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(Codification Guide)

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Title 3—THE PRESIDENT

Proclamation 3752

THANKSGIVING DAY, 1966

By the President of the United States of America

A Proclamation

They came in tiny wooden ships. On an unknown and alien shore, they planted and built, settled and survived. Then they gave solemn thanks to God for His goodness and bounty. America, well over 300 years ago, had its first Thanksgiving Day.

For many years your Presidents have had the opportunity to proclaim Thanksgiving Day, to address themselves to the American people, to remind us of the blessings we enjoy and the thanks that we owe.

If we consider the fervor with which those colonists in Virginia and Massachusetts gave thanks, when they had so little, we are taught how much deeper should our thanks be—when we have so much.

Never, in all the hundreds of Thanksgiving Days, has our nation possessed a greater abundance, not only of material things but of the precious intangibles that make life worth living.

Never have we been better fed, better housed, better clothed. Never have so many Americans been earning their own way, and been able to provide their families with the marvelous products of a momentous age.

Nor has America ever been healthier, nor had more of her children in school and in college. Nor have we ever had more time for recreation and refreshment of the spirit, nor more ways and places in which to study and to enrich our lives through the arts.

Never have our greatest blessings—our freedoms—been more widely enjoyed by our people. Nor have we ever been closer to the day when every American will have an equal opportunity and an equal freedom.

No, we do not yet have peace in the world. Our men are engaged again, as they have been on so many other Thanksgivings, on a foreign field fighting for freedom. But we can be thankful for their strength that has always kept our liberty secure. We can be thankful for our science and technology that helps to guard our America.

Thanks are better spoken by deed rather than word. Therefore, it behooves a grateful America to share its blessings with our brothers abroad, with those who have so little of the abundance that is ours.

Simple justice and a concern for our fellow man require that we be ready to offer what we can of our food, our resources, our talents, our energies, our skills, and our knowledge to help others build a better life for themselves.

We should thank God that we are able.

Let us, therefore, in this splendid American tradition, thank Him who created us and all that we have. Let us do so with a firm resolve to be worthy of His abundant blessings. Let us assemble in our homes and in our places of worship, each in his own way.

Let us thank God for the America we are so fortunate to know.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, in consonance with Section 6103 of Title 5 of the United States Code designating the fourth Thursday of November in each year as Thanksgiving Day, do hereby proclaim Thursday, November 24, 1966, as a day of national thanksgiving.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this seventeenth day of October in the year of our Lord nineteen hundred and sixty-six, and [SEAL] of the Independence of the United States of America the one hundred and ninety-first.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 66-11594; Filed, Oct. 20, 1966; 2:26 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

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

Subpart—U.S. Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) [1]

On August 6, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 10577) regarding a proposed revision of U.S. Standards for Grades of Onions (other than Bermuda-Granex-Grano and Creole Types) (7 CFR, §§ 51.2830–51.2854).

Statement of considerations leading to the revision of the grade standards. The revised standards incorporate a new U.S. Export No. 1 grade. It was developed at the request of representatives of onion producers and shippers in New York State and of the National Onion Association. It is designed to reflect the preferences of European buyers with respect to quality, size and packing. Except for minor changes in wording no changes are made in the existing grades.

The U.S. Export No. 1 requires the onions to be dormant, meaning that at least 90 percent of the onions in any lot show no evidence of growth as indicated by distinct elongation or distinct change in color of the growing point. This requirement assumes that the onions would be treated with a sprout inhibitor and will greatly reduce the possibility of rejection because of sprouting during overseas shipment. The dormancy requirement was changed slightly from that published in the FEDERAL REGISTER August 6, 1966, under notice of proposed rule making in response to industry requests for an allowance for onions which are not dormant. At that time no allowance had been made for onions lacking dormancy. However, onions which are not dormant must be free from damage by sprouts.

The U.S. Export No. 1 grade requires size to be specified in connection with the grade. Any minimum diameter or range in diameter may be specified in lieu of the three size classifications—Export Small, Export Medium, and Export Large. Thus European buyers may designate size by one of these classifications rather than specifying diameter ranges for each shipment. The offsize tolerances are applied on a container basis to insure the high degree of uniformity required in European markets.

Onions specified as meeting Export Packing Requirements must be packed in containers having a net capacity of 25 kilograms (56 pounds). However, since this requirement may be otherwise specified, the use of containers having different weight capacities would be permitted.

The U.S. Export No. 1 grade and the Packing Requirements should benefit the shippers and importers who choose to make use of them, and would have no adverse effect upon others. The use of these standards is optional. Industry response to the proposal as published in the FEDERAL REGISTER of August 6, 1966 was generally favorable. Comments from European and United Kingdom importers indicated the belief that the Export Grade will help improve the competitive position of U.S. onions in their markets.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following U.S. Standards for Grades of Onions (other than Bermuda-Granex-Grano and Creole Types) are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

GRADES

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

GRADES

§ 51.2830 U.S. No. 1.

"U.S. No. 1" consists of onions of similar varietal characteristics which are mature, fairly firm, fairly well shaped, and which are free from decay, wet sunscald, doubles, bottlenecks, scallions, and free from damage caused by seedstems, splits, tops, roots, dry sunscald, sunburn, sprouts, freezing, peeling, cracked fleshy scales, watery scales, dirt or staining, foreign matter, disease, insects, or other means. (See § 51.2838.)

(a) Size: Unless otherwise specified the diameter shall be not less than 1½ inches, and yellow, brown, or red onions shall have 40 percent or more, and white onions shall have 30 percent or more, by weight, of the onions in any lot 2 inches or larger in diameter.

(b) When a percentage of the onions is specified to be of any certain size or larger, no part of any tolerance shall be allowed to reduce the specified percentage, but individual packages in a lot may have as much as 25 percentage points less than the percentage specified, except that individual packages containing 10 pounds or less shall have no requirements as to the percentage of a certain size or larger: *Provided,* That any lot, regardless of package size, shall average within the percentage specified. (See §§ 51.2837 and 51.2838)[2]

§ 51.2831 U.S. Export No. 1.

"U.S. Export No. 1" consists of onions of similar varietal characteristics which are mature, dormant, fairly firm, fairly well shaped, and which are free from decay, wet sunscald, doubles, bottlenecks, scallions, and free from damage caused by seedstems, splits, tops, roots, dry sunscald, sunburn, sprouts, freezing, peeling, cracked fleshy scales, watery scales, dirt or staining, foreign matter, disease, insects, or other means.

(a) Unless otherwise specified, the onions meet one of the size classifications set forth in § 51.2837(a)(4).

(b) Unless otherwise specified onions are packed in accordance with Export Packing Requirements set forth in § 51.2840. (See § 51.2838.)

§ 51.2832 U.S. Commercial.

"U.S. Commercial" consists of onions of similar varietal characteristics which

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

[2] Any lot of onions quoted as being of size smaller than 1⅛ inches minimum, such as "U.S. No. 1, 1¼ inches min.", is not required to meet the percentages which shall be 2 inches or larger as specified in the U.S. No. 1 grade.

are mature, not soft or spongy, not badly misshapen, and which are free from decay, wet sunscald, doubles, bottlenecks, scallions, and free from damage caused by seedstems, tops, roots, dry sunscald, sunburn, sprouts, freezing, cracked fleshy scales, watery scales, disease, insects, or other means, and from serious damage by staining, dirt, or other foreign matter. (See § 51.2838.)

(a) *Size.* Unless otherwise specified, the diameter shall be not less than 1½ inches. (See §§ 51.2837 and 51.2838.)

§ 51.2833 U.S. No. 1 Boilers.

"U.S. No. 1 Boilers" consists of onions which meet all requirements for the U.S. No. 1 grade except for size. (See § 51.2830.)

(a) *Size.* The diameter of onions of this grade shall be not less than 1 inch nor more than 1⅞ inches. (See § 51.2838.)

§ 51.2834 U.S. No. 1 Picklers.

"U.S. No. 1 Picklers" consists of onions which meet all the requirements for the U.S. No. 1 grade except for size. (See § 51.2830.)

(a) *Size.* The maximum diameter of onions of this grade shall be not more than 1 inch. (See § 51.2838.)

§ 51.2835 U.S. No. 2.

"U.S. No. 2" consists of onions of one type, which are mature, but not soft or spongy, and which are free from decay, wet sunscald, scallions, and which are free from serious damage caused by seedstems, dry sunscald, sprouts, freezing, watery scales, disease, insects, or other means. (See § 51.2838.)

(a) *Size.* Unless otherwise specified, the diameter shall be not less than 1½ inches. (See §§ 51.2837 and 51.2838.)

UNCLASSIFIED

§ 51.2836 Unclassified.

"Unclassified" consists of onions which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

SIZE CLASSIFICATIONS

§ 51.2837 Size classifications.

(a) The size of onions may be specified in accordance with one of the following classifications:

(1) "Small" shall be from 1 to 2¼ inches in diameter;

(2) "Medium" shall be from 2 to 3¼ inches in diameter, except that for onions grown in Minnesota, Iowa, and States east of the Mississippi River, "Medium" shall be 1½ to 3¼ inches in diameter with percentage of onions 2 inches and larger in diameter as specified in § 51.2830(a); or,

(3) "Large" or "Jumbo" shall be 3 inches or larger in diameter.

(4) Size classifications for onions destined for export:

(i) "Export Small" shall be 1½ to 2 inches (approximately 40 to 50 millimeters) in diameter;

(ii) "Export Medium" shall be 2 to 2¾ inches (approximately 50 to 70 millimeters) in diameter; or,

(iii) "Export Large" shall be 2¾ to 3½ inches (approximately 70 to 90 millimeters) in diameter.

TOLERANCES

§ 51.2838 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades the following tolerances, by weight, are provided as specified:

(a) *Defects*—(1) *U.S. No. 1, U.S. Export No. 1, U.S. No. 1 Boiler, and U.S. No. 1 Pickler grades.* 10 percent of the onions in any lot may be damaged by peeling, and not more than 5 percent may be below the remaining requirements of these grades, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay or wet sunscald (see § 51.2839); and,

(2) *U.S. Commercial and U.S. No. 2 grades.* 5 percent of the onions in any lot may be below the requirements of these grades, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay or wet sunscald. (See § 51.2839.)

(b) *Off-size*—(1) *U.S. No. 1, U.S. Commercial, U.S. No. 1 Boiler and U.S. No. 2 grades.* 5 percent of the onions in any lot may be below the specified minimum size, and 10 percent may be above any specified maximum size. (See § 51.2839.)

(2) *U.S. No. 1 Pickler grade.* 10 percent of the onions in any lot may be above maximum size specified for this grade. (See § 51.2839.); and,

(3) *U.S. Export No. 1 Grade.* (i) Tolerances for onions in any container which fail to conform to the specified sizes are set forth in the following table:

Size classification	*Tolerances*
Export Small	10 percent: *Provided*, That no tolerance is provided for onions less than 1¼ inches (approximately 30 millimeters), or more than 2¾ inches (approximately 70 millimeters) in diameter.
Export Medium	10 percent: *Provided*, That no tolerance is provided for onions less than 1½ inches (approximately 40 millimeters) or more than 3½ inches (approximately 90 millimeters) in diameter.
Export Large	10 percent: *Provided*, That no tolerance is provided for onions less than 2 inches (approximately 50 millimeters) or more than 4¼ inches (approximately 110 millimeters) in diameter.
Other specified minimum diameter or minimum and maximum diameters.	10 percent: *Provided*, That no tolerance is provided for onions with a diameter more than 20 percent less than the specified minimum, or more than 20 percent greater than the specified maximum diameter.

(ii) In applying the tolerances set forth in subdivision (i) of this subparagraph no package shall fail to meet the size requirement for Export No. 1 because of one onion which is below the specified minimum diameter or above the specified maximum diameter.

APPLICATION OF TOLERANCES

§ 51.2839 Application of tolerances.

(a) Except for tolerances for off-size in the U.S. Export No. 1 grade, the contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(1) Packages which contain more than 10 pounds shall have not more than one and one-half times a specified 10 percent tolerance and not more than double a specified tolerance of less than 10 percent, except that at least one defective and one off-size onion may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade; and,

(2) Packages which contain 10 pounds or less shall have not more than three times the tolerance specified, except that at least one defective and one off-size onion may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

(b) The tolerances for off-size in the U.S. Export No. 1 grade apply to individual containers and the application of tolerances set forth in paragraph (a) of this section does not apply to these tolerances.

EXPORT PACKING REQUIREMENTS

§ 51.2840 Export packing requirements.

Onions specified as meeting Export Packing Requirements shall be packed in containers having a net capacity of 25 kilograms (approximately 56 pounds).

DEFINITIONS

§ 51.2841 Mature.

"Mature" means well cured. Mid-season onions which are not customarily held in storage shall be considered mature when harvested in accordance with good commercial practice at a stage which will not result in the onions becoming soft or spongy.

§ 51.2842 Dormant.

"Dormant" means that at least 90% of the onions in any lot show no evidence of growth as indicated by distinct elongation of the growing point or distinct yellow or green color in the tip of the growing point.

§ 51.2843 Fairly firm.

"Fairly firm" means that the onion may yield slightly to moderate pressure but is not appreciably soft or spongy.

§ 51.2844 Fairly well shaped.

"Fairly well shaped" means having the shape characteristic of the variety, but onions may be slightly off-type or slightly misshapen.

§ 51.2845 Wet sunscald.

"Wet sunscald" means sunscald which is soft, mushy, or sticky.

§ 51.2846 Doubles.

"Doubles" means onions which have developed more than one distinct bulb joined only at the base.

§ 51.2847 Bottlenecks.

"Bottlenecks" are onions which have abnormally thick necks with only fairly well developed bulbs.

§ 51.2848 Scallions.

"Scallions" are onions which have thick necks and relatively small and poorly developed bulbs.

§ 51.2849 Damage.

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

(a) Seedstems which are tough or woody, or which are more than ¼ inch in diameter;

(b) Splits when onions with two or more hearts are not practically covered by one or more outer scales;

(c) Tops when materially detracting from the appearance of the lot. As a guide, a lot shall be considered damaged if more than 20 percent of the tops are 3 inches in length and the remainder 2 inches;

(d) New roots when most roots on an individual onion have grown to a length of 1 inch or more;

(e) Dry roots when detracting from the appearance of the lot more than the presence of 20 percent of the onions having all roots 2 inches in length;

(f) Dry sunscald which is readily apparent without peeling the onion;

(g) Sunburn when it detracts from the appearance more than the presence of one-third of the onions in the lot showing sunburn of medium green color on one-third of the surface;

(h) Sprouts when visible, or when concealed within the dry top and more than three-fourths inch in length on an onion 2 inches or larger in diameter, or proportionately shorter on smaller onions;

(i) Peeling when more than one-half of the thin papery skin is missing, leaving the underlying fleshy scale unprotected;

(j) Cracked fleshy scales when one or more of the fleshy scales are cracked;

(k) Watery scales when more than the equivalent of the entire outer fleshy scale is affected by an off-color, watersoaked condition; and,

(l) Dirt or staining when materially detracting from the appearance of the lot. Yellow, brown, or red onions are damaged when the appearance of the lot is affected more seriously than by the presence of 20 percent appreciably stained onions. White onions are damaged when the appearance of the lot is affected more seriously than by the presence of 15 percent appreciably stained onions. Onions with adhering or caked dirt shall be judged on the same basis as stained onions.

§ 51.2850 Diameter.

"Diameter" means the greatest dimension measured at right angles to a straight line running from the stem to the root.

§ 51.2851 Badly misshapen.

"Badly misshapen" means that the onion is so misshapen that its appearance is seriously affected.

§ 51.2852 Serious damage.

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

(a) Watery scales when more than the equivalent of two entire outer fleshy scales are affected by an off-colored, water-soaked condition;

(b) Dirt or staining when seriously detracting from the appearance of the lot. Onions are seriously damaged by dirt or staining when more than 25 percent of onions in the lot are badly stained. Onions with adhering or caked dirt shall be judged on the same basis as stained onions;

(c) Seedstems when more than one-half inch in diameter; and,

(d) Sprouts when the visible length is more than one-half inch.

§ 51.2853 One type.

"One type" means that the onions are within the same general color category.

METRIC CONVERSION TABLE

§ 51.2854 Metric conversion table.

Inches	*Millimeters (mm)*
1/8 =	3.2
1/4 =	6.4
3/8 =	9.5
1/2 =	12.7
5/8 =	15.9
3/4 =	19.1
7/8 =	22.2
1 =	25.4
1 1/4 =	31.8
1 1/2 =	38.1
1 3/4 =	44.5
2 =	50.8
2 1/2 =	63.5
2 3/4 =	69.9
3 =	76.2
3 1/2 =	88.9
4 =	101.6

The U.S. Standards for Grades of Onions (other than Bermuda-Granex-Grano and Creole Types) contained in this subpart shall become effective December 15, 1966, and will thereupon supersede the U.S. Standards for Grades of Onions (other than Bermuda-Granex-Grano and Creole Types) which have been in effect since May 15, 1961, as amended March 18, 1962 (§§ 51.2830–51.2850).

Dated: October 18, 1966.

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

[F.R. Doc. 66-11545; Filed, Oct. 21, 1966; 8:47 a.m.]

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

[Valencia Orange Reg. 184]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.484 Valencia Orange Regulation 184.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was

held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 20, 1966.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., October 23, 1966, and ending at 12:01 a.m., P.s.t., October 30, 1966, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 400,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: October 21, 1966.

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

[F.R. Doc. 66–11630; Filed, Oct. 21, 1966; 11:30 a.m.]

[Lemon Reg. 237]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.537 Lemon Regulation 237.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 18, 1966.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., October 23, 1966, and ending at 12:01 a.m., P.s.t., October 30, 1966, are hereby fixed as follows:

(i) District 1: 4,650 cartons;

(ii) District 2: 79,050 cartons;

(iii) District 3: 102,300 cartons.

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

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

Dated: October 20, 1966.

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

[F.R. Doc. 66–11604; Filed, Oct. 21, 1966; 8:49 a.m.]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses of the Walnut Control Board and Rates of Assessment for the 1966–67 Marketing Year

Notice was published in the October 6, 1966, issue of the FEDERAL REGISTER (31 F.R. 13005) regarding proposed expenses of the Walnut Control Board for the 1966–67 marketing year and rates of assessment for that marketing year, pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

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

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Walnut Control Board, and other available information, it is found that the expenses of the Board and rates of assessment for the marketing year beginning August 1, 1966, shall be as follows:

§ 984.318 Expenses of the Walnut Control Board and rates of assessment for the 1966–67 marketing year.

(a) *Expenses.* The expenses in the amount of $124,850 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1966, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, is fixed at 0.125 cent per pound for merchantable inshell walnuts and 0.25 cent per pound for merchantable shelled walnuts.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) The relevant provisions of said marketing agreement and this part require that the rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the current marketing year began on August 1, 1966, and the rates of assessment herein fixed will automatically apply to all such assessable walnuts beginning with that date.

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

Dated: October 19, 1966.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 66–11546; Filed, Oct. 21, 1966; 8:47 a.m.]

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

[Milk Order No. 126]

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the North Texas marketing area (7 CFR Part 1126), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of October 1966 through March 1967: The reference "described in paragraph (a) of this section" as it appears in § 1126.10(c), relating to the pool plant status of a plant operated by a cooperative association.

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

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

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

(3) This suspension order is necessary to assure consumers in the market of an adequate supply of pure and wholesome milk to meet the fluid milk needs in a period of an anticipated seasonal decline of production in relation to Class I uses. The suspension order will permit producer milk now constituting a part of the supply for fluid milk needs, plus the reserve, to be received at a pool plant with manufacturing product facilities, thereby insuring the continued pooling, efficient utilization, and availability of such milk for market needs.

(4) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (31 F.R. 13005). Views supporting this action were filed by a producer association representing more than two-thirds of the producers on the market. None were filed in opposition.

Therefore, good cause exists for making this order effective October 1, 1966.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period October 1, 1966, through March 31, 1967.

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

Effective date. October 1, 1966.

Signed at Washington, D.C., on October 19, 1966.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 66–11547; Filed, Oct. 21, 1966; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 9]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Provisions for Participation of Commercial Banks in Pools of CCC Price Support Loans on Certain Commodities

INCREASE IN INTEREST RATE

The regulations issued by the Commodity Credit Corporation published in 29 F.R. 3614, as amended by 29 F.R. 4991, 8396, 15281, and 18212, 30 F.R. 14310 and 15582, 31 F.R. 474 and 10179, containing the terms and conditions for participation of commercial banks in pools of CCC price support loans on certain commodities, are hereby further amended to change from 5.2 to 5.7 percent per annum, effective October 22, 1966, the rate of interest on certificates evidencing participation in financing price support loans.

Section 1421.3825(a) is amended to read as follows:

§ 1421.3825 Rate of interest and basis of computation of interest earned.

(a) *Rate of interest.* Certificates shall earn interest at the rate of 4.9 percent per annum through and including July 31, 1966, 5.2 percent per annum from August 1, 1966, through and including October 21, 1966, and 5.7 percent per annum thereafter.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended; 15 U.S.C. 714 b and c)

Signed at Washington, D.C., on October 21, 1966.

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

[F.R. Doc. 66–11612; Filed, Oct. 21, 1966; 10:02 a.m.]

[Amdt. 5]

PART 1427—COTTON

Subpart—Participation of Financial Institutions in Cotton Loan Pools

INCREASE IN INTEREST RATE

The regulations issued by the Commodity Credit Corporation published in 30 F.R. 7814, as amended by 30 F.R. 14310 and 15582, 31 F.R. 474 and 10179, containing the terms and conditions for participation of financial institutions in pools of CCC price support loans on cotton are hereby further amended to change from 5.2 to 5.7 percent per annum, effective October 22, 1966, the rate of interest on certificates evidencing participation in financing price support loans.

Section 1421.2239(a) is amended to read as follows:

§ 1427.2239 Rate of interest and basis of computation of interest earned.

(a) *Rate of interest.* Certificates shall earn interest at the rate of 4.9 percent per annum through and including July 31, 1966, 5.2 percent per annum from August 1, 1966, through and including October 21, 1966, and 5.7 percent per annum thereafter.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended; 15 U.S.C. 714 b and c)

Signed at Washington, D.C., on October 21, 1966.

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

[F.R. Doc. 66–11613; Filed, Oct. 21, 1966; 10:02 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 66–WE–65]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Burley, Idaho, control zone.

The Federal Aviation Agency has determined that the Burley, Idaho, radio beacon is no longer required for air traffic control purposes. The approach procedures based upon this facility will be canceled effective October 22, 1966, and assignment of controlled airspace protection for the procedure is no longer justified. Action is taken herein to revoke the control zone extension based upon the radio beacon.

Since the change effected by this amendment is less restrictive in nature than the present requirements and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth:

In § 71.171 (31 F.R. 2075) the Burley, Idaho, control zone is amended as follows:

BURLEY, IDAHO

Within a 5-mile radius of Burley Municipal Airport (latitude 42°32'30" N., longitude 113°46'20" W.); within 2 miles each

side of the Burley VORTAC 112° radial, extending from the 5-mile radius zone to the VORTAC.

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

Issued in Los Angeles, Calif., on October 13, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-11522; Filed, Oct. 21, 1966; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 7635; Amdt. 504]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Fort Dodge, Iowa

Correction

In F.R. Doc. 66-10635, appearing at page 13116 of the issue for Tuesday, October 11, 1966, the procedural instructions for Fort Dodge, Iowa, on page 13120, should read as follows:

Procedure turn W side of crs, 300° Outbnd, 120° Inbnd, 2800' within 10 miles.

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER D—SECURITY

PART 156—DEPARTMENT OF DEFENSE CIVILIAN APPLICANT AND EMPLOYEE SECURITY PROGRAM

The Secretary of Defense approved the following on September 2, 1966:

Sec.
156.1 Purpose.
156.2 Authority.
156.3 Applicability.
156.4 Responsibility.
156.5 Definitions.
156.6 Policy.
156.7 Standard and criteria.
156.8 Personnel security investigations.
156.9 Application of Public Law 733 authority to Department of Defense employees.
156.10 Reinstatement, restoration to duty or reemployment of terminated employees.
156.11 Referral of possible derogatory information.
156.12 Security determinations concerning applicants for sensitive positions.
156.13 Notice requirements.

AUTHORITY: The provisions of this Part 156 issued under 5 U.S.C. 3571, 5594, 7312, and 7532.

§ 156.1 Purpose.

This part prescribes policies and procedures to insure that the employment or retention in employment of any civilian officer or employee in a sensitive position in the Department of Defense is clearly consistent with the interests of national security.

§ 156.2 Authority.

This part is issued pursuant to the authority vested in the Secretary of Defense by 10 U.S.C. 133, Public Law 733, 81st Congress (5 U.S.C. 3571, 5594, 7312, 7532),[1] hereafter referred to as Public Law 733, and Executive Order 10450, "Security Requirements for Government Employment," April 27, 1953, as amended by Executive Orders 10491, 10531, 10548, 10550, hereafter referred to as Executive Order 10450.

§ 156.3 Applicability.

This part is applicable to employees and applicants for employment in sensitive positions with the Department of Defense. This part is not applicable to the National Security Agency. Policies and procedures which govern the civilian applicant and employee security program of that Agency are prescribed by Public Law 88-290, directives of the Executive Branch, directives of the Department of Defense, and regulations of the National Security Agency. The provisions of Public Law 733 apply to the Agency if the Director, NSA, proposes a suspension or termination of an employee in accordance with the said law. When the Director, NSA, elects to utilize the provisions of Public Law 733, he shall consult with the DoD General Counsel prior to preparations of a letter of charges.

§ 156.4 Responsibility.

The Secretaries of the Military Departments, the Assistant Secretary of Defense (Administration) for the Office of the Secretary of Defense and other assigned activities, and the Directors of Defense Agencies, except the National Security Agency, shall implement this part and apply the policies and procedures set forth in this part.

§ 156.5 Definitions.

(a) *National security.* As used in this part, the term "national security" refers to those activities which are directly related to the protection of the military, economic, and productive strength of the United States, including the protection of the Government in domestic and foreign affairs, against espionage, sabotage, subversion, and any other illegal acts which adversely affect the national defense.

(b) *Head of DoD Component.* As used herein, the term, "Head of DoD Component" means the Secretaries of the Military Departments, the Assistant Secretary of Defense (Administration) for the Office of the Secretary of Defense and assigned activities, and the Directors of Defense Agencies.

(c) *Sensitive position.* A "sensitive position" is any position within the Department of Defense the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security. Sensitive positions are of the following two categories:

(1) *Noncritical sensitive position.* Positions so designated by authority of the Head of a DoD Component, involving the following:

(i) Any position, the duties or responsibilities of which require access to SECRET or CONFIDENTIAL defense information or material.

(ii) Any position involving education and orientation of DoD personnel.

(iii) Any other position so designated by authority of the Head of a DoD Component.

(2) *Critical sensitive position.* Positions so designated by authority of the Head of a DoD Component, involving the following:

(i) Access to TOP SECRET defense information or material.

(ii) Development or approval of war plans, plans, or particulars of future major or special operations of war, or critical and extremely important items of war.

(iii) Development or approval of plans, policies, or programs which affect the overall operations of the Department of Defense or of a DoD Component, i.e., policy-making or policy determining positions.

(iv) Investigative duties, the issuance of personnel security clearances, or duty on personnel security boards.

(v) Fiduciary, public contact, or other duties demanding the highest degree of public trust.

(vi) Any other position so designated by authority of the Head of a DoD Component.

§ 156.6 Policy.

(a) No civilian will be employed or retained in employment in a sensitive position of the Department of Defense unless his employment or retention in employment is clearly consistent with the interests of the national security.

(b) The use of the suspension and removal procedures authorized by Public Law 733 shall be limited to cases in which the interests of the national security are involved. Maximum use shall be made of normal Civil Service removal procedures where such procedures are adequate and appropriate.

(c) Nothing contained in this part shall be deemed to limit or affect the responsibility and authority of the Head of the DoD Component concerned, or his designee, to reassign persons to nonsensitive positions where the interests of national security so require.

(d) No classified defense information, nor any information which might compromise investigative sources or methods or the identity of confidential informants, shall be disclosed to any employee, his counsel, or representatives, or to any other person not clearly authorized to have access to such information.

§ 156.7 Standard and criteria.

(a) *Standard.* The standard for employment and retention in employment is that, based on all the available information, the employment or retention in employment of an individual is clearly consistent with the interests of national security.

(b) *Criteria for the application of standard.* In the application of the above standard, consideration will be given to, but not limited to, the following activities and associations, whether cur-

[1] Formerly 5 U.S.C. 22-1.

rent or past. As the following activities and associations are of varying degrees of seriousness, the ultimate determination must be made on the basis of an overall commonsense evaluation of all the information in a particular case.

(1) Depending on the relation of the employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or conspiring, aiding, or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or with an espionage or other secret agent, or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the United States by unconstitutional means.

(5) Membership in, affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of Government of the United States by unconstitutional means. (These include, but are not limited to, those organizations, movements, or groups officially designated by the Attorney General of the United States pursuant to Executive Order 10450.)

(6) Intentional, unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by law.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Participation in the activities of an organization established as a front for an organization referred to in subparagraph (5) of this paragraph, when his personal views were sympathetic to the subversive purposes of such organization. (See Internal Security Act of 1950, as amended (50 U.S. Code 782), for a definition of Communist-front organizations.)

(9) Participation in the activities of an organization with knowledge that it had been infiltrated by members of subversive groups under circumstances indicating that the individual was part of, or sympathetic to, the infiltrating element or sympathetic to its purposes.

(10) Participation in the activities of an organization, referred to in subparagraph (5) of this paragraph, in a capacity where he would reasonably have had knowledge of the subversive aims or purposes of the organization.

(11) Sympathetic interest in totalitarian, Fascist, Communist, or similar subversive movements.

(12) Sympathetic association with a member or members of an organization referred to in subparagraph (5) of this paragraph. (Ordinarily, this will not include chance or occasional meetings, nor contacts limited to normal business or official relations.)

(13) Currently maintaining a close, continuing association with a person who has engaged in activities or associations of the type referred to in subparagraphs (2) through (11) of this paragraph. A close continuing association may be deemed to exist if the individual lives with, frequently visits, or frequently communicates with, such person.

(14) Close continuing association of the type described in subparagraph (13) of this paragraph, even though later separated by distance, if the circumstances indicate that renewal of the association is probable.

(15) The presence of a spouse, parent, brother, sister, offspring, or any person with whom a close bond of affection exists in a nation whose interests may be inimical to the interest of the United States or in satellites or occupied areas of such a nation, under circumstances permitting coercion or pressure to be brought on the individual through such persons.

(16) Willful violation or disregard of security regulations.

(17) Acts of reckless, irresponsible, or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose classified defense information to unauthorized persons, or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the security of the United States.

(18) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee or Federal or State Court, regarding charges of his alleged disloyalty or other misconduct relevant to his security eligibility.

(19) Any excessive indebtedness, recurring financial difficulties, unexplained affluence, or repetitive absences without leave, which furnish reason to believe that the individual may act contrary to the best interests of national security.

(20) Refusal by the individual on constitutional or other grounds, or intentional failure to complete required security forms or personal history statements, or otherwise failing or refusing, in the course of investigation, interrogation, or hearing, to answer any pertinent question regarding the matters described in subparagraphs (1) through (19) of this paragraph.

(c) *Certification.* Prior to employment, the applicant shall be required to certify in writing that he has seen, read, understood, and correctly answered the questions relating to the list of organizations designated by the Attorney General under Executive Order 10450, "Security Requirements for Government Employment."

§ 156.8 Personnel security investigations.

(a) *Investigative requirements*—(1) *General.* (i) The appointment of each civilian officer or employee in a sensitive position in the Department of Defense shall be made subject to investigation. The scope of the investigation shall be determined, in the first instance, according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a National Agency Check (including a check of the fingerprint and subversive files of the Federal Bureau of Investigation), and written inquiries to appropriate local law enforcement agencies, former employers, and supervisors, references, and schools attended by the person under investigation; *Provided,* That to the extent authorized by the Civil Service Commission, a lesser investigation may suffice with respect to per diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States.

(ii) Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, the investigation will be extended as necessary to enable the Head of the DoD Component concerned, or his designee, to determine whether the employment or retention of such person is clearly consistent with the interests of the national security, or whether further actions are necessary under Public Law 733, as implemented in this part.

(iii) Investigative reports shall be forwarded by the investigative agency to employing activities, under procedures established by the Head of the DoD Component concerned.

(iv) The employing activity will review the investigative reports to determine whether they contain derogatory information, and, if so, if the information is of a suitability nature as defined in Chapter 731, Federal Personnel Manual, or of a security nature, as defined in Chapter 732 or both. The employing activity will, if possible, make a decision as to employing or retaining in employment on the basis of the suitability information. If it cannot make a decision on the basis of suitability information alone and the decision requires resolution of the security information, the employing activity will refer the case to the Central Clearance Group for appropriate action, as provided in paragraph (c) of this section.

(2) *Noncritical sensitive positions.* Civilian applicants or appointees to noncritical sensitive positions shall be subject to the investigative requirements as prescribed in DoD Directive 5210.8, "Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information," February 15, 1962, but in no event shall these requirements include less than the investigation prescribed in subparagraph (1) of this paragraph: *Provided*, That as a minimum, a National Agency Check with satisfactory results shall be completed prior to appointment, although in case of an emergency, such position may be filled for a limited period by an individual with respect to whom such investigation, including the National Agency Check, has not been completed; *Provided*, The request for a National Agency Check has been made and the Head of the DoD Component concerned, or his designee, finds that the delay in appointment pending completion of the investigation would be harmful to the national interest, which finding shall be reduced to writing and be made a part of the records of the DoD Component concerned.

(3) *Critical sensitive positions.* No civilian shall be appointed to a critical sensitive position prior to the completion with satisfactory results of a background (full field) investigation as defined in DoD Directive 5210.8, "Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information," February 15, 1962; *Provided*, That in case of emergency, such positions may be filled for a limited period by an individual with respect to whom a background (full field) investigation has not been completed if a National Agency Check with satisfactory results has first been completed, and the request for a background investigation has been made and the Head of the DoD Component concerned, or his designee, finds that the delay which may be caused by completion of the investigation would be harmful to the national interest, which finding shall be reduced to writing and be made a part of the records of the DoD Component concerned.

(4) *Reinvestigation of incumbents of critical sensitive positions.* The incumbent of each critical sensitive position shall, 5 years after his appointment, and at least once each succeeding 5 years, be required to submit an updated personnel security questionnaire to the appropriate security officer of his component, and the Head of the DoD Component concerned shall provide for a review of the personnel security questionnaire, together with the personnel file of the incumbent, previous reports of investigation concerning him, and other appropriate information. A determination then shall be made regarding what further action, if any, is appropriate; for example, whether a check of local police and credit records, a National Agency Check or an updated background investigation may be required.

(b) *Referral to Federal Bureau of Investigation.* Investigations which develop information indicating that an individual may be subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in § 156.7(b) (2) through (14), (16), and (18) shall be referred promptly to the Federal Bureau of Investigation for a full field investigation.

(c) *Security investigation index.* This index is maintained by the Civil Service Commission under section 9(a) of Executive Order 10450. In order to comply with section 9(b) of the said Executive Order, the investigative agencies which conduct personnel security investigations under this part, shall prepare and submit in triplicate, Standard Form 79 (Notice of Security Investigation) to the Bureau of Personnel Investigations, U.S. Civil Service Commission, Washington, D.C. 20415, on the same day the investigation is initiated. Additionally, appropriate information concerning each person who has been suspended or terminated under Public Law 733, will be furnished to the Civil Service Commission.

(d) *Custody of investigative information.* The reports and other investigative material and information developed by investigations conducted pursuant to Public Law 733, Executive Order 10450, or any other security or loyalty program relating to officers or employees of the Government, shall remain the property of the investigative agency conducting the investigations. Such reports and other investigative material and information shall be maintained in confidence, and access to them may be given to other departments, agencies, and components conducting security programs in accordance with Public Law 733, under appropriate safeguards established by the Head of the DoD Component concerned.

(e) *Central Clearance Group.* A Central Clearance Group shall be established by the Head of each DoD Component. The Group shall be composed of personnel who have been selected on the basis of maturity and demonstrated good judgment. The Central Clearance Group shall review all investigative files referred to it under this part and shall make determinations in such cases whether employment or retention in employment in a sensitive position is clearly consistent with the interests of national security. The Group may, in accordance with the policy of § 156.6(b), recommend to employing activities the use of normal Civil Service removal procedures. In the event such removal procedures are not feasible and the Central Clearance Group determines that continued employment in a sensitive position is not clearly consistent with the interests of national security, the Group shall recommend to the Head of DoD Component concerned that the case be processed under § 156.9. In the case of applicants, the Group shall process cases under § 156.12.

§ 156.9 Application of Public Law 733 authority to Department of Defense employees.

(a) *Suspension from employment.* (1) The authority to suspend an employee under Public Law 733 is based upon a determination that such action is deemed necessary in the interests of national security. This determination is to be made solely by the Head of the DoD Component concerned, or, in the case of the Military Departments, by a statutory official designated by the Secretary concerned.

(2) Normally, suspension action will be accompanied by a letter of charges. However, in exceptional cases in which there is significant evidence of espionage, sabotage, sedition, treason, or subversion, and where the individual's continued employment would pose an immediate threat to the national security, emergency suspension action may be effected without issuing concurrently a letter of charges: *Provided*, That a letter of charges is issued to the employee within 30 days of the effective date of suspension, which shall be subject to amendment within 30 days thereafter. In such cases, emergency suspension action may also be exercised by subordinate commands. A copy of the suspension action by subordinate commands shall be forwarded directly and promptly to the Head of DoD Component concerned and a copy sent to the Assistant Secretary of Defense (Administration).

(3) Before issuing a letter of charges, the Head of the DoD Component concerned will forward the proposed action, together with all supporting information, to the General Counsel of the Department of Defense. The General Counsel will consult with representatives of the Department of Justice to assure that the rights of employees are fully considered, and to determine whether the proposed charges are fully supported, and the extent to which confrontation and cross-examination of witnesses will be required. Following such consultation, the General Counsel will advise the Head of the DoD Component regarding the procedure to be followed in the particular case.

(4) Employees will not be suspended under this authority while an investigation is pending when the available information indicates that retention in a duty status during such investigation would not pose an immediate threat to the national security. When considered necessary in order to provide the maximum protection to the security of the activity or of classified defense informa-

tion or material pending determination under Public Law 733, interim action other than suspension, such as withholding of access to classified defense information or material, temporary detail or reassignment will be used to the fullest practicable extent.

(5) Suspension from a sensitive position, together with temporary detail to a nonsensitive position without loss of pay, may be utilized in order to initiate action as prescribed in paragraph (b) of this section: *Provided*, The suspending authority notifies the employee that he may be suspended without pay at any time prior to the final decision of his case.

(b) *Right of employee to hearing.* A U.S. citizen employee of the Department of Defense having a permanent or indefinite appointment, irrespective of whether the employee has completed the probationary or trial period, whose termination under Public Law 733 is proposed shall be granted the following procedural benefits:

(1) The employee will be given a letter of charges in accordance with Public Law 733 which will be as specific as security considerations permit. Each charge will be directly related to one or more of the specific criteria set forth in § 156.7(b).

(2) The employee shall be informed in the letter of charges of his right (i) to a hearing, (ii) to be represented by counsel of his choice, (iii) to testify in his own behalf, (iv) to present witnesses and offer other evidence under oath or affirmation, and (v) to cross-examine any witnesses offered in support of the charges.

(3) The employee will be given 30 calendar days in which to answer the letter of charges and to request a hearing.

(4) The hearing by a duly constituted authority for this purpose provided for in Public Law 733 is construed to mean a hearing before a board established solely by the Head of the DoD Component concerned, and, in the case of the Military Departments, by a statutory official designated by the Secretary concerned. The board shall be composed of not less than three impartial and disinterested members, all or a majority of whom shall be civilians. One member shall be designated as Chairman, and, as such, is authorized to administer oaths. The members will be selected from DoD Components other than the one by which the individual is employed.

(c) *Hearing board counsel.* (1) A qualified attorney will be assigned to act as counsel for the hearing board. He will be responsible for assisting the hearing board in making certain that the record is as complete as practicable. He will question Department of Defense witnesses and cross-examine witnesses produced by the employee, although the hearing board may also question any witness.

(2) In order to reduce the issues in controversy and to simplify the hearing, the hearing board counsel is authorized to consult directly with the employee or his counsel, as appropriate, for the purpose of reaching mutual agreement on such matters as the clarification of the issues, the taking of depositions and stipulations with respect to testimony, and the contents of documents and other physical evidence. Such stipulations shall be binding upon the employee and the Department of Defense for the purpose of these proceedings.

(d) *Reply to letter of charges.* (1) The letter of charges shall notify the employee to reply to each of the charges under oath or affirmation and specifically to admit, or deny, or expressly disclaim knowledge, as appropriate, of each of the charges. The employee shall be advised to make arrangements to produce witnesses and such information in support of his reply as may be required.

(2) The letter of charges shall advise that the employee is required to give complete information and testimony regarding the allegations, and that failure to do so will necessitate a determination being made in the light of the record as it stands.

(3) Should an employee not file a written request for a hearing within 30 calendar days, the employee shall be deemed to have relinquished the right to such a hearing. In the event the employee does not avail himself of a hearing, a final determination shall be made by the official designated in paragraph (f) of this section, based upon all available information, including the employee's reply to the letter of charges and all documents in support thereof.

(4) Where, after due notice of the time and place set for the hearing, the employee, without explanation, fails to appear for such hearing, the hearing board shall consider the case and make its recommendation on the basis of the information available to it.

(e) *Hearing procedure.* (1) Hearings before security hearing boards shall be conducted expeditiously in an orderly manner with dignity and decorum. Should the conduct of the employee or his counsel be such that the orderly and prompt disposition of the matters before the Board are impaired, or rulings ignored or flouted deliberately, the Chairman is authorized in his discretion to recess the hearing forthwith. Further proceedings may be held only after assurances satisfactory to the Chairman are made by the offending party that he is prepared to abide by the rulings of the Chairman.

(2) Testimony before hearing boards shall be given under oath or affirmation.

(3) The hearing board shall take whatever action is necessary to insure the employee of full and fair consideration of his case. The employee will be informed by the Chairman of his rights under this part.

(4) After the hearing has been convened the letter setting forth the charges against the employee shall be read, and the statements and affidavits by the employee in answer to such charges, unless such reading is waived by mutual consent of the Chairman and the employee. In any event, such material shall be incorporated as a part of the record of the hearing.

(5) The Department and the employee may introduce evidence responsive to the issues. Rules of evidence shall not be binding on the board, but the Chairman may impose reasonable restrictions as to the relevance, competency, and materiality of matters considered, so that the hearings shall not be unduly prolonged. Unclassified investigative information not made available to the employee whose removal is sought under Public Law 733 shall not be furnished to the Board. Investigative information not made available to the employee whose removal is sought under Public Law 733 shall not be furnished the Board subject to the following exception: If the investigative information constitutes classified information the Board may receive and consider such information, provided the employee is furnished as comprehensive and detailed an unclassified summary of the information as the national security permits.

(6) The employee shall have the right to control the sequence of witnesses called by him. Reasonable cross-examination of witnesses by the employee shall be permitted.

(7) The hearing board shall give due consideration to documentary evidence developed by investigation, including but not limited to, such matters as membership cards, petitions bearing the employee's signature, personnel and security forms executed by the employee, and transcripts of relevant testimony before other duly constituted authorities. The fact that such evidence has been considered shall be made a part of the transcript of the hearing, together with a complete identification of the document in question, including date, place, and other designative information.

(8) The Chairman, in his discretion, may invite any person to appear at the hearing and testify, and may cross-examine him. The employee may be called to testify. Where an employee's refusal to testify or to answer questions regarding the issues in his case prevents the board from reaching a determination that his employment is clearly consistent with the interests of national security, the board may adjourn the hearing and take action as provided in subparagraph (14) of this paragraph.

(9) The hearing board shall conduct the hearing proceedings in such manner as to protect information, the disclosure of which would adversely affect the national security or tend to disclose or compromise investigative sources or methods.

(10) Hearings shall be private. There shall be present at the hearing only the members of the hearing board, the hearing board counsel, the stenographer or stenographers, the employee, his counsel, Department of Defense officials concerned, and witnesses when actually testifying.

(11) Where the hearing board determines that further investigation is essential in order to arrive at a proper decision in the case, the board will specify the particular areas to be investigated on an expeditious basis through the DoD Components concerned.

(12) The hearing board, in making its recommendation, shall take into consideration the fact that the employee may have been handicapped by the nondisclosure to him of classified defense information, or the inability of the employee to attack the credibility and accuracy of any person furnishing information about the employee who fails to appear as a witness. Where such persons are not confidential informants, their failure to appear, together with the reason for their absence, shall be considered by the board, as well as the fact that the board cannot pay witness fees or reimburse them for their travel or other expenses. The board shall reach its conclusions and base its determination on the transcript of the hearing, together with such classified defense information as may be submitted to it. This classified information will be identified and included in the classified portion of the record for review by the official designated in paragraph (f) of this section, together with the information disclosed to the employee pursuant to subparagraph (5) of this paragraph. Where such information has been shown to the employee, the reasons for this action will be set forth.

(13) A complete verbatim stenographic transcript will be made of the hearing by qualified reporters, which will be made a permanent part of the record. The employee will be furnished a copy of the transcript without cost. The transcript shall not include classified information submitted to the board, but shall include an unclassified summary thereof.

(14) The hearing board will make findings of fact with respect to each allegation in the letter of charges, and a recommendation whether retention of the employee is clearly consistent with the interests of the national security. The report of the board will be in writing, and will be signed by all members of the board. If a determination is not unanimous, a signed minority report shall be submitted.

(15) The record of the case, including the findings and the recommendation of the hearing board, shall be reviewed by the official designated in paragraph (f) of this section. Following such review, the employee shall be notified in writing of the final determination, and if adverse, the hearing board's report and recommendations, except for any classified portions, shall be made available to the employee.

(f) *Termination of employment.* The authority to terminate the employment of an employee of a Military Department is vested solely in the Secretary of the Military Department concerned and in such other statutory official as he may designate. Action to terminate employees of the Office of the Secretary of Defense, and DoD Components other than those of the Military Departments, shall be submitted to the Assistant Secretary of Defense (Administration) for decision.

(g) *Resignations.* A resignation submitted by an employee after notice of suspension or other proposed adverse action under Public Law 733 has been communicated to him and before final action has been taken, will be accepted. However, the Standard Form 50 effecting the resignation will bear the following Notation, "Resigned while action pending to separate for security reasons under Public Law 733."

(h) *Compensation.* In case an employee whose employment has been suspended or terminated under Public Law 733 is reinstated or restored to duty by appropriate authority, he shall be allowed compensation for the entire period of such suspension or termination in an amount not to exceed the difference between the amount such employee would normally have earned during the period of such suspension or termination at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such employee: *Provided*, That the employee shall not be compensated for any extension of the period of suspension or termination caused by his voluntary action and not the result of the action of the DoD Component in suspending or terminating him.

§ 156.10 Reinstatement, restoration to duty or reemployment of terminated employees.

(a) Any person whose employment in the Department of Defense is terminated under Public Law 733, or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the Department of Defense unless the Secretary of Defense, or his designee for that purpose, finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the record.

(b) Any person whose employment in any other agency or department of the Government is terminated under Public Law 733, or any other security or loyalty program of the Government, shall not be employed in the Department of Defense unless the Civil Service Commission determines that such person is eligible for employment and the person's employment is approved by the Secretary of Defense, or his designee for that purpose, which determination and approval shall be made a part of the record.

§ 156.11 Referral of possible derogatory information.

Whenever there is developed or received any information indicating that the retention in employment of any officer or employee of the Department of Defense may not be clearly consistent with the interests of the national security, such information shall be forwarded to the Head of the DoD Component concerned or his designee. In such cases the Head of the DoD Component concerned or his designee, after such investigation as shall be appropriate, shall review, and, where necessary, adjudicate or readjudicate, in accordance with Public Law 733, the case of such officer or employee.

§ 156.12 Security determinations concerning applicants for sensitive positions.

Applicants being considered for a sensitive position should, whenever appropriate, have an opportunity to explain or refute derogatory security information (as distinct from derogatory suitability information) developed in an investigation before being rejected or nonselected on security grounds. The Central Clearance Group shall perform this function, by permitting the individual concerned to have an option either to appear personally and informally before a member or designee of the Group or to respond to written interrogatories to be furnished to the individual by the Group. The purpose of this provision is to prevent errors which might otherwise result from mistakes in identity or mitigating circumstances which are unknown to the prospective employing DoD Component. In the event the Central Clearance Group determines that employment of the applicant is not clearly consistent with the interests of national security, the Group shall recommend to the Head of the DoD Component concerned that the applicant be denied employment.

§ 156.13 Notice requirements.

Pursuant to Executive Order 10450, as amended, and in order to assist the Civil Service Commission in discharging its responsibilities under Executive Order 10450, Department of Defense Components will, as soon as possible and in no event later than thirty (30) days after the receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of Executive Order 10450, notify the Civil Service Commission of the action taken with respect to such officer or employee. Such notice shall be in accordance with and conform to the requirements of the Civil Service Commission as stipulated in Chapter 736, Appendix B–1, Federal Personnel Manual. The Assistant Secretary of Defense (Administration) shall be notified with regard to each suspension and/or termination under provision of Public Law 733, and of reinstatement, restoration to duty or reemployment following any suspension or termination. Such notice shall be made no later than 10 days after each such action has occurred and will include the full name, date and place of birth, grade, type of action, and the date the action was taken with respect to such employee.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 66-11536; Filed, Oct. 21, 1966; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER D—NAVIGATION REQUIREMENTS FOR CERTAIN INLAND WATERS

[CGFR 66-59]

PART 84—TOWING OF BARGES

Length of Hawsers on Inland Waters

A notice of proposed rule making was published in the FEDERAL REGISTER of July 22, 1966 (31 F.R. 9996), in which the Commandant, U.S. Coast Guard requested written comments on a proposal amending 33 CFR 84.10(a) regarding hawser lengths for all tows on inland waters. The proposal and comments received were considered by the Merchant Marine Council and one change was made in the proposal. The words "or otherwise" were inserted after the phrase "whether on account of the state of weather or sea" in the proviso. The master of a towing vessel has the primary responsibility for the safety of his vessel and tow, as well as a further responsibility to navigate the tug and tow in such a manner that other vessels and property are not endangered or embarrassed in their operation. The general limitation on the length of hawser between vessels of a tow is necessary, but the master needs additional discretionary authority to determine the proper length of a towing hawser under a particular set of conditions of wind, weather, traffic, etc. The proposal, as revised, is adopted and set forth in this document. The actions of the Merchant Marine Council with respect to comments received are approved.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, U.S. Code, and Treasury Department Order 120, July 31, 1950 (15 F.R. 6521) and the statute cited with the regulations below, the following amendments are prescribed:

1. The authority note for Part 84 is amended to read as follows:

AUTHORITY: The provisions of this Part 84 issued under sec. 14, 35 Stat. 428, as amended, 33 U.S.C. 152. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521.

§ 84.01 [Amended]

2. Section 84.01 *Application* is amended by canceling paragraph (c).

3. Section 84.10(a) is amended to read as follows:

§ 84.10 Hawser lengths for all tows on inland waters.

(a) The length of hawsers between vessels shall be limited to no more than 450 feet (75 fathoms). This length shall be the distance measured from the stern of one vessel to the bow of the following vessel. The distance between two vessels should in all cases be as much shorter as the weather or sea will permit: *Provided*, That where, in the opinion of the master of the towing vessel, it is dangerous or inadvisable, whether on account of the state of weather or sea or otherwise, to limit hawser lengths, the 450-foot limitation need not apply.

Effective date. A finding is hereby made that delay in the effective date of the amendments in this document is unnecessary as they modify restrictions in the regulations (5 U.S.C. 1003(c)). Accordingly, the amendments in this document shall become effective immediately upon date of publication in the FEDERAL REGISTER.

Dated: October 19, 1966.

[SEAL] W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 66-11539; Filed, Oct. 21, 1966; 8:46 a.m.]

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Manistee River, Mich., and Mare Island Strait (Napa River), Calif.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.641 is hereby amended with respect to paragraph (f), by adding a new subparagraph (4-a) to govern the operation of bridges across Manistee River, Mich., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.641 Great Lakes tributaries; bridges where constant attendance of draw tenders is not required.

* * * * * *

(f) * * *

(4-a) Manistee River at Manistee, Mich.; All drawbridges across Manistee River from its mouth at Lake Michigan upstream to Manistee Lake. During the winter months from January 1 to April 1, at least 24 hours' advance notice required.

* * * * * *

[Regs., Oct. 5, 1966, 1507-32 (Manistee River, Mich.)-ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.712 is hereby amended with respect to paragraph (l)(1) governing the operation of the Department of the Navy and the State of California highway bridges across Mare Island Strait, Napa River, Calif., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.

* * * * * *

(l) *Mare Island Strait, Napa River, and their tributaries.*—(1) *Department of the Navy bridge (Mare Island Causeway) and State of California highway bridge (Sears Point Cutoff Bridge) at Vallejo.* From 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 4:45 p.m. daily, except Saturdays, Sundays, and holidays, the draws need not be opened for the passage of vessels other than vessels owned, operated, or controlled by the United States.

* * * * * *

[Regs., Oct. 7, 1966, 1507-32 (Napa River, Mare Island Strait, Calif.)-ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 66-11520; Filed, Oct. 21, 1966; 8:45 a.m.]

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

Coos Bay, Oreg., and Chesapeake Bay, Md.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.720 governing the operation of certain bridges across South Slough and Coalbank Slough, Coos Bay, Oreg., is hereby amended in its entirety effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.720 Coos Bay, Oreg.

(a) *Highway bridge across South Slough.* (1) The bridge shall open for passage of vessels or other watercraft of any description upon verbal request to the authorized representative of the owner of or agency controlling the bridge.

(2) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

(b) *Bridge of Southern Pacific Railroad Co. below North Bend.* (1) The drawspan of the bridge shall be kept open at all times except while actually required for the necessary passage of trains over the drawspan.

(2) During foggy weather a fog bell installed in the center of the drawspan shall be rung continuously, striking every 10 seconds.

(3) Any time during foggy weather, when the draw is closed and the passage is not clear for boats, there shall be sounded continuously a siren which may be heard at a distance of 1 mile from the drawspan. When the bridge is again opened the siren shall be stopped, indicating that the way is clear for the passage of boats.

(c) *Railroad bridge across Coalbank Slough.* (1) The drawbridge shall open for the passage of vessels or other watercraft of any description upon verbal request to the authorized representative of the owner of or agency controlling the bridge.

(2) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

(d) *Highway bridge across Coalbank Slough.* (1) Whenever a vessel or other watercraft unable to pass under the

closed bridge desires to pass through the draw, at least 24 hours' advance notice shall be given to the authorized representative of the owner of the bridge.

(2) Upon receipt of such advance notice, the authorized representative shall in compliance therewith arrange for opening the draw at a time designation (within the 24-hour period) which will not coincide with a period of peak highway traffic.

(3) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

[Regs., Oct. 5, 1966, 1507-32 (Coos Bay, Oreg.)-ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) § 204.42 governing the use and navigation of a danger zone in waters of the Chesapeake Bay, Md., is hereby amended in its entirety, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.42 Chesapeake Bay, Point Lookout to Cedar Point; aerial firing range and target areas, U.S. Naval Air Test Center, Patuxent River, Md.

(a) *Aerial firing range*—(1) *The danger zone.* The waters of Chesapeake Bay within an area described as follows: Beginning at the easternmost extremity of Cedar Point; thence easterly to the southern tip of Barren Island; thence southeasterly to latitude 38°01'15", longitude 76°05'33"; thence southwesterly to Chesapeake Channel Buoy 50 (approximately latitude 37°59'25", longitude 76°10'54"); thence northwesterly to latitude 38°02'20", longitude 76°17'26"; thence northerly to Point No Point Light; thence northwesterly to the shore at latitude 38°15'45"; thence northeasterly along the shore to the point of beginning. Aerial firing and dropping of nonexplosive ordnance will be conducted in this area throughout the year, Monday through Saturday, except national holidays.

(2) *The regulations.* (i) Through navigation of surface craft outside the target areas will be permitted at all times. Vessels shall proceed on their normal course and shall not delay their progress.

(ii) Prior to firing or ordnance drops, the range will be patrolled by naval surface craft or aircraft to warn watercraft likely to be endangered. Surface craft so employed will display a square red flag. Naval aircraft will use a method of warning consisting of repeated shallow dives in the area, following each dive by a sharp pullup.

(iii) Any watercraft under way or at anchor, upon being so warned, shall immediately vacate the area and shall remain outside the area until conclusion of firing practice.

(iv) Nothing in this section shall prevent the taking of shellfish or the setting of fishing structures within the range outside target areas in accordance with Federal and State regulations; *Provided,* That no permanent or temporary fishing structures or oyster ground markers shall be placed on the western side of the Chesapeake Bay between Point No Point and Cedar Point without prior written approval of the Commanding Officer, U.S. Naval Air Station, Patuxent River, Md.

(v) Naval authorities will not be responsible for damage caused by projectiles, bombs, missiles, or Naval or Coast Guard vessels to fishing structures or fishing equipment which may be located in the aerial firing range immediately adjacent to the target areas.

(b) *Target areas*—(1) *Prohibited area.* A circular area with a radius of 1,000 yards having its center at latitude 38°13'00", longitude 76°19'00" identified as Hooper Target.

(2) *Restricted area.* A circular area with a radius of 600 yards having its center at latitude 38°02'18", longitude 76°09'26", identified as Hannibal Target.

(3) *The regulations.* Nonexplosive projectiles and bombs will be dropped at frequent intervals in the target areas. Hooper Target shall be closed to navigation at all times and Hannibal Target during daylight hours, except for vessels engaged in operational and maintenance operations as directed by the Commanding Officer, U.S. Naval Air Station, Patuxent River, Md. No person in the waters, vessel, or other craft shall enter or remain in the closed area except on prior written approval of the Commanding Officer, U.S. Naval Air Station, Patuxent River, Md.

(c) The regulations in this section shall be enforced by the Commander, Naval Air Test Center, and such agencies as he may designate.

[Regs., Oct. 6, 1966, 1507-32 (Chesapeake Bay, Md.)-ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 66-11521; Filed, Oct. 21, 1966; 8:45 a.m.]

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 4—FORMS FOR TRADEMARK CASES

Application for Renewal

In the April 1, 1966 edition of the FEDERAL REGISTER (31 F.R. 5261) the phrase reading:

Subscribed and sworn to before me this ---- day of ----------, 19----.

Notary Public (6)

was deleted from the illustrative form for a trademark application by an individual for registration on the Principal Register using an oath (§ 4.1). A substitute note was provided reading:

(The acknowledgment shall be in the form prescribed by the law of the jurisdiction where executed, and the notary's seal or stamp or other evidence or authority in the jurisdiction of execution must be affixed.)

This substitution was to be made in other forms using oaths, and a direction was included for the use of the substitute phrase in illustrative forms §§ 4.5, 4.6, 4.13, 4.17, 4.21, and 4.22.

In the same publication in the FEDERAL REGISTER (31 F.R. 5263), illustrative form § 4.13, application for renewal, as modified, was set forth. The substitute note was omitted in § 4.13 as published and, to avoid any misunderstanding, the form is set forth in its entirety, as follows:

§ 4.13 Application for renewal.

Mark ----------
(Identify the mark)
Reg. No.----------
Class No.----------

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of registrant in accordance with rule 4.1, 4.5, or 4.6.)

The above identified registrant requests that Registration No. ---- granted to ---------- on ----------
(Name of original registrant) (Date of issuance)
which he now owns as shown by records in the Patent Office be renewed in accordance with the provisions of section 9 of the act of July 5, 1946.

The renewal fee is presented herewith. (1)

State of ----------}
County of ----------} *ss.*

(Name of registrant or person authorized to sign for it)
being sworn, states that ----------

(Insert "he" or name of registrant)
owns Registration No. ----; that the mark shown therein is in use in ----------
(Type ---------- (2) commerce on each of commerce)
of the following goods recited in the registration ----------, the attached specimen (or facsimile) showing the mark as currently used. (4)

(Signature, and if a corporation or other organization, the official title)

(The acknowledgement shall be in the form prescribed by the law of the jurisdiction where executed, and the notary's seal or stamp or other evidence or authority in the jurisdiction of execution must be affixed.)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See rules 4.2 and 4.3) (3)

NOTE: (1) The fee for renewal sought prior to expiration is $25.00 for each class; and for delayed renewal filed within 3 months after expiration, an additional $5.00 for each class.

(2) Type of commerce should be specified as "interstate," "foreign," "territorial," or such other specified type of commerce as may be regulated by Congress. Foreign registrants must specify: "commerce with the United States."

(3) If applicant for renewal is not domiciled in the United States, a domestic rep-

resentative must be designated. See rule 4.4.

(4) If the mark is not in use in commerce at the time of filing the application for renewal, but there is no intention to abandon the mark, sufficient facts must be recited to show that the nonuse is due to special circumstances which excuse the nonuse.

(Sec. 1, 66 Stat. 793, 35 U.S.C. 6; sec. 1, 78 Stat. 171; 35 U.S.C. 25)

EDWARD J. BRENNER,
Commissioner of Patents.

Approved: October 14, 1966.

J. HEBERT HOLLOMAN,
Assistant Secretary for Science and Technology.

[F.R. Doc. 66-11519; Filed, Oct. 21, 1966; 8:45 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 66-46]

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 12—CERTIFICATION OF SEAMEN

Subpart 12.15—Qualified Member of the Engine Department

DECK ENGINE MECHANICS AND ENGINEMAN RATINGS

The ratings of "deck engine mechanic" and "engineman" are established and endorsements with respect thereto may be placed on merchant mariner's documents to authorize the holders to serve in such capacities as qualified members of the engine department. Pursuant to notices of proposed rule making published in the FEDERAL REGISTER of September 9, 1964 (29 F.R. 12732-12734), and February 18, 1965 (30 F.R. 2219, 2220), and the Merchant Marine Council Public Hearing Agenda dated March 22, 1965 (CG-249), the Merchant Marine Council held a public hearing on March 22, 1965, for the purpose of receiving comments, views, and data regarding proposals for automated or partially automated steam-propelled vessels, designated Item IVg.

The proposals published on September 9, 1964, were designated as 46 CFR, Part 155 and entitled "temporary requirements for automated or partially automated steam-propelled cargo or tank vessels" (29 F.R. 12732-12734) and are withdrawn. The certificates of inspection for those vessels which show the manning to include the ratings of deck engine mechanic and engineman will continue in effect until such certificates expire. However, in the future, the ratings of deck engine mechanic and engineman will not be required by certificates of inspection issued by the Coast Guard. If the owner, operator, agent, or master of an automated or partially automated vessel requests that the manning of the vessel include a deck engine mechanic or engineman, the certificate of inspection will carry the requirement as "oilers" and a notation in the body of the certificate that "junior engineers, deck engine mechanics, or enginemen may be substituted for one or more oilers."

The proposals considered at the public hearing held March 22, 1965, were commented on extensively and the Merchant Marine Council recommended that the problem be reconsidered. The Coast Guard conducted in-person observation of automated vessels over an extended period of time and has consulted with the affected labor unions, management, and operators of automated vessels. The proposals, as revised, are approved and set forth in this document. The actions of the Merchant Marine Council with respect to comments received regarding these proposals are approved. As reflected by the regulations in this document, these actions are:

a. The ratings of "deck engine mechanic" and "engineman" are established. For seamen who meet the qualifications for such ratings their merchant mariner's documents may be appropriately endorsed except when holding the rating "QMED—any rating," or "any unlicensed rating in the engine department," which include these new ratings. No merchant mariner's document will be issued with the rating of "deck engine mechanic" or "engineman" alone, but such a document will also show the other ratings held. Such seaman may sign on a vessel in any category which is authorized by his document.

b. The ratings of "deck engine mechanic" and "engineman" as such will not be required by any certificate of inspection issued by the Coast Guard after November 30, 1966. The minimum manning requirements will be prescribed by the Officer in Charge, Marine Inspection, in accordance with 46 CFR 157.15-1 in Subchapter P (Manning) of this chapter. The minimum requirements for the engineroom will include the number of oilers needed and a notation that junior engineers, deck engine mechanics or enginemen may be substituted for one or more oilers.

c. Seamen who hold temporary letters issued by Officers in Charge, Marine Inspection, certifying to their qualifications as "deck engine mechanic" or "engineman" may continue to "sign on" under such letters until December 1, 1966.

d. The regulations for the new ratings of "deck engine mechanic" and "engineman" are added to the requirements in 46 CFR Subpart 12.15 governing qualified members of the engine department.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, U.S. Code and Treasury Department Order 120 dated July 31, 1950 (15 F.R. 6521) and others specifically listed with the various amendments to regulations below, the following amendments are prescribed and shall be effective December 1, 1966: *Provided*, That the requirements in this document may be complied with during the period prior to the effective date specified in lieu of existing requirements.

1. Section 12.15-7 is amended to read as follows:

§ 12.15-7 Service or training requirements.

(a) An applicant for a certificate of service as qualified member of the engine department other than as deck engine mechanic or engineman shall furnish the Coast Guard proof that he possesses one of the following requirements of training or service:

(1) Six months' service at sea in a rating at least equal to that of coal passer or wiper in the engine department of vessels required to have such certificated men, or in the engine department of tugs or towboats operating on the high seas or Great Lakes, or on the bays or sounds directly connected with the seas; or,

(2) Graduation from a schoolship approved by and conducted under rules prescribed by the Commandant; or,

(3) Satisfactory completion of a course of training approved by the Commandant, and served aboard a training vessel; or,

(4) Graduation from the U.S. Naval Academy or the U.S. Coast Guard Academy.

(b) For the requirements for deck engine mechanic see § 12.15-13 and for engineman see § 12.15-15.

2. Section 12.15-9 is amended by revising paragraph (c) and by adding a new paragraph (d), which read as follows:

§ 12.15-9 Examination requirements.

* * * * *

(c) Applicants for certification as qualified member of the engine department in the ratings of boilermaker and pumpman shall, by written or oral examination, demonstrate sufficient knowledge of the subjects peculiar to those ratings to satisfy the Officer in Charge, Marine Inspection, that they are qualified to perform the duties of the rating.

(d) Applicants for certification as qualified members of the engine department in the rating of deck engine mechanic or engineman, who have proved eligibility for such endorsement under either § 12.15-13 or § 12.15-15, will not be required to take a written or oral examination for such ratings.

3. Section 12.15-11 is amended by adding at the end thereof the ratings designated (k) and (l) which read as follows:

§ 12.15-11 General provisions respecting merchant mariner's documents endorsed as qualified member of the engine department.

* * * * * *

(k) Deck engine mechanic.
(l) Engineman.

4. Subpart 12.15 is amended by adding after § 12.15-11 the following new sections which read as follows:

§ 12.15-13 Deck engine mechanic.

(a) An applicant for a certificate as "deck engine mechanic" shall be a person holding a merchant mariner's document endorsed as "junior engineer". The applicant shall be eligible for such certification upon furnishing one of the following:

(1) Presentation of a temporary letter that was issued to the holder to serve as "deck engine mechanic" by an Officer in Charge, Marine Inspection, dated prior to December 1, 1966; or,

(2) Satisfactory documentary evidence of sea service of 6 months in the rating of "junior engineer" on steam vessels of 4,000 horsepower or over; or,

(3) Documentary evidence from an operator of an automated vessel that he has completed satisfactorily at least 4 weeks indoctrination and training in the engine department of an automated steam vessel of 4,000 horsepower or over; or,

(4) Satisfactory completion of a course of training for "deck engine mechanic" acceptable to the Commandant.

(b) The Officer in Charge, Marine Inspection, who is satisfied that an applicant for the rating of "deck engine mechanic" meets the requirements specified in this section, will endorse this rating on the current merchant mariner's document held by the applicant.

(c) Any holder of a merchant mariner's document endorsed for "any unlicensed rating in the engine department" or "QMED—any rating" is qualified as a "deck engine mechanic" and that endorsement will not be entered on his document.

§ 12.15–15 Engineman.

(a) An applicant for a certificate as "engineman" shall be a person holding a merchant mariner's document endorsed as "fireman/watertender" and "oiler", or "junior engineer". The applicant shall be eligible for such certification upon furnishing one of the following:

(1) Presentation of a temporary letter that was issued to the holder to serve as "engineman" by an Officer in Charge, Marine Inspection, dated prior to December 1, 1966; or,

(2) Satisfactory documentary evidence of sea service of 6 months in any one or combination of "junior engineer", "fireman/watertender" or "oiler" on steam vessels of 4,000 horsepower or over; or,

(3) Documentary evidence from an operator of a "partially automated" steam vessel that he has completed satisfactorily at least 2 weeks indoctrination and training in the engine department of a "partially automated" steam vessel of 4,000 horsepower or over; or

(4) Satisfactory completion of a course of training for "engineman" acceptable to the Commandant.

(b) The Officer in Charge, Marine Inspection, who is satisfied that an applicant for the rating of "engineman" meets the requirements specified in this section, will endorse this rating on the current merchant mariner's document held by the applicant.

(c) Any holder of a merchant mariner's document endorsed for "any unlicensed rating in the engine department", "QMED—any rating" or "deck engine mechanic" is qualified as an "engineman" and that endorsement will not be entered on his document.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417a, as amended, sec. 13, 38 Stat. 1169, as amended, secs. 1, 2, 7, 49 Stat. 1544, 1545, as amended, 1936, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 672, 367, 689, 1333, 50 U.S.C. 198. Treasury Department Orders 120, July 31, 1950, 15 F.R. 6521; 167–9, Aug. 3, 1954, 19 F.R. 5195; 167–14, Nov. 26, 1954, 19 F.R. 8026)

Dated: October 19, 1966.

[SEAL] W. J. SMITH,
Admiral, U.S. Coast Guard
Commandant.

[F.R. Doc. 66–11540, Filed, Oct. 21, 1966; 8:47 a.m.]

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 4; Amdt. 10; Docket No. 66–31]

PART 510—LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Subpart B—Duties and Obligations

MISCELLANEOUS AMENDMENTS

On May 6, 1966, the Commission published a notice of proposed rule making in the captioned proceeding in the FEDERAL REGISTER (31 F.R. 6792–6793) and invited comments from interested persons. The purpose of this proceeding is the consideration of proposed amendments of paragraphs (a) of § 510.22; paragraphs (a), (f), and (j) of § 510.23; and paragraphs (a) and (f) of § 510.24 contained in its General Order 4 regulating licensed independent ocean freight forwarders. The Commission also invited comments on §§ 510.5(g) and 510.21(l) of this order, although it did not propose changes in these rules. Comments on the present rules and proposed amendments were submitted on behalf of carriers, conferences, forwarders, and forwarder associations. Replies to these comments were filed by Hearing Counsel on behalf of the Commission's staff, and several persons filed replies to these replies.

On September 7, 1966, the Commission, pursuant to notice, heard oral argument on the proposed amendments to §§ 510.22 (a), 510.23 (f) and (j), 510.24 (a) and (f), and on present § 510.21(l). The proposed amendment to § 510.23(a) and present § 510.5(g) were considered without oral argument.

The Commission has carefully considered the comments and arguments on the proposed amendments and the present rules and in light thereof herewith adopts its final amendments. No changes have been made in present §§ 510.5(g) or 510.21(l) at this time for reasons noted below. Comments and arguments not discussed or reflected herein have been considered and found not justified or not material.

The contention was made at oral argument that the Commission is without authority to amend the forwarder rules in a proceeding like the present one in which there has been no showing that forwarders' present practices result in violations of substantive provisions of the Shipping Act, 1916 (the Act). It has further been suggested that our recent decision in Docket 65–5—Proposed Rule Covering Time Limit On The Filing of Overcharge Claims, served June 28, 1966, supports this contention. The contention is incorrect. Section 44(c) of the Act requires that "The Commission shall prescribe reasonable rules and regulations to be observed by independent ocean freight forwarders * * *", and this provision has been interpreted by the Court of Appeals for the Second Circuit in New York Foreign Frgt. F. & B. Ass'n v. Federal Maritime Com'n, 337 F. 2d 289, 294, 295 (2d Cir. 1964), cert. den. 380 U.S. 910, 914 (1965), in upholding the Commission's prior promulgation of rules regulating the activities of independent ocean freight forwarders, as a "mandate" for the creation of forwarder rules by the Commission. The Court, moreover, in considering the argument that "if a practice sought to be regulated is not contrary to a substantive provision of the 1916 Act, then * * * the regulation is invalid," explicitly stated "we do not agree with this restrictive view of the agency's powers."

Nor does Docket No. 65–5, supra, support this restrictive view of our authority. In that proceeding, the Commission decided not to promulgate a rule with respect to certain carriers' practices of refusing to consider claims presented to them after the expiration of time intervals less than the 2-year period provided in section 22 of the Act for the bringing of action for reparation before the Commission. The Commission stated that the rule could not be promulgated as the carriers' present practices had not been shown to violate a substantive provision of the Act. It went on to state, however, that "a distinction must be made between a rule of this sort and rules implementing certain statutory provisions, which need no such basis * * *"

Forwarders, forwarder associations, and Waterman Steamship Corp. oppose the amendment to § 510.22(a) which would require that carriers performing any forwarding services on cargo carried under their own bills of lading free of charge specify such services in their tariffs, alleging that the amendment will damage the forwarding industry and increase freight rates.

The sole purpose of the amendment is to insure equal treatment of shippers, it is not to encourage carriers to perform forwarding services or to force them to perform such services free of charge. Carriers generally have not desired to engage in forwarding activities, and there has been no indication in this proceeding that they are now anxious to do so, although carriers occasionally file executed shippers' export declarations with customs' authorities for validation. Generally, large shippers have either their own export departments at the ports from which they ship or they make use of independent forwarders on all shipments and thus will be little affected by the amendment. Small shippers, however, could be disadvantaged if the Com-

mission forced carriers to charge for the services they do perform. On the other hand, we will not force carriers to perform such services free of charge. Thus, the only alteration we will make in existing practice is to require publication of the particular practice in the appropriate tariff so as to insure that all shippers are apprised of the services offered and may take advantage of them. In short, any carrier who wants to include one or more forwarder services in its line-haul rate may do so and all shippers via that carrier will have an equal opportunity to procure such services.

The first sentence of § 510.22(a), which is unaffected by the amendment, was, as noted at the oral argument, inadvertently omitted when this amendment was first proposed and published. No change is made in this sentence.

The purpose of the amendment to § 510.23(a) is to insure the presence of competent personnel in forwarders' branch offices and separate forwarding establishments. It is also designed to guarantee that the Commission will have regulatory power over agents of nonvessel operating common carriers who perform forwarding services to the same extent that it does over other forwarders and to prevent abuses which occur when an individual purports to be operating a branch office for a licensed forwarder but is, in fact, carrying on a separate forwarding business without a license. It is not intended to require separate licensing of bona fide branch offices of licensed forwarders. As so interpreted, it is unopposed by any party in this proceeding.

The purpose of the amendment to § 510.23(f) is to fix a time limit within which sums advanced the licensee by its principal for freight and transportation charges must be paid over to the carrier.

The proposed amendment was opposed by forwarders who argue that the rule works an undue hardship upon forwarders by requiring them "to keep track of the day of receipt for hundreds of shipments a week and issue a multiplicity of checks in payment of ocean freight"; that the time limitations of the proposed rule are insufficient; and that the rule is unnecessary in the light of "Shipper's Credit Agreements." Suggestions have also been made that the amendment be applied only to individual shipments where the freight due exceeds a certain amount and that the proposed amendment be altered to require pay over within "business days" rather than "calendar days."

The contention that the amendment will require close track of date of receipt for hundreds of shipments and demand the issuance of a multiplicity of checks is partially incorrect, and even to the extent it is correct is without merit. The amendment allows a forwarder to pay over monies received within 7 days after receipt or 5 days after departure of the vessel, whichever is later. One check could be issued for all monies received as of the time the vessel sails. As far as monies received after the vessel has sailed are concerned, it is to be expected that such can be paid over promptly. Such monies are held in trust for the carriers and the fact that close track must be kept of their date of receipt is necessitated not by the proposed amendment but by the forwarder's fiduciary duty as a "trustee."

The purpose of "Shipper's Credit Agreements" is to require that a shipper pay over to the ocean carrier the ocean freight due within 15 days after a vessel has sailed or lose his credit status. The extent of the use of such agreements by carriers is uncertain. Moreover, they apply both to situations where shippers have advanced funds to forwarders and where they have not. The credit rule thus cannot be a substitute for the prompt payover rule even if it is widely used.

We can see no reason for a distinction between large and small shipments. The necessity that carriers be paid monies due them and that shippers' funds are delivered for the purpose for which they were intended is the same in both cases. It is for these two objectives that the change has been made in § 510.23(f). Although insolvencies may be rare, the failure to make prompt payovers has been more common, and for this reason, specific time limits for payover have been set.

It has been brought out, however, that the time limitations of the proposed rule may in some cases be insufficient for clearance of the checks from shippers which are to be used by forwarders for payments to the carriers. But as the term "business days" suggested by several parties in this proceeding to extend the payover period is somewhat ambiguous, the Commission will require payover within 7 days after receipt of monies or 5 days after departure of the vessel, "excluding Saturdays, Sundays, and legal holidays".

The purpose of the amendment to § 510.23(j) is to allow licensees maintaining and adhering to uniform fee schedules for arranging for insurance and performing other accessorial services to utilize them and to require such schedules to be filed with the Commission and posted in the forwarder's office. Under the former rule, forwarders were required to state their costs separately and hence disclose their "mark-up" (margin of profit). The amendment provides them with an alternative. Objections have been made to the filing and posting requirements of the amendment. Posting is necessary to insure that fee schedules, if adopted, are adhered to, and filing is necessary in order that shippers have one convenient location in which to inspect these schedules.

The purpose of the amendment to § 510.24(a) is to require disclosure of shippers' names on ocean bills of lading by denying compensation to forwarders who act as agents for undisclosed principals.

Rule 510.24(a), as adopted today, reflects the actual wording originally proposed by the Commission in Docket No. 973, on February 19, 1962. The rule was designed to enable carriers and the Commission to determine promptly whether direct or indirect rebates were being made to shippers through freight forwarders. In Docket No. 973, as here, contentions were raised by forwarders that valid business reasons exist for not disclosing the name of the actual shipper. None were identified or documented. In Docket No. 973 the original proposal was modified to permit the carrier to pay, and the forwarder to collect, brokerage where the name of the shipper is disclosed on the "line copy" of the bill of lading which is retained by the carrier. In such a case, the Commission could determine whether or not an unlawful rebate has been paid and received only after an individual search. The absence of valid reasons for the true shipper's nondisclosure, coupled with the Commission's positive duty to prevent unlawful rebating authorized by sections 43 and 44(c) of the Act, dictate the adoption of a rule which authorizes the payment and receipt of brokerage only where the identity of the actual shipper is fully disclosed. The purpose of the rule was clearly recognized by a forwarder's representative at oral argument: "one, to see to it people are not in the forwarding business who are shippers, and two, to see that people didn't receive compensation who are true shippers." Counsel respect this as a lawful regulatory purpose. In short, the rule adopted today does this with efficiency.

In addition to preventing the payment of illegal rebates to shippers, the rule adopted here would lend a measure of integrity to lawful dual rate contracts. Counsel for one forwarder group acknowledged that there are some instances where a shipper has been able to evade his contractual obligations, but that in such cases the forwarder was "in the middle" and has no responsibility to police dual rate agreements. While this may be true, dual rate contracts are quasi-public contracts which are valid only so long as they have Commission approval. Our action, moreover, releases forwarders from enforcing or policing dual rate contracts, takes them out of the "middle" as they themselves have stated, and places some degree of contract policing on the Commission itself which is discharged by the adoption of the rule.

The purpose of the amendment to § 510.24(f) is to require the filing of forwarding compensation rates in tariffs filed by conferences and carriers pursuant to section 18(b)(1) of the Act. This amendment is opposed by forwarders and independent carriers which allege that the Commission lacks the statutory authority to promulgate it; that it defeats efforts of independent carriers, who do not publish rates of compensation, to compete successfully with conference carriers, who do; and that it compels payment of brokerage. Various suggestions were also made that only certain minimum rates of compensation or rates on certain cargoes be required to be filed. Only one conference is opposed to the amendment, arguing that the Commission is without authority to

regulate forwarding activities of conferences or carriers.

It is plain from a reading of the legislative history of the freight forwarder amendment to the Act, P.L. 87-245 (75 Stat. 523), that the Congress intended that the Commission "oversee the reasonableness of brokerage in the light of services rendered". (H. Rept. No. 1096 to accompany H.R. 2488, 87th Cong., 1st sess. (1961)). Moreover, the House hearings on the forwarder amendment indicate that the Congress recognized that a requirement that the amount of brokerage appear in a tariff would be a reasonable and proper means of maintaining this surveillance. (See Hearings before the Subcommittee on Merchant Marine of the House Committee on Merchant Marine and Fisheries on H.R. 2488, 87th Cong., 1st sess., 95-97 (1961).) One matter of concern to the Congress at that time was the problem of the attempts of independent carriers to secure cargo by the payment of excessive brokerage. This practice may not be limited to independent carriers. In any case, such practice is, as we have had occasion to observe, "a pernicious practice, inimical to the best interest of shipping in our foreign trade and oppressive to the shipper who must eventually bear the loss". Grace Line, Inc. v. Skips A/S Viking Line, et al., 7 F.M.C. 432 451 (1962). The amendment will allow us to keep ourselves informed of any possible malpractices with respect to payment of compensation to forwarders, including the practice of paying excessive brokerage. No one is compelled under this amendment to pay brokerage for services not performed nor is it designed to defeat attempts by carriers to compete with one another by paying different levels of brokerage or varying such levels according to the services performed. All the Commission desires is that the levels of compensation be ascertainable and it be in a position to insure that such levels not be injustly discriminatory, excessive, or otherwise unlawful.

The requirement that the compensation rates be filed pursuant to section 18(b)(1) of the Act is appropriate, inasmuch as that section provides for the filing of all charges "under the control of the carrier or conference of carriers which [are] granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of [transportation] rates." Certainly, the level of compensation paid to forwarders in some wise affects or determines the level of ocean freight charges. Moreover, a rule like the present one is particularly appropriate to accomplish the filing of such rates of compensation as section 18(b)(4) specifically requires that "the Commission shall by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed * * *." It should be noted in this regard, however, that the requirement of 18(b)(2) that changes and new or initial rates may only be instituted upon 30 days' notice absent special permission from the Commission does not apply to forwarder compensation rates.

No changes will be made at this time in § 510.5(g), the bonding requirement provision, or § 510.21(l), the definition of "beneficial interest". No change in the former can be made upon our present knowledge, and a change in the latter would require legislation by the Congress. The Commission will consider the appropriateness and need for requesting such legislation.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) and sections 18(b), 43, and 44 of the Shipping Act, 1916 (46 U.S.C. 817b, 841a, and 841b), Part 510 of Chapter IV of Title 46 CFR is hereby amended as follows:

1. Section 510.22 *Oceangoing common carriers and persons shipping for own account*, is amended by revising the second sentence of paragraph (a) and by inserting thereafter a new sentence. The affected portion reads as follows:

§ 510.22 Oceangoing common carriers and persons shipping for own account.

(a) * * * An oceangoing common carrier may perform freight forwarding services without a license only with respect to cargo carried under its own bill of lading, in which case the charge(s) for each forwarding service the carrier is willing to perform shall be assessed, in accordance with the carrier's published tariffs on file with the Commission. Any forwarding service on cargo carried under its own bill of lading which the carrier is willing to perform free of charge, including presentation of executed Shipper's Export Declarations to customs authorities, shall be specified in its tariffs. * * *

* * * * *

2. In § 510.23, paragraph (a) is amended by adding three new sentences at the end thereof, paragraph (f) is revised, and paragraph (j) is amended by adding a further proviso to the end thereof. The affected portions of § 510.23 read as follows:

§ 510.23 Duties and obligations of licensees.

(a) No licensee shall permit his license or name to be used by any person not employed by him for the performance of any freight forwarding service. No licensee may provide freight forwarding services through an unlicensed branch office or other separate establishment without written approval of the Federal Maritime Commission. Such approval may be granted only when it is found that qualified personnel competent to perform complete ocean freight forwarding services are employed in the branch office or other separate establishment. Applications for approval of branch offices or other separate establishment in existence on the date of adoption of this rule must be submitted within 3 months of such date.

* * * * *

(f) Each licensee shall promptly pay over to the oceangoing common carrier or its agent within seven (7) days after the receipt thereof, excluding Saturdays, Sundays, and legal holidays, or within five (5) days after departure of the vessel from each port of loading, excluding Saturdays, Sundays, and legal holidays, whichever is later, all sums advanced the licensee by its principal for freight and transportation charges, and shall disburse to other person(s) when due all sums advanced by its principal for the payment of any charges, debts, or obligations in connection with the forwarding transaction, and shall promptly account to its principal for overpayments, adjustments of charges, reductions in rates, insurance refunds, insurance money paid to the forwarder as the result of claims, proceeds of c.o.d. shipments, drafts, letters of credit, and any other sums due such principal.

* * * * *

(j) * * * *Provided further*, That a licensee who maintains and adheres to a uniform schedule of fees to be charged for arranging insurance and for performing other accessorial services (stated by dollar amount and/or percentage of mark-up) need not state separately the components of the charges for such insurance and for such other accessorial services. A licensee who elects to maintain such schedules must make the current schedule and every superseded schedule available upon request. A licensee shall not assess different fees than those specified in the effective schedules. Such schedules shall be filed with the Federal Maritime Commission and posted in a conspicuous place in the forwarder's office, and shall be mailed upon request.

* * * * *

3. In § 510.24, paragraph (a) is amended by deleting material from the end thereof and paragraph (f) is amended by adding a new sentence to the end thereof. As amended § 510.24 (a) and (f) read as follows:

§ 510.24 Compensation and freight forwarder certifications.

(a) No oceangoing common carrier shall pay to a licensee, and no licensee shall charge or receive from any such carrier, either directly or indirectly, any compensation or payment of any kind whatsoever, whether called "brokerage," "commission," "fee," or by any other name, in connection with any cargo or shipment wherein the licensee's name appears on the ocean bill of lading as shipper or as agent for an undisclosed principal.

* * * * *

(f) An oceangoing common carrier may compensate a licensee to the extent of the value rendered such carrier in connection with any shipment forwarded on behalf of others when, and only when, such carrier is in possession of a certification in the form prescribed in paragraph (e) of this section. Every tariff filed pursuant to section 18(b)(1), Shipping Act, 1916, shall specify the rate or rates of compensation to be paid licensed forwarders certifying in accord-

ance with paragraph (e) of this section, and the conditions of payment.

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Effective date. These rules shall become effective 30 days after date of publication of this notice in the FEDERAL REGISTER.

By order of the Commission.[1]

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 66-11562; Filed, Oct. 21, 1966; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 16715; FCC 66-873]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations; Rochester, Minn.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Rochester, Minn.), Docket No. 16715, RM-965.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 66-541, issued in this proceeding on June 16, 1966, and published in the FEDERAL REGISTER on June 22, 1966, 31 F.R. 8639, inviting comments on a proposal to assign Channel 269A to Rochester, Minn. This action was taken in response to a joint petition filed on May 19, 1966, (RM-965) and amended on June 13, 1966, by Olmsted County Broadcasting Co. and North Central Video, Inc. These parties are the licensees of Station KOLM(AM) and KWEB(AM), Rochester, Minn., respectively. The proposal was to assign a fourth FM channel to Rochester as follows:

City	Channel No.	
	Present	Proposed
Rochester, Minn.	244A, 248, 295	244A, 248, 269A, 295

2. Rochester has a population of 40,663 (1960 U.S. Census) and its county has a population of 65,532. It has three AM stations, two of which are daytime-only stations[1a] and the third is a Class IV station. The two Class C FM assignments are in operation. Two applications have been filed by the petitioners for the remaining Class A channel (244A). These applications, BPH-5145 and 5192, are mutually exclusive and have been designated for comparative hearing. Petitioners state that the two remaining AM stations without an FM outlet would like "to contribute to the general diversity of program sources for their community," that they are anxious to avoid a lengthy and expensive comparative hearing, and that the proposed additional assignment will meet all the minimum mileage requirements of the rules. With respect to the city of Rochester, petitioners submit that its population has increased 17.5 percent in the last 5 years, that approximately 450,000 persons visit it each year, a large portion of this number attributable to Mayo Clinic, and that it is a very important industrial, medical, educational, and cultural center. Petitioners assert that a special 1965 census showed Rochester to have a population of nearly 48,000, and that its growth is continuing. For the above stated reasons, petitioner urges that the addition of another FM channel to the city of Rochester would serve the public interest.

3. Our notice invited comments additionally on the extent to which the proposed assignment would affect possible alternative uses of the proposed and adjacent channels in this general area. In response, petitioners submit that the proposed assignment can be used in a limited area in which only two cities of over 10,000 persons (Winona, Minn., and La Crosse, Wis.) are located and that both of these already have FM assignments. They state that the assignment in Winona has not been applied for while that at La Crosse is in use. In addition, they point out that Channel 269A could be used at La Crosse as well as Rochester if a site a few miles out of the city of La Crosse is used. No oppositions to the proposed assignment in Rochester were filed.

4. The proposal in question would provide the large and growing community of Rochester with two additional FM services at an early date, would result in the elimination of a lengthy and costly comparative hearing, and provide the area with a diversity of radio broadcast programing, without precluding future needed assignments in the general area. We are of the view, therefore, that it would serve the public interest and should be adopted.

5. Authority for the adoption of the amendment contained herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. In view of the foregoing: *It is ordered*, That effective November 25, 1966, § 73.202 of the Commission's rules and regulations, the FM Table of Assignments, is amended to read, insofar as the community named is concerned, as follows:

City	*Channel No.*
Rochester, Minn.	244A, 248, 269A, 295

7. *It is further ordered*, That this proceeding is terminated.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: September 28, 1966.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 66-11549; Filed, Oct. 21, 1966; 8:47 a.m.]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

Clock Required

In the matter of amendment of Part 83, § 83.114, of the Commission's rules for the purpose of making certain editorial changes therein.

1. The Commission in this proceeding has under consideration certain editorial changes in Part 83, § 83.114, of its rules.

2. Docket 15034, released November 5, 1963, amended Part 83 of the rules to implement the radio provisions of the International Convention for the Safety of Life at Sea, London, 1960. This docket also made a number of editorial revisions in the rules to clarify them. As a result, § 83.114, the requirement that ship stations be provided with a reliable clock, was made applicable for voluntarily equipped vessels rather than all vessels.

3. Although § 83.114 was editorially amended to eliminate apparent redundancies in the rules, it appears that such amendment has deleted the clock requirements for compulsory equipped vessels subject to the Great Lakes Agreement and Title III, Part III of the Communications Act of 1934, as amended. This was not intended.

4. Accordingly, § 83.114 is editorially amended to require each ship station except those subject to Title III, Part II of the Communications Act of 1934, as amended, to be equipped with a reliable clock.

5. The amendments adopted herein are editorial in nature, and, hence, the public notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act are not applicable. The authority for this action is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.261(a) of the Commission's rules.

6. In view of the foregoing: *It is ordered*, Effective October 25, 1966, that § 83.114 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: October 19, 1966.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[1] Chairman Harllee's dissent as to Rule 510.24(a) and Commissioner George H. Hearn's dissent as to Rules 510.22(a), 510.24 (f), 510.21(l), and 510.5(g)(3) filed as part of original document.

[1a] One of these (KWEB) has a construction permit for nighttime operation.

[2] Commissioners Bartley and Lee absent; dissenting statements of Commissioners Cox and Johnson filed as part of original document.

A. Part 83, Stations on Shipboard in the Maritime Services is amended as follows:

1. Section 83.114 is amended to read:

§ 83.114 Clock required.

(a) Except as provided in §§ 83.468 and 83.497, each ship station which is licensed to operate on frequencies below 515 kc/s, shall be provided with a reliable clock equipped with a seconds hand, preferably a sweep seconds hand. This clock shall be securely mounted in such a position that the entire dial can be easily and accurately observed by the operator from his normal operating position, from the operating position at which he would ordinarily transmit the international radiotelegraph alarm signal by hand, and from the position used for testing the radiotelegraph auto alarm (if installed) for response to signals from the testing device.

(b) Except as provided in §§ 83.468 and 83.497, each ship station which is licensed to operate on frequencies above 1500 kc/s, shall have available to the operator a reliable clock or timepiece, preferably equipped with a seconds hand.

[F.R. Doc. 66-11550; Filed, Oct. 21, 1966; 8:48 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER F—NATIONALITY AND PASSPORTS

PART 51—PASSPORTS

Passports Invalid for Travel to Restricted Areas; Correction

In F.R. Doc. 66-11421, appearing at page 13544 of the issue for Thursday, October 20, 1966, § 51.72 should read as follows:

§ 51.72 Passports invalid for travel to restricted areas.

Upon determination by the Secretary that a country or area is:

(a) A country with which the United States is at war or

(b) A country or area where armed hostilities are in progress or

(c) A country or area to which travel must be restricted in the national interest because such travel would seriously impair the conduct of U.S. foreign affairs,

U.S. passports shall cease to be valid for travel to, in or through such country or area unless specifically validated therefor: *Provided, however,* That restrictions existing as of the effective date of these regulations on the validity of passports for travel to certain countries or areas shall remain in effect for a period of 60 days from the effective date of the regulations in this part. Any determination made under this section shall be published in the FEDERAL REGISTER along with a statement of the circumstances requiring the restriction. Any such restriction shall expire at the end of 1 year from the date of publication of such notice in the FEDERAL REGISTER, unless extended by the Secretary by public notice.

PHILIP B. HEYMANN,
Acting Administrator, Bureau of Security and Consular Affairs.

OCTOBER 20, 1966.

[F.R. Doc. 66-11632; Filed, Oct. 21, 1966; 11:59 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1013]

[Docket No. AO–286–A8]

MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Fort Lauderdale, Fla., on March 3–4, 1966, pursuant to notice thereof issued on February 10, 1966 (31 F.R. 2730).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 30, 1966 (31 F.R. 11669; F.R. Doc. 66–9689) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (31 F.R. 11669; F.R. Doc. 66–9689) are hereby approved and adopted and are set forth in full herein:

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area.
2. Class prices.
3. Butterfat differentials.
4. Location differentials.
5. Classification.
6. Enabling a cooperative to be the handler on bulk tank milk.
7. Diversion of producer milk.
8. Miscellaneous and conforming changes.

A portion (Class I price) of Issue 2 was considered in a separate decision issued June 24, 1966 (31 F.R. 8956). The remainder of that issue and all other issues at the hearing are considered in this decision.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Southeastern Florida marketing area, which now contains four counties (Broward, Dade, Monroe, and Palm Beach), should be expanded by adding the counties of Glades, Hendry, Indian River, Martin, Okeechobee, and St. Lucie. The expanded marketing area comprises a contiguous area in which routes of milk handlers doing business in the area are interspersed.

The marketing area expansion was proposed by Independent Dairy Farmers' Association (IDFA), the principal cooperative in the Southeastern Florida market. It was supported at the hearing by the major handlers in the market. There was no opposition to the addition of the six counties to the marketing area.

The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products. The minimum sanitary requirements applicable to Grade A milk throughout the area are those of the State of Florida, which requirements are patterned after the U.S. Public Health Ordinance and Code.

The present marketing area does not constitute the proper marketing area under current marketing conditions. The 10-county area herein proposed as the marketing area represents more appropriately the sales area of the handlers now regulated by the Southeastern Florida order than the present 4-county area.

The total Class I distribution in Glades, Hendry, and Okeechobee Counties is by handlers presently regulated by the Southeastern Florida order. Martin, Indian River, and St. Lucie Counties are supplied from the plants of Southeastern Florida handlers and a presently unregulated plant in Indian River County. The latter plant, in addition to its Class I distribution in these three counties, has a minor amount of Class I sales in Brevard County, immediately to the north of Indian River County.

The operator of the plant in Indian River County obtains milk from four dairy farmers, all of whom are IDFA members. Settlement with the cooperative for these purchases is on the basis of Southeastern Florida order class prices. The operator of this plant indicated no opposition to the proposed expansion of the marketing area.

The present Class I distribution in the six counties proposed to be added to the marketing area is relatively small. However, their population is increasing at a much faster rate than that for the State as a whole. If these counties were excluded from the marketing area, an expanded population could provide an incentive for unregulated handlers to establish routes in the area at the expense of the regulated Southeastern Florida handlers now supplying the market. Such an unregulated handler, absent an order in the proposed area, would have a competitive advantage over the regulated handlers who would be required to pay the minimum order class prices based on their utilizations.

The proposed 10-county marketing area is the basic sales area for the operator of the plant in Indian River County and handlers presently regulated by the Southeastern Florida order. A number of such handlers, however, do have some Class I distribution outside the newly designated marketing area. All producer milk received at regulated plants must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition. Further, the level of class price should be identical on Class I sales inside and outside the marketing area.

The essentials of the classified pricing plan for the Southeastern Florida order, and generally applicable to all Federal orders issued by the Secretary, are to establish one level of price to be paid by handlers for milk which is sold as milk or specified milk products for fluid consumption and other prices for the necessary surplus of the market which is disposed of in lower valued fluid products and in manufactured products.

It is necessary that the class prices effective under the Southeastern Florida order be established at levels which will bring forth a sufficient supply to meet the demands of milk for the particular marketing area but not necessarily to fulfill the requirements of outside markets. Nevertheless, handlers who are regulated by virtue of their sales in the marketing area may have varying proportions of their sales outside the regulated area. This is a situation normally unavoidable even in the establishment of a new marketing area. Sales areas of regulated and unregulated handlers may overlap, and it would be rarely possible,

if at all, to find a line of demarcation around an entire marketing area such that no overlapping occurs. Other considerations in establishment of a marketing area may also preclude inclusion of all sales areas of fully regulated handlers.

The problem of establishing a price to supply adequately the marketing area is thus affected by the activity of handlers in selling milk outside the regulated area and in procuring milk for such sales. There is no basis in this price determination for discrimination between milk sold inside and outside the marketing area. The milk sold outside by a regulated plant is processed in the same plant and is produced under similar conditions as milk sold in the marketing area. Thus, the milk moving through the regulated handler's plant, whether it is sold inside or outside the marketing area, is part of the same supply and demand situation upon which proper price level determination must be made.

If the price to farmers were higher for milk sold inside than for milk sold outside the marketing area, returns for disposition in the area would be bearing the greater burden of providing the incentive for milk production for both. To the extent such discrimination in pricing at the procurement level is reflected in higher prices to consumers inside than outside the marketing area, consumers in the marketing area will be subsidizing consumers outside the marketing area.

Further, it is not intended that Federal regulation be susceptible of manipulation to permit the use of adjacent outside markets as a dumping ground for milk in excess of a market's needs. The fixing of a lower price for milk sold in other markets could have a depressing effect on the price paid farmers by unregulated distributors in such markets. Such action would tend to lower blended returns to dairy farmers supplying the unregulated handlers.

2(b). *Class II and Class III prices.* The Class II price should be established by adding $1, and the Class III price by adding 15 cents, to the basic formula price (Minnesota-Wisconsin manufacturing milk price).

The Southeastern Florida Class II and Class III prices are now determined by separate formulas, both based on the market prices of butter and nonfat dry milk. For the 24 months ending December 1965, the Class II price herein proposed would have averaged $4.225; the average Southeastern Florida Class II price in this period was $4.18. In the same 2-year period, the proposed Class III price averaged $3.375; the effective Class III price was $3.29.

The revised Class II and III formulas were proposed by producers and supported by the major handlers in the market. There was no opposition to the proposals.

The Minnesota-Wisconsin price series reflects the value of ungraded milk used in the production of a wide variety of manufactured dairy products in the major milk production areas of the United ate basis for establishing Class II and Class III prices than the market prices States. As such, it is a more appropri- for butter and nonfat dry milk. It is now used in establishing class prices other than Class I in 33 Federal orders. Utilizing it in the Southeastern Florida order will tend to obtain a Class II and Class III price level consistent with that prevailing in other markets and will insure an equitable return to producers for Class II and Class III milk.

The proposed Class II and Class III price formulas are the same as those in the Tampa Bay order. Southeastern Florida and Tampa Bay handlers have substantial overlapping in both their supply and sales areas. Providing for the same Class II and Class III prices in these markets will contribute to orderly marketing in these areas where the handlers regulated by these two orders compete for supplies and sales.

When local supplies are short, handlers obtain concentrated dairy products from other sources for further processing into Class II products in their plants. The cost of such supplies are affected by transportation over long distances. Local producer milk supplies used in Class II compete directly with these concentrated products delivered to Southeastern Florida. The proposed Class II formula will tend to obtain a Class II price in close alignment with the cost of these alternative supplies.

Negligible quantities of milk for Class III uses are produced in Southeastern Florida where handlers depend primarily on shipments of products in manufactured form for their Class III requirements. On these manufactured products, they incur transportation charges, although at relatively low rates in terms of dollars per hundredweight of milk equivalent.

The proposed Class III formula will tend to obtain a price at which handlers will accept and market the limited quantities of milk in excess of Class I and Class II needs that may arise from time to time. On the other hand, the proposed formula will not tend to obtain a level of price that would encourage handlers to seek milk supplies solely for the purpose of converting them into Class III products.

3. *Butterfat differentials.* Provisions for a specified butterfat differential for each class and a weighted producer butterfat differential, the same as in the Tampa Bay order, should be incorporated into this order.

The Southeastern Florida order presently makes no provision for a separate butterfat differential for each class of milk. The only butterfat differential specified in the order is the 7.5-cent differential applicable to the uniform price in paying producers.

The Southeastern Florida producers' proposal that the Tampa Bay butterfat differential provisions be adopted in the order was supported by handlers at the hearing.

As proposed, the Class I and Class II butterfat differentials would be established at 7.5 cents for each one-tenth of 1 percent variation in butterfat above or below 3.5 percent. The Class III and Class IV butterfat differentials would be determined by multiplying the Chicago butter price by 0.115.

The 7.5-cent differential on Class I and Class II milk is, in effect, the same differential that is now applicable to all milk classified under the order. There was no support for any other Class I or Class II differential.

The Class III and Class IV butterfat differential of 11.5 percent of the Chicago butter price will vary from month to month as the price of butter varies, thereby facilitating the movement of butterfat in the reserve supply of milk to manufacturing outlets. The Class III and Class IV butterfat differential, because it is based on current month prices, will not be announced until after the end of the month.

The butterfat differential to producers would be calculated on the average of the Class I, Class II, Class III, and Class IV butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class during the month. Returns to producers will thus reflect the actual value of their butterfat at the class prices provided by the order.

4. *Location differentials.* The location differentials should be revised to give consideration to the current procurement and distribution practices of handlers in the proposed enlarged marketing area. The current location differentials have not been changed since the order was promulgated in 1957.

The Class I and uniform prices are now reduced 13 cents for milk received at plants from 60 to 70 miles from Boca Raton and by an additional 1.5 cents for each 10 miles or fraction thereof at plants beyond 70 miles. As proposed herein, the U.S. Post Office at West Palm Beach would replace Boca Raton's Post Office as the point from which location differential mileages are determined. The 13-cent initial rate would be retained but would be applicable at points 80 to 90 miles from the basing point instead of 60 to 70 miles as now provided. The 1.5-cent rate for each 10 miles beyond the initial 13-cent rate would be continued.

The changes herein provided are the same as those proposed by producers, with one exception. Producers proposed that the initial location differential rate be 10 cents instead of 13 cents.

West Palm Beach is 26 miles north of Boca Raton and 64 miles north of Miami, the largest city in the marketing area. Using West Palm Beach instead of Boca Raton as the basing point will result in no location adjustment at plants within approximately 106 miles of Boca Raton instead of within 60 miles as at present. This will generally reduce the location differential 6 to 7.5 cents at the various locations from which milk might be shipped to the marketing area.

The location differential is now applicable at only one pool plant, in Martin County. The relatively small quantity of producer milk received at this plant is obtained through IDFA. Although a 13-cent differential is applicable to the Class I price at this loca-

tion, the handler pays the cooperative the same Class I price that would be applicable if no location adjustment applied.

If the location differential provisions were not changed, the plant (which would become a pool plant by expansion of the marketing area) in Indian River County would be eligible for a location differential credit of 17.5 cents. However, the actual price paid by the operator of the plant, who is now unregulated, is the same as the Southeastern Florida Class I price without the application of any location differential. His producer milk supply is obtained through IDFA.

Location differentials applicable at the various plants should reflect the efficiency resulting from technological changes in the marketing of milk in recent years. The rates proposed herein to both handlers and producers more appropriately reflect the cost of efficiently moving milk in the Southeastern Florida market under present economic conditions than do the location differentials incorporated into the order in 1957.

Technological improvements such as better roads and larger tank trucks have tended to reduce unit hauling costs for both producers and handlers. The proposed location differentials are in line with the hauling charges currently in effect. The rates now charged by a major hauler in the area for a distance of 925 miles is $1.22 per hundredweight in 5,300 gallon tankers and $1.40 per hundredweight in 4,300 gallon tankers. The location differential rate proposed in this decision would result in a location adjustment of $1.29 for a plant 925 miles from Miami, the principal city in the marketing area.

It is not intended that the Class I price should be dependent on the type of plant receiving the milk. Transportation costs are involved whether supplemental supplies of milk are moved in tank trucks from faraway plants to the marketing area or whether packaged fluid milk products from processing plants at relatively closer locations are distributed on routes in the marketing area.

There was no opposition to replacing Boca Raton with West Palm Beach as the point for measuring location differential mileages. West Palm Beach is one of the larger cities in the marketing area and is more centrally located with respect to the enlarged marketing area. As such, it is a more practicable basing point for determining location differentials under current marketing conditions in the Southeastern Florida marketing area than is Boca Raton.

The producer proposal to reduce from 13 to 10 cents the initial location differential adjustment is denied. The 13-cent rate more nearly approximates the cost of hauling milk the 80 to 90 miles represented by the initial adjustment. The proposed location differential at plants more than 90 miles from West Palm Beach is an additional 1.5 cents for each 10 miles beyond 90. The 1.5-cent rate applied to the midpoint (85 miles) of the 80–90-mile range is 12.75 cents. It was not shown that there is any justification in this market for applying a location adjustment at a lower rate for the initial 80 to 90 miles than for distances beyond 90 miles.

The Southeastern Florida marketing area extends to the southernmost tip of the State. There are no plants in the proposed expanded marketing area to which a location differential as herein provided would be applicable. It would be appropriate, therefore, to specify that the location differentials be applicable only at plants north of West Palm Beach, the basing point for determining such differentials.

The location differential rates herein provided are economically sound and are representative of the cost of transporting milk to market by efficient means. They are comparable with those contained in other Federal milk orders, including the adjoining Tampa Bay order. Moreover, their compatability with location differential rates in the Tampa Bay order will insure a reasonable alignment of prices between the two orders at the various locations in which handlers under the Southeastern Florida and Tampa Bay orders compete.

5. *Classification.* (a) Producers proposed including in Class I the skim milk and butterfat disposed in the form of Class II products. They asserted that Florida statute requires that Class II products be made from Grade A milk. In practice, however, regulatory authorities permit the use of milk products other than Grade A fluid milk products in the preparation of Class II products.

Historically, Class II products have been included in a separate classification in Florida and priced significantly below the Class I price. This has been the case not only in the Southeastern Florida order since its inception but also under the Florida Milk Commission's regulations. The Tampa Bay order, which became effective at the beginning of this year, also provides a separate classification for Class II products.

No change has taken place in the application of the State statute to require any different classification of Class II products in the Southeastern Florida order than what has been effective in the order since its inception or what has been historically the practice in all Florida markets. The producer proposal to include Class II products in the Class I classification is therefore denied.

(b) Both producers and handlers proposed that the present method of classifying in Class II all skim milk and butterfat "used to produce" Class II products be changed. In its place, they propose that the Class II classification be based on the skim milk and butterfat actually disposed of by a handler in the form of Class II products. At the present time, the skim milk and butterfat used to produce a Class II product (e.g., cream) is classified as Class II even though the ultimate disposition of such product may be in a Class III classification, such as ice cream or butter.

The method herein proposed for establishing the Class II classification at a plant, on the basis of the actual disposition of the Class II product by the handler, is the same as that provided in the Tampa Bay order. Its adoption in the Southeastern Florida order provides a more equitable and appropriate basis for establishing a handler's Class II classification.

The changed basis for establishing the classification of skim milk and butterfat used to produce Class II products requires various revisions in the order. These are necessary since a handler must not only account for the Class II products produced in his plant but also must establish his actual disposition and month-end inventories of such products. The necessary changes in this regard are provided in the attached order.

In order to implement the changed basis for establishing the classification of Class II products on the basis of their disposition, a revised "other source milk" definition is necessary. Such a definition, as proposed by producers and handlers, is the same as that provided in the Tampa Bay order and is equally appropriate under this order.

As proposed and adopted herein, other source milk would include all skim milk and butterfat contained in or represented by (a) fluid milk products and Class II products utilized by the handler in his operation (except producer milk and fluid milk products and Class II products from pool plants and in inventory at the beginning of the month), (b) all manufactured dairy products from any source (including those produced in the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of nonfluid milk products in a form in which they may be converted into Class I products and which are not otherwise accounted for under the order.

So that he may verify the actual utilization of milk received from producers, the market administrator must be in a position to reconcile all receipts of milk and dairy products with the disposition records of the plant. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as the result of the discrepancy between the records of receipts and disposition. Otherwise, the handler with improper records would be in a position to gain an advantage over his competitors who properly account for all milk and other dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products in a form in which they can be converted into Class I products. Otherwise, a handler, by failing to keep records of nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid milk products, similarly would gain a competitive advantage over other handlers in the market.

(c) The shrinkage provisions should be revised to recognize current methods of handling milk in the market and to provide equitable division of shrinkage among handlers.

A handler should be permitted a Class III classification as shrinkage on quanti-

ties of skim milk and butterfat that are not in excess of 2 percent of producer milk (except that diverted to a nonpool plant), plus 1.5 percent of bulk fluid milk products received from (1) other pool plants, and (2) other order plants and unregulated supply plants (exclusive of the quantity for which a Class II or Class III utilization is requested by the handler), and less 1.5 percent of bulk fluid milk products transferred to other plants. Shrinkage assignable to any remaining receipts of other source milk would continue to be allowed a Class III classification without limit.

The order now provides a Class III shrinkage up to 2 percent of producer receipts and receipts of milk and skim milk in bulk from other order plants and unregulated supply plants (exclusive of the quantity for which a Class II or Class III utilization is requested by the handler). No provision is now made for the division of the shrinkage allowance on interhandler movements of fluid milk products.

The shrinkage provisions herein provided, which were proposed by producers, are patterned after those in the Tampa Bay order and are contained in the great majority of Federal orders. There was no opposition at the hearing to the adoption of the proposed shrinkage provisions.

Plants which are operated in a reasonably efficient manner and for which accurate records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to effectuate equitably the classified pricing plan.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class III as shrinkage since these types of receipts are allocated pro rata to class uses with the receipts from pool plants and producers. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated to Class III uses. The allocation procedures assure assignment of such milk to Class III in an amount at least equal to the shrinkage that may be associated with it.

As provided in this decision, a cooperative is required to be the handler for milk of its member-producers if delivered from the farm to the pool plant in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is the handler under such conditions, the operator of the pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full two percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and the market administrator has been so notified. Otherwise, the maximum shrinkage in Class III allowed the handler on such milk would be 1.5 percent and the cooperative would be responsible for any difference between the gross weight of producer milk received in a tank truck at the farm and that delivered to pool plants. This procedure, which is followed in a number of Federal orders, provides a reasonable basis for the allocation of shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

(d) The skim milk and butterfat in fluid milk products and in Class II products in inventory at the end of the month should be classified in Class II. At the present time, only the fluid milk products in inventory are classified in Class II. This is because the skim milk and butterfat in Class II products were considered as having been disposed of in the Class II classification when used to produce a Class II product. As provided elsewhere in this decision, the skim milk and butterfat in Class II products would be classified in Class II only when disposed of from the plant as a Class II product. This change makes it necessary to consider the month-end inventories of such products in determining the classification of milk handled at that plant. This manner of handling inventories is identical with that provided in the Tampa Bay order. In urging its adoption, handlers stressed the desirability of having inventories handled in this same manner in these adjacent orders.

Producers proposed that ending inventories be classified in Class I and that the differences between the Class I prices in each month be taken into account when pricing inventories classified in Class I in the following month. As outlined at the hearing, it was not shown that application of the order would be facilitated or that producers would realize any significant advantage by classifying inventories in Class I.

The fluid milk products and Class II products contained in inventory and classified in Class II might be used in the following month in a Class I, Class II, or Class III classification. On any such inventory used in Class I in the following month, handlers must pay the difference between the applicable Class I price in the month it was utilized and the Class II price at which it was priced in the preceding month. Under the three-classification system in the Southeastern Florida order, this method of handling inventories will tend to work out more practicably and equitably than classifying closing inventories in Class I in the manner proposed by producers. The producer proposal, therefore, is denied.

(e) The order should specify that skim milk and butterfat used to produce milkshake mix be classified in Class III.

Including milkshake mix in Class III was proposed by a regulated handler who recently began producing and distributing this product. Because the order does not now specify another classification for milkshake mix, it is currently classified in Class I.

Milkshake mix is a product more nearly comparable to ice cream mix, a Class III product, than to flavored milk or any other Class I product. The ingredients used in its manufacture are butterfat, nonfat dry milk, sugar, flavoring and stabilizer. The total solids in the end product are in excess of 25 percent. There is no requirement that milkshake mix be made from Grade A milk. It is free from any regulation by local health authorities other than as a food product.

Milkshake mix is generally considered in the same category as frozen dessert and ice cream mixes. As such, it is classified in the same class as such products in a number of other Federal orders. Milkshake mix is sold in Florida in competition with soft frozen desserts, which are readily available in retail food stores. Ice cream manufacturers, who are not subject to order regulation and who handle no Grade A fluid milk products, may and do market milkshake mix in the marketing area. The regulated handler is at a disadvantage in competing with these handlers when he is required to pay the Class I price for skim milk and butterfat used in the production of the milkshake mix. There was no opposition to classifying milkshake mix in Class III in the Southeastern Florida order.

(f) The order now provides a Class IV classification for that milk, the skim milk portion of which is disposed of for livestock feed or dumped. The order does not, however, make any provision for the reclassification from Class I and Class II to a lower-priced class of fluid milk products (other than milk) and Class II products, respectively, that are disposed of for livestock feed or dumped.

Handlers proposed that (except as now provided in the Class IV classification) skim milk and butterfat in fluid milk products and Class II products dumped or disposed of by a handler for livestock feed be classified in Class III.

Class III outlets often represent not only an efficient, but also at times the only, means of disposing of surplus milk and spoiled fluid milk products and Class II products. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult and impractical to salvage the butterfat for further use. Such butterfat, which is not salvable, should be classified as Class III when dumped or disposed of for livestock feed under the conditions in which a Class IV classification would not be applicable. It is equally appropriate that the skim milk in fluid milk products and Class II products dumped or disposed of for livestock feed be classified in Class III when its disposition does not meet the conditions for a Class IV classification.

A Class III classification of the skim milk and butterfat in fluid milk products and Class II products under the conditions herein proposed is comparable with that provided in Tampa Bay and other Federal milk orders.

6. *Enabling a cooperative to be a handler on farm tank milk.* A cooperative association should be required to be a handler for milk delivered from the farm to a pool plant in a tank truck owned

and operated by or under contract to such association.

Currently, the operator of the plant receiving milk from producers must account for such milk and pay the producers. Once milk from a producer has been commingled with milk from other producers in a tank truck, there is no further opportunity to measure, sample or reject the milk of any individual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity only to determine the weight and butterfat test of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weights and butterfat tests of milk at the farm. In some instances, handlers may not even know from which farms the milk is shipped.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administration fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual producer.

In some instances, as discussed earlier in this decision, differences between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. For such differences, the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administration funds.

Requiring a cooperative to be a handler on its member-producers' bulk tank milk as herein provided will afford a practicable basis of accounting for such milk. In addition, it will provide flexibility to a cooperative's operations in allocating its members' bulk tank milk among handlers and facilitate the diversion of such milk to nonpool plants by the cooperative when it is not needed at regulated plants.

7. *Diversion of producer milk.* Diversion of producer milk by a cooperative to a nonpool plant should be limited to 25 percent of the milk physically received from its producer-members at pool plants during the month. Similarly, milk diverted by the operator of a pool plant for his account would be limited to 25 percent of the quantity of producer milk physically received at his plant during the month. Unlimited diversion of producer milk is now permitted under the order.

The proposed diversion provisions are the same as those in the Tampa Bay order. They were proposed for inclusion in the Southeastern Florida order by IDFA, the principal cooperative under both orders. There was no opposition to the inclusion of the proposed diversion provisions in the order.

Milk from the farms of producers shipping regularly to Southeastern Florida pool plants may on occasion be shipped to Tampa Bay pool plants. It would be inappropriate to consider such milk received at a Tampa Bay plant as producer milk under the Southeastern Florida order. Such milk's eligibility under a Federal order would more appropriately be determined at the Federal order plant where actually received. In fact, if the Southeastern Florida order permitted the diversion of producer milk to other order plants, it could result in the pricing and pooling of the same milk under two orders.

When milk is not needed in the market for Class I purposes, the movement of such milk to a nonpool plant should be facilitated. It is necessary, however, to provide reasonable limitations on the amount of milk which may be diverted so that only that milk genuinely associated with the market will be diverted and only when it is not needed in the Southeastern Florida market for Class I purposes.

On a monthly basis, Southeastern Florida producers do not produce large quantities of milk in excess of the market's fluid requirements. Diversion provisions are for the purpose of enabling handlers and cooperatives to divert producer milk on such occasions as weekends and holidays, when it is not needed in the market for Class I purposes. The limitations herein proposed will be sufficient to accommodate diversion under current marketing conditions and will facilitate the orderly disposition of producer milk.

It is important that only milk genuinely associated with the market should be eligible for diversion to nonpool plants. The order now provides such a safeguard. At least 8 days' production of a dairy farmer must be physically received at a pool plant during either the current or preceding month to qualify him as a producer. A dairy farmer shipping on an every-other-day basis would, under this standard, be required to ship only 4 days.

Milk diverted to nonpool plants in excess of the limitation provided would not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on a quantity of milk equal to such excess. In such instances, the diverting handler would specify which milk is ineligible as producer milk. If the handler fails to make such designation, thereby making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler would be made ineligible as producer milk.

A high proportion of milk produced for the Southeastern Florida market is utilized for Class I purposes. Hence, it is not likely that it will be necessary to divert producer milk to nonpool plants for extended periods or that such milk will move great distances from the market. To facilitate the pricing of such milk, therefore, it is appropriate to consider it as having been received at the plant from which diverted for the purpose of applying location pricing under the order.

8. *Miscellaneous and conforming changes.* The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

(a) Producers proposed that various terms be explicitly defined in the order. The definitions added pursuant to the producer proposal, and to which there was no opposition, are commonly provided in Federal orders. The definitions for "distributing plant," "supply plant," "fluid milk product," and "Class II product" incorporated into the attached order are similar to those in the Tampa Bay order. Their inclusion in the Southeastern Florida order will be helpful in the administration of the order.

(b) The changes in the reporting provisions in the attached order were proposed by producers and supported by handlers. The most significant changes in this regard are those providing for reports to the market administrator by pool plant operators and cooperatives in those instances in which the cooperative elects to be the handler on farm tank milk. These reporting provisions are commonly provided in Federal orders in which a cooperative may be the handler on farm tank milk. They are equally appropriate and necessary under this order.

Another change would require reports by cooperatives and handlers to the market administrator of milk diverted to nonpool plants. Such information is necessary in determining whether the milk moved from dairy farms regularly supplying the market to nonpool plants may be included in the pool.

(c) Elsewhere in this decision, provision is made for replacing Boca Raton with West Palm Beach as a point from which location differential mileages are determined. It it likewise appropriate, therefore, to replace Boca Raton with West Palm Beach as a point from which the surplus disposal area under the transfer provisions of the order would be based. Accordingly, a classification other than Class I or Class II would, under certain conditions, be permitted on fluid milk products or Class II products transferred or diverted from a pool plant to nonpool plants within 500 miles of West Palm Beach (instead of Boca Raton as is now provided).

(d) A dairy farmer who has shipped less than 8 days' production during the month to a pool plant does not qualify as a producer under the Southeastern Florida order. Hence, such milk received at a pool plant is not producer milk and may not be pooled. Instead, it is considered the receipt of other source milk at the pool plant. Under the present allocation provisions, such milk is subtracted from a handler's utilization in series beginning with Class IV in the same manner as are receipts of ungraded

fluid milk products. On any of such milk allocated to Class I, the handler must pay the difference between the Class I and Class III price.

Receipts at a pool plant from a dairy farmer who fails to qualify as a producer are now treated differently than if first received at an unregulated plant and then moved to a pool plant. Under the conditions in the Southeastern Florida order, it is more appropriate that such milk be treated the same as milk received at a pool plant from unregulated supply plants. In this manner, such milk would be allocated pro rata to a handler's overall utilization to the extent that not less than 80 percent of regulated milk at the handler's plants would be assigned to Class I. All additional unregulated milk would then be allocated in series beginning with Class IV. Any dairy farmer milk allocated to Class I would be subject to a payment to the pool of the difference between the Class I and uniform price.

(e) The order should provide that a dairy farmer may deliver milk to a nonpool plant during the month without losing his producer status. This was temporarily achieved by a suspension action effective April 9, 1966 (31 F.R. 5611). Prior to that time, any such delivery to a nonpool plant (except by diversion) caused a dairy farmer to lose his producer status for the month.

Until January 1, 1966, Southeastern Florida producer milk could be diverted to the unregulated Tampa Bay area plants without losing its producer milk status. This is because the milk so moved was considered as producer milk diverted to a nonpool plant. The status of such milk received at Tampa Bay area plants changed when the Tampa Bay order became effective January 1, 1966. Such milk no longer qualifies for diversion under the Southeastern Florida order because the order does not permit diversion to an other order plant. Thus, any such milk delivered by a dairy farmer to Tampa Bay pool plants is considered producer milk under the Tampa Bay order and is priced and pooled under that order. The provision under consideration, however, precludes milk delivered during the same month to a Southeastern Florida pool plant by the same dairy farmer from being producer milk under the Southeastern Florida order.

IDFA is the principal cooperative in both the Southeastern Florida and Tampa Bay orders. The marketing of its members' milk is facilitated when it can move unneeded supplies in temporary periods of shortage in the Tampa Bay market from the farms of its producers under the Southeastern Florida order. The removal of the provision in the Southeastern Florida order that causes a dairy farmer to lose his producer status under that order by a delivery to a nonpool plant will contribute to the efficient marketing of milk under the two orders.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. No exceptions to the findings and conclusions were received.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Southeastern Florida Marketing Area," and "Order Amending the Order Regulating the Handling of Milk in the Southeastern Florida Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of August 1966 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southeastern Florida marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 19, 1966.

JOHN A. SCHNITTKER,
Acting Secretary.

ORDER[1] AMENDING THE ORDER REGULATING THE HANDLING OF MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS AND FACILITIES

CLASSIFICATION OF MILK

MINIMUM PRICES

APPLICATION OF PROVISIONS

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

AUTHORITY: The provisions of this Part 1013 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1013.0 Findings and determinations.

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

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

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

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

(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, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to (i) producer milk (including such handler's own production), (ii) other source milk allocated to Class I pursuant to § 1013.46(a) (3), (4), and (10) and the corresponding steps of § 1013.46(b), and (iii) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 30, 1966, and published in the FEDERAL REGISTER on September 3, 1966 (31 F.R. 11669; F.R. Doc. 66–9689), shall be and are the terms and provisions of this order and are set forth in full herein:

DEFINITIONS

§ 1013.1 Act.

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

§ 1013.2 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 said Secretary of Agriculture.

§ 1013.3 Department.

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

§ 1013.4 Person.

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

1013.5 Cooperative association.

"Cooperative association" means any cooperative 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 19, 1922, as amended, known as the "Capper-Volstead Act"; (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and (c) to have its entire activities under the control of its members.

§ 1013.6 Southeastern Florida marketing area.

The "Southeastern Florida marketing area," hereinafter called the "marketing area," means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all Government reservations and incorporated municipalities within this territory:

Broward.	Martin.
Dade.	Monroe.
Glades.	Okeechobee.
Hendry.	Palm Beach.
Indian River.	St. Lucie.

§ 1013.7 Fluid milk product.

"Fluid milk product" means milk (including frozen and concentrated milk), flavored milk or skim milk. "Fluid milk product" shall not include sterilized products in hermetically sealed containers or milkshake mix.

§ 1013.8 Distributing plant.

"Distributing plant" means a plant that is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month in the marketing area on routes.

§ 1013.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority is shipped during the month to a pool plant.

§ 1013.10 Pool plant.

"Pool plant" means a plant (except an other order plant or the plant of a producer-handler) that is specified in paragraph (a) or (b) of this section and which is not a facility described in paragraph (c) of this section:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products received at the plant during the month is disposed of on routes and not less than 10 percent of such receipts is disposed of in the marketing area on routes.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants pursuant to paragraph (a) of this section.

(c) Pool plant as defined in this section shall not be deemed to include any building, premises, or facilities, the primary function of which is to hold or store bottled milk or milk products in finished form, nor shall it include any part of a plant in which the operations are entirely separated (by wall or other partition) from the handling of producer milk.

§ 1013.11 Nonpool plant.

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

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

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

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) are moved to a pool plant during the month.

§ 1013.12 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor, or a sale from or through a plant store, or by vending machine) of any product in a form designated as Class I milk pursuant to § 1013.41(a), but does not include delivery to a milk receiving or processing plant.

§ 1013.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(f) A producer-handler.

§ 1013.14 Producer-handler.

"Producer-handler" means any person who, during the month: (a) Produces milk; (b) distributes Class I milk on routes in the marketing area; and (c) receives no milk except from his own dairy farm, and receives no products designated as Class I milk pursuant to § 1013.41(a) from pool plants or other sources.

§ 1013.15 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk (as described in § 1013.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the U.S. Government located in the marketing area for fluid consumption), and not less than 8 days' production of such person is physically received at a pool plant during the current month or was so received during the preceding month.

§ 1013.16 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1013.13(d): *Provided*, That if the milk received at a pool plant from a handler pursuant to § 1013.13(d) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1013.13(d) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the pool plant from which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the pool plant from which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1013.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and Class II products from any source except (1) producer milk, (2) fluid milk products and Class II products from pool plants, and (3) fluid milk products and Class II products in inventory at the beginning of the month;

(b) Products other than fluid milk products and Class II products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1013.32.

§ 1013.18 Chicago butter price.

"Chicago butter price" means 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) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1013.19 Class II product.

"Class II product" means cream, sour cream, half and half, buttermilk, acidophilus milk and chocolate drink.

§ 1013.20 Cream.

"Cream" means the product obtained by the separation of skim milk from whole milk such that the butterfat content of the remaining product exceeds 10 percent, and mixtures of such products with milk and skim milk such that the average butterfat content exceeds 10 percent.

MARKET ADMINISTRATOR

§ 1013.25 Designation.

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

§ 1013.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1013.27 Duties.

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

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

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

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

(d) Pay out of the funds received pursuant to § 1013.86:

(1) The cost of his bond and the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1013.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not made reports or made available records and facilities pursuant to §§ 1013.30 through 1013.32, or payments pursuant to §§ 1013.80 through 1013.86;

(g) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

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

(i) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information which do not reveal confidential information;

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address, a notice of each of the following:

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month, and the Class II price, Class III price, Class IV price, and the corresponding butterfat differentials, all for the preceding month; and

(2) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1013.46(a)(11) and the corresponding step of § 1013.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of milk products designated in § 1013.41(a) from an other order plant, the classification to which such receipts are allocated pursuant to § 1013.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped skim milk and butterfat in the form of milk products designated as Class I milk pursuant to § 1013.41(a) to an other order plant, the classification to which such skim milk and butterfat was allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1013.30 Report of sources and utilization.

On or before the 7th day after the end of each month, each handler, except a handler pursuant to § 1013.13 (e) or (f), shall report to the market administrator with respect to each plant at which milk is received for such month, and for each accounting period in each month, in detail and on forms prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in or represented by receipts of:

(1) Producer milk (or, in the case of handlers pursuant to § 1013.13(b) Grade A milk received from dairy farmers);

(2) Fluid milk products and Class II products received from pool plants;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1013.16; and

(5) Inventories of fluid milk products and Class II products at the beginning and end of the month or accounting period;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk on routes entirely outside the marketing area;

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

(d) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1013.46 (d), shall submit a summary report of the same information for the entire month.

§ 1013.31 Other reports.

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

(b) Each handler pursuant to § 1013.13 (a), (c), or (d) shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month, his producer payroll for that month, which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the days for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of the handler's payment with respect to such milk to the producer or cooperative association, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk as defined pursuant to § 1013.17(a) is received at his pool plants, his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to his sources and utilization of butterfat and skim milk and at such times as the market administrator shall prescribe.

(c) Each handler making payments pursuant to § 1013.62(a) shall report the information required pursuant to paragraph (b) of this section. In such reports receipts of Grade A milk from

dairy farmers shall be reported in lieu of those in producer milk, and payments to dairy farmers delivering such milk shall be reported in lieu of payments to producers.

(d) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(e) Each handler pursuant to § 1013.13(d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1013.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to requirements of this part, including, but not limited to:

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

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

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

(d) Payments to producers and cooperative associations including any deductions, and the disbursement of money so deducted.

§ 1013.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 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 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 OF MILK

§ 1013.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1013.30(a) shall be classified pursuant to the provisions of §§ 1013.41 through 1013.46.

§ 1013.41 Classes of utilization.

Subject to the conditions set forth in §§ 1013.42 through 1013.46, the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b)(2), (c)(2), (3), and (4), and (d) of this section; and

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

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a Class II product, except as provided in paragraphs (c)(2), (3), and (4), and (d) of this section; and

(2) In inventory of fluid milk products and Class II products at the end of the month.

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

(1) Skim milk and butterfat used to produce any product other than a fluid milk product or Class II product;

(2) Except as provided in paragraph (d) of this section, skim milk and butterfat in fluid milk products and in Class II products disposed of by a handler for livestock feed;

(3) Except as provided in paragraph (d) of this section, skim milk and butterfat in fluid milk products and in Class II products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk represented by the nonfat solids added to a fluid milk product or Class II product which is in excess of an equivalent volume of such product prior to the addition;

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

(i) 2.0 percent of producer milk (except that received from a handler pursuant to § 1013.13(d));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1013.13(d): *Provided*, That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

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

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

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

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and (6) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1013.42(b)(2).

(d) *Class IV milk.* Class IV milk shall be all milk, the skim milk portion of which is:

(1) Disposed of for fertilizer or livestock feed, or

(2) Dumped after such prior notification as the market administrator may require.

§ 1013.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

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

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

(1) The net quantity of producer milk and other fluid milk products specified in § 1013.41(c)(5); and

(2) Other source milk exclusive of that specified in § 1013.41(c)(5).

§ 1013.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that such skim milk and 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.

§ 1013.44 Transfers.

Skim milk or butterfat shall be classified:

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1013.46(a)(11) and the corresponding step of § 1013.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1013.46(a)(3) and (4), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1013.46(a)(10) or (11) and the corresponding steps of § 1013.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler

plant, located more than 500 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach.

(c) As Class I milk, if transferred or diverted in bulk in the form of a fluid milk product or a Class II product to a nonpool plant that is neither an other order plant nor a producer-handler plant located not more than 500 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted to the market administrator pursuant to § 1013.30;

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

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

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

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

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

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

(v) To the extent that Class I or Class III utilization is not assigned to it, the skim milk and butterfat in Class II products so transferred shall be classified as Class II milk.

(d) As follows, if transferred in the form of a fluid milk product or Class II product to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

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

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II or Class III milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1013.41.

(e) As Class II (to the extent of such utilization in the transferee plant) if transferred to the plant of a producer-handler in the form of a Class II product, unless a Class III classification is requested by the operators of both plants and sufficient Class III utilization is available in the transferee plant.

§ 1013.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1013.30(a) and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, Class III milk and Class IV milk at each pool plant: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month 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.

§ 1013.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1013.45, the market administrator shall determine the classification of producer milk for each handler for each month or other accounting period described in paragraph (d) of this section as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1013.41(c)(5);

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

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

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

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III, the pounds of skim milk in other source milk as specified in § 1013.17(b);

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class IV, the pounds of skim milk in each of the following:

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

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

(5) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III (and then Class II), the pounds of skim milk in Class II products received from nonpool plants for which the handler requests a Class III utilization;

(6) Subtract from the pounds of skim milk remaining in Class II, Class III and Class IV, pro rata to such quantities, the pounds of skim milk in Class II products received from nonpool plants that were not subtracted pursuant to subparagraph (5) of this paragraph;

(7) Subtract, in the order specified below, from the pounds of skim milk remaining in Class IV, Class III and/or Class II (beginning with Class IV unless otherwise specified) but not in excess of such quantity or quantities:

(i) Receipts of fluid milk products from unregulated supply plants and in other source milk from dairy farmers (except that subtracted pursuant to subparagraph (4) of this paragraph):

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting

from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class III or Class II utilization was requested by the operator of such plant and the handler;

(8) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk (and then Class I), the pounds of skim milk in inventory of fluid milk products and Class II products at the beginning of the month;

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

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and in other source milk from dairy farmers that were not subtracted pursuant to subparagraphs (4) and (7)(i) of this paragraph;

(11) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (7)(ii) of this paragraph:

(i) In series beginning with Class IV and thereafter from Class III and Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II, Class III, and Class IV utilization of skim milk announced for the month by the market administrator pursuant to § 1013.27(l) or the percentage that Class II, Class III, and Class IV utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(12) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and in Class II products received from pool plants of other handlers according to the classification of such products pursuant to § 1013.44(a); and

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

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

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

(d) A handler may account for receipts of milk, utilization of milk and classification of milk, at his plant, for periods within a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of every accounting period.

Minimum Prices

§ 1013.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) at the rate of the Chicago butter price times 0.12 and rounded to the nearest cent. However, for the purpose of computing the Class I price for each month from the effective date of this order through March 1967, the basic formula price shall not be less than $4.

§ 1013.51 Class prices.

Subject to the provisions of §§ 1013.52 and 1013.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* From the effective date of this paragraph through June 1967, the Class I price shall be the basic formula price for the preceding month plus $3.20.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus $1.

(c) *Class III price.* The Class III price shall be the basic formula price for the month plus 15 cents.

(d) *Class IV price.* The Class IV price shall be computed as follows: Multiply the Chicago butter price by 1.25, add 4 cents and multiply the result by 3.5.

§ 1013.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1013.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I and Class II prices, 7.5 cents; and

(b) Class III and Class IV prices, 0.115 times the Chicago butter price for the month.

§ 1013.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant north of, and 80 miles or more from, the U.S. Post Office in West Palm Beach, Florida, shall be reduced 13 cents and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 90 miles from the U.S. Post Office in West Palm Beach.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the U.S. Post Office in West Palm Beach.

§ 1013.54 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

§ 1013.60 Producer-handler.

Sections 1013.50 through 1013.54, 1013.61, 1013.62, 1013.70 through 1013.74, and 1013.80 through 1013.86 shall not apply to a producer-handler.

§ 1013.61 Plants where other Federal orders may apply.

Upon determination by the Secretary pursuant to this section, any plant specified in paragraphs (a), (b), and (c) of this section shall be a nonpool plant, except that the operator of such plant shall, with respect to the total receipts and 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 meeting the requirements of a pool plant pursuant to § 1013.10(b) but not pursuant to § 1013.10 (a) which, if it were not a pool plant under this part, would be fully subject to the classification and pooling provisions of another order issued pursuant to the Act;

(b) Any plant meeting the requirements of a pool plant pursuant to § 1013.10(b) but not pursuant to § 1013.10(a) at which all receipts of skim milk and butterfat during the month would be priced and pooled under the terms of another order(s) issued pursuant to the Act if such plant were not a pool plant under this order: *Provided,* That such pricing and pooling results in all skim milk and butterfat disposed of from the plant in the form of milk and skim milk during the month being Class I milk under the terms of another order(s) issued pursuant to the Act; and

(c) Any plant which does not dispose of a greater volume of Class I milk on routes in the Southeastern Florida marketing area than in the marketing area regulated pursuant to such other order.

§ 1013.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to

§§ 1013.30 and 1013.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1013.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1013.70(e) and a credit in the amount specified in § 1013.82 (b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1013.30 and 1013.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1013.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

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

(b) An amount computed as follows:

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

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

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

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

§ 1013.63 Person producing milk.

The person who produces milk shall be considered to be the person who is responsible for the milk production enterprise on a continuing basis as to management and risk.

Determination of Uniform Prices to Producers

§ 1013.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler pursuant to § 1013.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1013.46(c), by the applicable class price;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1013.46(a)(13) and the corresponding step of § 1013.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding accounting period and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(8) and the corresponding step of § 1013.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1013.46(a) (3) and (4) and the corresponding steps of § 1013.46 (b); and

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(10) and the corresponding step of § 1013.46(b).

§ 1013.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1013.70 for all handlers who filed the reports prescribed by § 1013.30 for the month and who made the payments pursuant to §§ 1013.80 and 1013.82 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1013.72 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1013.73;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1013.70(e); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1013.72 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1013.46 by the respective butterfat differential for each class.

§ 1013.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1013.53; and

(b) For purposes of computations pursuant to §§ 1013.82 and 1013.83, the uniform price shall be adjusted at the rates set forth in § 1013.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1013.74 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price for producer milk computed pursuant to § 1013.71 and the butterfat differential to producers;

(c) The amount and value of his producer milk at the uniform price; and

(d) The amounts to be paid by such handler pursuant to §§ 1013.82, 1013.85, and 1013.86, and the amount due such handler pursuant to § 1013.83.

Payments

§ 1013.80 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the 20th day of each month to each producer who did not discontinue shipping milk to such handler before the 15th day of the month, an

amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the fifth day of the following month to each producer who did not discontinue shipping milk to such handler before the last day of the month, an amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer after the 15th and through the last day of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.71 adjusted by the butterfat and location differentials to producers, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

(i) Less payments made to such producer pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less marketing service deductions made pursuant to § 1013.85;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized by such producer: *Provided*, That if by the date specified, such handler has not received full payment from the market administrator pursuant to § 1013.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment and payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall on or before the second day prior to each date on which payments are due individual producers, pay the cooperative association for milk received from the producer-members of such association as determined by the market administrator during the period for which payment is made, an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the 10th day of the following month: (i) The total pounds of milk received during the month, (ii) the pounds of milk received each day, together with the butterfat content of such milk, (iii) the amount or rate and nature of any authorized deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1013.84.

§ 1013.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1013.62, 1013.82 and 1013.84 and out of which he shall make all payments pursuant to §§ 1013.83 and 1013.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1013.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided*, That to this amount shall be added one-half of 1 percent of any amount due the market administrator pursuant to this section for each month or portion thereof that such payment is overdue: *And provided further*, That the requirement as to date of payment pursuant to this section shall be considered to have been met if the payment is made by mail postmarked not later than the required payment date:

(a) The net pool obligation computed pursuant to § 1013.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1013.80(a)(3); and

(2) The value at the uniform price pursuant to § 1013.71 at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1013.70(e).

§ 1013.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1013.82(b) exceeds the amount computed pursuant to § 1013.82(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1013.84 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a 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.

§ 1013.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk pursuant to § 1013.80, shall deduct 4 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association pursuant to paragraph (b) of this section; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed for each producer.

§ 1013.86 Expense of administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (1) producer milk (including such handler's own production), (2) other source milk allocated to Class I pursuant to § 1013.46(a) (3), (4), and (10) and the corresponding steps of § 1013.46(b), and (3) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(b) With respect to payments pursuant to paragraph (a) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 1013.87 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

(3) If the obligation is payable to one or more producers or to an association of producers, the names of such producers 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 representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

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

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1013.100 Effective time.

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

§ 1013.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this order or any amendment thereto.

§ 1013.102 Continuing obligations.

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

§ 1013.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part, 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 liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1013.110 Agent.

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

§ 1013.111 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.

[F.R. Doc. 66-11548; Filed, Oct. 21, 1966; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 66-WE-54]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

In the early part of 1967, the Federal Aviation Agency proposes to commission an air traffic control tower for the Palm Springs Municipal Airport, Palm Springs, Calif. Therefore, the Agency is considering amendments to Part 71 of the Federal Aviation Regulations and proposes the following airspace actions:

1. Designate the Palm Springs, Calif., control zone as that airspace within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'-18" W.), and within 2 miles each side of the Palm Springs VOR 120° and 300° radials, extending from 3.5 miles SE to 3 miles NW of the VOR. This control zone will be effective from 0600 to 2200 hours, local time, daily.

2. Designate the Palm Springs, Calif., transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'18" W.), and within 2 miles NE and 6.5 miles SW of the Palm Springs VOR 120° and 300° radials, extending from 3 miles NW to 8.5 miles SE of the VOR.

The proposed control zone and 700 foot transition area are required to protect aircraft executing prescribed instrument procedures at Palm Springs Airport.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. 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 Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Agency, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on October 13, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-11523; Filed, Oct. 21, 1966; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Proposed Classification of Public Lands

Notice is hereby given that it is proposed to classify, pursuant to section 3 of the act of August 31, 1964 (78 Stat. 751), the public lands described below for disposal in satisfaction of valid scrip rights. This publication is made pursuant to section 2 of the act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1412). For a period of 60 days from the date of this publication, interested parties may submit comments to the Director, Bureau of Land Management, Washington, D.C. 20240.

Regulations (43 CFR 2221.0—2221.2-4) governing selection of classified lands were published August 24, 1966 (31 F.R. 11178, 11179). As stated therein, scrip claimants may submit recommendations of areas to be classified for satisfaction of claims, specifying the type of claim for which the land should be classified. Recommendations should be sent to the State Director, Bureau of Land Management, of the State in which the recommended lands are located (see 43 CFR 1821.2-1).

The lands affected by this proposal are described as follows:

For Satisfaction of Valid Soldiers Additional Homestead, Isaac Crow, Merritt W. Blair, and Forest Lieu Claims.

ARIZONA

GILA AND SALT RIVER MERIDIAN

T. 12 S., R. 11 E.,
Sec. 27, W½E½, W½;
Sec. 28, E½, SW¼, S½NW¼, NE¼NW¼;
Sec. 29, S½;
Sec. 33, NE¼, S½NW¼, NE¼NW¼, lots 1 through 8 and lot 11;
Sec. 34, lots 1 through 4 and lots 6 and 7, NW¼, W½NE¼, SE¼NE¼.
T. 13 S., R. 11 E.,
Sec. 5, lots 1 through 4, S½, S½N½.
T. 15 S., R. 10 E.,
Sec. 25, NE¼;
Sec. 35, SE¼, E½SW¼, and SW¼SW¼.
T. 15 S., R. 11 E.,
Sec. 31, lots 1 through 5, E½NW¼, and SE¼SW¼.
T. 16 S., R. 10 E.,
Sec. 1, lots 1 through 4, S½N½, and SW¼;
Sec. 10, NE¼;
Sec. 11, N½;
Sec. 12, NW¼.

The areas described aggregate approximately 5,021.33 acres.

JOHN O. CROW,
Associate Director.

OCTOBER 18, 1966.

[F.R. Doc. 66-11524; Filed, Oct. 21, 1966; 8:45 a.m.]

[Group Nos. 364, 427]

ARIZONA

Notice of Filing of Plat of Survey

OCTOBER 18, 1966.

1. Plats of survey of the lands described below will be officially filed in the Land Office, Phoenix, Ariz., effective 10 a.m., on November 23, 1966:

GILA AND SALT RIVER MERIDIAN

T. 38 N., R. 11 W.,
Secs. 1 to 36, inclusive.
T. 38 N., R. 13 W.,
Secs. 1 to 36, inclusive.

The areas described aggregate 46,027.01 acres of public land.

2. The land in T. 38 N., R. 11 W., varies about 800 feet in elevation. The higher area in the northeast is broken hills and flat topped mesas; the remainder is low rolling hills cut by numerous small washes and draws. Scattered junipers, buck brush, black brush, and cactus are found at the higher elevations with sagebrush the dominant vegetation throughout the township. A fair growth of native grass over most of the area affords graze and water for livestock.

The land in T. 38 N., R. 13 W., is gently rolling in the eastern portion becoming progressively more rough and broken in the area to the west. The elevation ranges from 4,500 feet to 5,500 feet. The soil is shallow clay loam and limestone cut by numerous gullies and draws. Scattered juniper and pinon is found throughout the township. Sagebrush, cacti, and brigham tea are the predominating undergrowth.

3. All rights of the State of Arizona to sections 2, 16, 32, and 36 have been conveyed to the United States for each township. Therefore, all surface and mineral rights are vested in the United States.

4. The lands described in paragraph 1 are opened to petition, application, and selection, as outlined in paragraph 5 below. No application for these lands will be allowed under the nonmineral public land laws, unless or until the lands have been classified. 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.

5. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to filing of petition-application and selection in accordance with the following:

a. Applications and selections under the nonmineral public land laws, 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 presented prior to 10 a.m., on November 23, 1966, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon settlement, statutory preference, or equitable claims must enclose properly executed 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.

GLENDON E. COLLINS,
Manager.

[F.R. Doc. 66-11533; Filed, Oct. 21, 1966; 8:46 a.m.]

Fish and Wildlife Service

[Docket No. C-252]

ROBERT L. GLENN

Notice of Loan Application

Robert L. Glenn, 189 Alma Avenue, Rohnert Park, Calif. 94928, has applied for a loan from the Fisheries Loan Fund to aid in financing construction of a new 48-foot steel vessel to engage in the fishery for salmon, albacore, and crabs.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may

be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 19, 1966.

[F.R. Doc. 66-11531; Filed, Oct. 21, 1966; 8:46 a.m.]

[Docket No. A-404]

JACK R. SANDIN

Notice of Loan Application

James R. Sandin, Box 1223, Kodiak, Alaska 99615, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 24-foot vessel to engage in the fishery for salmon and halibut.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 19, 1966.

[F.R. Doc. 66-11532; Filed, Oct. 21, 1966; 8:46 a.m.]

National Park Service

MUIR WOODS NATIONAL MONUMENT

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that the Department of the Interior, through the Director of the National Park Service, proposes, thirty (30) days after the date of publication of this notice, to issue for the period January 1, 1967, through December 31, 1967, the concession permit under which Mrs. Katherine W. Clever as Conservator of the person and Estate of Viola H. Montgomery provides concession facilities and services for the public in Muir Woods National Monument.

The foregoing concessioner has performed her obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the Service is also required to consider and evaluate all proposals received as a result of this notice.

Dated: October 14, 1966.

JACKSON E. PRICE,
Acting Director,
National Park Service.

[F.R. Doc. 66-11525; Filed, Oct. 21, 1966; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Antidumping—ATS 643.3-W]

WHITE PORTLAND CEMENT FROM JAPAN

Determination of Sales at Not Less Than Fair Value

OCTOBER 17, 1966.

On July 30, 1966, there was published in the FEDERAL REGISTER a "Notice of Tentative Determination" that white portland cement imported from Japan, manufactured by Onoda Cement Co., Tokyo, Japan, is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

White cement is used instead of gray cement where the purity of color is a paramount consideration.

The statement of reasons for the tentative determination was published in the above-mentioned notice, and interested parties were afforded until August 30, 1966, to make written submissions or to request in writing an opportunity to present views in connection with the tentative determination.

The complainant submitted a written request for an opportunity to present views in person in opposition to the tentative determination. The opportunity was afforded to the complainant, and all interested parties of record were notified and were represented at the hearing.

After consideration of all written and oral arguments presented, I hereby determine that white portland cement imported from Japan, manufactured by Onoda Cement Co., Tokyo, Japan, is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Certain contentions of the complainant with regard to adjustments for packing costs due to the use of smaller bags in some instances, even if proved, would not affect this determination. Therefore, the reasons for this determination are those stated in the tentative determination with the exception of the adjustment for such packing costs.

This determination is published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-11544; Filed, Oct. 21, 1966; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

CHINO STOCKYARDS CO. ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name, location of stockyard, and date of posting
CALIFORNIA
Chino Stockyards Company, Chino, Oct. 12, 1966.
MISSOURI
M.F.A. Livestock Association, Inc., Cole Camp Concentration Point, Cole Camp, Sept. 16, 1966.
M.F.A. Livestock Association, Inc., Eldon Concentration Point, Eldon, Sept. 22, 1966.
M.F.A. Livestock Association, Inc., Mansfield Concentration Point, Mansfield, Oct. 4, 1966.
Merrigan Brothers Livestock, Auction Market, Inc., Maryville, Oct. 12, 1966.
NEBRASKA
Aurora Livestock Market, Aurora, Oct. 8, 1966.
TEXAS
Trinity County Auction, Groveton, Sept. 29, 1966.

Done at Washington, D.C., this 18th day of October 1966.

CHARLES G. CLEVELAND,
Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 66-11529; Filed, Oct. 21, 1966; 8:45 a.m.]

ROER LIVESTOCK AUCTION ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Roer Livestock Auction, Phoenix, Ariz.
Valley Livestock Auction, Casa Grande, Ariz.
Stutz Arena, Alton, Ill.

Centerville Sale Company, Centerville, Iowa.
Golden Rule Auction Service, Crocker, Mo.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such time and places in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of October 1966.

CHARLES G. CLEVELAND,
Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 66-11530; Filed, Oct. 21, 1966; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 17171, 17172]

SIGNAL TRUCKING SERVICE, LTD. ET AL.

Notice of Proposed Approval

Application of Signal Trucking Service, Ltd., for approval of control relationships pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 17171.

Notice is hereby given, pursuant to the statutory requirements of section 408(b), that the undersigned intends to issue the attached order under delegated authority. Interested parties are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., October 19, 1966.

[SEAL] J. W. ROSENTHAL,
Director,
Bureau of Operating Rights.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

Issued under delegated authority.

Application of Signal Trucking Service, Ltd.; Docket No. 17171; for approval under section 408 of the Federal Aviation Act of 1958, as amended, of its acquisition of Honolulu Air Cargo, Inc.; application of John E. Carroll, Michael D. Carroll, Signal Trucking Service, Ltd., and Honolulu Air Cargo, Inc.; Docket No. 17172; for approval of interlocking relationships under section 409 of the Federal Aviation Act of 1958, as amended.

Signal Trucking Service, Ltd. (Signal) has requested approval under section 408 of the Federal Aviation Act of 1958, as amended (the Act), of its acquisition of Honolulu Air Cargo, Inc., doing business as Aero Forwarding (Honolulu), a domestic and international air freight forwarder. The application discloses that Signal, a common carrier by motor vehicle, is 88 percent owned by the Estate of John E. Carroll.[1] Said Estate also wholly owns Signal Equipment Rental Co. (Rental) and Signal Terminals, Inc. (Terminals). Signal, in turn, wholly owns Paxton Trucking Co. (Paxton Trucking), Paxton Truck Lines, Inc. (Truck Lines), and The Carroll Co., and seeks approval herein of its proposed 100 percent ownership of Honolulu.[2]

In a related application Signal, Honolulu, John E. Carroll, and Michael D. Carroll have requested approval under section 409 of the Act of interlocking relationships involving certain of the foregoing companies. Specifically, John E. Carroll is chairman of the board of directors and chief executive officer of Signal, and a director of Signal's subsidiaries, Paxton Trucking and Truck Lines. It is proposed that he will become a director of Honolulu. Michael D. Carroll, president and a director of Signal, is vice president and a director of Paxton Trucking and Truck Lines, and it is proposed that he become a vice president and director of Honolulu: [3]

According to applicants, Signal is engaged in surface transportation wholly within the State of California as a motor carrier under authority issued by the Interstate Commerce Commission (ICC) and the California Public Utilities Commission (PUC). In addition, it derives a portion of its revenues from the rental of equipment without drivers and from "unit vehicle leasing in which Signal leases equipment with drivers with which its customers transport their own commodities." [4]

All such leases except one specifically restrict the use of the equipment to the State of California. The one exception arises from historical reasons, but Signal understands that the lessee in that instance does not use any of the leased equipment outside of the State of California. Further, while Signal has authority from the ICC to enter into interline exchange agreements with interstate motor vehicle carriers, it has not done so as its other ICC authorities are restricted in area and do not extend to state lines. And, according to the application, "Signal does not propose to enter into interline agreements with interstate motor vehicle carriers in the future nor to seek business requiring such agreements."

Paxton Trucking operates as a motor carrier wholly within the State of California under ICC and PUC authorities. The freight it transports consists principally of iron and steel products, certain nonferrous metal and clay products, heavy equipment, junk and scrap, and commodities which because of size, weight, or shape require the use of special equipment. Paxton Trucking also from time to time enters into interline arrangements with interstate motor vehicle carriers for the movement of freight between California and points in other States.[5] The commodities which can be transported in such shipments are limited, by the interstate authority of Paxton Trucking, to those which the company is permitted to carry in its intrastate service.[6] Much of the interstate freight carried by Paxton Trucking is, according to applicants, shipped to a destination which is incompatible with rail and air transportation, e.g., direct to a construction project or to the warehouse of a consignee.[7]

Applicants further state: "Paxton has the legal authority under this certificate to operate on a regularly scheduled basis, over regular routes and between fixed points. Paxton does not so operate. The nature of the freight carried by Paxton results in spasmodic and irregular traffic flow so that the maintenance of regular schedules is impossible. In practice, Paxton, and all other trucking companies in the heavy haul area of the industry, operates at irregular times over irregular routes and does not maintain any regular services between any two fixed points."

Truck Lines is authorized to engage in transportation as a motor carrier operating wholly within the State of California under authorities issued by the Public Utilities Commission of that State. According to the application, it has no ICC authorities and can only engage in operations as a common carrier "so long as it does not operate between fixed termini or over regular routes." [8] Rental acts only as a lessor of equipment without driver, holding, itself, no operating authority. Terminals is wholly inactive and holds no authorities whatever. The Carroll Co.'s sole present business is the ownership of Signal's principal terminal in Los Angeles, which it leases to Signal.

Signal indicates that it proposes to operate Honolulu as a separate business except that it will offer the forwarder financial and managerial assistance and, if desirable, space in its trucking terminals in Los Angeles County and the San Francisco Bay area. Signal believes its capabilities as a whole are such that it can be of assistance to Honolulu in expanding its forwarding services and in discovering new markets not now served by Honolulu. By the same token, Signal sees no conflict between its operations, including those of its affiliates, and the type of services rendered by air freight forwarders. Also, it states that it has no plans to enter the long haul, multiple State field for the carriage of general commodities either directly or through present or future subsidiaries. And Signal has indicated a willingness to have approval of the relationship made subject to a condition limiting its operations to the

[1] Pending probate of the late Mr. Carroll's will, Bank of America National Trust & Savings Association holds his shares as Trustee for distribution to Lenore Carroll, widow, John E. and Michael D. Carroll, sons, and Nancy Carroll Lawrence, daughter of Mr. Carroll. John E. Carroll, Michael D. Carroll, and Nancy Carroll Lawrence hold, independently, 5,000 shares, or 4 percent each.

[2] On Jan. 31, 1966, an agreement was executed between Signal and the two stockholders of Honolulu, Messrs. Paul Beidleman and Herbert H. Pierce, under which Signal was given an option within 1 year to purchase all of the issued and outstanding stock of Honolulu, i.e., 150 shares from each of the named individuals. The cash purchase price is $64,856.67, subject to tax adjustments.

[3] Both applications were filed on Mar. 31, 1966.

[4] In 1965 revenues from such activities were, respectively, $1,753,327 (16%) and $175,514 (1.6%).

[5] Drivers and equipment are leased by one participant in the haul to other participants. Approximately 30 percent of Paxton Trucking's revenue is derived from such arrangements.

[6] Interline shipments move on a through bill of lading under joint rates filed by the participating carriers.

[7] The company's equipment consists of tractors and flat rack or low bed, open trailers and special equipment. The lowest minimum weight on which freight charges are assessed on tariffs for interstate hauls in which Paxton Trucking participates is 10,000 pounds.

[8] Truck Lines has no authority to engage in interline arrangements involving freight moving in interstate commerce.

type presently conducted.[9] In sum, Signal considers the air freight forwarding business to be a potentially profitable area of diversification and believes that the acquisition of Honolulu provides an appropriate entrance.

No comments with respect to the joint applications or requests for a hearing have been received.

Notice of intent to dispose of the joint application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application, it is concluded that Signal, Paxton Trucking and Truck Lines are common carriers within the meaning of section 408, that Honolulu is an air carrier, and that the acquisition of Honolulu by Signal is subject to section 408 of the Act. However, it has been further concluded that such acquisition does not affect an air carrier directly engaged in air transportation, does not result in creating a monopoly and does not restrain competition. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing.

It is found that the activities of Paxton Trucking are confined to the specialized transportation of heavy bulk commodities in motorized equipment specifically designed for such purposes, and in part involve enabling deliveries to construction sites. Accordingly, no present or reasonably foreseeable conflicts of interest with Honolulu are evident. Also, approval of the proposed relationships involving Signal itself is deemed appropriate in the light of its activities vis-a-vis those of Honolulu. We shall, however, impose the condition suggested by Signal.

It is also concluded that interlocking relationships within the scope of section 409 of the Act will exist between the last above-named companies as the result of the holding by Messrs. Carroll of the positions described above. However, it is further concluded that the parties have made a due showing in the form and manner prescribed that such relationships will not adversely affect the public interest.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, without a hearing, and that the interlocking relationships should be approved under section 409.

Accordingly, it Is Ordered:

1. That the control by Signal Trucking Service, Ltd. of Honolulu Air Cargo, Inc. doing business as Aero Forwarding be and it hereby is approved.

2. That, subject to the provisions of Part 251 of the Board's Economic Regulations, as now in effect or hereafter amended, the interlocking relationships existing by reason of the holding by John E. Carroll and Michael D. Carroll of the positions set forth above be and they hereby are approved;

3. That the foregoing approvals shall remain in effect only so long as the operations of Signal are restricted to the State of California and the general character of the freight presently authorized to be carried by Paxton Trucking Co. in interstate commerce remains unchanged; and

4. That jurisdiction over this proceeding is retained pursuant to sections 408 and 409 of the Act for the purpose of imposing such other terms and conditions as may be reasonable.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days from the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

By J. W. Rosenthal,
Director, Bureau of Operating Rights

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-11541; Filed, Oct. 21, 1966; 8:47 a.m.]

[Docket No. 15419]

BLOCKED-SPACE AIRFREIGHT TARIFFS

Notice of Postponement of Prehearing Conference

Counsel for Flying Tiger has advised that he will file a motion to dismiss this proceeding within the next 10 days and will also request postponement of procedural dates until the Board acts on the dismissal motion. A 2-week postponement pending receipt of these motions and of answers thereto is appropriate. Accordingly, the prehearing conference is postponed to 10 a.m., November 22, 1966, in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., and the date for submission of statements concerning issues, requests for evidence, and procedural dates is postponed to November 10, 1966.

Dated at Washington, D.C., October 18, 1966.

[SEAL] RALPH L. WISER,
Hearing Examiner.

[F.R. Doc. 66-11542; Filed, Oct. 21, 1966; 8:47 a.m.]

[Docket No. 16222 etc.]

SERVICE MAIL RATES

Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on October 31, 1966, is postponed to November 7, 1966, at 2 p.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

The date for submission to the examiner and the other parties of (1) proposed statements of issues, (2) proposed stipulations, (3) requests for information, (4) statements of positions of the parties, and (5) proposed procedural dates, is hereby postponed to November 1, 1966.

Dated at Washington, D.C., October 18, 1966.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 66-11543; Filed Oct. 21, 1966; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15461 etc.; FCC 66R-408]

CHAPMAN RADIO AND TELEVISION CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of William A. Chapman and George K. Chapman doing business as Chapman Radio & Television Co., Homewood, Ala.; Docket No. 15461, File No. BPCT-3282; Tele-Mac of Birmingham, Inc., Birmingham, Ala.; Docket No. 16759, File No. BPCT-3705; Alabama Television, Inc., Birmingham, Ala.; Docket No. 16760, File No. BPCT-3706; Birmingham Broadcasting Co., Birmingham, Ala.; Docket No. 16761, File No. BPCT-3707; for construction permit for new television broadcast station Birmingham Television Corp. (WBMG), Birmingham, Ala.; Docket No. 16758, File No. BPCT-3663; for modification of construction permit.

1. Birmingham Television Corp. (WBMG), one of five competing applicants in this proceeding, has petitioned for the addition of six hearing issues.[1] The applications were designated for hearing by the Commission on July 20, 1966 (FCC 66-636).

2. The first issue requested is: To determine the reasonableness of Birmingham Broadcasting Co.'s estimated construction costs and its estimated cost of operations for the first year.

The bases for addition of this issue are allegations that there are uncertainties surrounding Birmingham's proposed lease arrangements and remodeling costs; that although a letter from RCA refers to $500,000 worth of equipment, the application calls for $473,000; and that Birmingham's estimate of $150,000 to operate for an entire year is "thought-provoking" and "surprising," especially since another of the applicants expects these costs to be about $380,000. The request for this issue is based upon no significant factual allegations and is plainly inadequate. Mere doubt and surmise do not satisfy the requirements of § 1.229 of the rules.

[9] The condition Signal suggests is as follows:

"The approval granted herein shall be effective only so long as the operations of Signal Trucking Service, Ltd., are restricted to the State of California and the general character of the freight presently authorized to be carried by Paxton Trucking Co. in interstate commerce remains unchanged."

[1] The pleadings before the Board are: Petition to enlarge issues filed Aug. 8, 1966, by WBMG; opposition filed Aug. 29, 1966, by Birmingham Broadcasting Co.; opposition and support filed Aug. 29, 1966, by Alabama Television, Inc.; opposition filed Aug. 18, 1966, by Chapman Radio & Television Co.; comments filed Aug. 26, 1966, by the Broadcast Bureau; reply to oppositions filed Sept. 7, 1966, by WBMG; reply to opposition of Chapman filed Aug. 30, 1966, by WBMG.

3. The second issue requested by WBMG proposes: To determine the reasonableness of Chapman Radio & Television Co.'s estimated cost of operations for the first year.

Petitioner contends Chapman's estimate of $50,000 "is unbelievable and absurd." For supporting factual allegations, reliance is placed on statements made in three affidavits executed in 1965 by the president and the secretary of petitioner and by an "experienced UHF broadcaster." The president of petitioner points to the experience of WBMG, as a UHF station in Birmingham, in obtaining film programing. He asserts that the lowest price WBMG has secured is $25 an hour, and he states that even if Chapman were able to obtain film for $20 an hour, the cost for the year based on the hours of film programing proposed in the application would be $52,000, an amount exceeding the total budgeted for programing material ($10,000) and operating costs ($50,000) for the first year. He also estimates that costs for live programing would exceed $30,000, showing further the inadequacies of Chapman's estimates. The secretary of petitioner, based on his experience operating a UHF television in Winston-Salem, N.C., and a television station in Puerto Rico, asserts that Chapman's hourly cost of operation figures out to $7.95 which is "totally unrealistic" based on his experience in Winston-Salem where hourly costs in a market smaller than that of Birmingham were $41.15 per hour. He also declares that Chapman's program costs of $1.59 an hour would not be possible in a major market such as Birmingham. The third affiant refers to his experience operating a television station in Raleigh, N.C., and in Erie, Pa., and challenges Chapman's first year operating expense estimate. He avers that at the Erie station, using the most rigid economy, cash operating expenses were always more than three times the Chapman figure and that with rare exceptions film programing could not be obtained for less than $25 per half hour. The Broadcast Bureau joins in the request to add an issue inquiring into the reasonableness of Chapman's first year cost estimates. Chapman's opposition challenges the affidavits because they were made a year ago and contends they contain no facts pertinent to the issue and are contrary to the facts found by the Hearing Examiner in an intial decision disposing of Chapman's application before the instant comparative proceeding was begun.[3]

4. The affidavits supporting the request for the issue directed to Chapman's first year costs contain sufficient factual allegations based on experience in the operation of television stations to satisfy the requirements of § 1.299 of the rules. The prior initial decision having been set aside by the Commission, the findings and conclusions therein provide no bases for the resolution of the petition now before the Board. This issue will be added.

5. The third issue requested by WBMG seeks: To determine the adequacy of the staff proposed by Chapman Radio & Television Co. to effectuate its proposed program schedule.

WBMG bases its request for this issue on the three affidavits previously referred to. In these, the proposal for integrated operation of the television, AM and FM stations of Chapman using 18 employees is attacked as grossly inadequate for a television schedule of 121 hours a week. It is asserted that automation and detailed staff scheduling will not be sufficient to assure adequate staffing, with 28.3 percent live programing, and comparison is made with experience in Winston-Salem where, despite automation and doubling-up on duties, an integrated AM and TV operation required a minimum of 29 full-time employees. Comparison is also made with experience in an Erie, Pa., station where a minimum of 18 employees was required to operate the television station for less hours than proposed by Chapman. The Broadcast Bureau joins in the request for a staffing issue.

6. The factual allegations supporting addition of a staffing issue are not as persuasive as those relating to the previous issue. However, enough has been alleged to cast serious doubt on the ability of Chapman to operate with the limited staff proposed. Substantial live programing is planned and no network affiliation is anticipated. Moreover, Chapman has made no effort to refute the factual allegations upon which the request is based or to challenge the inferences drawn from them as a basis for the inquiry. As noted earlier, it is insufficient to say that in the earlier proceeding the Examiner found in Chapman's favor on this issue. Thus, the staffing issue will also be added.

7. Issue (d) requested by WBMG reads: To determine whether there are differences between operation on Channel 21 and 42, by reason of technical capabilities, operating costs, advertiser preference, or otherwise, that would warrant granting Channel 21 to the pioneer UHF station in the Birmingham market.

WBMG argues that Channel 21, for which the applicants are applying, being a lower frequency, is preferable for technical and psychological reasons to Channel 42, on which WBMG operates, and that "it would be wise and equitable for the Commission to recognize and reward the efforts that WBMG has made to pioneer a UHF facility in Birmingham in competition with prefreeze VHF competitors." An engineering affidavit is submitted which purports to show that there would be an "apparent gain" in Grade B service from using 21 instead of 42; that there "tends to be" some advantages in receiver sensitivity, and that operation on 21 "is expected to provide savings in transmitter operating costs." The other parties and the Bureau oppose addition of issue (d). WBMG also desires a preference for its efforts in pioneering a UHF facility in Birmingham.

8. The request to add issue (d) will be denied. There is no Commission precedent cited for the proposition that an existing station should be given, automatically, a decisive preference over newcomers in the field. Moreover, as Chapman notes in its opposition, WBMG has been on the air less than a year, having commenced operation after Chapman received a favorable initial decision in the Homewood proceeding, Docket No. 15461. Therefore, the basis of its claim for a preference derived from its service in Birmingham is further diluted. Adoption of the requested issue would constitute a departure from existing policy which only the Commission can put into effect.

9. Proposed new issue (e) is requested: To determine on a comparative basis the areas and populations that the applicants would serve within their respective Grade B contours.

WBMG has submitted an engineering affidavit purporting to establish that there would be substantial variations, from a high of 10,177 square miles to a low of 2,444, in areas enclosed in the respective Grade B contours of the applicants. No population estimates are given.

10. The Broadcast Bureau supports the enlargement request, as does Alabama Television which also notes that comparative coverage can be investigated under the comparative issue. Birmingham Broadcasting opposes enlargement on the ground that the question can be explored under existing issues. Chapman opposes enlargement because, without population date, "area comparison as requested by WBMG will serve no useful purpose in 'developing comparative aspects of the applications' in respect to the population to be served."

11. The Commission Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 398, 5 RR 2d 1901, 1913 (1965) makes it clear that more efficient utilization of a frequency "can and should be considered in determining which of the applicants should be preferred." Where, as here, a showing of substantial disparity in coverage has been made, the Examiner may permit the adduction of evidence under the standard comparative issue. Harriscope, Inc., 2 FCC 2d 223 (1965). Therefore, enlargement of the issues is unnecessary.

12. Finally, WBMG seeks an issue: To determine on a comparative basis the efforts, if any, made by the applicants to ascertain community and area needs.

In support, petitioner describes steps it has taken to ascertain and keep current on community needs and interests. No facts are alleged concerning the survey efforts of the other applicants.

13. The Broadcast Bureau opposes enlargement because all WBMG has done is list its own efforts and has failed to

[3] In Docket No. 15461, an initial decision favorable to Chapman was released on Aug. 27, 1965 (FCC 65D-39). At that time, Chapman was the only applicant. Thereafter, by order released Nov. 29, 1965 (FCC 65-1052), the initial decision was set aside.

demonstrate that significant differences exist which would be useful in resolving the proceeding. Chapman opposes on the ground that the inquiry can be made under existing issues. Alabama Television and Birmingham Broadcasting support the enlargement. In its replies, WBMG counters the Bureau's argument by asserting that "the application form does not require facts as to community surveys, and it was therefore impossible for WBMG to make a comparison on this matter."

14. As the Board reads the policy statement, supra, enlargement of issues to permit inquiry into this aspect of program planning will be permitted when an applicant has shown in a petition to amend the issues enough facts to indicate the likelihood of being able to establish significant differences (pp. 397, 398). The statement declares that "no comparative issue will ordinarily be designated on program plans and policies, or on staffing plans or other planning elements * * *" WBMG has not alleged sufficient allegations of fact (§ 1.299(b)) to warrant enlargement of the issues. Although WBMG attempts to excuse this failure in respect to the efforts of the other applicants to ascertain needs because such information is not required by the application form, this does not justify the total lack of factual allegations tending to show significant differences among the applicants. Thus, enlargement will not be granted.

In view of the foregoing: *It is ordered*, This 18th day of October 1966, that the petition to enlarge issues, filed on August 8, 1966, by Birmingham Television Corp., is granted to the extent indicated by addition of the following issues, and denied in all other respects:

To determine the reasonableness of Chapman Radio & Television Co.'s estimated cost of operations for the first year.

To determine the adequacy of the staff proposed by Chapman Radio & Television Co. to effectuate its proposed program schedule.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary,

[F.R. Doc. 66-11551; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16476—16478; FCC 66M-1404]

ARTHUR A. CIRILLI ET AL.

Further Continuance of All Procedural Dates

In re applications of Arthur A. Cirilli, Trustee in Bankruptcy (WIGL), Superior, Wis.; Docket No. 16476, File No. BR-4080, BRRE-7740, for renewal of license of station WIGL; Quality Radio, Inc. (WAKX), Superior, Wis.; Docket No. 16477, File No. BP-16497, for construction permit; Arthur A. Cirilli, Trustee in Bankruptcy (Assignor), and D.L.K. Broadcasting Co., Inc. (Assignee); Docket No. 16478, File No. BAL-5627, BALRE-1336, for assignment of license of station WIGL.

The Hearing Examiner having under consideration a "Petition for Continuance of Dates" filed by the above applicants on October 11, 1966, requesting the continuance indefinitely of certain heretofore scheduled procedural dates specified below, pending Commission action on a joint request for approval of an agreement looking toward dismissal of the Cirilli and D.L.K. applications, with the resultant elimination of the hearing;

It appearing, that counsel for the Broadcast Bureau has informally indicated that he interposes no objection to grant of the subject petition, and that "good cause" has been shown for deferring indefinitely any further procedural steps in this matter since favorable Commission action on the aforementioned joint request could moot all the hearing issues including Issue 1 on which issue Quality Radio, Inc., states it is prepared to proceed to hearing now;

Accordingly, it is ordered, This 18th day of October 1966, that applicants' "Petition for Continuance of Dates" filed October 11, 1966, is granted, and the heretofore scheduled procedural dates for exchange of exhibits, notification as to witnesses, and the commencement of hearing (October 19, November 3, and November 10, 1966, respectively) are all continued indefinitely, with the understanding that the continued dates will be rescheduled in a further prehearing conference to be convened promptly after Commission action on the pending joint request, if the need therefor arises.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11552; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16813-16815; FCC 66M-1402]

1400 CORP. (KBMI) ET AL.

Order Continuing Hearing

In re applications of 1400 Corp. (KBMI), Henderson, Nev.; Docket No. 16813, File No. BR-2937; for renewal of license of station KBMI; Joseph Julian Marandola, Henderson, Nev.; Docket No. 16814, File No. BP-16411; for construction permit; 1400 Corp. (Assignor); Thomas L. Brennen (Assignee); Docket No. 16815, File No. BAL-5158; for assignment of license of station KBMI, Henderson, Nev.

The Hearing Examiner having under consideration the status of the above-styled proceeding, including the prehearing conference held on this date; and

It appearing that there are presently pending before the Commission en banc certain pleadings which raise questions having a very material bearing upon this overall proceeding, the resolution of which may shorten the proceeding;

It is, therefore, ordered, This 18th day of October 1966, that, pursuant to agreement of counsel arrived at during the prehearing conference held on this date, the hearing in this proceeding presently scheduled for October 25, 1966, is hereby continued to a date to be fixed at a further prehearing conference to be held within approximately 10 days after action by the Commission on the pleadings now pending before it; the exact date of such prehearing conference to be fixed by further order.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11553; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket No. 16525; FCC 66M-1407]

JAMES L. HUTCHENS

Order Continuing Prehearing Conference

In re application of James L. Hutchens, Central Point, Oreg., Docket No. 16525, file No. BP-16640; for construction permit.

The Hearing Examiner having under consideration a request for extension of the date for prehearing conference, filed on October 14, 1966, by James L. Hutchens; and,

It appearing that counsel for the applicant and for the Broadcast Bureau are both committed to a hearing before another Examiner which commences on the same date and time as the presently scheduled prehearing conference, but that the respective counsel would be able to appear for a prehearing conference in this proceeding on October 26, 1966;

It is, therefore, ordered, This 18th day of October 1966, that the request is granted and the prehearing conference now scheduled for October 19, 1966, is hereby continued to October 26, 1966, at 10 a.m. in the offices of the Commission, Washington, D.C.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11554; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16876-16878; FCC 66M-1403]

LORAIN COMMUNITY BROADCASTING CO. ET AL.

Order Regarding Procedural Dates

In re applications of Lorain Community Broadcasting Co., Lorain, Ohio; Docket No. 16876, File No. BP-16940; Allied Broadcasting, Inc., Lorain, Ohio; Docket No. 16877, File No. BP-17297; Midwest Broadcasting Co., Lorain, Ohio; Docket No. 16878, File No. BP-17302; for construction permits.

To formalize the agreements and rulings made on the record at a prehear-

ing conference held on October 18, 1966, in the above-entitled matter concerning the future conduct of this proceeding;

It is ordered, This 18th day of October 1966 that:

Exchange of exhibits is scheduled for November 28, 1966;

Notification of witnesses is scheduled for December 8, 1966; and

Hearing presently scheduled for November 7, 1966, is continued to December 14, 1966.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11555; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16890, 16891; FCC 66M-1406]

LUIS PRADO MARTORELL AND AUGUSTINE L. CAVALLARO, JR.

Order Continuing Hearing

In re applications of Luis Prado Martorell, Loiza, P.R.; Docket No. 16890, File No. BP-16000; Augustine L. Cavallaro, Jr., Bayamon, P.R.; Docket No. 16891, File No. BP-16182; for construction permits.

Pursuant to action taken during the prehearing conference in the above-styled proceeding held on this date: *It is ordered*, This 18th day of October, 1966, that the hearing in this proceeding now scheduled to be held on November 22, 1966, is hereby continued to December 19, 1966, at 10 a.m., in the offices of the Commission, Washington, D.C.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11556; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket No. 16895; FCC 66M-1401]

BCU-TV

Continuance of Procedural Date

In re application of Mary Jane Morris and James R. Searer, doing business as BCU-TV, Battle Creek, Mich.; Docket No. 16895, File No. BPCT-3654; for construction permit for new television broadcast station.

The Hearing Examiner having under consideration a "Motion for Continuance" filed on behalf of the applicant on October 17, 1966, requesting that the prehearing conference heretofore scheduled for October 20 be continued to November 15, 1966;

It appearing, that counsel for the other parties have informally consented to grant of the subject motion and have also waived the "4-day rule" otherwise applicable so as to permit immediate consideration thereof, and that "good cause" has been stated in support of applicant's pleading even though inclusion of the reference to the distance between the principals and Washington counsel does not present a persuasive consideration in this respect;

Accordingly, it is ordered, This 18th day of October 1966, that the "Motion for Continuance" filed on applicant's behalf on October 17, 1966 is granted, and the prehearing conference heretofore scheduled for October 20 is continued to November 15, 1966, at 9 a.m., in the offices of the Commission, Washington, D.C.

Released: October 18, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11557; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16676, 16677; FCC 66M-1410]

ROYAL BROADCASTING CO., INC. (KHAI) AND RADIO KHAI, INC.

Order Scheduling Hearing Conference

In re applications of Royal Broadcasting Co., Inc. (KHAI), Honolulu, Hawaii; Docket No. 16676, File No. BR-4120; for renewal of license; Radio KHAI, Inc. (New), Honolulu, Hawaii; Docket No. 16677, File No. BP-16294; for construction permit.

It is ordered, This 19th day of October 1966, that David I. Kraushaar, in lieu of Sol Schildhause, shall serve as Presiding Officer in the above-entitled proceeding; and that a hearing conference in the proceeding shall be convened in the offices of the Commission, Washington, D.C., on October 25, 1966, commencing at 9 a.m.

Released: October 19, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11558; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16924-16926; FCC 66M-1400]

SUNSET BROADCASTING CORP. ET AL.

Order Scheduling Hearing

In re applications of Sunset Broadcasting Corp., Yakima, Wash.; Docket No. 16924, File No. BPCT-3478; Apple Valley Broadcasting, Inc., Yakima, Wash.; Docket No. 16925, File No. BPCT-3648; Northwest Television & Broadcasting Co. (a joint venture), Yakima, Wash.; Docket No. 16926, File No. BPCT-3672; for construction permit for new television broadcast station (Channel 35).

It is ordered, This 14th day of October 1966, that Chester F. Naumowicz, Jr., shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on December 12, 1966, at 10 a.m.; and that a prehearing conference shall be held on November 8, 1966, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: October 18, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11559; Filed, Oct. 21, 1966; 8:48 a.m.]

[Docket Nos. 16924-16926; FCC 66-913]

SUNSET BROADCASTING CORP. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Sunset Broadcasting Corp., Yakima, Wash.; Docket No. 16924, File No. BPCT-3478; Apple Valley Broadcasting, Inc. Yakima, Wash.; Docket No. 16925, File No. BPCT-3648; Northwest Television & Broadcasting Co. (a joint venture), Yakima, Wash.; Docket No. 16926, File No. BPCT-3672; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the above-captioned applications of Sunset Broadcasting Corp., Apple Valley Broadcasting, Inc., and Northwest Television & Broadcasting Co. (a joint venture), each requesting a construction permit for a new television broadcast station to operate on Channel 35, Yakima, Wash. The applications are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission also has before it for consideration petitions to deny filed against each of the applications and various pleadings filed in connection therewith.[1]

2. The petitioners herein are licensees of the only two television broadcast stations authorized and operating in Yakima, Wash., and the applicants seek a construction permit to construct the third UHF television broadcast station in Yakima. The petitioner, Columbia Empire Broadcasting Corp. (Columbia), is the licensee of Television Broadcast Station KNDO-TV, Channel 23, Yakima, Wash. (ABC and NBC), and its satellite, Television Station KNDU, Channel 25, Richland, Wash. Petitioner Cascade Broadcasting Co. (Cascade) is the licensee of Television Broadcast Station KIMA-TV, Channel 29, Yakima, Wash. (CBS); Television Broadcast Station KEPR-TV, Channel 19, Pasco, Wash.; Television Broadcast Station KLEW-TV, Channel 3, Lewiston, Idaho; and Standard Radio Broadcast Stations KIMA, Yakima, Wash., and KEPR, Kennewick-Richland-Pasco, Wash. Stations

[1] The numerous pleadings filed in this proceedings are listed in the Appendix hereto. The pleadings designated (g), (i), and (j), filed in connection with the Sunset application, are not authorized by § 1.45(d) of the Commission's rules and they will be dismissed.

KEPR–TV and KLEW–TV are operated by Cascade as satellites of Station KIMA–TV.

3. Petitioners allege standing in this proceeding as "parties in interest" within the meaning of section 309(d) of the Communications Act of 1934, as amended, on the basis that a grant of one of the applications would result in the diversion of viewership and advertising revenues from their respective stations and would cause them economic injury. The standing of the petitioners is not disputed and we find that the petitioners have standing. Federal Communications v. Sanders Brothers Radio Station, 309 U.S. 470, 60 S. Ct. 603, 9 RR 2008. For clarity, the questions raised with respect to each application will be considered application-by-application.

4. The Sunset application (BPCT–3478): Petitioners request the specification of issues relating to the applicant's financial qualifications, the reasonableness of the estimated costs of operation for the first year and the estimated revenues in the first year, and whether the staff proposed is adequate to effectuate the type of operation proposed. In addition to these questions raised by both petitioners, Cascade alleges that the economy of the area is such that it cannot support a third television station without degradation of service to the public, thus raising a Carroll question.[2] Cascade also alleges that the applicant has not shown that it has made any efforts to ascertain the programing tastes, needs, and interests of the area it proposes to serve nor how it proposes to meet those tastes, needs and interests, raising a Suburban question.[3]

5. Subsequent to the filing of the petitions to deny, Sunset twice amended the financial portion of its application. In its present posture, the applicant will require cash of approximately $156,000 for the construction and operation of the station for the first year,[4] based upon operating costs of $100,000. To meet these cash requirements, the applicant relies upon the availability of cash on hand of approximately $34,000, a bank loan of $25,000, stock subscriptions of $84,100 from subscribers who have bank loans available to them to enable them to meet their commitments to the applicant, and a loan of $20,000 from Mr. David Z. Pugsley.[5] The applicant, therefore, appears to have approximately $163,000 available to it. In addition, the applicant has demonstrated that it can rely upon advertising commitments during the first year totaling $31,000. We conclude, therefore, that if the applicant's estimate of operating expenses during the first year is reasonable, the applicant would be financially qualified. The applicant, however, has not furnished any details with respect to the basis for its estimate of first year operating costs, notwithstanding the fact that the question was specifically raised in the petitions to deny. In its amendment October 12, 1965, the applicant increased its estimate of first year operating costs from $60,000 to $90,000 and in its amendment of July 6, 1966, increased it to $100,000, each time without an explanation. Cascade has made specific allegations with respect to costs which its experience indicates the applicant must expect, but for which the applicant has not shown that it has made provision. These allegations raise a question as to the validity of the applicant's estimate of costs. It is not sufficient that the applicant merely disputes the allegations that its estimated operating costs are unreasonably low[6] without some further showing, because the burden is on the applicant to support its application. We stated, in Ultravision Broadcasting Co. et al., FCC 65–581, 5 RR 2d 343, that "a determination as to whether there exists a reasonable likelihood of a continuing operation must rest on a realistic estimate of construction costs and operating expenses." We believe that the applicant's failure to furnish details of the basis for its estimate of operating expenses where it has been specifically questioned requires the question to be explored in the hearing. If it is determined that the estimate is unrealistic, the applicant's financial requirements would be affected.

6. Petitioners have questioned whether the staff proposed would be adequate to effectuate the type of operation proposed. The applicant proposes to operate 71 hours and 45 minutes per week, 17.9 percent of which will be local live originations (approximately 12 hours and 48 minutes). To effectuate this proposal, the applicant proposes a total staff of eight (8) persons, consisting of one comanager and engineer (Mr. Pugsley), one comanager and chief engineer (Mr. Warren C. Brown), two in copy, traffic, etc. (the wives of Messrs. Pugsley and Brown), one camera, production operator, two combination engineer-announcers, and one sales manager-salesman. Columbia points out that the proposed transmitter site will be 4 miles from the main studios and remote control operation is not proposed. It is alleged that there will be a need for a substantially larger technical staff to provide coverage at the transmitter and the studios.[7] The applicant has not furnished any information with respect to its staffing proposal which would enable the Commission to conclude, in the face of petitioner's attack, that the staff proposed would be adequate. In fact, in the July 6, 1966, amendment, applicant reduced its proposed staff from nine to eight without any explanation. Cascade alleges that, based on its own experience as well as that of other new stations, a staff of at least 15 would be necessary to effectuate the type of operation Sunset proposes. Sunset has not attempted to demonstrate, by facts and figures, its ability to effectuate the operation it proposes and we believe that the question requires resolution in the hearing.

7. Cascade alleges that the applicant has not shown that it has made any efforts to ascertain the programing tastes, needs, and interests of the area it proposes to serve. In its responsive pleading, Sunset did not address itself to this allegation and thus leaves undisputed the charge that it has failed to make the requisite efforts. The Commission, in the Report and Statement of Policy Re: Commission En Banc Programing Inquiry (FCC 60–970, 20 RR 1901), unequivocally stated that: "The broadcaster is obligated to make a positive, diligent, and continuing effort, in good faith, to determine the tastes, needs, and desires of the public in his community and to provide programing to meet those needs and interest."

In the light of this policy and in view of the applicant's failure to contest the charge that it has not shown that it has made the requisite efforts, we think that a Suburban issue is clearly indicated.

8. Other subsidiary and related questions have been raised by the petitioners. For example, petitioners challenge the applicant's estimate of its total costs of construction and the adequacy and availability of the equipment proposed. Petitioners have not alleged sufficient facts to warrant our designating specific issues with respect to these matters, but in light of the fact that a hearing is necessary, our refusal to include specific issues on these points should not be construed as precluding petitioners from moving to enlarge the issues should sufficient additional facts be presented to warrant enlargement.

9. Petitioners point out that Sunset's "Opposition to the Petitions to Deny" was not supported by affidavit as required by section 309(d)(1) of the Communications Act. An affidavit was, however, filed on March 4, 1965, in connection with applicant's pleading entitled "Further Comment on Petitions to Deny." The affidavit was specifically made applicable to the "Opposition." In view of the fact that we must designate the application for hearing, we do not believe that petitioners will be injured by our accepting the affidavit nunc pro tunc. Accordingly, in the exercise of our discretion, we are accepting the affidavit as sufficient verification to comply with the requirements of the Communications Act. Berwick et al. (KTAG Associates) v. Federal Communications Commission, 109 U.S. App. D.C. 241, 186 F. 2d. 97, 20 RR 2018.

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[2] Carroll Broadcasting Co. v. Federal Communications Commission, 103 U.S. App. D.C. 346, 258 F 2d. 440, 17 RR 2066.

[3] Patrick Henry et al. v. Federal Communications Commission, 112 U.S. App. D.C. 257, 302 F 2d. 191, 23 RR 2016.

[4] The cash requirements consist of down payment for equipment ($45,000), principal and interest payments for equipment ($8,888), land ($300), down payment for building and tower ($620), miscellaneous costs ($1,000) and operating costs ($100,000).

[5] Mr. Pugsley is to obtain $20,000 from the sale of Radio Station KNDX–FM, which he has committed himself to lend to the applicant. The application for assignment (BALH–904) was granted Aug. 18, 1966.

[6] Northwest's estimate of first year operating cost is $450,000; Apple Valley's estimate is $360,000.

[7] Columbia also questioned the ability of Mr. Pugsley to perform his duties in connection with the proposed new station while devoting the necessary time to the operation of Radio Station KNDX–FM. The application for assignment of KNDX–FM was filed subsequent to the petition to deny and with the sale of KNDX–FM, the question is now moot. See Footnote 5, supra.

10. Finally, Cascade requests that we specify a Carroll issue, alleging that the Yakima, Wash., market is unable to support a third television broadcast station and that a grant of any of the applications would result in the diversion of viewership and vital advertising revenues from KIMA–TV, requiring petitioner to curtail certain of its programing and other services. Because a Carroll question is necessarily applicable to all three applications, we will defer discussion of this question in this opinion until we have disposed of the questions raised with respect to the Apple Valley and Northwest applications.

11. The Commission has been advised that the Federal Aviation Agency has a radio communications facility located less than 800 feet from the site proposed by Sunset for its antenna system. It is possible, therefore, that the operation of the proposed new television broadcast station by Sunset might cause interference to the FAA operation. Accordingly, we will provide that, in the event of a grant of the Sunset application, such grant shall be subject to a condition that during equipment tests which simulate normal authorized operation, the permittee will coordinate observations with the Federal Aviation Agency to determine whether interference results. In the event that it should be determined that interference does not result, the permittee shall institute appropriate corrective measures. The application for a license shall contain a report of such observations and the results of any tests and corrective measures employed.

12. The Apple Valley application (BPCT–3648): Cascade, but not Columbia, filed a petition to deny the Apple Valley application. In addition to the Carroll question, petitioner has raised, with respect to the Apple Valley application, questions concerning whether Morgan Murphy, 97.49 percent owner of the stock of the applicant's financial qualifications; and whether a grant of the application would constitute a concentration of control of the media of mass communications in the Northwestern States.

13. The Evening Telegram Co. is the sole stockholder of Apple Valley and will furnish all of the cash required for the construction and operation of the station for the first year. Mr. Morgan Murphy and his wife own 98 percent of the stock of The Evening Telegram Co. (Telegram). Petitioner alleges that Morgan Murphy, directly or indirectly, owned controlling interest in 12 broadcast properties (7 standard radio, 2 FM radio and 3 television stations) which, since 1958, he disposed of at substantial profits. Petitioner concedes that, with one exception, none of these properties was sold in less than 5 years.* While it is true that the length of time a licensee holds a broadcast authorization before disposing of it is not the sole factor to be considered in determining whether the licensee's conduct discloses a pattern of "trafficking," we perceive none of the elements in this case from which we could conclude that Morgan Murphy has engaged in "trafficking." Trafficking involves, among other things, intention, the element of time, and price. Harriman Broadcasting Co., FCC 66–46, 2 FCC 2d 320, 6 RR 2d 709; Atlantic Coast Broadcasting Corp. of Charleston, FCC 62–184, 22 RR 1045. The Commission will not grant broadcast authorizations to persons whose primary intent is to sell them at a profit rather than to operate their stations in the public interest. WMIE–TV, Inc., 11 RR 1091. Petitioner does not contend that Morgan Murphy acquired the various authorizations with the primary intention of disposing of them for profit nor do the facts appear to support such a conclusion. Laramie Broadcasters, FCC 60–792, 20 RR 423. In short, the mere acquisition of broadcast properties and the subsequent disposal thereof for profit over a long period of time does not raise an inference of trafficking. Petitioner has not supported its conclusions with the specific allegations of fact which would warrant our specifying an issue with respect to trafficking.

14. The Apple Valley proposal is to be financed entirely by the sole stockholder, Telegram. Telegram will purchase $50,000 in stock and will lend the applicant $450,000, for a total commitment of $500,000. The applicant requires cash of approximately $493,000 to construct and operate the proposed station for 1 year. To support its ability to meet its commitment to the applicant, Telegram submitted a financial statement showing that it has "in excess of $1,000,000" cash on hand, current liabilities of less than $50,000, and long-term liabilities ("No payment due in coming year") of approximately $950,000. The basis for the petitioner's challenge of the applicant's financial qualification is petitioner's incredulity that Telegram could have in excess of $1,000,000 cash on hand. Petitioner then contends that because the applicant will probably not require the funds for at least a year, there is no assurance that the funds will be available at that time. Petitioner then insists that Telegram must disclose the details of its long-term liabilities.

15. Petitioner has alleged no facts to indicate that Telegram does not have the cash on hand which it claims it has; it simply opines that such a situation is unusual and suggests that Telegram "* * * should be required to explain its reasons for keeping such a large amount of money on hand * * *." We find no warrant for such an inquiry and we will not require an explanation by Telegram of its business practices merely on the basis of the petitioner's curiosity.

16. Section 1.65 of the Commission's rules makes applicants responsible for the continued accuracy and completeness of their applications. If there has been a substantial adverse change in Telegram's financial position, it would be incumbent upon the applicant to reflect that change by appropriate amendment. In the absence of such an amendment, we may assume that there has been no such change. There is always an element of delay between the time an application is filed and the time committed funds are required and, in the absence of a clear showing to the contrary, we will not assume that committed funds which are presently available will not be available when required. For the same reason, we will not assume that Telegram's financial position with respect to its long-term liabilities has changed to a significant extent.

17. Petitioner states that Telegram owns Television Broadcast Station KXLY–TV (CBS), Channel 4, Spokane, Wash., which has greater coverage than any other television broadcast station in the Pacific Northwest. The station is, petitioner states, truly "the giant of the Pacific Northwest." Station KXLY–TV operates with effective radiated visual power of 48 kw and antenna height above average terrain of 3,000 feet, the maximum permissible under the Commission's rules. Petitioner contends that a grant of the Apple Valley application would place in Morgan Murphy's hands control of "* * * two media of mass communications serving substantially the same areas and populations." Petitioner further contends that it had established a "UHF island" in the Yakima area in a "sea of VHF stations" and that over the years, this "island" has gradually been eroded by VHF station encroachment. Petitioner concludes that Station KXLY–TV, "* * * through its satellite operation of a UHF station in Yakima, is a more subtle attempt to completely erode the 'UHF Island' by VHF domination."

18. The facts do not support petitioner's conclusions. There will be no overlap of the proposed Grade B contour with the predicted Grade B contour of Station KXLY–TV, there being approximately 50 miles between the nearest points of the two contours. The two communities involved are separate and distinct. Clearly, therefore, the two stations would not be serving substantially the same areas and populations. William Walker et al., FCC 59–35, 17 RR 1254. Similarly, petitioner's characterization of the proposed station as a "satellite" of Station KXLY–TV finds no support in the application, for there is no indication that the applicant will rebroadcast any of the programing of Station KXLY–TV. Moreover, it appears that, with the exception of Stations KXLY, KXLY–FM and KXLY–TV, all in Spokane, Morgan Murphy has no interest, direct or indirect, in any media of mass communication in the State of Washington. There is an abundance of competitive media in Spokane and in Yakima. In Spokane, there are nine (9) AM stations, four (4) FM stations and three (3) television stations (one of which is noncommercial educational) in addition to those in which Morgan Murphy has an interest. In Yakima, there are five (5) AM stations, one (1) FM station and two (2) television stations and Morgan Murphy has no inter-

* WMFG(AM), Hibbing, Minn. (23 years); WHLB(AM), Virginia, Minn. (22 years); WEBC(AM), Duluth, Minn. (34 years); WISM(AM), Madison, Wis. (11 years); WEAQ(AM), Eau Claire, Wis. (22 years); WIAL(FM), Eau Claire, Wis. (11 years); WMAM, Marinette, Wis. (2 years); KVOL (AM), Lafayette, La. (27 years); WEAU–TV, Eau Claire, Wis. (9 years); WLUK–TV, Green Bay, Wis. (7 years); and WLUC–TV, Marquette, Mich. (6 years).

ests in any of them. In view of these facts, we are convinced that there is no basis for concern that a grant of the application would result in a concentration of control of television broadcasting in a manner inconsistent with the public interest, convenience, or necessity.

19. The Northwest application (BPCT-3672): As with the Apple Valley application, Cascade, but not Columbia, filed a petition to deny. Other than to raise a Carroll issue with respect to the Northwest application, the only question raised by the petition relates to the applicant's financial qualifications. Although we find no merit in the petitioner's allegations with respect to the applicant's financial qualifications, we agree that the applicant has not demonstrated that it is financially qualified. Several inconsistencies in the application make it impossible to ascertain the applicant's financial plan.

20. We are unable to ascertain the applicant's costs because its plans for obtaining equipment and the costs thereof are vague, confusing and inconsistent. The confusion results from an unusual equipment proposal by General Electric Co. which, on its face, purports to be a "proposal submitted by Robert Manahan" (prior to applicant's Sept. 27, 1966, amendment, by "Hugh W. Granberry") with a blank space for acceptance by General Electric and Liberty Television, Inc. (one of the Northwest joint venturers). This has not been executed and no letter of credit for deferred credit has been filed. We are left to conclude, therefore, that the proposal has not been accepted by GE. Because the proposal is not clear as to what equipment is to be furnished, the costs thereof, and the terms upon which it will be available, together with the fact that the proposal has apparently not been accepted by GE, we cannot consider the deferred credit to be available to the applicant. Since we cannot determine the applicant's costs, we will specify an issue to ascertain the costs of construction and operation for the first year and, on the basis of the evidence adduced pursuant to that issue, whether the applicant is financially qualified.[9]

21. The Carroll question: Cascade alleges that the economy of the Yakima market [10] is such that it could not support a third television broadcast station without a degradation of service to the public. Cascade alleges that if a third station were to be authorized in Yakima, Station KIMA-TV would be required to eliminate certain of public service programs, change its policy of preempting network programs and reduce the number of public service spot announcements. Petitioner, however, does not explain why it would be required to take these measures and has not indicated the cost of these programs and the savings to be effected thereby. Cascade further alleges that: "The mere existence of a third television station in Yakima would divide the audience in approximately three parts with the consequent reduction of revenue to the existing stations. When stated in a more precise manner, the third television station at Yakima could be expected to acquire one-third of the audience and revenue * * *"

Although general experience is to the contrary, i.e., a new station entering a market will not acquire an equal portion of the revenues, petitioner has furnished no facts to support this conclusion.

22. Cascade has not furnished much of the vital information which the Commission indicated in Missouri-Illinois Broadcasting Co. (KZIM), FCC 64-748, 3 RR 2d 232, was the type of information which is necessary to support a Carroll issue. For example, petitioner has not indicated the amount of local advertising revenue actually earned by its station in the community and the area. In response to the question, it has stated: "Cascade's station, Station KIMA-TV, for the past 3 years has averaged earning 44 percent of its total advertising revenue from local services."

It does not disclose the amount of that total advertising revenue and would leave to conjecture information of vital significance. The availability of advertising revenues is the point at issue, yet petitioner has not indicated, with any precision, the number of businesses which could, but do not now advertise on television, although it has stated that even extremely small businesses advertise on Station KIMA-TV. Cascade has also not answered the question of its total expenses and net profits (or losses) for the preceding 3 years. It has not indicated the specific advertisers that would shift advertising to one of the proposed stations, leaving its conclusions in that respect without any factual support. The petitioner has also failed to indicate the cost of carrying the programing it alleges it would be compelled to curtail and the savings which could be effected by such curtailments.

23. The information which the petitioner has furnished does not support its conclusions. For example, petitioner shows that the unemployment rate in Yakima City and Yakima County has declined steadily since 1960, while the population has increased steadily. Petitioner alleges that retail sales in Yakima County were less in 1963 than in 1959, but what it does not point out is that its own figures show that retail sales in Yakima County increased from 1960 to 1963, and that from 1959 to 1963, there was an undiminished increase in retail sales in Yakima City. Petitioner alleges that the total advertising revenue potential in the Yakima market is less than $1,000,000, but the Commission's records indicate that Station KIMA-TV alone realized more than that amount in 1965. Moreover, if we were to accept petitioner's definition of the "Yakima market" and added the revenues of its two satellite stations and that of Station KNDO-TV, the revenue actually earned in the Yakima market in 1965 would be nearly double that figure. Cascade also quotes from the Seiden Report (Feb. 12, 1965) to the effect that if a single station requires between 22,222 and 25,000 TV homes for a minimum cash flow, a three-station market requires about three (3) times that figure and that current market rankings place the high end of this cut-off point at about the 177th market. Cascade then alleges that Yakima City has 12,717 TV homes, Yakima County has 41,200 TV homes and the Yakima market is well below the 177th market. The Seiden Report, however, refers to TV homes in the market, and not in the city or county. Cascade has itself defined the Yakima market to embrace considerably more than just Yakima City and County. Moreover, on a market basis, the 1964 American Research Bureau (ARB) figures show Yakima with 140,600 TV homes—more than double that cited in the Seiden Report as required for a three-station market. Cascade does not indicate the source of its information that Yakima is ranked well below the 177th market; the ARB figures indicate the contrary. Petitioner states that in the course of several years, it does business with less than 10 percent of the 4,000 business establishments in Yakima County, from which we may conclude that there is great potential for additional advertising revenues.

24. We conclude that the petitioner has failed to show that the Yakima market is unable to support a third station without a degradation of service to the public. The burden of supporting a request for a Carroll issue is on the party making the request and we find that Cascade has not met that burden. We also note that Columbia has not alleged that the market cannot support a third station and it has not attempted to support Cascade's position on the question.

25. The applications for renewal of the licenses of Stations KIMA-TV (BRCT-337) and KNDO-TV (BRCT-494) were placed in deferred status, the latter by memorandum opinion and order (FCC 66-131, 2 FCC 2d 638, petition for reconsideration dismissed, FCC 66-447, released May 24, 1966), pending our decision in this proceeding on whether a Carroll issue would be warranted. If we had been able to find that such an issue was warranted, these applications for renewal might have been designated for comparative hearing in this proceeding. Missouri-Illinois Broadcasting Co. (KZIM), FCC 65-437, 5 RR 2d 452; K-SIX Television, Inc. (KVER), FCC 65-1047, 1 FCC 2d 1452, 6 RR 2d 462. In view of our disposition of the Carroll question, there is no longer reason to defer action on the renewal applications and they will, therefore, be granted.

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[9] In applicant's sec. III, par. 1(a), FCC Form 301, as amended by the applicant Sept. 27, 1966, estimated costs of operation are shown to be $450,000; applicant's Exhibit 6-A, filed that same date, shows estimated costs of operation to be $325,000. We cannot reconcile this discrepancy.

[10] Cascade defined the "Yakima market" as the entire area served by KIMA-TV and its satellites, Stations KEPR-TV (Pasco, Wash.) and KLEW-TV (Lewiston, Idaho). "Yakima City TV Area" is defined by petitioner as referring to those portions of Yakima, Benton, and Kittitas Counties which are within the predicted Grade B contours of Stations KIMA-TV and KNDO-TV (Columbia's station).

26. Except as indicated by the issues specified below, each of the applicants appears to be qualified to construct, own, and operate the proposed television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is therefore 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 they must be designated for hearing in a consolidated proceeding on the issues set forth below:

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Sunset Broadcasting Corp., Apple Valley Broadcasting, Inc., and Northwest Television & Broadcasting Co. (A Joint Venture), 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, with respect to the application of Sunset Broadcasting Corp.:

a. The basis for the applicant's estimate of its cost in its first year of operation and whether such estimate is reasonable.

b. In the light of the evidence adduced pursuant to the foregoing issues, whether the applicant has sufficient funds available to construct and operate the proposed station for 1 year.

c. Whether the staff proposed would be adequate to effectuate the type of operation proposed.

d. The efforts, if any, which the applicant has made to ascertain the programing tastes, needs and interests of the area it proposes to serve and the manner in which it will meet those tastes, needs and interest.

2. To determine, with respect to the application of Northwest Television & Broadcasting Co., A Joint Venture:

a. The equipment to be obtained by the applicant from General Electric Co., the purchase price thereof, and the terms and conditions upon which such equipment is to be obtained.

b. The total costs of construction and the cost of operation for the first year.

c. Whether, in the light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

3. To determine which of the proposals would best serve the public interest.

4. 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 Cascade Broadcasting Co. is made a party respondent in this proceeding with respect to the applications of Sunset Broadcasting Corp. and Northwest Television & Broadcasting Co. (A Joint Venture), and Columbia Empire Broadcasting Corp. is made a party respondent in this proceeding with respect to the application of Sunset Broadcasting Corp.

It is further ordered, That the pleadings designated (g), (i), and (j) below are dismissed, pursuant to § 1.45(d) of the Commission's rules.

It is further ordered, That in the event of a grant of the application of Sunset Broadcasting Corp., such grant shall be subject to the following condition: "During equipment test which simulate normal authorized operation, the permittee shall coordinate observations with the Federal Aviation Agency to determine whether interference results with the radio communications facility of the Federal Aviation Agency located in close proximity to the permittee's antenna system site. In the event that it should be determined that interference does result, the permittee shall institute appropriate corrective measures. The application for a license shall contain a report of such observations and the results of the tests and any corrective measures employed."

It is further ordered, That the application (BRCT-337) of Cascade Broadcasting Co. for renewal of the license of Television Broadcast Station KIMA-TV, Channel 29, Yakima, Wash., and the application (BRCT-494) of Columbia Empire Broadcasting Corp. for renewal of the license of Television Broadcast Station KNDO-TV, Channel 23, Yakima, Wash., are granted.

It is further ordered, That the petitions to deny filed herein by Cascade Broadcasting Co. and Columbia Empire Broadcasting Corp., are granted to the extent indicated herein and are otherwise denied.

It is further ordered, That, in the event of a grant of any of the applications, operation of the new station shall be in accordance with offset designators to be specified in a subsequent order.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein, pursuant to § 1.221(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.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 12, 1966.

Released: October 18, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[1] Commissioner Bartley concurring and issuing a statement filed as part of the original document and Commissioner Cox concurring; Commissioners Loevinger and Wadsworth absent.

PLEADINGS FILED

(a) Petition to deny, filed January 27, 1965, by Columbia Empire Broadcasting Corp., licensee of Television Broadcast Station KNDO, Channel 23, Yakima, Wash., against application (BPCT-3478) of Sunset Broadcasting Corp.

(b) Petition to deny, filed January 27, 1965, by Cascade Broadcasting Co., licensee of Television Broadcast Station KIMA-TV, Channel 29, Yakima, Wash., against application (BPCT-3478) of Sunset Broadcasting Corp.

(c) Opposition, filed February 9, 1965, by Sunset Broadcasting Corp., against (a) and (b), above.

(d) Reply, filed February 19, 1965, by Cascade Broadcasting Co., against (c), above.

(e) Reply, filed February 19, 1965, by Columbia Empire Broadcasting Corp., against (c), above.

(f) Supplement to petition to deny, filed February 26, 1965, by Cascade Broadcasting Co.

(g) Further comment on petitions to deny, filed March 4, 1965, by Sunset Broadcasting Corp.

(h) Comment on supplement to petition to deny, filed March 11, 1965, by Sunset Broadcasting Corp., with respect to (f), above.

(i) Motion to strike or in the alternative for permission to file reply to the "Further Comment on Petitions to Deny," filed March 19, 1965, by Cascade Broadcasting Co., with respect to (g), above.

(j) Statement regarding further comment of Sunset Broadcasting Corp., filed March 29, 1965, by Columbia Empire Broadcasting Corp., with respect to (g), above.

(k) Reply to comment on supplement to petition to deny, filed March 29, 1965, by Cascade Broadcasting Co., against (h), above.

(l) Further supplement to petition to deny, filed November 10, 1965, by Cascade Broadcasting Co., with respect to application (BPCT-3478) of Sunset Broadcasting Corp.

(m) Petition to deny, filed November 29, 1965, by Cascade Broadcasting Co., against application (BPCT-3648) of Apple Valley Broadcasting, Inc.

(n) Comments with respect to further supplement to petition to deny, filed December 1, 1965, by Sunset Broadcasting Corp., with respect to (l), above.

(o) Opposition, filed December 20, 1965, by Apple Valley Broadcasting, Inc., against (m), above.

(p) Reply, filed January 3, 1966, by Cascade Broadcasting Co., against (o), above.

(q) Petition to deny, filed January 17, 1966, by Cascade Broadcasting Co., against application (BPCT-3672) of Northwest Television & Broadcasting Co. (A Joint Venture).

(r) Opposition, filed February 28, 1966, by Northwest Television & Broadcasting Co. (A Joint Venture).

Extensions of time within which to file various pleadings were granted where requested.

[F.R. Doc. 66-11560; Filed, Oct. 21, 1966; 8:49 a.m.]

[Docket Nos. 15460, 16923; FCC 66M-1399]

SYMPHONY NETWORK ASSOCIATION, INC., AND STEEL CITY BROADCASTING CO.

Order Scheduling Hearing

In re applications of Symphony Network Association, Inc., Birmingham, Ala.; Docket No. 15460, File No. BPCT-3238; Steel City Broadcasting Co., Birmingham, Ala.; Docket No. 16923, File No.

BPCT-3660; for construction permit for new television broadcast station (Channel 68).

It is ordered, This 14th day of October 1966, that H. Gifford Irion shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on December 22, 1966, at 10 a.m.; and that a prehearing conference shall be held on December 2, 1966, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: October 18, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-11561; Filed, Oct. 21, 1966; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

PORTWIDE EXEMPTION

Notice of Applications Filed

Notice is hereby given that the following portwide exemption applications have been filed with the Commission pursuant to § 510.22(a) of Federal Maritime Commission General Order 4; Amendment 9 (46 CFR 510.22(a)).

Each applicant contends that an adequate supply of ocean freight forwarding services is not being held out by nonagent licensed independent ocean freight forwarders domiciled at the indicated ports, and that an exemption is justified on this basis.

Application No. 1 for the Port of Wilmington, N.C., filed by Kominers & Fort on behalf of the following licensees operating at the Port of Wilmington: Wilmington Shipping Co. (F.M.C. No. 469) and Waters Shipping Co. (F.M.C. No. 70).

Application No. 2 for the Port of Morehead City, N.C., filed by Kominers & Fort on behalf of the following licensees operating at the Port of Morehead City: Morehead City Shipping Co., a branch of Wilmington Shipping Co. (F.M.C. No. 469); Waters Shipping Co. F.M.C. No. 70); and North Carolina Shipping Co. (F.M.C. No. 1079).

Application No. 3 for the Port of Tampa, Fla., filed by Kominers & Fort on behalf of the following licensees operating at the Port of Tampa: Fillette, Green & Co. of Tampa (F.M.C. No. 754); General Shipping Co. (F.M.C. No. 667); Gulf Florida Terminal Co. (F.M.C. No. 78); Hillebaum-Tampa, Inc. (F.M.C. No. 852); Marine Agency of Tampa, Inc. (F.M.C. No. 995); and A. R. Savage & Son (F.M.C. No. 855). Sack & Mendez, Inc. (F.M.C. No. 950) and Delfa Lines Agency (F.M.C. No. 1041), licensed independent ocean freight forwarders operating in the Port of Tampa, have indicated to the Commission that they have no objection to the granting of this application.

Application No. 4 for the Port of Pensacola, Fla., filed by Pensacola Steamship Association, Inc. on behalf of the following licensees operating at the Port of Pensacola: John A. Merritt & Co. (F.M.C. No. 86); Fillette, Green & Co., Inc. (F.M.C. No. 163); and Walsh Stevedoring Co., Inc. (F.M.C. No. 236).

Interested parties may inspect and obtain a copy of any such application at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609. Comments with reference to any application, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement or request for a hearing should also be forwarded to each of the applicant parties (as indicated herein), and the comments should indicate that this has been done.

Dated: October 18, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-11563; Filed, Oct. 21, 1966; 8:49 a.m.]

[Independent Ocean Freight Forwarder License 1037]

MANACO INTERNATIONAL FORWARDERS

Order To Show Cause

On October 14, 1966, the International Fidelity Insurance Co. notified the Commission that the surety bond filed pursuant to section 44(c), Shipping Act, 1916 (46 U.S.C. 841b) by Melvyn Paul Cohen, doing business as Manaco International Forwarders, 9 Clinton Street, Newark, N.J. 07102, would be canceled effective 12:01 a.m., November 13, 1966.

Section 44(c) of the Shipping Act, 1916 (46 U.S.C. 841b) and § 510.5(f) of General Order 4 (46 CFR) provide that no license shall remain in force unless such forwarder shall have furnished a bond.

Section 44(d) of the Shipping Act, 1916 (46 U.S.C. 841b) provides that licenses may, after notice and hearing, be suspended or revoked for willful failure to comply with any provision of the Act, or with any lawful rule of the Commission promulgated thereunder.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission, as set forth in Manual of Orders, Commission Order 201.1 (amended) § 6.03.

It is ordered, That Melvyn Paul Cohen, doing business as Manaco International Forwarders on or before October 31, 1966, either (1) submit a valid bond effective on or before November 13, 1966, or (2) show cause in writing or request a hearing to be held at 10 a.m. on November 7, 1966, in Room 505, Federal Maritime Commission, 1321 H Street NW., Washington, D.C. 20573, to show cause why its license should not be suspended or revoked pursuant to section 44(d) Shipping Act, 1916.

It is further ordered, That License No. 1037 be forthwith revoked if the licensee fails to comply with this order.

It is further ordered, That a copy of this order to show cause and all subsequent orders in this matter be served upon the licensee and be published in the FEDERAL REGISTER.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 66-11564; Filed, Oct. 21, 1966; 8:49 a.m.]

DELTA STEAMSHIP LINES, INC., ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Thomas E. Stakem, Senior Vice President, Delta Steamship Lines, Inc., 1625 K Street NW., Washington, D.C.

Agreement 9216-3, between Delta Steamship Lines, Inc., Booth Lamport West Indies Service and Booth Steamship Co., amends the basic agreement to provide that Delta will act as the agent for Booth Steamship Co. and Booth Lamport West Indies Service in the booking and solicitations of passengers on both Booth and/or Booth Lamport vessels.

Dated: October 19, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-11565; Filed, Oct. 21, 1966; 8:49 a.m.]

ITALY, SOUTH FRANCE/U.S. GULF CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. G. Ravera, Secretary, Italy, South France/U.S. Gulf Conference, Vico San Luca No. 4, Genoa, Italy.

Agreement 9522-1, between the member lines of the Italy, South France/U.S. Gulf Conference, amends Article 2 of the basic agreement to eliminate San Juan, Puerto Rico, from the range of destination ports served by the Conference.

Dated: October 19, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-11566; Filed, Oct. 21, 1966; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI67-94, etc.]

H. M. GILLESPIE ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes [1]

OCTOBER 14, 1966.

The above-named Respondents have tendered for filing proposed changes in their presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-94	H. M. Gillespie,[6] 722 Union Center Bldg., Wichita, Kans. 67202.	9	2	Cities Service Gas Co. (Hugoton Field, Kearny County, Kans.).	$250	9-12-66	[3] 10-12-66	3-12-67			
		9	(7) 3			9-12-66	[3] 10-12-66	3-12-67	[4] 7.5037	[4] [5] 12.5	(7)
RI67-95	H. M. Gillespie, et al.[6]	2	4	do		[10] 9-16-66	[3] 10-16-66	3-16-67			
		2	(7) 5		142	9-15-66	[3] 10-16-66	3-16-67	[4] 10.7195	[4] [5] 12.5	(7)
RI67-96	Edwin L. Cox,[6] 38th Floor, First National Bank Bldg., Dallas, Tex. 75202.	2	3	Cities Service Gas Co. (Hugoton Field, Morton County, Kans.).		9-12-66	[3] 10-12-66	3-12-67			
		2	(7) 4		144	9-12-66	[3] 10-12-66	3-12-67	[4] 10.7195	[4] [5] 12.5	

[2] Contract Amendment which provides for 12.5 cents per Mcf rate effective Dec. 13, 1962, through June 23, 1971, and 1.0 cent periodic increases every 5 years until June 23, 1991, in lieu of indefinite pricing during such period.
[3] The stated effective date is the first day after expiration of the statutory notice.
[4] Renegotiated rate increase.
[5] Pressure base in 14.65 p.s.i.a.
[6] Subject to a downward B.t.u. adjustment.
[7] Increased rate to 14.5 cents suspended in Docket No. RI64-159 but not made effective.
[8] Signatory to contract which adopts terms and conditions of Pan American-Cities contract.
[9] Increased rate of 14.5 cents suspended in Docket No. RI63-63 but not made effective.
[10] Completes notice of change filing.

H. M. Gillespie, H. H. Gillespie, et al. (both referred to herein as Gillespie) and Edwin L. Cox (Cox) request a retroactive effective date of December 13, 1962, the contractually provided effective date, for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Gillespie and Cox's rate filings and such requests are denied.

The rate filings of Gillespie and Cox constitute, in effect, proposed settlements similar to offers of settlement filed by other producers who also sell gas to Cities Service Gas Co. (Cities) pursuant to the terms and conditions of the contract contained in Pan American Petroleum Corporation's (Pan American) FPC Gas Rate Schedule No. 84. All of these producers seek the same settlement terms for the sale by Pan American under its FPC Gas Rate Schedule No. 84 that were approved by the Commission in an order issued April 13, 1966, in Docket Nos. G-9279, et al., involving Pan American's company-wide settlement. No action has yet been taken by the Commission on these settlement proposals. In the event the Commission approves these offers of settlement then the subject suspension proceedings will be terminated.

Since the proposed rates of Gillespie and Cox exceed the area increased rate ceiling for Kansas as announced in the Commission's statement of general policy No. 61-1, as amended, we conclude that they should be suspended for 5 months as ordered below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

Gillespie's contract amendments dated August 24, 1966, and Cox's contract amendment dated August 17, 1966, conform their contracts to the provisions of the aforementioned Pan American settlement. Such amendments provide for a 12.5 cents per Mcf rate effective December 13, 1962, through June 23, 1971, and 1.0 cent per Mcf periodic increases every 5 years until June 23, 1991, in lieu of indefinite pricing during such period. We shall also suspend these filings.

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 hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements 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), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed changes contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter 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 these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 1, 1966.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-11470; Filed, Oct. 21, 1966; 8:45 a.m.]

[Docket No. RI67-93]

PHILLIPS PETROLEUM CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

OCTOBER 13, 1966.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 1, 1966.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-93	Phillips Petroleum Co., Bartlesville, Okla. 74004.	[1] 374	4	Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex.) (Permian Basin Area).	[2] $279	9-13-66	[3] 10-14-66	[4] 10-15-66	16.0 16.0	[5] [6] 16.07 [5] [7] 16.49	

[1] Contract dated Mar. 27, 1961, and covers sale of "new" gas-well gas.
[2] No deliveries being made from the Pennsylvania Formation.
[3] The stated effective date is the first day after expiration of the statutory notice.
[4] The suspension period is limited to 1 day.
[5] "Fractured" rate increase. Phillips is contractually due 18.5 cents but is filing for applicable rates shown on its quality statements.
[6] Pressure base is 14.65 p.s.i.a.
[7] Pertains to gas from Devonian Formation.
[8] Pertains to gas from Pennsylvania Formation.
[9] Includes applicable tax reimbursement.

Phillips Petroleum Co. (Phillips) requests a retroactive effective date of September 1, 1965, for its proposed supplement. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Phillips' rate filing and such request is denied.

The proposed rate increases have been filed by Phillips to implement the rates set forth in its revised rate schedule quality statements (filed Aug. 1, 1966) as a result of Transwestern's proposed change in the method of determining treating and dehydration costs for nonpipeline quality gas. No action has yet been taken with respect to Phillips' revised rate schedule quality statements. In view of the possibility that Phillips' proposed rates may exceed the just and reasonable rate ceiling for these sales determined in Permian Basin Opinion No. 468, the proposed supplement is suspended herein for 1 day from October 14, 1966, the date of expiration of the statutory notice, pending action by the Commission with respect to Phillips' revised rate schedule quality statements.

Except for the stay of the moratorium in Opinion No. 468, Phillips' filing would be rejectable if the proposed rates are determined to be in excess of the applicable area rate ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review and the proposed rates are determined to be in excess of the applicable area rate ceiling determined in Opinion No. 468, the filing will be rejected ab initio.

[F.R. Doc. 66-11472; Filed, Oct. 21, 1966; 8:45 a.m.]

[Docket Nos. RI67-83, etc.]

UNION OIL COMPANY OF CALIFORNIA ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

OCTOBER 13, 1966.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 1, 1966.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-83	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017, Attn: Mr. C. E. Smith.	2	11	Transcontinental Gas Pipe Line Corp. (West White Lake Field, Vermilion Parish, La.) (South Louisiana).	$186,150	9-20-66	[2] 11-1-66	4-1-67	[2] 18.75	[3] [4] 19.75	RI63-159.
	do	3	8	Transcontinental Gas Pipe Line Corp. (Tigre Lagoon Field, Vermilion and Iberia Parishes, La.) (South Louisiana).	186,562	9-20-66	[2] 11-1-66	4-1-67	[2] 18.75	[3] [4] 19.75	RI63-159.
	do	4	8	Transcontinental Gas Pipe Line Corp. (Vinton Field, Calcasieu Parish, La.) (South Louisiana).	3,650	9-20-66	[2] 11-1-66	4-1-67	[2] 18.75	[3] [4] 19.75	RI63-159.
RI67-84	Union Oil Co. of California (Operator), et al.	5	9	Transcontinental Gas Pipe Line Corp. (East White Lake Field, Vermilion Parish, La.) (South Louisiana).	20,075	9-20-66	[2] 11-1-66	4-1-67	[2] 18.75	[3] [4] 19.75	RI63-160.
	do	6	9	Transcontinental Gas Pipe Line Corp. (Fresh Water Bayou Field, Vermilion Parish, La.) (South Louisiana).	81,213	9-20-66	[2] 11-1-66	4-1-67	[2] 18.75	[3] [4] 19.75	RI63-160.
RI67-85	Standard Oil Co. of Texas, a division of Chevron Oil Co., Post Office Box 1249, Houston, Tex. 77001, Attn: Mr. C. W. Proctor.	2	19	Texas Eastern Transmission Corp. (Gist Field, Newton County, Tex.) (R.R. District No. 3).	146	9-23-66	[2] 11-1-66	4-1-67 [7]	16.0	[4] 16.2	RI66-151.
	do	10	10	Texas Eastern Transmission Corp. (Chevron Field, Kleberg County, Tex.) (R.R. District No. 4).	25,550	9-23-66	[2] 11-1-66	4-1-67	16.0	[4] 16.2	RI66-151.
RI67-86	Hidalgo Gas Production Corp., 1401 Elm St., Dallas, Tex. 75202, Attn: Donald K. Young, Esq.	1	10	Texas Eastern Transmission Corp. (Mercedes and Agua Dulce Fields, Nueces and Hidalgo Counties, Tex.) (R.R. District No. 4).	440	9-26-66	[2] 11-1-66	4-1-67	16.0	[3] 16.2	RI66-126.
	do	2	10	Texas Eastern Transmission Corp. (Agua Dulce Field, Nueces County, Tex.) (R.R. District No. 4).	300	9-26-66	[2] 11-1-66	4-1-67	16.0	[4] 16.2	RI66-126.
RI67-87	William Herbert Hunt Trust Estate, 1401 Elm St., Dallas, Tex. 75202, Attn: Donald K. Young, Esq.	1	15	Texas Eastern Transmission Corp. (North Cottonwood Field Liberty County, Tex.) (R.R. District No. 3).	500	9-26-66	[2] 11-1-66	4-1-67	16.0	[3] 16.2	RI66-125.
RI67-88	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202, Attn: Donald K. Young, Esq.	35	9	Texas Eastern Transmission Corp. (South Nome Field, Jefferson County, Tex.) (R.R. District No. 3).	1,000	9-26-66	[2] 11-1-66	4-1-67	16.0	[3] 16.2	RI66-127.
RI67-89	Petroleum Corp. of Texas, et al., Post Office Box 752, Breckenridge, Tex. 76024, Attn: C. R. Anderson, Esq.	18	1	South Texas Natural Gas Gathering Co. (Donna Field, Hidalgo County, Tex.) (R.R. District No. 4).	6,204	9-22-66	[7] 10-23-66	3-23-67	[8] 13.5	[9] [10] [3] 14.5	
RI67-90	Dorsey Buttram, 1612 Camden Way, Oklahoma City, Okla. 73116.	2	6	El Paso Natural Gas Co. (Red Wash Area, Uintah County, Utah).	613	9-21-66	[2] 11-1-66	4-1-67	[11] 15.394	[4] [12] 16.394	
RI67-91	Placid Oil Co. (Operator), et al., 2500 First National Bank Bldg., Dallas, Tex. 75202.	26	14	Texas Eastern Transmission Corp. (Lucky and Liberty Hill Fields, Bienville Parish, La.) (North Louisiana).	10,596	9-20-66	[2] 11-1-66	4-1-67	[6] 17.2366	[3] [4] 17.4417	RI66-132.
	do [13]	29	6	H. L. Hunt,[14] (Whelan Field, Harrison County, Tex.) (R.R. District No. 6).	400	9-20-66	[2] 11-1-66	4-1-67	13.5	[3] 13.7	RI66-132.
	do [13]	30	6	H. L. Hunt,[14] (North Lansing Field, Harrison County, Tex.) (R.R. District No. 6).	146	9-20-66	[2] 11-1-66	4-1-67	15.5	[3] 15.7	RI66-132.
RI67-92	H. L. Hunt, et al., 1401 Elm St., Dallas, Tex. 75202.	4	22	Texas Eastern Transmission Corp. (Whelan-North Lansing Field, Harrison County, Tex.) (R.R. District No. 6).	2,000	9-26-66	[2] 11-1-66	4-1-67	16.0	[3] 16.2	RI66-131.

[1] The stated effective date is the effective date proposed by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 15.025 p.s.i.a.
[4] Includes 1.75 cents per Mcf tax reimbursement.
[5] Pressure base is 14.65 p.s.i.a.
[6] The stated effective date is the first day after expiration of the statutory notice.
[7] Inclusive of a 0.25 cent dehydration allowance paid by Buyer.
[8] Subject to a downward B.t.u. price adjustment for gas having a heating content of less than 1,000 B.t.u.'s.
[9] "Fractured" rate increase. Respondent contractually due 19.5 cents per Mcf.
[10] Initial certificated rate in Opinion No. 359. (Initial contract rate is 18.5 cents per Mcf).
[11] H. L. Hunt resells the gas under its FPC Gas Rate Schedule No. 4 to Texas Eastern Transmission Corp. at an effective rate of 16.0 cates per Mcf subject to refund in Docket No. RI66-131. Hunt's related rate increase to 16.2 cents is suspended herein.
[12] Placid Oil Co. is a corporation of which the common stock is primarily owned by H. L. Hunt and Hunt Trust Estates.

Petroleum Corporation of Texas, et al (Petroleum) request that their proposed rate increase be permitted to become effective as of October 1, 1966. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Petroleum's rate filing and such request is denied.

The proposed 13.7 cents per Mcf rate contained in Supplement No. 6 to Placid Oil Co. (Operator), et al's (Placid) FPC Gas Rate Schedule No. 29, does not exceed the area increased rate ceiling of 14.0 cents per Mcf for Texas Railroad District No. 6 as set forth in the Commission's statement of general policy No. 61–1, as amended, but such increase is related to the buyer's proposed increased rate which is suspended herein because it exceeds the area increased ceiling level. The 15.7 cents per Mcf rate contained in Supplement No. 6 to Placid's FPC Gas Rate Schedule No. 30 exceeds the area increased rate ceiling for the area involved and is related to the buyer's resale rate which, as stated above, is suspended herein because it exceeds the area increased ceiling level.

Dorsey Buttram (Buttram) proposes a "fractured" rate increase, from 15.384 cents to 16.384 cents per Mcf, for a sale of gas to El Paso Natural Gas Co. in the Red Wash Field, Uintah County, Utah. No formal guideline prices have been announced by the Commission for this area. The increased rate of 16.384 cents exceeds both the adjacent Wyoming 13.0 cents increased rate ceiling and the 15.384 cents initial rate certificated in Opinion No. 359 issued June 11, 1962, for sales in the Red Wash Field, and is suspended as ordered herein.

With the exception of Buttram's proposed 16.384 cents per Mcf rate where no formal price ceilings have been announced for the area involved, and Placid's proposed 13.7 cents per Mcf rate, mentioned above, all of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

[F.R. Doc. 66–11473; Filed, Oct. 21, 1966; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 18, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 19, 1966, through October 28, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 66–11537; Filed, Oct. 21, 1966; 8:46 a.m.]

[NY–4393]

FIRST STANDARD CORP.

Order Suspending Trading

OCTOBER 18, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of First Standard Corp. otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 19, 1966, through October 23, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 66–11538; Filed, Oct. 21, 1966; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 593]

FLORIDA

Declaration of Disaster Area

Whereas, it has been reported that during the month of October 1966, because of the effects of certain disasters, damage resulted to residences and business property located in Monroe County in the State of Florida;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid county and areas adjacent thereto, suffered damage or destruction resulting from hurricane Inez and accompanying conditions occurring on or about October 4, 1966.

OFFICE

Small Business Administration Regional Office, 51 Southwest First Avenue, Miami, Fla. 33130.

2. A temporary office will also be located in the Key West, Fla., area, address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1967.

BERNARD L. BOUTIN, *Administrator.*

OCTOBER 7, 1966.

[F.R. Doc. 66–11527; Filed, Oct. 21, 1966; 8:45 a.m.]

[Declaration of Disaster Area 594]

IOWA

Declaration of Disaster Area

Whereas, it has been reported that during the month of October 1966, because of the effects of certain disasters, damage resulted to residences and business property located in Wright County in the State of Iowa;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid county and areas adjacent thereto, suffered damage or destruction resulting from tornado and accompanying conditions occurring on October 14, 1966.

OFFICE

Small Business Administration Regional Office, Fifth and Grand Avenue, Des Moines, Iowa 50309.

2. SBA Representatives will be located in the town of Belmond, Iowa, to accept applications. Address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1967.

BERNARD L. BOUTIN, *Administrator.*

OCTOBER 17, 1966.

[F.R. Doc. 66–11528; Filed, Oct. 21, 1966; 8:45 a.m.]

NATIONAL AERONAUTICS AND SPACE COUNCIL

NORMAN SHERMAN

Notice of Appointment and Compensation

Name and title, Norman Sherman, Special Assistant to Chairman; Salary rate, $23,013 per annum; Position Number, SCS No. 5.

Authority for this appointment. Title III, section 306, subsection (c) reads: "That part of section 201(f) of the National Aeronautics and Space Act of 1958 (72 Stat. 428; 42 U.S.C. 2471(f), fixing a limit of $19,000 on the compensation of seven persons in the National Aeronautics and Space Council, is amended by striking out 'compensated at the rate of not more than $19,000 a year,' and inserting in lieu thereof 'compensated at not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended.'"

Effective date: September 21, 1966.

E. L. LACEY,
Administrative Officer.

[F.R. Doc. 66-11526; Filed, Oct. 21, 1966; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 19, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40751—*Perchloroethylene to Lemont, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-8913), for interested rail carriers. Rates on perchloroethylene, in tank carloads, from specified points in Louisiana and Texas, to Lemont, Ill.

Grounds for relief—Market competition.

Tariffs—Supplements 35 and 112 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4564, respectively.

FSA No. 40753—*Liquid caustic soda to Enka, N.C.* Filed by Southwestern Freight Bureau, agent (No. B-8907), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, subject to minimum shipments of 294 tons of 2,000 pounds each, from Plaquemine, La., to Enka, N.C.

Grounds for relief—Market competition.

Tariff—Supplement 36 to Southwestern Freight Bureau, agent, tariff ICC 4668.

FSA No. 40754—*Liquid caustic soda to Charleston, W. Va., district points.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2867), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from specified points in New Jersey, to Charleston, W. Va., and points in Charleston district.

Grounds for relief—Market competition.

Tariffs—Supplement 78 to Baltimore & Ohio Railroad Co., tariff ICC 24788 and supplement 167 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C-383.

AGGREGATE-OF-INTERMEDIATES

FSA No. 40752—*Perchloroethylene to Lemont, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-8914), for interested rail carriers. Rates on perchloroethylene, in tank carloads, from specified points in Louisiana and Texas, to Lemont, Ill.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariffs—Supplements 35 and 112 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4564, respectively.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-11534; Filed, Oct. 21, 1966; 8:46 a.m.]

[Notice 1430]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 19, 1966.

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-69067. Corrected Notice.[1] By order of September 30, 1966, the Transfer Board approved the transfer to H. A. Pierce and R. E. Schuster, a partnership, doing business as Pierce-Schuster Truck Lines, Freeborn, Minn., of the certificate in Nos. MC-114362, MC-114362 (Sub-No. 4), MC-114362 (Sub-No. 5), and MC-114362 (Sub-No. 8), issued April 6, 1956, June 19, 1957, January 8, 1959, and March 17, 1966, respectively, to H. A. Pierce, doing business as Pierce Truck Lines, Freeborn, Minn., authorizing the transportation of: Manufactured fertilizer, dry fertilizer, agricultural lime, and dry fertilizer materials, from Albert Lea, Minn., and Mason City, Iowa, as specified, to points as designated in Iowa, Minnesota, and Wisconsin, and butter, from specified counties in Minnesota and Iowa, to Albert Lea, Minn. Jack F. C. Gillard, 216 East Main Street, Albert Lea, Minn. 56007, attorney for applicants.

No. MC-FC-69173. By order of October 19, 1966, the Transfer Board approved the transfer to Greater Syracuse Moving & Storage Co., Inc., Clay, N.Y., of the certificate of registration in No. MC-120652 (Sub-No. 1), issued November 5, 1964, to Gilbert H. Gokey, doing business as Greater Syracuse Moving & Storage Co., Clay, N.Y., and corresponding in scope to the grant of intrastate authority set forth in certificate of public convenience and necessity No. 749, issued prior to October 15, 1962, and reissued December 20, 1963, by the New York Public Service Commission. J. M. Hastings, Jr., 800 Hills Building, Syracuse, N.Y. 13202, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-11535; Filed, Oct. 21, 1966; 8:46 a.m.]

[1] Corrected to include MC-114362 (Sub-No. 5).

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