requisition, Form 428, for noting of such fact on the requisition and on the Form 1627 covering such stamps on file with the collector. After such notation has been made, the collector of customs shall return the stamps to the importer. If subsequently the importer desires to send all or part of the returned stamps to a bottler or exporter abroad, he shall submit them with Form 1627, properly modified and in duplicate, to the collector of customs who shall note approval on the copy of the modified Form 1627 and return it with the stamps to the importer. The collector of customs shall retain the original Form 1627. The importer shall make appropriate entries on his strip stamp record and in his report, Form 96, of the receipt and disposition of unused stamps covered by this section.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.252 Destruction of red strip stamps.

When for any reason a Virgin Islands bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for shipment to the United States, and it is impractical to return such stamps to the importer from whom they were received, the collector of customs who approved the requisition, Form 428, may, on application, in triplicate, by the importer, authorize the destruction of the stamps in the Virgin Islands. The application shall show the size, quantity, and serial numbers of the stamps, the name and address of the Virgin Islands bottler or exporter who has possession of the stamps, and the reasons why destruction in the Virgin Islands is requested. If the collector of customs approves the application for destruction he will return the original and one copy of the application to the importer who will forward both to the Virgin Islands bottler or exporter. On receipt of the approved application, the stamps may be destroyed provided such destruction is under the supervision of an authorized representative of the Governor of the Virgin Islands (including an officer of the Board of Control of Alcoholic Beverages) and such representative certifies to the destruction of the stamps on the approved application. After destruction, the original of the application bearing the required certificate of destruction will be returned, through the Virgin Islands bottler or exporter and the importer, to the collector of customs. The collector of customs will credit the Form 428 accordingly, stamp on the copy of the application "strip stamps credited", and send the copy to the importer who filed the application. Such importer may then take credit for the stamps on his strip stamp record. Red strip stamps affixed to (a) imported distilled spirits prior to arrival in the United States, which spirits are diverted by the importer for exportation purposes, and (b) spirits withdrawn from customs custody free of tax for entry into the United States shall be effectively destroyed under customs supervision, prior to exportation or withdrawal for entry into the United States.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.253 Credit for red strip stamps affixed to containers returned to a bottler or exporter in the Virgin Islands.

When for any reason containers of distilled spirits bearing red strip stamps are returned from customs custody to the Virgin Islands bottler or exporter, the importer may be given credit for such stamps, provided he obtains an affidavit from an authorized representative of the Governor of the Virgin Islands (including an officer of the Board of Control of Alcoholic Beverages) to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such affidavit to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.254 Credit for red strip stamps affixed to containers diverted by the importer for exportation.

The importer may be given credit for red strip stamps which were affixed to distilled spirits, brought into the United States from the Virgin Islands, diverted by the importer for exportation purposes and which were effectively destroyed by the exporter under customs supervision, provided he obtains a certificate from the customs officer to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such certificate to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record.

(72 Stat. 1358; 26 U.S.C. 5205)

RED STRIP STAMPS TO BE AFFIXED AT PORT OF ENTRY UNDER CUSTOMS SUPERVISION

§ 250.255 Conditions.

Distilled spirits in containers coming into the United States from the Virgin Islands without having red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer. Stamps procured for such containers but not affixed within 48 hours after entry shall be placed in the custody of the collector of customs until such time as they are to be affixed to containers prior to removal from customs custody.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.256 Requisition, Form 428.

Requisition for red strip stamps shall be made by the original importer, or his duly authorized agent: *Provided,* That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with § 250.237. Approval of the requisition shall be subject to the provisions of § 250.240.

(72 Stat. 1338; 26 U.S.C. 5205)

§ 250.257 Procurement and overprinting of red strip stamps.

The importer, or his duly authorized agent, shall procure red strip stamps from the district director of internal revenue as provided by § 250.241, have them overprinted and such overprinting verified under the provisions of § 250.242, and such verification endorsed on Form 428. After verification of the overprinting and the prescribed endorsement on Form 428, the collector of customs will deliver the stamps to their procurer for affixing to containers under customs supervision.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.258 Expense of affixing red strip stamps.

Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps to the containers shall be borne by the importer, or by the person having title to the distilled spirits, as the case may be.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.259 Marking of cases.

There shall be indelibly stamped upon each case by the customs officer supervising the affixing of red strip stamps to containers the following legend:

Port of _____
_____, 19__
(Month) (Day)

This is to certify that on this date the red strip stamps required by section 5205, I.R.C., were affixed, under my supervision, to the _____, _____, containers of distilled spirits in this case.
(Number) (Size)

_____
(Name)

_____
(Official designation)

(72 Stat. 1358; 26 U.S.C. 5205)

27. Subpart N is amended to read:

Subpart N—Records and Reports of Liquors From the Virgin Islands

RECORD AND REPORT OF RED STRIP STAMPS

§ 250.270 Daily record of strip stamps.

Importers shall maintain a daily record of red strip stamps procured, used, lost, mutilated, destroyed, or otherwise disposed of, and of the balances on hand at the beginning and end of the day. Each credit taken on the record shall identify the customs entry number and the port of entry for the stamped bottles received from the Virgin Islands or the authority given by the collector of customs for such credit. A separate record shall be maintained for each size (small or standard) of stamps. Where an importer has more than one place of business, a separate daily record shall be maintained on the premises of each place of business. Where an agent procures stamps for several importers, the agent shall keep a separate record, for each importer, of all strip stamps sent to the Virgin Islands or retained on his premises for the account of the importer.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.271 Report of strip stamps, Form 96.

Every importer shall prepare on Form 96, in triplicate, an annual report of all strip stamps procured, used, lost, mutilated, destroyed, or otherwise disposed of during each fiscal year (July 1 through June 30, following), a report of the balances on hand at the beginning and end of the fiscal year, and an accounting for any balances outstanding against each requisition at the end of the fiscal year. Where an importer has more than one place of business, a separate report on Form 96 shall be rendered for each place of business. Where an agent procures stamps for several importers, he shall render a separate report on Form 96 in the name of each importer. An original and one copy of

Form 96 shall be filed on or before July 10 with the collector of customs who approved the importer's requisitions on Form 428: *Provided,* That where the collector of customs finds it necessary, in order to reconcile his accounts with those of the importer, he may require the importer, in addition to the annual report on Form 96, to file Form 96 at more frequent intervals, but not more often than once a month, completed in whole or in part, as the collector may designate. Such additional reports on Form 96 shall be prepared in duplicate and the original shall be filed with the collector of customs at the time designated by such collector. The importer shall keep one copy of Form 96 for his files. The collector of customs shall, on or before July 20, forward one copy of each annual report on Form 96 to the assistant regional commissioner of the region in which the customs collection district is located.

(72 Stat. 1358; 26 U.S.C. 5205)

RECORD AND REPORT OF LIQUORS BROUGHT INTO THE UNITED STATES

§ 250.272 General requirements.

Except as provided in § 250.273, every person, other than a tourist, bringing liquors into the United States from the Virgin Islands shall keep such records and render reports of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provisions of Part 194 of this chapter: *Provided,* That regardless of who takes actual physical possession of the liquors at the time of their release from customs custody, the records and reports of the person actually responsible for such release shall reflect the transaction. Records and reports will not be required under this part with respect of liquors while in customs custody.

(72 Stat. 1342, 1345; 26 U.S.C. 5114, 5124)

§ 250.273 Proprietors of taxpaid premises.

Transactions involving the bringing of liquors into the United States from the Virgin Islands by proprietors of distilled spirits plants in the United States qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of such premises in the United States.

(72 Stat. 1375; 26 U.S.C. 5314)

PROCUREMENT OF FORMS

§ 250.274 Forms to be provided by users at own expense.

Forms 52A, 52B, and 338 shall be provided by users at their own expense and must be in the form prescribed: *Provided,* That with the approval of the Director, Alcohol and Tobacco Tax Division, they may be modified to adapt their use to tabulating or other mechanical equipment.

(72 Stat. 1340, 1342, 1391; 26 U.S.C. 5112, 5114, 5505)

FILING AND RETENTION OF RECORDS AND REPORTS

§ 250.275 Filing.

If the importer maintains loose-leaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy", and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part, and legible copies of all reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided,* That on application, the assistant regional commissioner may authorize the files, or any individual file, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue or customs officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies thereof, may be filed in accordance with the importer's customary practice. Documents supporting records of disposition shall have noted thereon the serial numbers of the records of disposition to which they refer.

(72 Stat. 1342, 1391; 26 U.S.C. 5114, 5505)

§ 250.276 Retention.

All records required by this part, documents or copies of documents supporting such records, and file copies of reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs shall be preserved for a period of not less than two years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue or customs officers. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for such inspection and the taking of abstracts therefrom.

(72 Stat. 1342, 1391; 26 U.S.C. 5114, 5505)

REPORT OF DISPOSITION OF RED STRIP STAMPS ON DISCONTINUANCE OF BUSINESS

§ 250.277 Procedure.

The importer who discontinues or sells his business shall recall from his agents in the Virgin Islands all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size, serial numbers, and quantity, to the collector of customs for crediting of the respective Forms 428. The collector of customs shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original and return the copy of the inventory to the importer. Within five days of the receipt of the returned copy of the inventory, the importer shall note the disposition of the stamps on Form 96, mark the report "Final", and submit it, in duplicate, to the collector of customs. The collector of customs shall forward one copy of the final Form 96 to the assistant regional commissioner.

(72 Stat. 1358; 26 U.S.C. 5205)

28. The following new Subpart O, is added immediately following § 250.277:

Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

Sec.
250.291 Certificate.
250.292 Marking containers.
250.293 Arrival in the United States.

§ 250.291 Certificate.

Every person shipping into the United States from the Virgin Islands free of tax, pursuant to §§ 250.201 and 250.201a, (a) industrial spirits produced and withdrawn in the Virgin Islands in accordance with the provisions of the Virgin Islands regulations relating thereto, (b) distilled spirits produced, warehoused (if applicable), denatured, and withdrawn in the Virgin Islands in accordance with the applicable provisions of the Virgin Islands regulations relating thereto, and (c) products containing such denatured spirits and manufactured in accordance with the provisions of the Virgin Islands regulations relating thereto, shall certify, in the English language, to such fact on the face of the shipper's waybill. Where the product is made pursuant to Form 1479–A, approved as provided in the Virgin Islands regulations, the shipper shall also certify as follows:

Made with _____ denatured
(Completely or specially)
spirits, Formula No. _____, pursuant to Form 1479–A, approved _____, 19__.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.292 Marking containers.

The name, address, and permit number of the manufacturer shall appear on each shipping container of products containing denatured spirits shipped from the Virgin Islands to the United States free of tax.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

§ 250.293 Arrival in the United States.

When industrial spirits, denatured spirits, and products containing denatured spirits, coming into this country from the Virgin Islands, are covered by shipper's documents bearing the manufacturer's certificate prescribed in § 250.291, the collector of customs will inspect and verify the consignment. If no discrepancies are found, the products may be released free of tax.

(72 Stat. 1375, 1430; 26 U.S.C. 5314, 7652)

[F.R. Doc. 60–6098; Filed, June 30, 1960; 8:51 a.m.]

[T.D. 6477]

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Miscellaneous Amendments

On May 6, 1960, a notice of proposed rule making with respect to the amendment of 26 CFR Part 251 was published in the FEDERAL REGISTER (25 F.R. 3980). No objections to the proposed amendments were received within the 30-day period prescribed in the notice. However, it has been determined administratively to make conforming and clarifying changes in the proposed amendments in respect of the procedures relating to the transfer of distilled spirits from customs custody to internal revenue bond. Accordingly, the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the following changes:

1. The second sentence of § 251.172 is changed to read as set forth below.

2. Section 251.173 is changed to read as set forth below.

3. Section 251.175 is changed by striking, in the last sentence, the number "2629" and inserting in lieu thereof "236".

Because this Treasury decision is a part of an integrated recodification program under Chapter 51, I.R.C., and in order that the entire program may be effective on July 1, 1960, it is found that it is contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly, this Treasury decision shall become effective on July 1, 1960.

(68A Stat. 917; 26 U.S.C. 7805)

WILLIAM H. LOEB,
Acting Commissioner of Internal Revenue.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: June 28, 1960.

FRED C. SCRIBNER, Jr.
Acting Secretary of the Treasury.

In order to (1) implement changes made in chapter 51, Internal Revenue Code, by the enactment of Public Law 85–859, 85th Congress, (2) conform to the admission into the Union of the State of Alaska pursuant to Public Law 85–508 and of the State of Hawaii pursuant to Public Law 86–3, (3) revise the procedure for accounting for and affixing red strip stamps issued to importers, (4) include in this part, in conformity with administrative decisions, provisions for the transfer of certain distilled spirits from customs custody to internal revenue bond and the withdrawal of distilled spirits from customs custody for use of the United States, and (5) make certain technical changes, the regulations in 26 CFR Part 251, "Importation of Distilled Spirits, Wines, and Beer," are amended as follows:

§ 251.2 [Amendment]

Section 251.2 is amended by striking ", Alcohol and Tobacco Tax Division,".

Section 251.11 is amended to read:

§ 251.11 Director.

"Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Section 251.12 is amended to read:

§ 251.12 Distilled spirits or spirits.

"Distilled spirits or spirits" shall mean the substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but shall not include wine as defined in § 251.23.

§ 251.19 [Amendment]

Section 251.19 is amended by striking "5008(b)" and inserting in lieu thereof "5205(a)(2)".

§ 251.21 [Amendment]

Section 251.21 is amended by striking ", the Territories of Alaska and Hawaii,".

Section 251.30 is amended to read:

§ 251.30 Special (occupational) tax.

Importers engaged in the business of selling, or offering for sale, distilled spirits, wines, or beer, are subject to the provisions of Part 194 of this chapter relating to special (occupational) taxes, which part requires that the special tax return, Form 11, with remittance of the tax, shall be filed with the district director of internal revenue on or before July 1 of each year, or before commencing business.

(72 Stat. 1340, 1343, 1346; 26 U.S.C. 5111, 5121, 5142)

§ 251.48 [Amendment]

Section 251.48 is amended by striking the period at the end of the section and adding ": *Provided,* That the taxes on distilled spirits withdrawn from customs custody without payment of tax under the provisions of Subpart L and thereafter withdrawn from bonded premises of a distilled spirits plan subject to tax shall be collected and paid under the provisions of Part 201 of this chapter."

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

Section 251.61 is amended to read:

§ 251.61 Containers of distilled spirits to bear red strip stamps.

No person shall transport, buy, possess, sell, or transfer any imported distilled spirits, unless the immediate container thereof is stamped with a red strip stamp evidencing the determination or payment of all internal revenue taxes thereon. The provisions of this section shall not apply to—

(a) Distilled spirits in bond or in customs custody;

(b) Distilled spirits lawfully withdrawn from bond and not intended for sale or for use in the manufacture or production of any article intended for sale;

(c) Distilled spirits on which no internal revenue tax is required to be paid;

(d) Distilled spirits, lawfully withdrawn from bond, in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto; or

(e) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.63 is amended to read:

§ 251.63 Size of red strip stamps.

Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of ½ pint capacity or more, and in a small size for bottles or containers of less than ½ pint capacity.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.64 is amended to read:

§ 251.64 Requisition, Form 428.

Requisition for red strip stamps shall be made by the importer, or his duly authorized agent, or by the subsequent purchaser of the distilled spirits, on Form 428, in triplicate. The local address of the importer, or his agent, shall be given on Form 428. At the time the importer presents his first Form 428 for approval, he shall present and file (if he has not already done so) with the collector of customs a certified or photostatic copy of his importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder. All Forms 428 shall be submitted to the collector of customs of the district in which the place of business of the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, is located. Collectors of customs shall refuse to approve requisitions, Form 428, submitted by any person or his agent when the collector has knowledge that such person or his agent has, because of failure to account for stamps, been denied approval of a requisition, Form 428, and has not yet accounted for such stamps. All strip stamps issued on Form 428 shall be accounted for, in the manner prescribed in this part, within eighteen months from the date of requisition, or within such additional extension of time as may be granted under § 251.65a.

(72 Stat. 1358; 26 U.S.C. 5205)

A new section, reading as follows, is inserted immediately following § 251.64.

§ 251.64a Power of attorney.

Where an importer gives power of attorney to another person to sign Form 96, Form 428, Form 1627, or Form 1627A, such power of attorney shall be filed with the collector of customs who approves the issuance of the red strip stamps and shall be in such form as is required by Customs Regulations (19 CFR Chapter I). Where any of the above forms are signed by a duly authorized agent, the name of the importer shall be given, followed by the signature of the agent and the words "Attorney in Fact."

Section 251.65 is amended to read:

§ 251.65 Statement, Form 1627.

The importer, or his duly authorized agent, shall submit, with Form 428 for strip stamps to be sent to a foreign country, a statement on Form 1627, executed under the penalties of perjury:

(a) That the stamps are requisitioned for sending abroad and are required to supply existing orders and/or represent a reasonable anticipation of current requirements;

(b) That a complete accounting for such stamps will be made within eighteen months from the date of requisition (or within such additional extension of time as may be granted under § 251.65a) in accordance with the provisions of this part;

(c) Either that no Form 428 from the importer or his duly authorized agent is and has been open beyond eighteen months, or, if any Forms 428 are open, specifying those that are open beyond eighteen months; and

(d) That the requisitionist understands that failure to properly account for the strip stamps will be grounds for rejection of subsequent requisitions for red strip stamps.

(68A Stat. 749, 852, 72 Stat. 1358; 26 U.S.C. 6065, 7206, 5205)

A new section, reading as follows, is inserted immediately following § 251.65.

§ 251.65a Extension of time for final accounting of strip stamps.

Where an importer is not able, within the eighteen-month period prescribed in §§ 251.64 and 251.65, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, prior to the expiration of the eighteen-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension, or extensions, not to exceed a total of twelve months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the Commissioner of Customs, who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in § 251.92.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.66 is amended to read:

§ 251.66 Approval of requisition.

The collector of customs will approve Form 428 if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(2) That the quantity requisitioned is reasonable and necessary for distilled spirits to be imported to supply existing orders and/or anticipated requirements, or to be removed from customs custody, as provided in this part; and

(3) That his records show that all strip stamps which may have been previously issued to the importer have been properly and timely accounted for as provided in this part; and

(b) Has not been informed that the importer or his agent has been denied approval of a requisition at any port and has not accounted for the stamps on account of which such denial was given.

When satisfied that Form 428 may be approved, the collector of customs shall signify his approval on all copies of Form 428, retain Form 1627 (if any) and one copy of Form 428, and return the original and remaining copy of Form 428 to the applicant for submission to the proper district director of internal revenue.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.67 [Amendment]

Section 251.67 is amended by striking the fourth and fifth sentences, together with the statutory citation at the end of the section, and by inserting in lieu thereof: "The district director of internal revenue shall enter the serial numbers of the stamps issued and stamp the date of issue on both copies of Form 428, retain the original copy and send the remaining copy to the collector of customs who approved it."

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.68 [Amendment]

Section 251.68 is amended by striking the second and third sentences, and the statutory citation at the end of the section, and by inserting in lieu thereof: "An importer holding an importer's permit to do business under one or more trade names shall have the red strip stamps overprinted with his real name and/or one of his approved trade names, consistent with the name of the importer as shown on the labels of the imported spirits to which the red strip stamps are to be applied. He shall submit the stamps to the collector of customs who will verify the overprinting and make an endorsement showing the verification on Form 428, or on the retained original of Form 1627 where such form is submitted: *Provided,* That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter abroad, as provided in Subpart F of this part; or authorize the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, to affix the stamps to containers under customs supervision, as prescribed in Subparts G and H of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.69 is amended to read:

§ 251.69 Affixing strip stamps.

Strip stamps shall be securely affixed to the container with a strong adhesive, and shall be affixed in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons or wrappings on such cartons must bear the words, "This package may be opened for examination by Internal Revenue Officers." Internal revenue and customs officers have the right to open such cartons or wrappings and examine the container. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.70 and 251.71 [Revocation]

Sections 251.70 and 251.71 are revoked.

Section 251.82 is amended to read:

§ 251.82 Approval of requisition.

The collector of customs shall approve Form 428 and dispose of Form 428 and Form 1627 in accordance with and subject to the applicable provisions of § 251.66.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.84 [Amendment]

Section 251.84 is amended as follows:

(A) By striking the present legend and inserting in lieu thereof:

The red strip stamps required by section 5205, I.R.C., are affixed to the ----------, (Number) -------- containers of distilled spirits in (Size) this case.

(Name of bottler or exporter)

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

§ 251.85 [Amendment]

Section 251.85 is amended as follows:

(A) By striking "5008" and inserting in lieu thereof "5205".

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

A new section, reading as follows, is inserted immediately following § 251.85:

§ 251.85a Request for credit of red strip stamps on distilled spirits deposited in a foreign-trade zone at specified port.

When red strip stamps are affixed abroad to containers of imported distilled spirits and, on arrival in the United States, the spirits are stored in a foreign-trade zone located at the port specified in the requisition, the importer may obtain credit of the red strip stamps against the appropriate requisition. In such cases, the zone application shall have endorsed thereon, by the importer or his duly authorized agent, the legend required by § 251.85. In addition, and as a condition of obtaining approval from the collector of customs for admission of the spirits to the zone, the importer or his duly authorized agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed under customs supervision prior to exportation. The collector of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed as provided in § 251.72.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 251.86 [Amendment]

Section 251.86 is amended as follows:

(A) By striking, in the present section, the word "denomination", and inserting in lieu thereof the word "size".

(B) By adding, at the end of the section, the following sentence: "When distilled spirits are placed in a foreign-trade zone at the port of requisition and where the zone application conforms with the provisions of § 251.85a, the collector of customs shall credit the appropriate strip stamp record with the number and size of red strip stamps shown by the usual customs examination to have been affixed by the containers."

(C) By striking the statutory citation at the end of the section and inserting in lieu thereof: "(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)".

Section 251.87 is amended to read:

§ 251.87 Credit of red strip stamps against requisition on diversion of spirits to other than specified port.

In the event of diversion of all or part of the spirits to a port or ports, or to a foreign-trade zone at a port, other than the port specified in Form 1627 filed with the Form 428, the importer who requisitioned the stamps, or the importer at the port of diversion, or the duly authorized agent of either, shall prepare Form 1627A, in triplicate, for each such diversion. One copy of Form 1627A shall be promptly sent to the collector of customs at the port of requisition, and the original and remaining copy shall be filed with the collector of customs at the port of diversion at the time the warehouse or consumption entry, or zone application, is filed. The corresponding entry or zone application at the port of entry shall be marked with the requisition and diversion numbers, and the name of the port of requisition, as shown on the Form 1627A. The provisions of § 251.85a shall, as applicable, cover stamps on spirits diverted to a foreign-trade zone located at a port other than the port specified in Form 1627. Such diverted spirits may not be released from customs custody or admitted into a foreign-trade zone until the required Form 1627A has been filed. The collector of customs at the port of diversion shall certify on both copies of Form 1627A as to the disposition of the spirits and of the stamps shown by the usual customs examination to have been affixed to the containers, and forward the original Form 1627A to the collector of customs at the port of requisition. He shall retain the copy of Form 1627A as a record copy in a separate file. On receipt of Form 1627A from the collector of customs at the port of diversion, the collector of customs at the port of requisition shall enter the appropriate credit on his strip stamp record, stamp "Strip stamps used and credited except as noted" on the copy of Form 1627A originally received by him for such diversion, and send such copy to the importer, or importer's agent, who requisitioned the stamps. Such importer or agent may then take credit for the stamps on his strip stamp record.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

A new section, reading as follows, is inserted immediately following § 251.87.

§ 251.87a Follow-up procedure for Forms 1627A.

When the importer, or importer's agent, who requisitioned the stamps on Form 428 has not, within two months from the date of arrival of the spirits, received from the collector of customs the copy of Form 1627A noted as to credit of strip stamps by the collector, as provided for in § 251.87, he shall inquire of the collector of customs who approved the requisition Form 428 whether the required report on Form 1627A has been received from the collector of customs at the port of diversion. If the collector of customs reports the non-receipt of Form 1627A from the collector at the port of diversion, the importer, or the importer's agent, shall make a written inquiry, either directly or through the importer at the port of diversion, of the collector of customs at the port of diversion whether such collector has reported on the diversion. The inquiry shall show the entry number, or identify the zone application, and shall be accompanied by two copies of the original Form 1627A marked "Follow-up: Prepared _____." On receipt (Date) of the inquiry, the collector of customs of the port of diversion will compare the "Follow-up" copies with his file of record copies of Form 1627A. If he has a record copy showing that he forwarded the original Form 1627A, he shall insert any stamp data on the "Follow-up" copies, return one copy to the party who presented it, and forward the other copy to the collector of customs at the port of requisition. If the collector of customs at the port of diversion finds no corresponding record copy of Form 1627A, he shall use the "Follow-up" copies as original copies. In such case, he shall strike out the words "Follow-up", enter the stamp data thereon, retain one copy as his record copy, and forward the other copy to the collector of customs at the port of requisition. On receipt of the copy by the collector of customs at the port of requisition, the copy will be compared with the records. If the original Form 1627A has been received and the triplicate copy has already been forwarded to the importer, or to the importer's agent, the "Follow-up" copy shall also be sent to him without further action. If the collector of customs at the port of requisition finds that he has not received the original Form 1627A from the port of diversion, he shall use the "Follow-up" copy as the original of Form 1627A, and process it in accordance with § 251.87. On receipt of the copy of Form 1627A, the importer, or the importer's agent, may, unless he has already received his copy of Form 1627A, take credit for the stamps on his strip stamp record.

(72 Stat. 1358; 26 U.S.C. 5205)

A new section, reading as follows, is inserted immediately following § 251.88.

§ 251.88a Transfer of red strip stamps in foreign country.

Where an importer has shipped red strip stamps to a foreign bottler or exporter, to be affixed to containers of distilled spirits to be shipped to the United States, and he desires to transfer all or a part of these stamps to another foreign bottler or exporter, he shall first submit a written application, in duplicate, to the collector of customs who approved the requisition, Form 428. The application shall show: (a) the serial number and date of the requisition, Form 428, covering issuance of the stamps; (b) the name and country of the foreign bottler or exporter holding the stamps; (c) the number and size of the stamps desired to be transferred; and (d) the name and country of the foreign bottler or exporter to whom the stamps are to be transferred. If the collector of customs has no reason to believe that the transfer would constitute a jeopardy to the revenue, he shall indicate his approval on the copy of the application, return the copy to the importer, and retain the original for filing with the requisition, Form 428. On receipt of the approved copy, the importer shall effect the requested transfer of strip stamps.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.89 is amended to read:

§ 251.89 Unused red strip stamps.

Unused red strip stamps returned to the importer by the bottler or exporter abroad, shall be submitted to the collector of customs who approved the original requisition, Form 428, for noting of such fact on the requisition and on the Form 1627 covering such stamps on file with the collector. After such notation has been made, the collector of customs shall return the stamps to the importer. If subsequently the importer desires to send all or part of the returned stamps to

a bottler or exporter abroad, he shall submit them with Form 1627, properly modified and in duplicate, to the collector of customs who shall note approval on the copy of the modified Form 1627 and return it with the stamps to the importer. The collector of customs shall retain the original Form 1627. The importer shall make appropriate entries on his strip stamp record and in his report, Form 96, of the receipt and disposition of unused stamps covered by this section.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.89a [Amendment]

Section 251.89a is amended as follows:

(A) By striking, in the second sentence, the word "denomination", and inserting in lieu thereof the word "size".

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

§ 251.90 [Amendment]

Section 251.90 is amended as follows:

(A) By amending the second and third sentences to read: "The importer shall submit such affidavit to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record."

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

§ 251.91 [Amendment]

Section 251.91 is amended as follows:

(A) By striking from the first sentence the words "an affidavit" and inserting in lieu thereof the words "a certificate."

(B) By amending the second and third sentences to read "The importer shall submit such certificate to the collector of customs who shall credit the original application accordingly. The importer shall make appropriate entries on his strip stamp record."

(C) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

Section 251.92 is amended to read:

§ 251.92 Breach of regulations, or failure to properly account for strip stamps.

Where an importer fails to render a proper accounting for strip stamps as prescribed in this part, or where the collector of customs is not able to reconcile his records with those of the importer and is not satisfied with the accounting as rendered by the importer, or where there has been any breach of the provisions of this part by the importer, or use of stamps for a purpose other than that for which they were procured, the collector of customs shall refuse to approve any further requisition, Form 428, submitted by the importer. The collector of customs may also require of the importer an immediate accounting of all strip stamps outstanding in the name of the importer. Such accounting shall be made at a time and place to be specified by the collector of customs, and shall be of such a nature as to satisfy the collector of customs that there has been no unlawful diversion or use of said stamps. If deemed necessary, the collector of customs may require the importer to call in all unused strip stamps, wherever they may be, and deliver them so that they may be counted. Where the collector of customs has evidence that any of the provisions of this part have been wilfully violated, he shall refer the matter to the Director for appropriate action.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.113 [Amendment]

Section 251.113 is amended as follows:

(A) By striking the present legend and inserting in lieu thereof:

Port of ---------- ---------- 19---.
(Month) (Day)

This is to certify that on this date, the red strip stamps required by section 5205, I.R.C., were affixed, under my supervision, to the ----------, -------- containers of distilled
(Number) (Size)
spirits in this case.

(Name)

(Official designation)

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

§ 251.120 [Amendment]

Section 251.120 is amended as follows:

(A) By striking "§ 251.134" from the last sentence and inserting in lieu thereof "§§ 251.133 and 251.134".

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1342, 1361, 1374, 1395; 26 U.S.C. 5114, 5207, 5301, 5555)".

§ 251.122 [Amendment]

Section 251.122 is amended as follows:

(A) By substituting "Part 201" for "Part 230" where it appears twice in this section.

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1358; 26 U.S.C. 5205)".

Section 251.130 is amended to read:

§ 251.130 Daily record of strip stamps.

Importers shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed, or otherwise disposed of, and on hand at the beginning and end of the day. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½ pint capacity shall be recorded as one item. Each credit taken on the record shall identify the customs entry number and the port of entry for the stamped bottles received from abroad, or the authority given by the collector of customs for such credit. Where an importer has more than one place of business, a separate daily record shall be maintained on the premises of each place of business. Where an agent procures stamps for several importers, the agent shall keep a separate record, for each importer, of all strip stamps sent abroad or retained on his premises for the account of the importer.

(72 Stat. 1358; 26 U.S.C. 5205)

Section 251.131 is amended to read:

§ 251.131 Report of strip stamps, Form 96.

Every importer shall prepare on Form 96, in triplicate, an annual report of all strip stamps procured, used, lost, mutilated, destroyed, or otherwise disposed of during each fiscal year (July 1 through June 30 following), a report of the balances on hand at the beginning and end of the fiscal year, and an accounting for any balances outstanding against each requisition at the end of the fiscal year. Where an importer has more than one place of business, a separate report on Form 96 shall be rendered for each place of business. Where an agent procures stamps for several importers, he shall render a separate report on Form 96 in the name of each importer. An original and one copy of Form 96 shall be filed on or before July 10 with the collector of customs who approved the importer's requisitions on Form 428: *Provided*, That where the collector of customs finds it necessary, in order to reconcile his accounts with those of the importer, he may require the importer, in addition to the annual report on Form 96, to file Form 96 at more frequent intervals, but not more often than once a month, completed in whole or in part, as the collector may designate. Such additional reports on Form 96 shall be prepared in duplicate and the original shall be filed with the collector of customs at the time designated by such collector. The importer shall keep one copy of Form 96 for his files. The collector of customs shall, on or before July 20, forward one copy of each annual report on Form 96 to the assistant regional commissioner of the region in which the customs collection district is located.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.132 [Revocation]

Section 251.132 is revoked.

§ 251.133 [Amendment]

Section 251.133 is amended as follows:

(A) By striking, in the first sentence, that portion preceding the "Proviso" clause, and inserting in lieu thereof: "Except as provided in § 251.134, every importer who imports distilled spirits, wines, or beer shall keep such records and render such reports of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provisions of Part 194 of this chapter:".

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)".

§ 251.134 [Amendment]

The headnote of section 251.134 is amended to read: "§ 251.134 *Proprietors of qualified premises.*"

§ 251.135 [Amendment]

Section 251.135 is amended as follows:

(A) By striking "Alcohol and Tobacco Tax Division,".

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof: "(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)".

§ 251.136 [Amendment]

Section 251.136 is amended as follows:

(A) By changing the second sentence to read: "All records required by this part, and legible copies of all reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs, shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided*, That on application, the assistant regional commissioner may authorize the files, or any individual file, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue or customs officers desiring to examine such files."

(B) By striking the statutory citation at the end of the section and inserting in lieu thereof "(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)".

Section 251.137 is amended to read:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting such records, and file copies of reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs, shall be preserved for a period of not less than two years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue or customs officers. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for such inspection and the taking of abstracts therefrom.

(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)

Subpart J is revoked.

Section 251.160 is amended to read:

§ 251.160 Disposition of strip stamps.

The importer who discontinues or sells his business shall recall from his agents abroad all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size, serial numbers and quantity, to the collector of customs for crediting of the respective Forms 428. The collector of customs shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original of the inventory and return the copy to the importer. Within five days of the receipt of the returned copy of the inventory, the importer shall note the disposition of the stamps on Form 96, mark the report "Final", and submit it, in duplicate, to the collector of customs. The collector of customs shall forward one copy of the final Form 96 to the assistant regional commissioner.

(72 Stat. 1358; 26 U.S.C. 5205)

The following new Subpart L and Subpart M, are added, immediately following § 251.160:

Subpart L—Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

Sec.

§ 251.171 General provisions.

Imported distilled spirits, other than whisky, brandy, rum, or similar beverage spirits, of 185 degrees or more of proof may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred to the bonded premises of his plant for nonbeverage use, without payment of the internal revenue tax imposed on imported spirits by section 5001, I.R.C. Spirits of any proof, imported for any purpose incident to the requirements of national defense, may also be withdrawn from customs custody and be transferred to the bonded premises of a distilled spirits plant without payment of such tax. Spirits so withdrawn and transferred to a distilled spirits plant may be redistilled or denatured and may, without redistillation or denaturation, be withdrawn from internal revenue bond for any purpose authorized by chapter 51, Internal Revenue Code, in the same manner as domestic distilled spirits. Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of Part 201 of this chapter.

(72 Stat. 1366; 26 U.S.C. 5232)

§ 251.172 Application, Form 2609.

The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall, for each withdrawal, submit an application on Form 2609, in triplicate, to the internal revenue officer in charge. The application shall appropriately identify the distilled spirits to be withdrawn, and shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the distilled spirits are to be withdrawn, and by inserting in the "Remarks" item the name and address of the assistant regional commissioner for the region in which is located the plant to which the spirits are to be transferred. The internal revenue officer shall, if the proprietor's bond on Form 2601 is sufficient, approve all copies of Form 2609, forward one copy to the assistant regional commissioner, and return the original and remaining copy to the proprietor. The proprietor shall forward the original of Form 2609 to the collector of customs at the port of entry named therein from whose custody it is proposed to withdraw the distilled spirits, and retain the remaining copy for his files.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

§ 251.173 Customs gauge and release.

The collector of customs will not release distilled spirits without payment of internal revenue tax until the approved Form 2609 has been received from the proprietor of the distilled spirits plant. Prior to release from customs custody, the customs officer shall prepare Form 236 (in quadruplicate, when the spirits are in packages; in quintuplicate, when the spirits are in bulk) appropriately modified to show:

(a) Serial number and date of the Form 2609,
(b) Customs port of entry,
(c) The consignee,
(d) Kind of spirits,
(e) Country from which spirits were exported,
(f) Method of transfer,
(g) Elements of bulk gauge (if any),
(h) Quantity to be transferred,
(i) Customs seals used (if any),
(j) Date of release, and
(k) Signature and title of the customs officer in lieu of the proprietor.

When shipments are made in tank cars or tank trucks, the details of the gauge of each tank car or tank truck shall be reported separately. In the case of barrels, drums, or similar portable containers, the details of the gauge shall be shown on Form 2630, in triplicate. In addition, the customs officer shall ascertain and enter on each copy of Form 236 the rate of customs duty paid on the distilled spirits and the rate of customs duty which would have been applicable had such spirits been imported for beverage purposes. On compliance with the requirements of customs regulations (including determination of duties due), and on completion of Form 236 (and Form 2630, where required), the customs officer shall release the spirits for transfer, retain one copy of Form 236 (and Form 2630, if any), forward one copy of Form 236 to the assistant regional commissioner (alcohol and tobacco tax) at the address shown on Form 2609, and forward the original and remaining copy (or copies) of Form 236 (and Form 2630, if any) to the internal revenue officer at the distilled spirits plant.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

§ 251.174 Tank cars and tank trucks to be sealed.

Where a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

§ 251.175 Transfer by pipeline at dock.

Where the distilled spirits plant is equipped with suitable dock facilities, the distilled spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant, or directly into locked storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets thereof are locked. In all such cases of pipeline transfers, the distilled spirits shall be transferred under customs supervision, gauged immediately by a customs officer, and thereupon released for deposit in the distilled spirits plant. The details of the gauge shall be reported on Form 236, and distribution of the form made, as provided in § 251.173.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

SEC.
251.181 General.
251.182 Application and permit, Form 1444.
251.183 Use of permit, Form 1444.
251.184 Customs gauge and release.
251.185 Tank cars and tank trucks to be sealed.
251.186 Receipt on Form 1473.

§ 251.181 General.

On filing of proper customs entry, imported distilled spirits may, under the provisions of this subpart, be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes.

(72 Stat. 1372, 1375; 26 U.S.C. 5272, 5313)

§ 251.182 Application and permit, Form 1444.

Application on Form 1444, in duplicate, appropriately modified to show the customs port of entry, shall be filed with the Director by the United States or governmental agency thereof for a permit to procure and withdraw imported distilled spirits free of tax for nonbeverage purpose. If it is desired to procure distilled spirits from more than one customs port of entry, a separate application for permit must be filed for each port. Each location to which the distilled spirits are to be shipped shall be shown on the application. The application shall be signed by the head of the department or independent bureau or agency to which such spirits are to be shipped, or by some person duly authorized by such head of a department or independent bureau or agency. Evidence of authority to sign for the head of a department, or independent bureau or agency, shall be furnished the Director. Permits on Form 1444 to procure distilled spirits free of tax from customs custody will not limit the quantity of distilled spirits authorized to be procured, and all such permits shall remain in force until surrended or canceled. Every appropriate precaution shall be taken by the agency to insure that the tax-free spirits so procured will be used only for governmental purposes.

(72 Stat. 1375; 26 U.S.C. 5313)

§ 251.183 Use of permit, Form 1444.

On receipt of the permit, Form 1444, from the Director, the department, bureau, or other agency of the United States, in order to procure distilled spirits from customs custody, shall forward the permit to the collector of customs at the port named therein. The collector of customs may retain such permit to cover future withdrawals pursuant to appropriate customs entry in each case.

(72 Stat. 1375; 26 U.S.C. 5313)

§ 251.184 Customs gauge and release.

Where the appropriate permit, Form 1444, is on file, and on receipt of entry for release of distilled spirits, the spirits shall be gauged by a customs officer who shall prepare a report of gauge on Form 2629, in triplicate. The distilled spirits may then be released free of tax for shipment to the United States or governmental agency thereof named in the permit, Form 1444. The customs officer shall make the appropriate withdrawal entry on Form 1444, and shall state on each copy of Form 2629 the permit number of the Form 1444 under which the distilled spirits were withdrawn. The original of Form 2629 shall be retained by the collector of customs, one copy shall be forwarded to the governmental agency to whom the distilled spirits are consigned, and one copy shall be forwarded to the Director.

(72 Stat. 1375; 26 U.S.C. 5313)

§ 251.185 Tank cars and tank trucks to be sealed.

When a shipment of distilled spirits from customs custody is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(72 Stat. 1375; 26 U.S.C. 5313)

§ 251.186 Receipt on Form 1473.

At the time of shipping distilled spirits free of tax to the United States or governmental agency thereof, the collector of customs shall prepare Form 1473, appropriately modified, forward the original and one copy to the Government officer to whom the distilled spirits are to be delivered at destination, and retain one copy for his files. The Government officer, on receiving the shipment, shall execute the certificate of receipt, forward the original to the Director and retain the copy for his files.

(72 Stat. 1375; 26 U.S.C. 5313)

[F.R. Doc. 60-6097; Filed, June 30, 1960; 8:51 a.m.]

Title 29—LABOR

Chapter XII—Federal Mediation and Conciliation Service

PART 1401—AVAILABILITY OF INFORMATION

Places at Which Information May Be Obtained

Section 1401.1 is hereby revised to read as follows:

§ 1401.1 Places at which information may be obtained.

Any individual, employer or union, or representative thereof, desiring information regarding the operations of the Service within a region should communicate with the regional office of the Service in the region in which the labor dispute or other matter exists with respect to which information is sought. General inquiries for information concerning the Service should be addressed to the Federal Mediation and Conciliation Service, Fourteenth and Constitution Avenue NW., Washington 25, D.C. The location of regional offices of the Service and their respective jurisdictions are as follows:

Region No., Address, and Jurisdiction

1. Room 1016, Parcel Post Building, 341 Ninth Avenue, New York 1, N.Y.—Maine; New Hampshire; Vermont; Connecticut; Rhode Island; Massachusetts; New York; and Northern New Jersey counties of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Sussex, and Union.

2. Room 1015, Jefferson Building, 1015 Chestnut Street, Philadelphia 7, Pa.—Pennsylvania; Delaware; Maryland; District of Columbia; West Virginia; Southern New Jersey counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, Warren, Hunterdon, Mercer, Monmouth and Salem; Eastern Virginia counties of Allegheny, Botetourt, Roanoke, Franklin, Henry and all east of these counties; and Southeastern Ohio counties of Belmont, Monroe, Washington, Noble, and Guernsey.

3. Room 346 Peachtree at Seventh Street Building, 50 Seventh Street NE., Atlanta 23, Ga.—Western Virginia counties of Lee, Wise, Scott, Dickenson, Buchanan, Russell, Washington, Tazewell, Smyth, Bland, Wythe, Grayson, Carroll, Pulaski, Giles, Craig, Montgomery, Floyd and Patrick; Southwest Kentucky counties of Fulton, Hickman, Carlisle, Ballard, McCracken, Groves, Marshall, Calloway, Livingston, Todd, Lyon, Trigg, Caldwell, Crittenden, Union, Webster, Hopkins, Christian, Muhlenberg, Logan and Simpson; Arkansas (Crittenden county only); Tennessee; North Carolina; South Carolina; Georgia; Florida; Alabama; Mississippi; Louisiana; Puerto Rico and the Virgin Islands.

4. Room 435, Old Federal Building, Public Square and Superior Street, Cleveland 14, Ohio—Indiana (counties of Clark and Floyd); Kentucky (except the counties under Region 3 jurisdiction); Ohio (except the counties of Belmont, Monroe, Washington, Noble and Guernsey); Michigan (Lower Peninsula; Upper Peninsula under Region 5 jurisdiction).

5. Room 1515, Consumers Building, 220 South State Street, Chicago 4, Ill.—Illinois (except the counties under Region 6 jurisdiction); Indiana (except Clark and Floyd counties under Region 4 jurisdiction); Wisconsin; Minnesota; North Dakota; South

Dakota; and Michigan (Upper Peninsula; Lower Peninsula under Region 4 jurisdiction).

6. Room 404, Old Custom House Building, 815 Olive Street, St. Louis 1, Mo.—Iowa; Missouri; Southwest Illinois (counties of Calhoun, Greene, Jersey, Madison, Macoupin, Monroe, Randolph, and St. Clair); Arkansas (except Crittenden county); Nebraska; Kansas; Oklahoma; and Texas (except El Paso and Hudspeth counties under Region 7 jurisdiction).

7. Room 332, Appraisers Building, 630 Sansome Street, San Francisco 11, Calif.—Washington; Oregon; California; Idaho; Montana; Wyoming; Nevada; Utah; Colorado; Arizona; New Mexico; Southwest Texas (counties of El Paso and Hudspeth); Alaska; Hawaii; and Guam.

JOSEPH F. FINNEGAN,
Director.

JUNE 27, 1960.

[F.R. Doc. 60-6068; Filed, June 30, 1960; 8:47 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Individual Country Regulations

Correction

In F.R. Doc. 60-5926, appearing at page 5937 of the issue for June 28, 1960, Item IV should read as follows:

IV. In country "Union of Soviet Socialist Republics", as amended by Federal Register document 60-2068, make the following changes:

A. Under Postal Union Mail, the item *Prohibitions and import restrictions* is amended by striking out "Paper money" and inserting in lieu thereof "Currency, bonds and coupons"; and by deleting "stocks, and coupons; and playing cards" where they appear in the list of articles therein. As so amended, the item *Prohibitions and restrictions* reads as follows:

Prohibitions and import restrictions. Dutiable articles (merchandise) in letters and packages prepaid at letter rate, except for duty-prepaid packages of medicine mailed as prescribed under "Observations".

Currency, bonds and coupons of the Union of Soviet Socialist Republics.

Checks and drafts, foreign obligations, except in accordance with the regulations of the State Bank of the Union of Soviet Socialist Republics.

Postage stamps, canceled or not, philatelic collections; obsolete bonds or bills of exchange addressed to private individuals. Match-box labels for collectors, if more than one of a kind is sent, without a permit from the Ministry of Foreign Trade.

Articles prohibited or restricted as parcel post are prohibited or restricted in the postal union mail.

B. Under Parcel Post, the item *Prohibitions and import restrictions* is amended to show the changes in the prohibitions and other regulations affecting gift parcels. As so amended, the item *Prohibitions and import restrictions* reads as follows:

Prohibitions and import restrictions. Addresses are required to obtain import licenses for all commercial parcels, and for gift parcels unless they contain exclusively articles shown in the following list, for the personal use of the addressee, and not exceeding in amount the quotas indicated. Import licenses are required for all parcels mailed by commercial firms, and when a number of parcels appear to have been mailed systematically.

LIST OF ARTICLES ALLOWED TO ENTER WITHOUT PERMIT WHEN INTENDED FOR PERSONAL USE

Item No.	Name of commodity	Maximum quantity admitted
1	Various spices	3½ ounces of each kind.
2	Coffee, Cacao, chicory	4 pounds 6 ounces of each.
3	Tea	7 ounces.
4	Chopped tobacco, tobacco products.	2 pounds 3 ounces.
5	Plates and dishes	11 pounds.
6	Medicaments, all kinds.	As prescribed by Soviet physicians or hospitals.
7	Perfumes and cosmetics.	17½ ounces or 1 set.
8	Soap, all kinds	11 pounds.
9	Articles of gold, silver or platinum.	44 pounds.
10	Hand tools	1 of each kind.
11	Household goods, including electric appliances.	Do.
12	Sporting goods	1 article or 1 set of each kind.
13	Photographic equipment and accessories.	Do.
14	Optical instruments, prostheses, surgical corsets, hearing aids, etc.	1 of each kind, as prescribed by Soviet physicians or hospitals.
15	Clothing (coats, suits, shawls).	3 of each kind.
16	Body linen, bed linens and table linen.	6 sets of each kind.
17	Shirts and blouses	3 of each kind.
18	Curtains, blinds	5 sets of each kind.
19	Headwear, all kinds	4 articles.
20	Footwear, all kinds	4 pairs.
21	Haberdashery:	
	(a) Socks, stockings	6 pairs.
	(b) Gloves	3 pairs.
	(c) Briefcases and handbags.	1 of each kind.
	(d) All other articles of haberdashery.	2 articles or 2 sets of each kind.
22	Toys, games and Christmas tree decorations.	2 articles or 2 sets of each kind.
23	Office supplies	1 article or 1 set of each kind.
24	Phonograph records	12 of different titles.
25	Musical instruments (wind or string).	1 article.

Customs duty is regularly assessed on the contents of gift parcels even if no import license is required. If gift parcels contain articles in excess of the quotas indicated in the foregoing list, duty is charged at penalty rates or the parcels are returned to origin.

All parcels containing meat and any meat products, as well as smoked meat, sausages, and other mixtures of meat prepared by means of heat, must be accompanied by a veterinary certificate containing the following information:

(a) Nature of contents.

(b) Weight.

(c) Names and addresses of sender and addressee.

(d) A statement that the contents come from animals subjected to veterinary inspection and which were healthy at the time of butchering; that they contain no antiseptic substance; and that they are prepared and shipped in accordance with the requirements of alimentary hygiene.

(e) Signature of official veterinarian, confirmed by an official seal.

Articles which are prohibited or restricted in the postal union mail are prohibited or restricted by parcel post.

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2136]

[Sacramento 053883]

CALIFORNIA

Excluding Lands From the Stanislaus and Sierra National Forests and Adding Lands to the Sierra National Forest; Withdrawing Lands for Use of National Park Service as the El Portal Administrative Site; Power Site Cancellation No. 146; Partly Revoking Power Site Classification No. 251

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, and as Secretary of the Interior, and pursuant to the act of September 2, 1958 (72 Stat. 1772), and with the concurrence of the Secretary of Agriculture, it is ordered as follows:

1. The following-described public lands are hereby excluded from the national forests of which they are now a part, as herein indicated:

STANISLAUS NATIONAL FOREST

MOUNT DIABLO MERIDIAN

T. 3 S., R. 19 E.,
Sec. 13, lot 16, that portion lying north of Merced River.

T. 3 S., R. 20 E.,
Sec. 16, N½NW¼ and N½SE¼NW¼, those portions lying north of Merced River;
Sec. 17, S½NE¼NE¼ and that portion of N½SE¼ lying north of Merced River;
Sec. 18, S½ of lot 3, NE¼NW¼, those portions of lot 4 and SE¼NE¼ lying north of Merced River, and those portions of SE¼SW¼ and SW¼SE¼ lying north or west of Merced River (excepting the North Barium Lode Claim, M.S. No. 5281A and B);
Sec. 19, NW¼NE¼ and NE¼NW¼, those portions lying north or west of Merced River (excepting the North Barium Lode Claim M.S. No. 5281A and B), and any portion of lot 1 which may lie north of Merced River.

SIERRA NATIONAL FOREST

MOUNT DIABLO MERIDIAN

T. 3 S., R. 19 E.,
Sec. 13, lot 16, that portion lying south of Merced River and north of the northerly right-of-way line of California Highway No. 140.

T. 3 S., R. 20 E.,
Sec. 16, S½N½NE¼SW¼, S½NE¼SW¼, and such portions of the N½NW¼ and N½SE¼NW¼ as may lie south of the Merced River;
Sec. 17, N½SE¼, that portion lying south of the Merced River;

Sec. 18, lot 4, that portion lying south of the Merced River and north of the northerly right-of-way line of California Highway No. 140; such portion of the SE¼NE¼ as may lie south of the Merced River; that portion of the SE¼SW¼ lying south or east of the Merced River and north of the northerly right-of-way line of California Highway No. 140; and that portion of the SW¼ SE¼ lying east of the Merced River (excepting the Barium No. 2 Lode Claim, M.S. No. 5974, and the East Baryte Lode Claim, M.S. No. 5598);

Sec. 19, NW¼NE¼ and NE¼NW¼, those portions lying south or east of the Merced River and north or west of the northerly and westerly right-of-way line of California Highway No. 140 (excepting the North Barium Lode Claim M.S. No. 5281A and B), and any portion of lot 1 which may lie south of the Merced River and north of the northerly right-of-way line of California Highway No. 140.

The areas described aggregate approximately 406 acres.

2. The following-described acquired lands are hereby transferred from the jurisdiction of the Department of the Interior to the jurisdiction of the Department of Agriculture:

MOUNT DIABLO MERIDIAN

T. 3 S., R. 20 E.,
Sec. 16, S½S½;
Sec. 18, that portion of East Baryte Lode Claim (M.S. No. 5598) lying in the SE¼ SE¼;
Sec. 19, South Barium and Barium No. 1 Lode Claims (M.S. No. 5281A and B), and that portion of the North Barium Lode Claim (M.S. No. 5281A and B) lying south of the northerly right-of-way line of California Highway No. 140.

The areas described aggregate approximately 218 acres.

The lands described in this paragraph, in accordance with section 3 of the said Act of September 2, 1958 (72 Stat. 1772), are hereby added to and made a part of the Sierra National Forest and shall hereafter be subject to all laws, rules and regulations applicable to lands acquired pursuant to the Week's Law of March 1, 1911 (36 Stat. 962; 16 U.S.C. 513–519).

3. Subject to valid existing rights, the public lands described in paragraph 1 of this order are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws and the disposal of materials under the Act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U.S.C. 601–604), as amended, and reserved for use of the National Park Service as a part of the El Portal Administrative Site in connection with the administration of the Yosemite National Park. The El Portal Administrative Site shall be comprised of the following-described lands, of which the public and acquired lands shall be subject to such rules and regulations pertaining thereto as may hereafter be made and published by the Secretary of the Interior in accordance with section 5 of the said Act of September 2, 1958: *Provided, however,* That the acquired lands shall not be subject to leasing under the Acquired Lands Leasing Act of August 7, 1947 (61 Stat. 913; 30 U.S.C. secs. 351, et seq.): *And provided further,* That the withdrawal made by this paragraph shall attach to all the right, title and interest acquired by the United States to any of the nonpublic lands within the El Portal Administrative Site, and the boundaries of the Stanislaus and Sierra National Forests are hereby adjusted so as to exclude from the respective national forests such portions of the following described lands as may now be included within such forests:

MOUNT DIABLO MERIDIAN

T. 3 S., R. 19 E.,
Sec. 13, lot 16, that portion lying north of the northerly right-of-way line of California Highway No. 140.

T. 3 S., R. 20 E.,
Sec. 16, S½S½NE¼NE¼NE¼, S½NE¼ NE¼, S½S½SW¼NW¼NE¼, S½SE¼ NW¼NE¼, S½NE¼, NW¼, and N½S½;
Sec. 17, S½NE¼NE¼, S½N½, and N½ S½;
Sec. 18, S½ lot 3, S½NE¼, E½NW¼, NE¼ SW¼, N½SE¼, SW¼SE¼, and those portions of lot 4 and the SE¼SW¼ lying north of the northerly right-of-way line of California Highway No. 140;
Sec. 19, those portions of NW¼NE¼ and NE¼NW¼ lying north or west of the northerly and westerly right-of-way line of California Highway No. 140, and any portion of lot 1 which may lie north of the northerly right-of-way line of California Highway No. 140.

The areas described aggregate approximately 1186 acres.

4. The departmental order of April 11, 1930, creating Power Site Classification No. 251, is hereby revoked so far as it affects the S½ of lot 3, and the NE¼ NW¼, section 18, T. 3 S., R 20 E., Mount Diablo Meridian.

5. This order shall be subject to existing reservations of any of the lands for power transmission-line purposes, and to the rights of the licensee, for Project No. 1153, and its successors, to use the lands for project purposes as contemplated in the license therefor.

FRED A. SEATON,
Secretary of the Interior.

I concur in the exclusions from and additions to national forest lands, with concurrent transfer of jurisdiction, and the modification of national forest foundaries made by this order.

Dated: June 22, 1960.

[SEAL] E. L. PETERSON,
Acting Secretary of Agriculture.

[F.R. Doc. 60–6074; Filed, June 30, 1960; 8:47 a.m.]

Proposed Rule Making

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. R–189]

STATEMENTS AND REPORTS

Power Systems

JUNE 27, 1960.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. Pursuant to the authority vested in it by the Federal Power Act (41 Stat. 1063, as amended, 16 U.S.C. 791a–825r), and particularly sections 4(a), 301(a), 302(b), 303, 304, 309, and 311 (41 Stat. 1065, as amended, 49 Stat. 854, 855, 858, 859; 16 U.S.C. 797(a), 825(a), 825a(b), 825b, 825c, 825h, 825j) thereof, and subject to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003), the Commission proposes to amend FPC Forms Nos. 12, 12–A, and 12–D and the Regulations prescribing FPC Forms Nos. 12 and 12–D. Forms Nos. 12, 12–A, and 12–D are prescribed by the following sections of the Commission's regulations under the Federal Power Act (with approved forms) which sections correspond to and appear at Part 141—Statements and Reports (Schedules), Subchapter D—Approved Forms, Federal Power Act, Chapter I—Federal Power Commission, Title 18—Conservation of Power, Code of Federal Regulations: § 141.51, Form No. 12, Power system statements for Class I and II Systems and for Class IV and V Systems were requested; § 141.52, Form No. 12–A, Power system statements for Class III, IV, and V Systems; and § 141.55, Form No. 12–D, Power system statement for Class III Systems having annual energy requirements of less than 5,000,000 kwh and Class IV and V Systems where requested. These regulations and forms were last revised by the Commission's Order No. 183, issued January 24, 1956, Docket No. R–149 (21 F.R. 869, February 8, 1956).

3. Forms Nos. 12, 12–A, and 12–D solicit information on electric generating and transmission facilities, electric loads, classified uses of electric energy, and power and energy transactions with other electric utility systems. The purpose of the amendments herein proposed is to clarify these forms, eliminate certain of their reporting requirements, modify a requirement for furnishing load data, and add a new requirement that manufacturers of equipment be identified.

4. In detail the proposed changes are as indicated below:

Form No. 12 prescribed by § 141.51 is proposed to be amended as follows:

General Instructions. Change the first five lines under "Basis of Classification," Paragraph 5, to read:

Systems which generate all or part of system requirements and, whose net energy for system for the year covered by this statement was—
More than 100,000,000 kilowatt-hours—
20,000,000 to 100,000,000 kilowatt-hours—

Schedule 1. Change paragraph 1 of the instructions by adding at the end thereof the following sentence: "Nuclear plants should be included in the steam group, but it should be indicated in column 1 or in footnote that they are nuclear plants."

Renumber present paragraphs 8 through 16 of the instructions paragraphs 9 through 17, respectively, and add a new instruction 8 reading as follows: "8. Figures in column 4 should be based upon the rating at maximum pressure shown on nameplate for units with hydrogen cooling."

Change the present columnar heading over columns (4) and (5) to read: "Installed generating capacity in kw at end of year—manufacturer's maximum name-plate rating of generator."

Schedule 3. Change the instructions to read: *"For 1960 and every fifth year thereafter (1960, 1965, 1970, etc.)* this schedule should be completed for each hydroelectric plant under 5,000 kilowatts, each steam-electric plant under 10,000 kilowatts, and each internal-combustion engine and gas-turbine plant under 2,500 kilowatts, installed capacity. Do not refer to previously reported data in reporting for every such fifth year.

"For each of the intermediate years (1961–2–3–4, 1966–7–8–9, 1971–2–3–4, etc.) this schedule should be completed for each such plant as referred to in the preceding paragraph which was

(a) Constructed, purchased, or leased and placed in operation by the respondent during the year; or

(b) Altered during the year—i.e., generators or other equipment installed, remodeled, removed from service, or otherwise changed; or

(c) Not previously reported.

Enumerate those plants in which no changes occurred which affect any of the data last reported under this schedule and make the following notation for each: "Data for this plant last reported in F.P.C. Form No. 12, 19, is correct as of December 31 of the herein reported year." Make this reference to such last reported data only in reporting for the intermediate years. Use addendum sheets as necessary.

Change lines 2, 3, 17, and 18, page (9) and lines 2, 3, 17, 18, 32, and 33, page (10) by adding at their respective beginnings "Maximum."

Schedule 4. Change the instructions to read: *"For 1960 and every fifth year thereafter (1960, 1965, 1970, etc.)* this entire schedule should be filled in *completely* for each hydroelectric plant of 5,000-kilowatt installed capacity or greater. Do not refer to previously reported data in reporting for every such fifth year.

"For each of the intermediate years (1961–2–3–4, 1966–7–8–9, 1971–2–3–4, etc.) this schedule should be filled in for each such plant as referred to in the preceding paragraph

(a) Which was constructed, purchased, or leased and placed in operation by the respondent during the year; or

(b) Which was altered during the year—i.e., water wheels, generators, or other equipment installed, remodeled, removed from service, or otherwise changed; or

(c) Whose capability was modified as a result of changes during the year in dams, spillways, or other structures of the project, or in available storage at or above the site; or

(d) Which was not previously reported.

"Enumerate those plants in which no changes occurred which affect any of the data last reported under this schedule and make the following notation for each: 'Data for this plant last reported in F.P.C. Form No. 12, 19, is correct as of December 31 of the herein reported year.' Make this reference to such last reported data only in reporting for the intermediate years. Use addendum sheets as necessary."

Insert as a subheading "Elevation" between lines 22 and 23 page (11), and change the numbers at the respective beginnings of lines 23 and 24 to "1" and "2" respectively.

Change footnote 2, page (11), by adding at the end thereof "and time of year."

Insert immediately below line 36, page (12), "(g) Manufacturer."

Insert immediately below line 43, page (12), "(f) Manufacturer."

Change line 46, page (12), to read: "Type: If auto specify."

Insert immediately below line 58, page (12), at the left margin of the tabulation as an addition thereto the word "Manufacturer."

Schedule 5. Change the title to read: "Steam-Electric Including Nuclear Plant Data."

Change the instructions to read: *"For 1960 and every fifth year thereafter (1960, 1965, 1970, etc.)* this entire schedule should be filled in *completely* for each steam-electric (including nuclear) plant of 10,000-kilowatt installed capacity or greater. Do not refer to previously reported data in reporting for every such fifth year.

"For each of the intermediate years (1961–2–3–4, 1966–7–8–9, 1971–2–3–4, etc.) this schedule should be filled in for each such plant as referred to in the preceding paragraph.

(a) Which was constructed, purchased, or leased and placed in operation by the respondent during the year; or

(b) Which was altered during the year—i.e., generators, boiler units, or other equipment installed, remodeled, removed from service, or otherwise changed; or

(c) Whose capability was modified as a result of plant changes during the year; or

(d) Which was not previously reported.

"Enumerate those plants in which no changes occurred which affect any of the data last reported under this schedule and make the following notation for each: 'Data for this plant last reported in F.P.C. Form No. 12, 19, is correct as of December 31 of the herein reported year.' Make this reference to such last reported data only in reporting for the intermediate years. Use addendum sheets as necessary."

Change line 5 by inserting: "mfr's. maximum" before "nameplate ratings • • •"

Change line 16 to read: "Coal (Btu per pound)."

Change line 17 to read: "Oil (Btu per gallon)."

Change line 18 to read: "Gas (Btu per cubic foot)."

Change the title of section C to read: "C. Plant Net Capability Under Specified Conditions."

Change section D, lines 25 through 45, including relevant sub-headings, to read:

Generator data:

Manufacturers maximum name-plate rating in kilowatts Hydrogen pressure—psi gage.

Manufacturers minimum name-plate rating in kilowatts Hydrogen pressure—psi gage.
Manufacturers name-plate—power factor.
Gross capability in kilowatts (if different from name-plate) Hydrogen pressure—psi gage.
Generator coolant—Air (A), Hydrogen (H), Liquid (L).
Generator voltage.
Generator phase and frequency.
Manufacturer.
Turbine data:
Turbine name-plate rating kw.
Single casing, tamden compound, cross compound, etc.
Operating speed-revolutions per minute.
Throttle pressure—psi gage.
Throttle temperature—degrees F.
Reheat temperature, if applicable—degrees F.
Exhaust pressure-psi gage or inches of mercury.
Full load steam rate in pounds per kilowatt-hour.
Full load heat rate in Btu per kilowatt-hour.
Manufacturer.
Year installed.[1]

Insert immediately below line 50, page (14), at the left margin of the tabulation as an addition thereto the word "Manufacturer."

Change line 53, page (14), to read; "Type: If auto specify."

Insert immediately below line 65, page (14), at the left margin of the tabulation as an addition thereto the word "Manufacturer."

Schedule 7. Change the instructions to read: *"For 1960 and every fifth year thereafter (1960, 1965, 1970, etc.)* this entire schedule should be filled in completely for each internal-combustion engine plant and each gas-turbine plant of 2,500-kilowatt installed capacity or greater. Do not refer to previously reported data in reporting for every such fifth year.

"For each of the intermediate years (1961–2–3–4, 1966–7–8–9, 1971–2–3–4, etc.) this schedule should be filled in for each such plant as referred to in the preceding paragraph

(a) Which was constructed, purchased, or leased and placed in operation by the respondent during the year; or

(b) Which was altered during the year—i.e., engines, generators, or other equipment installed, remodeled, removed from service, or otherwise changed; or

(c) Whose capability was modified as a result of plant changes made during the year; or

(d) Which was not previously reported.

Enumerate those plants in which no changes occurred which affect any of the data last reported under this schedule and make the following notation for each: "Data for this plant last reported in F.P.C. Form No. 12, 19, is correct as of December 31 of the herein reported year." Make this reference to such last reported data only in reporting for the intermediate years. Use addendum sheets as necessary.

Change line 6 by inserting: "mfr's maximum" before "name-plate ratings—kw."

Insert immediately below line 21 at the left margin of the tabulation as an addition thereto "Manufacturer of generator."

Insert immediately below line 28 at the left margin of the tabulation as an addition thereto "Manufacturer of prime-mover."

Change line 31, page (16), to read: "Type: If auto specify."

Insert immediately below line 43, page (16), at the left margin of the tabulation as an addition thereto "Manufacturer."

Schedule 9. Change line 8 by inserting at the end thereof the following: "(Should agree with line 9, Schedule 10.)"

Change line 9 to read as follows: "(line 7 minum line 8)[2]."

Following Footnote 1 add as Footnote 2, the following: "2. Exclude company and interdepartmental deliveries; such deliveries should be included in Schedule 10."

Schedule 10. Change the present columnar heading at the top of column (1) to read: "Classification of Energy Delivered to Ultimate Consumers[1]."

Change the present columnar heading at the top of column (2) to read: "Number of Customers at End of Year[2]."

Renumber Footnote No. "1" No. "2" and add as Footnote No. 1 the following: "1. Include company and interdepartmental deliveries in proper use classification."

Schedule 14. Change the present columnar heading at the top of columns (15), (16), and (17) to read: "Report Minimum Hourly Load Experienced during the Month."

Change present Footnote 1 to read:

[1] Percent load factor = $\frac{\text{Net energy for load (Col. 9)} \times 100}{\text{Peak load (Col. 10)} \times \text{hours in month (or year)}}$

Calculate the load factor to the nearest tenth of one percent. If hours used in calculating the load factor for a month differ from the calendar hours in that month, report the number of hours used in calculating the load factor.

Schedule 19. Change the title to read: "Load Estimates."

Delete the line immediately below the title, which line now reads: "A. Estimates of Future Power Requirements."

Change the years listed under Column (1), as "1959," "1960," "1961," and "1962," to read: "1961," "1962," "1963," and "1964," respectively.

Omit entire subschedule B.

In § 141.51(c) of the Commission's regulations under the Federal Power Act (Pamphlet copy, Page 111) the following changes are proposed to be made:

Change "5. Steam electric plant data" to read:

5. Steam-electric including nuclear plant data.

Change "19. Load estimates and energy deliveries" to read:

19. Load estimates.

Form No. 12–A prescribed by § 141.52 is proposed to be amended as follows:

General Instructions. Change the first four lines under "Basis of Classification," Paragraph 5, to read:

Systems which generate all or part of system requirements and, whose net energy for system for the year covered by this statement was—

More than 100,000,000 kilowatt-hours—
20,000,000 to 100,000,000 kilowatt-hours—

Change Schedule 4 by inserting at the end of the instructions thereof the additional definition or clarification of use classifications shown below:

All Other. Energy delivered for ultimate consumption that does not fall within any of the specific classifications listed in this schedule. Included in this group should be deliveries for municipal water pumping; oil and gas pipe line pumping; military camps and bases; and public buildings such as schools, police stations, and post offices.

Form No. 12–D prescribed by § 141.55 is proposed to be amended as follows:

Schedule 1. Redesignate the present part A as Schedule 4.

Redesignate the present part B as Schedule 3 and entitle the new Schedule 3 as follows: "Contemplated alterations, additions, or retirements in system generating plants."

Schedule 2. Redesignate this Schedule as Schedule 5.

Schedule 3. Redesignate this Schedule as Schedule 1.

Change Footnote 1 to read as follows: "Should equal total shown in schedule 5, column 4."

Change Footnote 2 to read as follows: "Should equal total shown in schedule 5, column 6."

Schedule 4. Redesignate this Schedule as Schedule 2.

Schedule 5. Redesignate this Schedule as Schedule 6.

Change § 141.55(c) of the Commission's regulations under the Federal Power Act (Pamphlet copy, Page 113), to read as follows:

(c) This form contains the following list of schedules:

SCHEDULES

1. Generation, energy received and delivered, and system peak for the year.
2. Energy delivered to ultimate consumers.
3. Contemplated alterations, additions, or retirements in system generating plants.
4. Electric generating equipment owned or operated as of December 31.
5. Electric power received from or delivered to other systems.
6. Maps of electric system.

5. Any interested person may submit to the Federal Power Commission, Washington 25, D.C., on or before August 1, 1960, views or comments in writing concerning the amendments proposed herein. An original and nine copies of any such submittals should be forwarded. The Commission will consider these written submittals before acting in this matter.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–6095; Filed, June 30, 1960; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 435]

AIRWORTHINESS DIRECTIVES

Vickers 745D and 810 Series Aircraft

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring inspections of the brake accumulator systems on Vickers Viscount 745D and 810 Series aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 2, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the

Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a), (14 CFR Part 507), by adding the following:

VICKERS. Applies to all 745D and 810 Series aircraft.

Compliance required as indicated.

Conduct inspections of the brake accumulator systems as specified in Vickers Preliminary Technical Leaflet (PTL) 222 (700 Series) and PTL 87 (800/810 Series) within the next 300 hours' time in service and at subsequent periodic intervals of 800 hours' time in service. These inspections are not mandatory when filters, Dunlop ACM 18308 or equivalent, are installed in accordance with Vickers Modification Bulletins D.2994 (700 Series) and FG 1796 (800/810 Series).

Issued in Washington, D.C., on June 27, 1960.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-6061; Filed, June 30, 1960; 8:45 a.m.]

[14 CFR Part 507]

[Reg. Docket No. 436]

AIRWORTHINESS DIRECTIVES

Vickers Viscount 745D and 810 Series Aircraft

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive establishing retirement times for parts not presently included in AD 58-9-4 pertaining to Vickers Viscount 700 Series aircraft. As the retirement times are also applicable to parts installed on 810 Series aircraft, the new directive includes that series and supersedes AD 58-9-4, Amendment 8, 23 F.R. 4725.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 2, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) (14 CFR Part 507), by adding the following:

VICKERS. Applies to all Viscount 745D and 810 Series Aircraft.

Compliance required as indicated. (It will be necessary for operators to maintain a record of flights to ascertain compliance with this AD. If past records are unavailable, the number of flights prior to this AD may be estimated.)

As a result of failures of the trunnion attaching the nose gear retraction jack to the oleo leg, it is necessary to limit the time in service of the various parts forming the attachments of the retraction jack. The following parts must be replaced upon accumulating the specified total time in service:

Part	Retirement time	
	745D aircraft	810 series aircraft
	Flights	*Flights*
Trunnion P/N 60926-525	300	(1)
Trunnion P/N 70126-97	20,000	20,000
Trunnion P/N 70126-651	15,000	15,000
Trunnion P/N 70126-661	20,000	20,000
Trunnion P/N 74426-25	300	300
Pin P/N 60926-529	4,000	4,000
Pin P/N 70026-25	20,000	20,000
Pin P/N 70126-659	20,000	20,000
Attachment Bolt P/N 70126-137	1,000	(1)
Attachment Bolt P/N 70126-187	20,000	20,000
Attachment Bolt P/N 74426-23	20,000	20,000
Cylinder P/N 70026-1	20,000	(1)
Cylinder P/N 70726-41	20,000	20,000
Ram P/N 70026-5	20,000	20,000
Fork End P/N 70026-7	20,000	20,000
End Nut P/N 70026-9	20,000	20,000

[1] Not applicable.

(Vickers-Armstrongs Co. PTL 161 Issue 5 (for 700 Series) and PTL 22 Issue 5 (800/810 Series) cover this subject.)

This supersedes AD 58-9-4, Amendment 8, 23 F.R. 4725.

Issued in Washington, D.C., on June 27, 1960.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-6062; Filed, June 30, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-NY-15]

CONTROL AREA

Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1081 of the regulations of the Administrator, the substance of which is stated below.

The Windsor Locks, Conn., control area extension is presently designated as that airspace bounded on the north by a line extending from a point at latitude 42°08'20" N., longitude 72°37'00" W., to a point at latitude 42°03'45" N., longitude 72°09'00" W., on the east by VOR Federal airway No. 3, on the south by VOR Federal airway No. 58 and on the west by VOR Federal airway No. 123.

The Federal Aviation Agency has under consideration modification of the Windsor Locks control area extension by enlarging it to include the airspace within a 30-mile radius of the Bradley, Conn., Airport, excluding the portion which would coincide with the New York, N.Y., control area extension (601.1066) and the area northeast of a line extending from latitude 42°21'00" N., longitude 72°53'00" W., to latitude 42°08'20" N., longitude 72°37'00" W., to latitude 42°03'45" N., longitude 72°09'00" W., to latitude 42°04'30" N., longitude 72°01'00" W. This modification would provide protection for aircraft conducting instrument flight rule arrival and departure procedures at the Bradley, Conn., Brainard, Conn., Rentschler, Conn., and the Barnes, Mass., Airports.

If this action is taken, the Windsor Locks, Conn., control area extension would be designated as that airspace within a 30-mile radius of the Bradley, Conn., Airport (latitude 41°56'25" N., longitude 72°41'10" W.), excluding the portion which coincides with the New York, N.Y., control area extension and the area northeast of a line extending from latitude 42°21'00" N., longitude 72°53'00" W.; to latitude 42°08'20" N., longitude 72°37'00" W.; to latitude 42°03'45" N., longitude 72°09'00" W.; to latitude 42°04'30" N., longitude 72°01'00" W.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five 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 Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. 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 Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6063; Filed, June 30, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–FW–30]

CONTROL AREA

Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendent to § 601.1406 of the regulations of the Administrator, the substance of which is stated below.

The Milton, Fla., control area extension is presently designated within a 5-mile radius of Whiting NAAS (North), Milton, Fla., and within 5 miles either side of the northwest course of the Whiting (Navy) radio range extending from the radio range to 12 miles northwest. The Federal Aviation Agency has under consideration a proposal by the Department of the Navy to modify the Milton control area extension by adding control area north, east and west of the present area. The Milton control area extension would be redesignated to begin at latitude 30°44'20'' N., longitude 87°37'00'' W., thence north to latitude 30°58'45'' N., longitude 87°36'00'' W.; thence northeasterly along an arc 34.5 miles from the Whiting radio range (latitude 30°46'07'' N., longitude 87°04'22'' W.), to latitude 31°15'40'' N., longitude 87°10'30'' W.; thence southeasterly to latitude 30°54'00'' N., longitude 86°56'30'' W.; thence easterly to latitude 30°54'00'' N., longitude 86°52'30'' W.; thence south to latitude 30°46'00'' N., longitude 86°52'30'' W., thence southwesterly to latitude 30°39'00'' N., longitude 87°03'25'' W.; thence westerly to point of beginning. This modification would provide protection for aircraft departing, arriving and while using the holding pattern airspace area at Whiting NAAS, Fla. In addition, it would provide protection for aircraft departing the Pensacola, Fla., terminal area via a departure procedure using the 334° True radial of the Pensacola VOR to the intersection of the Pensacola VOR 334° and the Crestview, Fla., VOR 269° True radials to the Crestview VOR.

If this action is taken, the Milton, Fla., control area extension would be designated as that airspace bounded by a line beginning at latitude 30°44'20'' N., longitude 87°37'00'' W.; thence north to latitude 30°58'45'' N., longitude 87°36'00'' W.; thence northeasterly along an arc 34.5 miles from the Whiting radio range (latitude 30°46'07'' N., longitude 87°04'22'' W.), to latitude 31°15'40'' N., longitude 87°10'30'' W.; thence southeasterly to latitude 30°54'00'' N., longitude 86°56'30'' W.; thence easterly to latitude 30°54'00'' N., longitude 86°52'30'' W.; thence south to latitude 30°46'00'' N., longitude 86°52'30'' W.; thence southwesterly to latitude 30°39'00'' N., longitude 87°03'25'' W.; thence westerly to point of beginning.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five 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 Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. 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 Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–6064; Filed, June 30, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–WA–83]

CONTROL ZONE

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2159 of the regulations of the Administrator, the substance of which is stated below.

The present Montgomery, Ala., control zone is designated within a 5-mile radius of Dannelly Field, Ala., within a 5-mile radius of Maxwell Air Force Base, Ala., within 2 miles either side of the north and west courses of the Maxwell AFB radio range extending from the radio range station to points 10 miles north and west of the station; within 2 miles either side of a line bearing 276° True from Dannelly Field through the Dannelly ILS outer marker to a point 5 miles west of the outer marker, and within 2 miles either side of the 321° and 141° True radials of the Montgomery VOR, extending from the Dannelly Field control zone to a point 5 miles southeast of the VOR.

The Federal Aviation Agency has under consideration the modification of the Montgomery control zone as follows:

1. Revoke the control zone extensions based on the north and west courses of the Maxwell Air Force Base radio range.

2. Designate two control zone extensions as follows: Within 2 miles either side of the 149° True bearing from the Plattsville, Ala., radiobeacon extending from the Maxwell AFB 5-mile radius zone to the radiobeacon, and within 2 miles either side of the 171° True bearing from the Plattsville radiobeacon extending from the Maxwell 5-mile radius zone to the radiobeacon.

3. Redesignate the control zone extension within 2 miles either side of the 321° True radial of the Montgomery, Ala., VOR to extend from the Dannelly 5-mile radius zone to the VOR.

4. Redesignate the control zone extension, presently based on the 276° True bearing from Dannelly Field through the ILS outer marker, to extend from the Dannelly 5-mile radius zone to the ILS outer marker.

The Department of Air Force has advised the Federal Aviation Agency that the prescribed instrument approach procedures based on the Maxwell AFB radio range are to be cancelled in the near future. When these instrument approach procedures are cancelled the control zone extension based on the north and west courses of the Maxwell AFB radio range will no longer be required.

Designation of two control zone extensions based on the Plattsville radiobeacon, redesignation of the west control zone extension which extends through the ILS outer marker, and redesignation of the control zone extension based on the Montgomery VOR, would provide adequate protection for aircraft executing prescribed instrument approaches to Maxwell AFB and Dannelly Field.

If this action is taken, the Montgomery, Ala., control zone would be designated within a 5-mile radius of Dannelly Field, Montgomery, Ala. (latitude 32°17'55'' N., longitude 86°23'50'' W.); within a 5-mile radius of Maxwell Air Force Base, Ala. (latitude 32°22'45'' N., longitude 86°21'40'' W.); within 2 miles either side of the Dannelly Field ILS localizer west course extending from the Dannelly 5-mile radius zone to the ILS outer marker; within 2 miles either side of the 321° True radial of the Montgomery VOR extending from the Dannelly 5-mile radius zone to the VOR; within two miles either side of the 149° True bearing from the Plattsville, Ala., radiobeacon extending from the Maxwell AFB 5-mile radius zone to the radiobeacon; and within 2 miles either side of the 171° True bearing from the Plattsville radiobeacon extending from the Maxwell AFB 5-mile radius zone to the radiobeacon.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five 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 Agency officials may be made by con-

tacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. 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 Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–6065; Filed, June 30, 1960; 8:47 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–AN–15]

CONTROL ZONE

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2228 of the regulations of the Administrator, the substance of which is stated below.

The Fairbanks, Alaska control zone is presently designated within a 5-mile radius of Ladd Air Force Base; within a 5-mile radius of Fairbanks International Airport, and within 5 miles either side of a line bearing 039° True extending from the Fairbanks International Airport to the ILS outer marker. The Federal Aviation Agency is considering modifying this control zone by adding a control zone extension 2 miles either side of the Fairbanks International Airport ILS localizer southwest course, extending from the Fairbanks International Airport 5-mile radius zone to 6 miles southwest of the ILS localizer (latitude 64°48'35'' N., longitude 147°52'15'' W.). In addition, it is proposed to add a control zone extension 2 miles either side of the 276° True radial of the Ladd AFB TACAN (latitude 64°50'00'' N., longitude 147°17'55'' W.), extending from the Ladd AFB 5-mile radius zone to the TACAN. It is also proposed to reduce the northeast extension of the Fairbanks control zone and redesignate the control zone extension 2 miles either side of the northeast course of the Fairbanks International Airport ILS localizer, extending from the Fairbanks International Airport 5-mile radius zone to the ILS outer marker. These modifications would provide protection for aircraft conducting prescribed instrument approaches to Fairbanks International Airport and Ladd AFB.

If these actions are taken, the Fairbanks, Alaska control zone would be designated within a 5-mile radius of the Fairbanks International Airport (latitude 64°49'09'' N., longitude 147°51'14'' W.); within a 5-mile radius of Ladd Air Force Base (latitude 64°50'22'' N., longitude 147°38'05'' W.); within 2 miles either side of the northeast and southwest courses of the Fairbanks International Airport ILS localizer (latitude 64°48'35'' N., longitude 147°52'15'' W.), extending from the Fairbanks International Airport 5-mile radius zone to the ILS outer marker; and from the 5-mile radius zone to 6 miles southwest of the ILS localizer; and within 2 miles either side of the 276° True radial of the Ladd AFB TACAN, extending from the 5-mile radius zone to the TACAN.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five 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 Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. 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 Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–6066; Filed, June 30, 1960; 8:47 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–NY–72]

CONTROL ZONE

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2009 of the regulations of the Administrator, the substance of which is stated below.

The Erie, Pa., control zone is presently designated within a 5-mile radius of Port Erie Airport and within 2 miles either side of the southwest course of the Erie radio range extending to the North Springfield fan marker. The Federal Aviation Agency has under consideration modification of the Erie control zone by revoking the southwest extension based on the Erie radio range. This extension is no longer required because the instrument approach procedure based on the southwest course has been cancelled. The Erie control zone would be further modified by designating an extension within 2 miles either side of the 054° True radial of the Erie VOR extending from the 5-mile radius zone to the VOR. This extension would provide protection for aircraft conducting instrument approaches to Port Erie Airport based on the Erie VOR.

If these actions are taken, the Erie, Pa., control zone would be designated within a 5-mile radius of the Port Erie Airport (latitude 42°04'56'' N., longitude 80°10'44'' W.), within 2 miles either side of the 054° True radial of the Erie VOR extending from the 5-mile radius zone to the VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five 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 Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. 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 Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 24, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–6067; Filed, June 30, 1960; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group Nos. 361, 427, 428]

CALIFORNIA

Notice of Filing of Plats of Survey and Order Providing for the Opening of Public Lands

JUNE 22, 1960.

1. Plats of survey of the lands described below will be officially filed in the Land Office, Los Angeles, California, effective at 10:00 a.m., on July 1, 1960.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 1 S., R. 11 E.

This plat represents a retracement and re-establishment of a portion of the east and west boundaries and sub-divisional lines designed to restore the corners in their true original location according to the best available evidence, and a survey to complete Section 16.

Sec. 16: Lots 1, 2, 3, 4, S½N½, S½.

The area described aggregates 642.56 acres. Plat of Survey accepted March 15, 1960.

T. 1 S., R. 12 E.

This plat represents a retracement and re-establishment of portions of the east boundary and subdivisional lines designed to restore the corners in their true original location according to the best available evidence, and a survey to complete Section 16.

Sec. 16: Lots 1, 2, 3, 4, W½, NE¼.

The area described aggregates 604.62 acres. Plat of Survey accepted March 15, 1960.

T. 1 N., R. 12 E.

This plat represents a retracement and re-establishment of the south boundary (San Bernardino Base Line), portions of the east and north boundaries and subdivisional lines designed to restore the corners in their true original location according to the best available evidence, and surveys to complete the east and north boundaries and subdivisional lines of T. 1 N., R. 12 E.

Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, E½SE¼, SE¼NE¼;
Sec. 11: Lots 1, 2, 3, 4, W½E½, NW¼;
Sec. 12: All;
Sec. 13: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, W½SE¼, SW¼NE¼;
Sec. 14: Lots 1, 2, 3, SW¼NE¼.

The area described aggregates 3,552.52 acres. Plat of Survey accepted March 15, 1960.

T. 3 N., R. 4 E.

This plat represents a retracement and re-establishment of the east, south and portions of the north and west boundaries and a portion of the subdivision designed to restore the corners in their original location according to the best available evidence, and survey of a portion of a portion of the west boundary, a portion of the subdivisions of T. 3 N., R. 4 E.

Sec. 1: Lots 3, 4, 5, 6, 7, 8, 9, 10;
Sec. 12: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 19: Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14;
Sec. 20: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 21: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½S½;
Sec. 22: Lots 1, 2, 3, 4, S½S½, NE¼;
Sec. 23: Lots 1, 2, 3, 4, S½S½, NW¼;
Sec. 24: Lots 1, 2, 3, 4, 5, 6, S½SW¼;
Sec. 25: Lots 1, 2, 3, 4, W½E½, W½;
Sec. 26: All;
Sec. 27: All;
Sec. 28: All;
Sec. 29: All;
Sec. 30: Lots 1, 2, 3, 4, 5, E½W½, NE¼, W½SE¼, NE¼SE¼;
Sec. 31: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, E½W½, SW¼SE¼;
Sec. 32: Lots 1, 2, 3, S½NW¼, NE¼NW¼, E½SW¼, E½;
Sec. 33: All;
Sec. 34: All;
Sec. 35: All;
Sec. 36: Lots 1, 2, 3, 4, W½E½, W½.

The area described aggregates 11,244.07 acres. Plat of Survey accepted December 11, 1959.

T. 3 N., R. 5 E.

This plat represents a retracement and re-establishment of a portion of the south and east boundary and a portion of the subdivisional lines designed to restore the corners in their true original location according to the best available evidence and survey to complete the subdivisional lines.

Sec. 1: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, S½NW¼, SW¼NE¼, SW¼, W½SE¼;
Sec. 2: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 4: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12;
Sec. 5: Lots 3, 4, 5, 6;
Sec. 9: Lots 1, 2, W½NE¼;
Sec. 10: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, SW¼NE¼, W½SE¼;
Sec. 11: Lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 12: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12;
Sec. 14: Lots 1, 2, 3, 4, 5, 6, NE¼NW¼, NW¼NE¼;
Sec. 15: Lots 1, 2, 3, NE¼NE¼;
Sec. 25: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16;
Sec. 26: E½;
Sec. 28: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 30: Lots 3, 4, 5, 6, 7, 8, 9, 10;
Sec. 31: Lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 32: Lots 1, 2, 3, 4, 5, 6, N½NW¼;
Sec. 33: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 35: Lots 1, 2, N½NE¼;
Sec. 36: N½.

The area described aggregates 8,265.40 acres. Plat of Survey accepted March 15, 1960.

T. 4 N., R. 2 E.,

This plat represents a retracement and re-establishment of the south, east and west boundaries, portion of the north boundary and portion of the subdivisional lines, designed to restore the corners in their true original location according to the best available evidence and survey to complete the north boundary and subdivisional lines.

Sec. 5: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 6: Lots 119, 120, 121, 122, 123, SE¼NW¼, S½NE¼;
Sec. 11: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 14: Lots 1, 2, 3, 4, S½N½;
Sec. 27: W½, SE¼;
Sec. 28: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½S½;
Sec. 33: Lots 1, 2, 3, 4, 5, 6, 7, 8, N½N½;
Sec. 34: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 35: Lots 1, 2, NW¼, E½SW¼.

The area described aggregates 3,687.47 acres. Plat of Survey accepted March 15, 1960.

2. Except for and subject to valid existing rights, it is presumed that title to the following lands passed to the State of California upon acceptance of the above mentioned plats of survey:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 1 S., R. 11 E.,
Sec. 16: Lots 1, 2, 3, 4, S½N½, S½.
T. 1 S., R. 12 E.,
Sec. 16: Lots 1, 2, 3, 4, W½, NE¼.
T. 3 N., R. 5 E.,
Sec. 36: N½.

The area described aggregates 1,567.18 acres.

3. The following described lands have been classified as unsuitable for agricultural entry under the public land laws by Secretary of the Interior's notice of September 28, 1959 as amended January 14, 1960. Until further notice, any such applications which may be hereafter filed for any of the public lands involved will be returned to the applicant, accompanied by a notice stating that the lands have been classified as unsuitable for further agricultural entry and that no right of appeal lies from refusal to accept the application for filing:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 3 N., R. 4 E.,
Sec. 1: Lots 3, 4, 5, 6, 7, 8, 9, 10;
Sec. 12: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 19: Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14;
Sec. 20: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 21: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½S½;
Sec. 22: Lots 1, 2, 3, 4, S½S½, NE¼;
Sec. 23: Lots 1, 2, 3, 4, S½S½, NW¼;
Sec. 24: Lots 1, 2, 3, 4, 5, 6, S½SW¼;
Sec. 25: Lots 1, 2, 3, 4, W½E½, W½;
Sec. 26: All;
Sec. 27: All;
Sec. 28: All;
Sec. 29: All;
Sec. 30: Lots 1, 2, 3, 4, 5, E½W½, W½SE¼, NE¼SE¼, NE¼;
Sec. 31: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, E½W½, SW¼SE¼;
Sec. 32: Lots 1, 2, 3, S½NW¼, NE¼NW¼, E½SW¼, E½;
Sec. 33: All;
Sec. 34: All;
Sec. 35: All;
Sec. 36: Lots 1, 2, 3, 4, W½E½, W½.

The area described aggregates 11,244.07 acres.

4. The following described lands are classified as suitable for disposition under the Small Tract Act of June 1, 1938 by Classification Order No. 563, dated May 15, 1957, as amended. Such classification segregates the land from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 3 N., R. 4 E.,
Sec. 19: Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14;
Sec. 20: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 22: Lots 1, 2, 3, 4, S½S½, NE¼;
Sec. 23: Lots 1, 2, 3, 4, S½S½, NW¼;

Sec. 24: Lots 1, 2, 3, 4, 5, 6, S½SW¼;
Sec. 25: Lots 1, 2, 3, 4, W½E½, W½;
Sec. 26: All;
Sec. 36: Lots 1, 2, 3, 4, W½E½, W½.

T. 3 N., R. 5 E.,
Sec. 1: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, S½NW¼, SW¼NE¼, SW¼, W½SE¼;
Sec. 2: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½N½, S½;
Sec. 3: Lots 1, 2, 7, 8, S½NE¼, SE¼;
Sec. 11: Lots 1, 2, SE¼NE¼, E½SE¼;
Sec. 12: Lots 3, 6, 9, 10, 12, S½ of Lot 5;
Sec. 14: Lots 1, 3, 4, 5, 6, NW¼NE¼;
Sec. 15: Lots 1, 2, 3, NE¼NE¼;
Sec. 25: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16;
Sec. 26: E½;
Sec. 28: Lots 2, 3, 6, 7;
Sec. 30: Lots 3, 4, 5, 6, 7, 8, 9, 10;
Sec. 32: Lots 1, 2, 3, 4, 5, 6, N½NW¼;
Sec. 33: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 35: Lots 1, 2, N½NE¼.

T. 4 N., R. 2 E.,
Sec. 5: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 6: Lots 119, 120, 121, 122, 123, SE¼NW¼, S½SE¼;
Sec. 11: Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 12: Lots 1, 2, 3, 4, S½N½;
Sec. 27: NW¼, S½;
Sec. 35: Lots 1, 2, E½SW¼, NW¼;

The area described aggregates 11,345.58 acres.

The lands shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 USC 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid.

5. The following described lands are classified under the Small Tract Act of June 1, 1938, by Classification Order No. 465, dated November 30, 1955, as amended May 24, 1960. Such classification segregates the land from all appropriations, including locations under the mining laws, except applications under the mineral leasing laws. The lands will be disposed of by direct sale only in tracts of approximately 5 acres with the tracts oriented with the long axis east and west.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 3 N., R. 5 E.,
Sec. 28: Lots 1, 4, 5, 8.

The area described aggregates 160.14 acres.

6. The following described lands are opened to application, location, selection and petition as outlined in paragraph 8, below. No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 1 N., R. 12 E.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, SE¼NE¼, E½SE¼;
Sec. 11: Lots 1, 2, 3, 4, W½E½, NW¼;
Sec. 12: All;
Sec. 13: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, W½SE¼, SW¼NE¼;
Sec. 14: Lots 1, 2, 3, SW¼NE¼;

T. 3 N., R. 4 E.,
Sec. 1: [1] Lots 3, 4, 5, 6, 7, 8, 9, 10;
Sec. 12: [1] Lots 1, 2, 3, 4, 5, 6, 7, 8;
Sec. 21: [1] Lots 1, 2, 3, 4, 5, 6, 7, 8, S½S½;
Sec. 27: [1] All;
Sec. 28: [1] All;
Sec. 30: [1] Lots 1, 2, 3, 4, 5, E½W½, NE¼, W½SE¼, NE¼SE¼;
Sec. 31: [1] Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, E½W½, SW¼SE¼;
Sec. 32: [1] Lots 1, 2, 3, S½NW¼, NE¼NW¼, E½SW¼, E½;
Sec. 33: [1] All;
Sec. 34: [1] All;
Sec. 35: [1] All.

T. 3 N., R. 5 E.,
Sec. 3: Lots 3, 4, 5, 6, 9, 10, 11, SE¼NW¼, E½SW¼;
Sec. 4: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12;
Sec. 5: Lots 3, 4, 5, 6;
Sec. 9: Lots 1, 2, W½NE¼;
Sec. 10: Lots 1, 2, 3, 4, 5, 6, 7, S½NW¼, SW¼NE¼, W½SE¼;
Sec. 11: Lots 3, 4, 5, 6, 7, SE¼NW¼, SW¼NE¼, E½SW¼, W½SE¼;
Sec. 12: Lots 1, 2, 4, N½ of Lot 5;
Sec. 14: Lot 2, NE¼NW¼;
Sec. 31: Lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼, S½NE¼, E½SW¼, SE¼.

T. 4 N., R. 2 E.,
Sec. 28: Lots 1, 2, 3, 4, 5, 6, 7, 8, S½S½;
Sec. 33: Lots 1, 2, 3, 4, 5, 6, 7, 8, N½N½;
Sec. 34: Lots 1 2, 3, 4, E½W½, E½.

7. Land Use Characteristics:

T. 1 N., R. 12 E., SBM

These lands are located on the western slopes of the Sheep Hole Mountains, approximately 22 miles East of 29 Palms, California, and 1 to 3 miles North of Dale Lake, California. The terrain ranges from rough, steep granite outcrops to fairly steeply sloping outwash fans covered with boulders. Vegetation is extremely sparse in a shallow, immature soil. Access may be gained to the lands from Amboy Road which passes along the western boundary of Section 3.

T. 3 N., R. 4 E., SBM

Lands in this township are located on the slopes forming the northern foothills of the San Bernardino Mountains, approximately 12 miles East of Big Bear City, California. The terrain ranges from rough and broken at the lower elevations to steeply mountainous at higher elevations. Vegetation consists of creosote bush, bur sage, Joshua Trees, galleta grass and cacti, along with a few scattered pinion and juniper found at the higher elevations. Leveler portions of the land are covered with a sandy soil derived from the granite bedrock in the area. The lands are accessible from the North and East over dirt roads.

T. 3 N., R. 5 E., SBM

These lands are located about 18 miles North of Yucca Valley, California. The terrain consists of rough, mountainous, granite rock ranging in elevation from about 2,600 to 3,584 feet. Vegetation is sparse and soils immature. Access to the lands must be accomplished over dirt roads.

T. 4 N., R. 2 E., SBM

These lands are located about 10 miles East of Lucerne Valley, California, on the topographic divide between the Lucerne and Johnson Valleys. The terrain is undulating to hilly. Soils are sandy, supporting a vegetative cover consisting mainly of creosote bush, bur sage, cacti and annual grasses. The paved Victorville to Yucca Valley Road lies less than one mile North furnishing access to the lands.

[1] Classified as unsuitable for agricultural entry.

8. Subject to any existing valid rights and the requirements of applicable laws, the lands described in paragraph 6 hereof, are hereby opened to filing applications, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on August 6, 1960, will be considered as simultaneously filed at that hour. Rights under such applications, selections, and offers filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a.m. on August 6, 1960.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

9. Inquiries concerning these lands should be addressed to the Manager, Land Office, Bureau of Land Management, 215 West Seventh Street, Los Angeles 14, Calif.

MALCOLM O. ALLEN,
Manager, Land Office,
Los Angeles, Calif.

[F.R. Doc. 60-6073; Filed, June 30, 1960; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Pursuant to authority (19 F.R. 74), as amended, delegated to the Administrator, Agricultural Marketing Service, the Organization, Functions, and Delegations of Authority of the Agricultural Marketing Service (25 F.R. 436) is amended as follows:

1. In section 2(d) (2) change the number of functional Divisions from "two" to "three".

2. Also in section 2(d)(2) insert the words "Packers and Stockyards" between the words "Food Distribution" and the words "and Special Services".

3. In section 6 insert the words "Packers and Stockyards" between "Food Distribution" and the words "and Special Services Divisions".

4. In section 6(e)(1) delete the words "marketing regulatory" between the word "grading" and the words "surplus removal".

5. Also in section 6(e)(1) delete the words "Packers and Stockyards Act, 1921, as amended," between the words "as authorized by" and the words "Wool Standards Act".

6. In section 6 renumber paragraph (i) to (j) and add a new paragraph (i) to read as follows:

(i) *Packers and Stockyards Division.* The Packers and Stockyards Division is responsible for:

(1) Administering provisions of the Packers and Stockyards Act, as amended; and

(2) Executing assigned civil defense and defense mobilization activities.

7. In section 13 insert the words "Packers and Stockyards" between the words "Food Distribution" and the words "and the Special Services Divisions".

Issued at Washington, D.C., this 28th day of June 1960 to become effective July 1, 1960.

HENRY G. HERRELL,
Acting Administrator,
Agricultural Marketing Service.

[F.R. Doc. 60-6111; Filed, June 30, 1960; 8:53 a.m.]

Commodity Stabilization Service and Commodity Credit Corporation

LENDING AGENCY AGREEMENT—COTTON

Decrease in Interest Rate

Commodity Credit Corporation, by Federal Register notices published in 24 F.R. 5314, 8682, announced that the per annum rate of interest included in the compensation provided in Lending Agency Agreement—Cotton (CCC Cotton Form D) in effect for the 1959 and subsequent Cotton Loan Programs would be 2¾ percent through and including June 30, 1959, 3¼ percent from July 1, 1959 through and including October 31, 1959, and 4 percent thereafter.

Pursuant to section IV, paragraph 4, of the Lending Agency Agreement—Cotton (CCC Cotton Form D), CCC hereby announces that such per annum rate of interest for the 1960 and subsequent Cotton Loan Programs is decreased to 3¼ percent effective on and after August 1, 1960, and that the rates of interest, specified in paragraphs 1b and 3 of such section IV, in effect for the 1960 and subsequent Cotton Loan Programs shall be 4 percent through and including July 31, 1960, and 3¼ percent thereafter.

Issued this 28th day of June 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-6135; Filed, June 30, 1960; 8:53 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13605-13607; FCC 60-730]

ABILENE RADIO AND TELEVISION CO. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Abilene Radio and Television Company, San Angelo, Texas, Docket No. 13605, File No. BPCT-2639; E. C. Gunter, San Angelo, Texas, Docket No .13606, File No. BPCT-2663; Dornita Investment Corp., San Angelo, Texas, Docket No. 13607, File No. BPCT-2714; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 3, assigned to San Angelo, Texas;

It appearing that the applications of Abilene Radio and Television Company, E. C. Gunter, and Dornita Investment Corporation, are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; and

It further appearing that Abilene Radio and Television Company has requested a waiver of § 3.613(a) of the Commission's rules to locate the main studio outside of San Angelo, and has shown good cause for the requested waiver; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, Abilene Radio and Television Company, E. C. Gunter, and Dornita Investment Corporation, were advised by letters that their applications were mutually exclusive, of the necessity for a hearing, and were advised of all objections to their applications and were given an opportunity to reply; and

It further appearing that the Commission indicated in the above-mentioned letter to E. C. Gunter that it could not, on the basis of the applicant's financial proposal, determine without a hearing that the applicant was financially qualified to construct and operate the proposed station; and

It further appearing that E. C. Gunter amended his application in response to the above-mentioned letter to show proposed financing for the construction and initial operation of the proposed station in the total amount of approximately $108,095 by submitting a detailed balance sheet showing the availability of current and liquid assets in the approximate amount of $120,942, and a copy of an agreement with RCA to extend deferred credit in the amount of $150,000, and, therefore, E. C. Gunter is now financially qualified; and

It further appearing that in the prehearing letter to Abilene Radio and Television Company, the Commission raised a question with respect to whether the type and character of the program service proposed will meet the needs of San Angelo in view of the proposal to rebroadcast in their entirety the programs of Station KRBC-TV, Abilene, Texas, with no provision for local originations; and

It further appearing that the Commission is of the view that the above question raised with respect to the proposed programming of Abilene Radio and Television Company should be explored within the framework of comparative issue "2(c)" as specified herein, rather than as a separate issue; and

It further appearing that Abilene Radio and Television Company is also the licensee of Station KRBC-TV, Abilene, Texas, and that in the event the subject application were granted, the Grade B field intensity contour of the proposed station would overlap the Grade B field intensity contour of Station KRBC-TV by approximately 31 miles; and

It further appearing that upon due consideration of the above-captioned applications, the amendments thereto, and the replies to the above letters, the Commission finds that pursuant to section 309(b) of the Communications Act of 1934, as amended, a hearing is necessary; that Abilene Radio and Television Company is legally, financially, and technically qualified to construct, own and operate the proposed television broadcast station, and is otherwise qualified except as to issue "1" below; that E. C. Gunter is legally, financially, technically, and otherwise qualified to construct, own, and operate the proposed television broadcast station; and that Dornita Investment Corporation is legally, financially, technically, and otherwise qualified to construct, own, and operate the proposed television broadcast station.

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned applications of Abilene Radio and Television Company, E. C. Gunter, and Dornita Investment Corporation are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether a grant of the application of Abilene Radio and

Television Company would be consistent with the provisions of § 3.636(a)(1) of the Commission's rules and regulations, in view of the overlap of the area to be served by the proposed station with the area served by Television Station KRBC–TV, Abilene, Texas.

2. To determine on a comparative basis which of the operations proposed in the above-captioned applications would better serve the public interest, convenience and necessity in light of the significant differences between the applicants as to:

(a) The background and experience of each bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the proposed television broadcast stations.

(c) The programming service proposed in each of the above-captioned applications.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard Abilene Radio and Television Company, E. C. Gunter, and Dornita Investment Corporation, pursuant to § 1.140(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–6100; Filed, June 30, 1960; 8:51 a.m.]

[Docket No. 13602; FCC 60–726]

CLACKAMAS BROADCASTERS (KGON)

Order Designating Application for Hearing on Stated Issues

In re application of Clackamas Broadcasters (KGON), Oregon City, Oregon, has: 1520 kc, 10 kw, DA–1, U; requests: 1520 kc, 50 kw, DA–1, U; Docket No. 13602, File No. BP–11734; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in letters dated December 9, 1958, March 26, 1959 and August 18, 1959, respectively, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that copies of the aforementioned letters are available for public inspection at the Commission's offices; and

It further appearing that the applicant filed timely replies to the aforementioned letters, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that by letters dated March 26 and August 18, 1959, the Commission advised applicant that cochannel Class I–B Station KOMA, Oklahoma City, Oklahoma (1520 kc, 50 kw, DA–N, U), by letters and affidavits filed February 11 and April 23, 1959, expressed its doubt as to whether applicant's proposed directional antenna system could be adjusted and maintained within the specified maximum expected operating values of radiation and whether reradiation effects from sources external to the array would cause the maximum expected operating values of radiation to be exceeded to the extent that interference would result to the service area of KOMA; and that by letter dated September 15, 1959, KOMA contends that because of the foregoing, it is entitled to a hearing on the KGON proposal; and

It further appearing that by letters and engineering affidavits filed March 11, April 24 and September 8, 1959, applicant states that any assumption by KOMA that a meaningful site survey could be made using its existing facilities to determine whether the proposed antenna system could be adjusted and maintained within the specified limits of radiation, is in error, since the existing facilities are not the same as those proposed for their 50 kw operation in such important parameters as current ratio, phase and height of towers, extent of ground system and monitoring facilities; that moreover, KGON must first receive its permit before a site survey can be conducted; that in its request for a construction permit, the changes which are felt to be necessary to modify the KGON facilities so as to protect KOMA, are spelled out in detail; that further, the maximum expected operating values of radiation specified, have been determined by assuming the worst possible combinations of error in the magnitude and phase of radiation from each antenna element and then computing the resulting increase in total radiation in pertinent directions; that included in these assumptions is a factor to account for unavoidable scattering of signal due to conditions external to the array; that to provide the maximum stability and permit adjustment of the proposed array, the existing installation will be completely overhauled; that new phase and current monitors, with resolution and accuracy of 0.1 degree and 0.2 percent will be installed; and

It further appearing that, an examination of the KGON proof of performance radial on file for the bearing 112 degrees true toward KOMA indicates considerable signal scattering; and that, (a) in view of said signal scattering indicated toward KOMA by the present KGON proof of performance, (b) the degree of signal suppression proposed, and (c) the relatively low values of radiation necessary in the initial adjustment of the directional antenna pattern in order to insure that current variations in the antenna elements would not cause the maximum expected operating value of radiation specified to be exceeded, thereby causing interference to KOMA, the Commission is of the opinion that the instant application must be designated for hearing on the issues specified below; and that KOMA should be made a party to the proceedings;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KGON and the availability of other primary service to such areas and populations.

2. To determine the extent of anticipated variations in the phase and amplitude of currents in the antenna towers during the actual operation of the proposed directional array.

3. To determine whether the proposed directional antenna array can be adjusted and maintained within the limits of radiation specified by the instant applicant.

4. To determine, in the event Issue 3 is decided in the negative, whether the instant proposal would involve objectionable interference with Station KOMA, Oklahoma City, Oklahoma, or any other existing standard broadcast stations; and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine, in the light of the evidence adduced, pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That, in the event of a grant of the instant proposal, the construction permit shall contain a

condition that (1) the permittee, in order to insure maintenance of the radiated fields within the required tolerance, shall install properly designed phase and current monitors in the transmitter room, having a resolution of 0.1 degree and 0.2 percent, and shall be continuously available as a means of correctly indicating the relative phase and magnitude of currents in the several elements of the directional antenna system; (2) the permittee shall submit information with the proof-of-performance concerning the effect of the anticipated variations in phase and magnitude of currents in the towers of the array during actual operation upon the inverse distance field strengths indicated at one mile by the proof-of-performance data; and that any license issued to the instant applicant shall require the maintenance of the relative phase and magnitude of currents within these anticipated variations specified by applicant, or within those limits as may be specified by the Commission.

It is further ordered, That Storz Broadcasting Co., licensee of Station KOMA, Oklahoma City, Oklahoma, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the instant applicant, and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6101; Filed, June 30, 1960; 8:51 a.m.]

[Docket Nos. 13603, 13604; FCC 60-727]

ELIZABETH G. COUGHLAN AND NORTH SUBURBAN RADIO, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Elizabeth G. Coughlan, Highland Park, Illinois, req.: 103.1 Mc, #276; 1 kw; 136 ft., Docket No. 13603, File No. BPH-2831; North Suburban Radio, Inc., Highland Park, Illinois, req.: 103.1 Mc, #276; 1 kw; 118.2 ft., Docket No. 13604, File No. BPH-2907; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, the instant applicants are legally, technically, financially, and otherwise qualified to construct and operate the instant proposals; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated March 29, 1960, and incorporated herein by reference, notified the applicants and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicants' replies to the aforementioned letter have not entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring a hearing on the particular issues hereinafter specified; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the area and population within the 1 mv/m contours, the area and population therein which would be served by the proposed stations, and the availability of other FM services (at least 1 mv/m) to such proposed service areas.

2. To determine, on a comparative basis, which of the instant proposals would better serve the public interest, convenience and necessity in the light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each having a bearing on the applicant's ability to own and operate the proposed station.

b. The proposals of each of the applicants with respect to the management and operation of the proposed station.

c. The programming service proposed in each of the said applications.

3. To determine in the light of the evidence adduced, pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to section 1.140 of the Commission's rules in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6103; Filed, June 30, 1960; 8:52 a.m.]

[Docket Nos. 13485-13487; FCC 60M-1085]

CLARKE BROADCASTING CORP. (WGAU) ET AL.

Order Continuing Hearing

In re applications of Clarke Broadcasting Corporation (WGAU), Athens, Georgia, Docket No. 13485, File No. BP-12186; Wake Broadcasters, Inc. (WAKE), Atlanta, Georgia, Docket No. 13486, File No. BP-12477; Savannah Valley Broadcasting Company (WBBQ), Augusta, Georgia, Docket No. 13487, File No. BP-13455; for construction permits.

Pursuant to agreement reached at a prehearing conference in the above-entitled matter: *It is ordered*, This 23d day of June 1960, that the hearing in the above-entitled matter presently scheduled for July 11, 1960, be, and the same is, hereby continued, to October 11, 1960.

Released: June 27, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6102; Filed, June 30, 1960; 8:52 a.m.]

[Docket No. 13601; FCC 60-725]

HOPKINSVILLE BROADCASTING CO., INC. (WHOP)

Order Designating Application for Hearing on Stated Issues

In re application of Hopkinsville Broadcasting Company, Incorporated (WHOP), Hopkinsville, Kentucky, has: 1230 kc, 250 w, U, requests: 1230 kc, 250 w, 1 kw-LS, U, Docket No. 13601, File No. BP-12506; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated March 9, 1960, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that in an amendment filed April 28, 1960, the applicant indicated that interference received by the present operation of Station WHOP affects 32.5 percent of the population within its normally protected primary service area; that the interference which would be received by the proposed operation of Station WHOP would affect 27.7 percent of the population within the proposed normally protected primary service area; and that the interference which would be caused by the proposed operation of WHOP to Station WTCJ would affect 61.5 percent of the population within the normally protected primary service area of WTCJ; and

It further appearing that by the aforementioned amendment, the applicant requests a waiver of § 3.28(c)(3) of the Commission rules on the ground that the percentage of population in the proposed primary service area (27.7 percent) which would be affected by interference received, would be smaller than the percentage of population in its present primary service area (32.5 percent) so affected; and that on the basis of this information we are of the opinion that a waiver of § 3.28(c)(3) of the rules is warranted under these circumstances; and

It further appearing that, after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WHOP and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of WHOP would involve objectionable interference with Stations WTCJ, Tell City, Indiana, and WHCO, Sparta, Illinois, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That, James Roland Brewer, tr/as Tell City Broadcasting Co., and Hirsch Communications Engineering Corporation, licensees of Stations WTCJ and WHCO, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6104; Filed, June 30, 1960; 8:52 a.m.]

[Docket No. 13222 etc.; FCC 60M-1086]

MICHIGAN BROADCASTING CO. (WBCK) ET AL.

Order

In re applications of Michigan Broadcasting Company (WBCK), Battle Creek, Michigan, Docket No. 13222, File No. BP-11439; F. E. Lackey, Pierce E. Lackey and William Ellis Wilson, d/b as Richmond Broadcasting Company, Centerville, Indiana, Docket No. 13223, File No. BP-11625; Charles H. Chamberlain, Urbana, Ohio, Docket No. 13224, File No. BP-11736; M. M. Lawrence and Ruel O. Thomas, d/b as Lake Cumberland Broadcasting Company, Jamestown, Kentucky, Docket No. 13228, File No. BP-12213; Sam Kamin and James A. Howenstine, d/b as Citizens Broadcasting Company, Lima, Ohio, Docket No. 13230, File No. BP-12319; J. B. Crawley, R. L. Turner, W. B. Kelly and Dean Harden, d/b as Shelby Broadcasting Company, Shelbyville, Kentucky, Docket No. 13232, File No. BP-12352; W.L.K.Y., Inc., Lexington, Kentucky, Docket No. 13237, File No. BP-12498; Miami Valley Christian Broadcasting Association, Incorporated, Miamisburg, Ohio, Docket No. 13239, File No. BP-12640; Raymond I. Kandel and Gus Zaharis, Zanesville, Ohio, Docket No. 13242; Continental Broadcasting Company, Cincinnati, Ohio, et al., Docket Nos. 13246, 13225, 13226, 13227, 13229, 13231, 13233, 13235, 13241, 13243, 13245, 13247, 13248, 13249, 13250, 13251; File No. BP-13088; for construction permits.

The Hearing Examiner having under consideration a joint motion for continuance filed on June 20, 1960, by Richmond Broadcasting Company, Docket 13223, Charles H. Chamberlain, Docket 13224, Lake Cumberland Broadcasting Company, Docket 13228, Citizens Broadcasting Company, Docket 13230, Shelby Broadcasting Company, Docket 13232, W.L.K.Y., Inc., Docket 13237, Miami Valley Christian Broadcasting Association, Incorporated, Docket 13239, Raymond I. Kandel and Gus Zaharis, Docket 13242, and Continental Broadcasting Company, Docket 13246, nine of the applicants in Group 2 of the above-styled proceeding, requesting that the dates heretofore scheduled for Step 3, as set forth in the order of the Hearing Examiner released April 18, 1960, be continued (1) pending consolidation or other disposition of the application of Muskingum Broadcasting Company for 940 kc at Zanesville, Ohio (BP-13157) into this proceeding and (2) pending a further prehearing conference to be scheduled after action on the Muskingum application, to determine the type of evidence to be submitted under certain issues recently added by the Commission; and

It appearing that by order released May 18, 1960, in response to a joint motion by eleven applicants in Group 2, the Hearing Examiner indefinitely continued the remaining phases of Step 1 and Step 2 pending action on the application of Muskingum Broadcasting Company, and that subsequently, on May 31, 1960, the Commission released a Memorandum Opinion and Order adding, inter alia, a comparative issue with respect to the applications for Delphos, Ohio (Western Ohio Broadcasting Co., Docket 13241) and Lima, Ohio (Citizens Broadcasting Company, Docket 13230) in Group 2; and

It further appearing that the recently added comparative issues was the subject of discussion in Group 3 prehearing conferences, and the said issue should also be discussed in a Group 2 prehearing conference prior to the exchange of exhibits, which, in the Examiner's order released April 18, was scheduled as part of Step 3 for June 30, 1960; and

It further appearing that when Muskingum Broadcasting Company's Zanesville application is consolidated into Group 2, it will be involved in a comparative issue with the Zanesville application of Kandel and Zaharis (Docket 13249) and it would be unfair to Kandel and Zaharis to exchange its comparative evidence and thus reveal its case prior to the consolidation of Muskingum; and

It further appearing that the remaining five applicants in Group 2 have authorized the movants to state their positions as follows:

1. Virginia-Kentucky Broadcasting Company, Incorporated (WNRG), Docket 13231; Western Ohio Broadcasting Company, Docket 13241; and Fort Wayne Broadcasting Company, Docket 13249, have consented to a grant of this motion.

2. Michigan Broadcasting Company, Docket 13222, and Radio 940, Docket 13233, waive the four-day rule with respect to the entire motion.

It further appearing that the Broadcast Bureau has informally agreed to immediate consideration and grant of the instant motion; and

It further appearing that public interest requires an early consideration of this motion; and good cause has been shown for the grant of the requested relief;

It is therefore ordered, This 23d day of June 1960, that the joint motion be and the same is hereby granted and the dates heretofore scheduled by order released April 18, 1960, for Step 3 of Group 2 of the above-styled proceeding be and the same are hereby continued pending action by the Commission with respect to consolidation of the Muskingum Broadcasting Company application for 940 kc at Zanesville, Ohio, into this proceeding.

It is further ordered, That after Commission action on the Muskingum application, a further conference will be held to arrive at a new schedule of dates and for such other matters as may seem appropriate; the time of such further conference to be fixed in a subsequent order.

Released: June 27, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6105; Filed, June 30, 1960; 8:52 a.m.]

[Docket No. 13614; FCC 60-736]

NEW ENGLAND MICROWAVE CORP.

Order Designating Applications for Hearing on Stated Issues

In re applications of New England Microwave Corporation, Docket No. 13614; for construction permit for new fixed video radio station, frequency: 6012.5 Mc., location: Lennox Mt. Fire Tower, Richmond, Massachusetts, File No. 2305-C1-P-60; for construction permit for new fixed video radio station, frequency: 6112.5 Mc., location: Hoosac Tunnel, North Adams, Massachusetts, File No. 2306-C1-P-60.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration a protest and petition for reconsideration timely filed on May 27, 1960, by Springfield Television Broadcasting Corporation, licensee of television station WRLP, at Greenfield, Massachusetts (hereinafter referred to as Springfield), protesting the grant without hearing, on April 29, 1960, of the above indicated applications of New England Microwave Corporation (hereinafter referred to as Microwave); the opposition to such protest timely filed by Microwave on June 6, 1960; and a reply to Microwave's opposition timely filed by Springfield on June 13, 1960; and

It appearing that Springfield is a party in interest with standing to protest and petition for reconsideration herein, and that said protest is legally sufficient; and

It further appearing that issue 12 proposed by Springfield is inappropriate since it is predicated on conclusions of fact and law which are not pleaded with specificity; and

It further appearing that this proceeding must be considered in the light of the considerations and determinations made in our Report and Order in Docket No. 12443 (26 FCC 403); and

It further appearing that there is no direct or indirect interrelationship of ownership or control between Microwave and its initial subscriber, Mohawk Valley Television, Inc., and that Microwave appears to be a bona fide communications common carrier; and

It further appearing, that Springfield delivers a sub-standard television signal at Athol, Massachusetts (as admitted on page 2 of its protest); and that the actual (as distinguished from 'theoretical) direct coverage of other television stations in Athol is doubtful because of local terrain factors; and

It further appearing that Springfield holds a construction permit for a UHF translator at Athol (W74AB) which was granted in March 1959 and that the facility so authorized has not yet been installed; and

It further appearing that the local CATV service in Athol may be the only substantial and reliable source presently available to the public there for television program service; and

It further appearing in the light of the foregoing circumstances, that the public interest requires that the protested grants remain in effect pending the Commission's decision herein after hearing; and

It further appearing that it is desirable and appropriate that we do not adopt as our own any of the issues proposed by Springfield; and

It further appearing that the disposition herein of the protest renders moot the request for reconsideration;

It is ordered, That the protest is granted to the extent herein provided, and denied in all other respects; and the request for reconsideration is denied; and that, pursuant to the provisions of section 309(c) of the Communications Act of 1934, as amended, a hearing be held herein, at the offices of the Commission in Washington, D.C., at a time and place to be hereafter announced, on the following issues:

1. To determine the areas and populations served by stations WRLP, W74AB and W74AE, and the nature and type of service provided by said stations.

2. To determine the cost of placing the aforesaid stations on the air (including subsequent capital expenditures), the annual revenues of WRLP during 1957, 1958, 1959, and 1960, the corresponding annual operating costs of said stations.

3. To determine the number of persons within WRLP's service area who receive television service from boosters, translators, or outside stations, and the nature and extent of the service thus received.

4. To determine what impact a grant of the aforesaid applications would have on the quantity and quality of service presently being rendered and presently projected by WRLP and on the service presently proposed by W74AB and W74AE, and more particularly whether the impact would be such as to jeopardize WRLP's continued existence and the proposed operations of W74AB and W74AE or necessitate a curtailment in the quality and quantity of service rendered by said stations.

5. To determine whether the CATV operations in Athol, Adams or elsewhere in WRLP's service area intend to add subscribers to their systems or to extend their systems into other towns within WRLP's service area, and the number of additional subscribers thus contemplated within the next three years.

6. To determine the number of persons within WRLP's service area who would lose the only service that they presently receive, in the event WRLP, W74AB and W74AE do not operate.

7. To determine the extent to which it would be economically feasible to bring booster, translator, or satellite service to the population dependent on WRLP for a television service, in the event that station ceased to operate.

8. To determine what effect bringing additional VHF signals into the heretofore UHF upper Connecticut River Valley will have on the operation of other UHF stations and whether such action is in contravention of Rule 3.606 of the Commission's rules and against the public interest.

9. To determine whether New England Microwave Corporation is owned or controlled by CATV operators.

10. To determine in light of the evidence adduced under Issue 9, the effect, if any, of such common or interlocking ownership, upon the common carrier status of New England Microwave Corporation and its eligibility for a microwave grant.

11. To determine whether New England Microwave Corporation is a bona fide common carrier and eligible for a common carrier microwave facility under the Commission's Rules and Regulations.

12. To determine whether the grantee and/or CATV system it serves proposes (a) to carry WRLP's signal if that station so requests; (b) to carry that signal without degradation; (c) to take steps to prevent the CATV operations from interfering with the off-the-air pickup of WRLP's signal or those of W74AB and W74AE.

13. To determine whether the Commission, in the light of evidence adduced in this proceeding and under its authority to establish "areas or zones" for each radio station (47 U.S.C. 303(h)), should preclude the bringing into the Connecticut River Valley via microwave facilities the VHF signals of distant metropolitan stations, even though the Commission does "not presently envision such a system of regulation" in all areas (see 26 FCC at 439, par. 93).

14. To determine whether the conclusions set forth in paragraphs 45 thru 51 and 58 thru 79 of the Report and Order in Docket No. 12443, as applied in this case, are in error.

15. To determine in the light of the evidence adduced under the foregoing issues, whether a grant of the aforesaid applications will serve the public interest, convenience and necessity.

It is further ordered, That Springfield shall have the burden of proof on issues 1, 2, 3, 4, 6, 7, 8, 13, and 14; and Microwave shall have the burden of proof on issues 5, 9, 10, 11, 12, and 15; and

It is further ordered, That Microwave is authorized to continue to construct and utilize the facilities which are the subject of the applications contested herein, pending the Commission's final decision in this matter after hearing, and subject to such final decision.

It is further ordered, That Springfield and Microwave, the Chief, Common Carrier Bureau and the Chief, Broadcast Bureau, are hereby made parties to this proceeding; and that each party intending to participate in the hearing shall file a notice of appearance not later than July 18, 1960.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6106; Filed, June 30, 1960; 8:52 a.m.]

[Docket Nos. 13599, 13600; FCC 60-724]

A. S. RIVIERE AND RADIO GEORGIA

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of A. S. Riviere, Barnesville, Georgia, requests: 1590kc, 1kw, D, Docket No. 13599, File No. BP-12889; John P. Frew, Elizabeth H. Frew, Stephens B. McGarity and Leslie E. Gradick, Jr., d/b as Radio Georgia, Thomaston, Georgia, requests: 1590kc, 500w, D, Docket No. 13600, File No. BP-13051; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of June 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated April 6, 1960, and incorporated herein by reference, notified the instant applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the instant applicants and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the interference received by each instant proposal from any of the other proposals herein and any existing stations would affect more than ten percent of the population within its normally protected primary service area in contravention of § 3.28(c)(3) of the Commission rules and, if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would better provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the instant applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6107; Filed, June 30, 1960; 8:52 a.m.]

[Docket Nos. 12991, 12992; FCC 60M-1084]

SUBURBAN BROADCASTING CO., INC. AND CAMDEN BROADCASTING CO.

Order Continuing Hearing

In re applications of Suburban Broadcasting Company, Inc., Mount Kisco, New York, Docket No. 12991, File No. BPH-2620; Donald Jerome Lewis, tr/as Camden Broadcasting Co., Newark, New Jersey, Docket No. 12992, File No. BPH-2624; for construction permits for new FM broadcast stations.

Upon oral request of counsel for Suburban Broadcasting Company, Inc., and with the consent of all parties, it is ordered, this 23d day of June 1960, that the date for the exchange of exhibits presently scheduled for June 24, 1960, be, and the same is, hereby continued to July 11, 1960, and that the formal hearing presently scheduled for July 5, 1960, be, and the same is, hereby continued to July 25, 1960.

Released: June 27, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-6108; Filed, June 30, 1960; 8:52 a.m.]

COMMERCIAL AND AMATEUR RADIO OPERATOR EXAMINATION

Statement of Organization, Delegation of Authority, and Other Information; Amendment

In the matter of amendment of section 0.413(c)(1) of statement of organization, delegations of authority, and other information regarding commercial and amateur radio operator examination rules.

The Commission having under consideration a modification of its commercial and amateur radio operator license examination points; and

It appearing that it will be in the public interest to change the location of the annual examination point from Butte, Montana, to Great Falls, Montana, since Great Falls has (a) a larger population, (b) is more centrally located and, (c) is the residence of the majority of applicants for radio operator examinations heretofore appearing at Butte; and

It further appearing that the amendment herein ordered is procedural in nature and not substantive and therefore compliance with the public rulemaking procedures required by sections 4 (a) and (b) of the Administrative Procedure Act is not required.

It is ordered, This 28th day of June 1960, pursuant to authority of section 0.341 of the Commission's Statement of Delegations of Authority, and to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and pursuant to section 3(a) of the Administrative Procedure Act, that section 0.413(c)(1) of Statement of Organization, Delegations of Authority, and Other Information, be amended as

set forth below, effective September 1, 1960.

Released: June 28, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

Section 0.413(c)(1) is amended by deleting Butte, Montana, and adding Great Falls, Montana, in alphabetical sequence to the "annual" listing within this section.

[F.R. Doc. 60-6109; Filed, June 30, 1960; 8:52 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-6951]

BLACK HILLS POWER AND LIGHT CO.

Notice of Application

JUNE 27, 1960.

Take notice that on June 20, 1960, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Black Hills Power and Light Company (Applicant), a corporation organized under the laws of the State of South Dakota and doing business in that State and the State of Wyoming, with its principal business office at Rapid City, South Dakota, seeking an order authorizing the issuance of $1,000,000 principal amount of First Mortgage Bonds, Series K, 5½ percent. The aforesaid First Mortgage Bonds would be dated August 1, 1960, and would mature August 1, 1990. Applicant proposes to issue the First Mortgage Bonds under the Indenture of Mortgage and Deed of Trust of the Applicant to The Hanover Bank, of New York City, as Trustee, dated as of September 1, 1941, as supplemented and amended up to and including April 1, 1960, and to be amended by a proposed Supplemental Indenture to be dated as of August 1, 1960. Applicant proposes, through its agent, Dillon, Read & Co. Inc., to sell the aforesaid Bonds to Equitable Life Insurance Company of Iowa and Kansas City Life Insurance Company in the respective principal amounts of $750,000 and $250,000. Applicant states that the proceeds from the issuance and sale of the First Mortgage Bonds, which will be less than $1,000,000, will be used for additions and improvements to its properties.

Any person desiring to be heard or to make any protests with reference to said application should on or before the 19th day of July, 1960, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6090; Filed, June 30, 1960; 8:51 a.m.]

[Docket No. E-6950]

HEADWATER BENEFITS INVESTIGATION IN THE CONNECTICUT RIVER BASIN

Order Instituting Investigation

JUNE 24, 1960.

Pursuant to the provisions of section 10(f) of the Federal Power Act, we are authorized to determine and assess headwater improvement benefit charges against the owner of any water power project directly benefited by upstream improvements constructed by the United States, its licensees or permittees. The United States and its licensees or permittees have constructed and operated reservoir storage developments on the Connecticut River and tributaries in New Hampshire, Vermont, Massachusetts, or Connecticut which may directly provide power benefits to downstream non-Federal water power developments.

The Commission finds! It is appropriate and in the public interest that an investigation be instituted by the Commission as hereinafter provided.

The Commission orders: An investigation is hereby instituted pursuant to the provisions of the Federal Power Act, particularly section 10(f) thereof, for the purpose of enabling the Commission to determine whether any of the non-Federal water power projects located downstream from improvements constructed by the United States, its licensees, or permittees on the Connecticut River and tributaries, are directly benefited by the construction and operation of such upstream improvements of the United States, its licensees or permittees and, if it so finds, to determine the equitable proportion of the annual charges to be paid by the owner of any downstream non-Federal water power project so benefited for interest, maintenance and depreciation on such upstream improvements constructed by the United States, its licensees or permittees.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6091; Filed, June 30, 1960; 8:51 a.m.]

[Docket No. DA-991-California]

FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Land Withdrawals

JUNE 27, 1960.

Lands withdrawn in Power Site Classifications Nos. 80 and 267, Reservoir Site Reserve No. 17, Department of Agriculture Permit, Department of the Interior Permit, and Projects Nos. 174 and 564, Docket No. DA-991—California, Forest Service, United States Department of Agriculture. Findings of the Commission, determination under section 24 of the Federal Power Act, and partial vacation of withdrawal under section 24 of the Federal Water Power Act.

The Forest Service, United States Department of Agriculture, in order to consummate land exchanges, has filed an application for revocation of the power withdrawal pertaining to the following-described lands under section 24 of the Federal Water Power Act pursuant to the filing of an application for a preliminary permit for proposed Project No. 564:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 9, NE¼NE¼;
Sec. 10, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 14, SW¼NW¼, S½SW¼;
Sec. 23, NW¼.

The above-described lands are located within the boundaries of the Sequoia National Forest and lie on and near the Kern River, for the most part on the left bank, a few miles upstream from the upper limits of Isabella reservoir. They were reserved, among other lands, pursuant to the filing on September 25, 1925, of an application for a preliminary permit for proposed Project No. 564, which application was rejected May 7, 1929.

The Commission by order issued January 8, 1960 (Docket No. DA-980—California) vacated the existing power withdrawal pertaining to those parts of the above-described lands in the SW¼NW¼ and the NW¼SW¼ of sec. 10 lying west and south of an existing county road and the access road leading to the Southern California Edison Company's Kern No. 3 power plant.

Portions of the lands in the NE¼NE¼ of sec. 9 and in the SW¼NW¼, the NW¼SW¼, the E½SW¼ and the SW¼SE¼ of sec. 10 were also reserved for transmission-line purposes pursuant to the filing on February 11, 1921, of an application for a license for Project No. 174 and on July 26, 1938, pursuant to the filing of an application for amendment of the license for the project.

The land in the W½NW¼ of sec. 23 is further withdrawn in Power Site Classification No. 267, dated August 24, 1933, and in Reservoir Site Reserve No. 17, dated June 8, 1926.

That part of the land in the NE¼NE¼ of sec. 9, T. 25 S., R. 33 E., Mount Diablo meridian, California, among other lands, lying within 50 feet of the marginal limits of power facilities of the Southern California Edison Company's Kern No. 3 power plant is also withdrawn in Power Site Classification No. 80, dated July 17, 1924. The power facilities appear to occupy said land in the NE¼NE¼ of sec. 9 and portions of the land in the NW¼NW¼ of sec. 10, T. 25 S., R. 33 E., Mount Diablo meridian, California, under permit from the Department of Agriculture and possibly from the Department of the Interior.

It appears that the power potential of the lands described in the first paragraph of this order is being fully utilized by existing facilities and that their value for additional power purposes is negligible. Consequently, use of the lands for other purposes as hereinafter provided appears to be appropriate and desirable.

The Commission finds:

(1) Further Commission action with respect to the power withdrawal which pertained to the following-described lands under Section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed Project No. 564 is neither necessary nor appropriate:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 10, Those parts of the SW¼NW¼ and NW¼SW¼ lying west and south of an existing county road and the access road leading to the Southern California Edison Company's Kern No. 3 power plant.

(2) Inasmuch as the remaining above-described lands—except for those portions of the lands in the NE¼NE¼ of sec. 9 and in the SW¼NW¼, the NW¼SW¼, the E½SW¼ and the SW¼SE¼ of sec. 10 now used for transmission-line purposes under license in Project No. 174 and those portions of the lands in the NE¼NE¼ of sec. 9 and in the NW¼NW¼ of sec. 10 now occupied by power facilities under power permits—have negligible value for purposes of power development, the existing power withdrawals pertaining thereto serve no useful purpose.

(3) The existing power withdrawal for transmission-line purposes pertaining to portions of the following-described lands effected pursuant to the filing of the application for a license for Project No. 174 and the filing of the application for amendment of the license for the project should remain unchanged:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 9, NE¼NE¼;
Sec. 10, SW¼NW¼, NW¼SW¼, E½SW¼, SW¼SE¼.

(4) It has no objection to the revocation by the Secretary of the Interior of Power Site Classification No. 80 insofar as it pertains to the following-described land:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 9, NE¼NE¼.

(5) It has no objection to the revocation by the Secretary of the Interior of Power Site Classification No. 267 and of Reservoir Site Reserve No. 17 insofar as they pertain to the following-described land:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 23, W½NW¼.

(6) Vacation of the existing power withdrawal pertaining to the following-described lands under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed Project No. 564 is in the public interest:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 25 S., R. 33 E.,
Sec. 9, NE¼NE¼;
Sec. 10, [1]W½NW¼, SE¼NW¼, [1]SW¼, W½SE¼, SE¼SE¼;
Sec. 14, SW¼NW¼, S½SW¼;
Sec. 23, NW¼.

(7) A determination under section 24 of the Federal Power Act as hereinafter provided with respect to the hereinafter-described lands is justified.

The Commission determines: The value of those portions of the lands in the NE¼NE¼ of sec. 9 and in the NW¼NW¼ of sec. 10, T. 25 S., R. 33 E., Mount Diablo meridian, California, now under power permit for the operation and maintenance of Southern California Edison Company's Kern No. 3 power plant and that portion of the land in said NE¼NE¼ of sec. 9 now being used for transmission-line purposes under license for Project No. 174 will not be injured or destroyed for purposes of power development by location, entry, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act, as amended, and subject to the prior right of the above-mentioned permittee and licensee of the United States and their successors to use said lands for power purposes in accordance with the terms and conditions of said permit and license.

The lands subject to this determination remain in a withdrawn status until the Bureau of Land Management, Department of the Interior, issues a formal order of restoration.

The Commission orders:

(A) The application insofar as it pertains to the lands described in finding (1) herein is dismissed.

(B) The existing power withdrawal pertaining to the lands described in finding (6) herein under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed Project No. 564 is vacated.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6092; Filed, June 30, 1960; 8:51 a.m.]

[Docket No. CP60-56]

MONTANA-DAKOTA UTILITIES CO.

Postponement of Hearing

JUNE 24, 1960.

Upon consideration of the motion filed June 20, 1960, by Counsel for Montana-Dakota Utilities Company for postponement of the hearing now scheduled for June 28, 1960, in the above-designated matter;

The hearing now scheduled for June 28, 1960, is hereby postponed to October 4, 1960, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6093; Filed, June 30, 1960; 8:51 a.m.]

[1] NOTE: Those parts of the SW¼NW¼ and NW¼SW¼ lying west and south of an existing county road and the access road leading to the Southern California Edison Company's Kern No. 3 power plant were vacated by the Commission by order issued January 8, 1960.

[Docket No. RI60-435]

UNION PRODUCING CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates

JUNE 24, 1960.

On May 26, 1960, Union Producing Company (Union Producing) tendered for filing Supplements No. 5 to its FPC Gas Rate Schedules Nos. 215 and 216. Said supplements provide for rate increases from 18.75 cents per Mcf to 26.75 cents per Mcf, based upon periodic rate increases, for gas sold to Union Producing's parent company, the United Gas Pipe Line Company, from leases in Terrebonne Parish, Louisiana.

Union Producing's proposed increased rates represent an increase of 8 cents per Mcf above the rates of 18.75 cents per Mcf presently in effect, subject to refund, in the proceeding in Docket No. G-13811. The proposed increased rates in this proceeding are based upon provisions contained in renegotiated contracts which were executed in September 1957.

In support of its proposed increased rates, Union Producing states that said rates are necessary to offset increasing operating expenses and the increased cost of doing business. Union Producing further states that the increase is necessary to encourage further exploration and development and that United Gas Pipe Line has agreed to pay the same proposed price to other producers in the same area for gas purchased for delivery in intrastate commerce.

The statement submitted by Union Producing Company in support of these rate changes is the same as that which was submitted in October 1957 to support a rate change from 9 cents to 17 cents, exclusive of tax reimbursement. We suspended, and did not reject the October 1957 change. We must do the same now in conformity with what we believe to be required of us by law. Our interpretation of § 154.94(e) of the Commission's regulations cannot vary according to the amount of the rate increase. We deplore the filing of these high rates, but they must be treated under existing law and applicable regulations, and not according to our personal desires. We are given no authority to reject these filings under the present state of the law. We may either fail to act and thus allow the proposed increased rates to become effective, or we may enter upon a hearing and, pending such hearing, suspend the proposed new supplements for a period not exceeding five months beyond the proposed effective date. See Mississippi River Fuel Corp. v. F.P.C., 202 F. 2d 899, 902 (CA3, 1953).

Union Producing proposes an effective date for its tendered increased rates of July 1, 1960. However, the increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

Although a general investigation of Union Producing's rates is presently being made under a section 5(a) proceeding in Docket No. G–18634, we find and conclude that this proceeding, and the hearing therein as hereinafter ordered, should not be consolidated with the proceeding in Docket No. G–18634, but should be heard forthwith at the earliest practicable date.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed rate changes, and that Supplements No. 5 to Union Producing's FPC Gas Rate Schedules Nos. 215 and 216 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held on September 7, 1960, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the lawfulness of the proposed increased rates and charges contained in Supplements No. 5 to Union's FPC Gas Rate Schedules Nos. 215 and 216.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until January 1, 1961, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before August 15, 1960.

By the Commission (Commissioner Kline dissenting).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–6094; Filed, June 30, 1960; 8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1312]

EQUITY CORP. AND DEVELOPMENT CORPORATION OF AMERICA

Notice of and Order for Hearing on Application for Order Exempting Transactions From Provisions

JUNE 24, 1960.

Notice is hereby given that The Equity Corporation ("Equity") and Development Corporation of America ("DCA"), Delaware corporations and registered closed-end investment companies, have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act certain transactions incident to the proposed merger of DCA into Equity.

Equity owns 2,399,503 shares (99.9 percent) of the outstanding common stock of DCA. DCA also has outstanding 285,789 shares of $1.25 Cumulative Convertible Preferred Stock, each share of which is convertible into four shares of DCA common stock upon payment of $5.50 in cash prior to June 30, 1960 and $6.50 in cash thereafter. The DCA preferred stock has been called for redemption on July 13, 1960.

It is proposed that if, on July 15, 1960, Equity owns 90 percent or more of the then outstanding common stock of DCA, it will on that date merge DCA into itself pursuant to the simplified merger provisions of section 253 of the General Corporation Law of the State of Delaware, and in connection therewith the DCA common stockholders, other than Equity, will be paid in cash the value of their shares, unless they exercise their rights to demand an appraisal under such law. If, on July 15, 1960, the merger provisions of said section 253 are not available because Equity does not own 90 percent or more of the common stock of DCA, then an amendment will be filed to this application either proposing such merger on other terms and conditions or the dissolution and liquidation of DCA, prior to August 15, 1960. As explained below, such merger or dissolution of DCA is required under the terms of a court decree directed to Equity.

The application states that the value of the DCA common stock for the purpose of the merger has been established at $6.54 per share subject to adjustments to reflect (i) the market price on July 13, 1960 of the marketable securities, other than common stock of Sterling Precision Corporation, included among DCA's assets, and (ii) increases in the number of shares of DCA common stock resulting from the conversion of DCA preferred stock or the exercise of outstanding warrants and options entitling the holders to buy DCA common stock. The application further states that the value of the DCA stock for the purposes of the merger was fixed in relation to an appraisal, made by Ebasco Services, Inc. ("Ebasco"), of the net asset value per share of DCA, as of May 31, 1960, of $7.69, after provision of $0.94 per share for capital gains taxes on unrealized appreciation. The application discloses that the Board of Directors of Equity determined the asset value of DCA stock for purposes of the merger by discounting Ebasco's appraisal by 15 percent to reflect the fact that shares of closed-end investment companies customarily sell at a discount from net asset value. Ebasco's appraisal of the net asset value reflects an opinion as to the value of DCA's investment in each of its operating subsidiaries and in Sterling Precision Corporation and the market value of its marketable securities (principally stock of Financial General Corporation and of N. V. Philips Gloeilampenfabrieken) as of May 31, 1960.

Equity was permitted to acquire, through a then wholly owned subsidiary, the common stock of DCA by order of this Commission dated April 16, 1959 (Investment Company Act Release No. 2865) exempting such acquisition from the anti-pyramiding provisions of section 12(d) of the Act, upon the condition, among others, that unless, by December 15, 1959, DCA ceased to be an investment company it would register under the Act and Equity would dispose of all of its holdings of voting securities of DCA. By order dated December 17, 1959 (Investment Company Act Release No. 2950) the time for compliance with said condition was extended to March 16, 1960. On March 17, 1960 DCA filed its notification of registration as an investment company and on April 21, 1960 the Commission instituted an action in the United States District Court of Delaware (Securities and Exchange Commission v. The Equity Corporation, et al., Civil Action No. 2194), seeking, among other things, an order directing compliance by Equity with the aforesaid condition. On May 11, 1960 said court entered an order consented to by the parties to said action, directing Equity, so far as here relevant, to redeem on or before July 13, 1960 all of its outstanding $1.25 Cumulative Convertible Preferred Stock, and on or before July 15, 1960 to cause the merger of DCA into Equity unless on such latter date Equity does not own at least 90 percent of the common stock of DCA, in which event such merger or the dissolution and liquidation of DCA shall be caused on or before August 15, 1960.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company, any securities or other property, subject to certain exceptions not pertinent here. The Commission upon application pursuant to section 17(b) may grant an exemption from the provisions of section 17(a) if it finds that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching

on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act. Since the proposed transactions involve the purchase and sale of securities and property by two registered investment companies, each of which is an affiliated person of the other, they are subject to the provisions of section 17(a) of the Act.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application;

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on the 12th day of July 1960, at 10:00 a.m., in the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in the proceedings is directed to file with the Secretary of the Commission his application as provided by Rule XVII of the Commission's rules of practice, on or before the date provided in that rule setting forth any issues of law or fact which he desires to controvert or any additional issues which he deems raised by this notice and order or by such application.

It is further ordered, That Sidney L. Filer, or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) Whether the proposed transactions are consistent with the policy of Equity, as recited in its registration statement and reports filed under the Act; and

(3) Whether the proposed transactions are consistent with the general purposes of the Act.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to Equity and DCA; that DCA shall cause a copy of this notice to be mailed to the security holders of DCA at their last known address on or before July 1, 1960; and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-6075; Filed, June 30, 1960; 8:48 a.m.]

TARIFF COMMISSION

[7-90]

BINDING AND BALER TWINE

Investigation and Hearing

Investigation instituted. Upon application of the Cordage Institute, New York, N.Y., received June 10, 1960, the United States Tariff Commission, on the 24th day of June 1960, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted an investigation to determine whether binding twine and twine chiefly used for baling hay, straw, and other fodder and bedding materials, provided for in paragraph 1622 of the Tariff Act of 1930, are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., on September 27, 1960, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least five days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued June 27, 1960.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 60-6076; Filed, June 30, 1960; 8:48 a.m.]

[7-91]

HARD FIBER CORDS AND TWINES

Investigation and Hearing

Investigation instituted. Upon application of the Cordage Institute, New York, N.Y., received June 10, 1960, the United States Tariff Commission, on the 24th day of June 1960, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted an investigation to determine whether cords and twines provided for in paragraph 1005(b) of the Tariff Act of 1930, are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., on September 28, 1960, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least five days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: June 27, 1960.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 60-6077; Filed, June 30, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

LYKES BROS. STEAMSHIP CO., INC., AND MOORE-McCORMACK LINES, INC.

Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8494, between Lykes Bros. Steamship Co., Inc., and Moore-McCormack Lines, Inc. (Robin Line Division), covers a through billing arrangement in the trade from U.S. Gulf ports to ports in Portuguese East Africa and British East Africa, with transhipment at Lourenco Marques and Beira,

Portuguese East Africa, and Durban and Capetown, Union of South Africa; and

Agreement No. 8496, between Lykes Bros. Steamship Co., Inc., and Moore-McCormack Lines, Inc. (Robin Line Division), covers a through billing arrangement in the trade from ports in Portuguese East Africa and British East Africa to U.S. Gulf ports, with transhipment at Lourenco Marques and Beira, Portuguese East Africa, and Durban and Capetown, Union of South Africa.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: June 28, 1960.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6085; Filed, June 30, 1960; 8:49 a.m.]

[Docket No. 869]

PACIFIC COAST-HAWAII AND ATLANTIC/GULF-HAWAII; GENERAL INCREASES IN RATES

Notice of Supplemental Orders

Notice is hereby given that the Federal Maritime Board has entered, on the dates indicated below, the following Amended Thirty-Second and, Thirty-Fourth Supplemental Orders to the original order in this proceeding dated September 10, 1959, which appeared in the FEDERAL REGISTER of September 23, 1959 (24 F.R. 7656):

AMENDED THIRTY-SECOND SUPPLEMENTAL ORDER—DATED MAY 31, 1960

It appearing that by Thirty-Second Supplemental Order in this proceeding, dated May 16, 1960, and Special Permission No. 3836, the Board granted Matson Navigation Company authority to file, on thirty days' notice, Westbound Container Freight Tariff No. 14, F.M.B.-F. No. 109; Eastbound Container Freight Tariff No. 15, F.M.B.-F. No. 110; and at the same time authorized the cancellation of all currently effective container freight tariffs; and

It further appearing that the third paragraph of said Order provides that said Westbound Container Freight Tariff No. 14, F.M.B.-F. No. 109, will name single factor pickup and delivery rates for the westbound portion of the California-Hawaii service; and

It further appearing that on May 25, 1960, Matson Navigation requested modification of said Thirty-Second Supplemental Order and said Special Permission No. 3836 in order to permit it to file a Westbound Container Tariff No. 14, F.M.B.-F. No. 109, naming in lieu of storedoor to storedoor rates with pickup and delivery, rates which include storedoor pickup on the West Coast but not storedoor delivery in Hawaii;

It is ordered, That Thirty-Second Supplemental Order herein be modified to permit such filing to be made on thirty days' notice; and

It is further ordered, That said order as so modified remain in full force and effect as issued; and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents and protestants herein; and that this order be published in the FEDERAL REGISTER.

THIRTY-FOURTH SUPPLEMENTAL ORDER—DATE MAY 31, 1960

It appearing that by the original order (as amended) in Docket 869 served September 11, 1959, the Board instituted an investigation into and concerning the reasonableness and lawfulness of the rates, charges, regulations, and practices stated in certain schedules between Pacific Coast ports and Hawaii as well as between Atlantic and Gulf ports and Hawaii; and

It further appearing that said original order, as amended January 7, 1960, provides in part that no change shall be made in rates or other matters which were changed by said tariff schedules, until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board; and

It further appearing that on May 16, 1960, Matson Navigation Company filed Special Permission Application No. 60 seeking authority to publish, post, and file on not less than one day's notice, a consecutively numbered supplement to Freight Tariff No. 1-N, F.M.B.-F. No. 86 in order to establish the following rate item:

623-A Paperboard, unsaturated, in rolls:	
(a) Measurement per roll not to exceed 65 cubic feet per 2,000 lbs.	$25.00
(b) Measurement per roll not to exceed 70 cubic feet per 2,000 lbs.	26.90
(c) Measurement per roll not to exceed 75 cubic feet per 2,000 lbs.	28.85
(d) For each cubic foot or fraction thereof in excess of 75 cubic feet per roll per 2,000 lbs. add 40 cents per cubic foot to the rate published in (c).	

The above rates to be subject to an additional 12½ percent; and

It further appearing that the Board having found good cause therefor has on May 31, 1960, granted special permission to publish such changes on not less than 1 day's notice, under Special Permission No. 3842;

It is ordered, That the original order herein is modified to the extent necessary to permit the publication and filing of the changes covered by such Special Permission No. 3842; and

It is further ordered, That copies of this order shall be filed with said tariff schedules in the Office of the Federal Maritime Board; and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents herein, and upon all protestants herein; and that this order be published in the FEDERAL REGISTER.

Dated: June 28, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6086; Filed, June 30, 1960; 8:50 a.m.]

[Docket No. 881]

ALASKAN RATES AND CHARGES; GENERAL INCREASES

Notice of Supplemental Order

The Federal Maritime Board, on June 13, 1960, entered the following fourth Supplemental Order, to the original order in this proceeding dated, January 7, 1960, which appeared in the FEDERAL REGISTER of January 15, 1960 (25 F.R. 364).

It appearing that by the original order, as amended, in Docket No. 881 served January 8, 1960, the Board instituted an investigation into and concerning the reasonableness of the rates, charges, rules, regulations and practices stated in certain schedules between Pacific Coast ports on the one hand, and ports and points in Alaska on the other; and

It further appearing that said original order provides in part that no change shall be made in the rates or other matters which were changed by said tariff schedules, until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board; and

It further appearing that on June 2, 1960, Alaska Freight Lines, Inc., filed Application No. 12 seeking authority to publish, post and file, on 30 days' notice, a consecutively-numbered revised Page No. 45 to F.M.B.-F. No. 9 in order to establish an Item No. 557 naming a rate of $1.75 per 100 pounds to read as follows:

Fish, canned, including salmon, clams, crab and shrimp.
Note 1—Applies southbound only.
Note 2—Item 85 will not apply; and

It further appearing that the Board having found good cause therefor has on June 13, 1960, granted special permission to publish such change on 30 days' notice under Special Permission No. 3848;

It is ordered, That the original order herein is modified to the extent necessary to permit publication and filing of the change covered by such Special Permission No. 3848; and

It is further ordered, That any rates, charges, regulations and practices set forth in the schedule filed pursuant to such special permission shall be subject to the investigation and hearing herein to the same extent as the rates, charges, regulations and practices under schedule cancelled thereby, and that the special permission granted hereby shall be without prejudice to the Board's determination as to the lawfulness of the rates established pursuant hereto; and

It is further ordered, That copies of this order shall be filed with said tariff schedule in the Office of the Federal Maritime Board, and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents and protestants herein; and that this order be published in the FEDERAL REGISTER.

Dated: June 28, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6087; Filed, June 30, 1960; 8:50 a.m.]

[Docket No. 901]

PACIFIC-ATLANTIC GUAM TRADE; GENERAL INCREASES IN RATES

Notice of Supplemental Order

The Federal Maritime Board, on June 13, 1960, entered the following Fifth Supplemental Order, to the original order in this proceeding dated March 21, 1960, which appeared in the FEDERAL REGISTER of April 1, 1960 (25 F.R. 2780).

It appearing that by original order, as supplemented, the Board ordered suspended in full to and including April 29, 1960, Pacific Far East Line, Inc., Guam Freight Tariff No. 2, F.M.B.-F. No. 2 and American President Lines, Ltd., Pacific/Guam Tariff No. 5, F.M.B.-F. No. 9 and Atlantic/Guam Freight Tariff No. 3, F.M.B.-F. No. 8; and

It further appearing that pursuant to Third Supplemental Order the Board ordered that the investigation and hearing instituted should carry over the running of the suspension date; and

It further appearing that said order provides that "no change shall be made in the rates or other matters which were changed by said tariff schedules until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board;" and

It further appearing that on May 31, 1960, American President Lines, Ltd., filed Application No. 2 seeking authority to publish, post and file, on 30 days' notice to become effective not later than July 15, 1960, a consecutively-numbered revised Page No. 8 to Atlantic/Guam Freight Tariff No. 3, F.M.B.-F. No. 8, in order to correct Rule 1 (g) and (h) of the tariff to read as follows:

Rule 1(g) to read:

Rates named herein plus an additional charge of $7.50 per ton or MBM as freighted will apply to *Eniwetok.*

Rule 1(h) to read:

Rates named herein plus an additional charge of $5.00 per ton MBM as freighted will apply to Ebeye (Kwajalein Atoll) when vessel makes direct call; and

It further appearing that the Board having found good cause therefor has on June 13, 1960, granted special permission to publish such changes on 30 days' notice under Special Permission No. 3847;

It is ordered, That the original orders herein be modified to the extent necessary to permit the publication and filing of the changes covered by such Special Permission No. 3847; and

It is further ordered, That any rates, charges, regulations and practices set forth in the schedules filed pursuant to such special permission shall be subject to the investigation and hearing herein to the same extent as the rates, charges, regulations and practices under schedules cancelled thereby, and that the special permission granted hereby shall be without prejudice to the Board's determination as to the lawfulness of the rates established pursuant hereto; and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents and protestants herein; and that this order be published in the FEDERAL REGISTER.

Dated: June 28, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6088; Filed, June 30, 1960; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 339]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 28, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No MC-FC 63221. By order of June 24, 1960, the Transfer Board approved the transfer to Gay Hudson Moving and Storage Company, a Corporation, St. Louis, Missouri, of a Certificate in No. MC 104047 issued August 27, 1943, to Vern Bennett, doing business as Bennett's Transfer, Clinton, Indiana, which authorizes the transportation of household goods, as defined by the Commission, from Clinton, Ind., to points in Illinois, Kentucky, Ohio, and the lower peninsula of Michigan; and from points in Illinois, Kentucky, Ohio, and the lower peninsula of Michigan to points in Indiana. Allen Melton, Rio Grande National Life Building, Dallas, Tex.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-6079; Filed, June 30, 1960; 8:48 a.m.]