FEDERAL REGISTER

VOLUME 19 NUMBER 231

Washington, Tuesday, November 30, 1954

TITLE 7—AGRICULTURE

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

PART 900—GENERAL REGULATIONS

SUBPART—GENERAL REGULATIONS APPLICABLE TO THE IMPORTATION OF LISTED COMMODITIES

Notice was published in the FEDERAL REGISTER issue of October 8, 1954 (19 F. R. 6502, 6587) that the Department was giving consideration to the issuance, pursuant to authority contained in the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter referred to as the "act," of proposed general regulations to govern the importation of tomatoes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, and eggplants during periods when regulatory orders are effective under marketing orders, issued pursuant to the act, regulating the handling of such commodities produced in the United States. Currently, only avocados, grapefruit, and Irish potatoes are regulated under marketing order programs but the regulations will be applicable to the other listed commodities when marketing orders become applicable to them.

After consideration of all relevant matters presented including the proposals set forth in the aforesaid notice, the rules and regulations hereinafter set forth, are hereby promulgated.

Sec.
900.150 Definitions.
900.151 General.
900.152 Eligible imports.
900.153 Inspection and certification requirements.
900.154 Reconditioning prior to importation.

AUTHORITY: §§ 900.150 to 900.154 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 900.150 *Definitions* — (a) *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 sec.; 68 Stat. 906, 1047).

(b) *Listed commodity.* "Listed commodity" means each of the following commodities listed in section 8e (7 U. S. C. 608e) of the act:

(1) Tomatoes;
(2) Avocados;
(3) Mangoes;
(4) Limes;
(5) Grapefruit;
(6) Green peppers;
(7) Irish potatoes;
(8) Cucumbers; and
(9) Eggplants.

(c) *Department.* "Department" means the United States Department of Agriculture.

(d) *Administrator.* "Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 900.151 *General.* (a) The act provides that, whenever a marketing order issued pursuant to section 8c thereof contains any terms or conditions regulating the grade, size, quality, or maturity of any of the agricultural commodities listed in Section 8e thereof that are produced in the United States, the importation into the United States of any such commodity during the period of time such order is in effect shall, with certain exceptions, be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated under the act.

(b) Additional provisions regulating imports of the particular commodities listed in the act may be issued from time to time. The provisions will be published in the FEDERAL REGISTER reasonably in advance of the date on which they will become applicable to imports.

§ 900.152 *Eligible imports.* Whenever, and to the extent that, the importation of any listed commodity is regulated pursuant to section 8e (7 U. S. C. 608e) of the act, such commodity shall not be eligible for importation into the United States under said section 8e unless, in accordance with the provisions of this subpart, it is first inspected to ascertain whether it is in compliance with the applicable, grade, size, quality, and maturity requirements and an inspection certificate is issued therefor which states that the commodity meets

(Continued on next page)

CONTENTS

Agricultural Marketing Service Page
Proposed rule making:
Milk handling in South Bend-La Porte, Ind., marketing area 7724
Rules and regulations:
Importation of listed commodities 7707
Milk handling:
Chicago, Ill 7710
Greater Kansas City 7709
Knoxville, Tenn 7711
Milwaukee, Wis 7709

Agriculture Department
See also Agricultural Marketing Service.
Notices:
Assignment of functions; Federal-State relations:
Forest Service 7750
Soil Conservation Service 7750

Civil Aeronautics Board
Notices:
Delta Air Lines, Inc., hearing:
Postponement 7752
Reassignment 7752
Rules and regulations:
Operation of moored balloons and large kites; revision of part 7719
Pilot certificates; changes in written and practical test procedures and reports 7719

Coast Guard
Rules and regulations:
Merchant Marine officers and seamen; licensing of officers and motorboat operators and registration of staff officers; miscellaneous amendments 7721

Commerce Department
See Federal Maritime Board.

Customs Bureau
Notices:
Farrell Lines, Inc.; registration of house flag and funnel mark 7749
Proposed rule making:
Antidumping Act, 1921, as amended, procedures under; public hearing 7746

Defense Mobilization Office
Notices:
Integration Committee on Critical Quartz Crystals; request to participate in formation and activities 7758

FEDERAL REGISTER

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

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

Defense Mobilization Office—Continued — Page
Rules and regulations:
Housing and Home Finance Agency; assignment of defense mobilization responsibilities — 7724

Federal Maritime Board
Notices:
Agreement filed for approval; member lines of Atlantic Conference — 7750
Show cause notices why registration certificates should not be canceled:
Calvo, Agustin — 7750
Commonwealth Domestic & Overseas Corp — 7750
Documentation & Service Co. — 7751
Huff, A. C., & Co — 7751
Iglesias, Lucy — 7751
Merito's Forwarding Co — 7752
Queen Vant Forwarding Co. — 7752

CONTENTS—Continued

Federal Power Commission — Page
Notices:
Hearings, etc.:
Blalack & Walter — 7752
Boyce, John V., Trustee for Stephens Petroleum Co — 7753
DeLange, Rodney, and O. Neathery, Jr — 7753
El Paso Natural Gas Co — 7758
Engel, C. F — 7756
Forehand, Dee — 7755
Gladstone Gasoline Co., Inc. — 7753
Kelly, Laurence Corbett — 7755
Kight, Raymond — 7756
Lake, P. G., Inc., et al — 7756
Pan-Am Southern Corp — 7754
Pan American Production Co. — 7757
Ronssel, Louis J — 7757
Shearer, James I — 7757
Sinking Creek Oil & Gas Co. — 7755
Smith, L. E., and L. G. Cameron — 7756
Vincent & Welch, Inc., et al — 7754
Weimer, Frank G., and John R. Fitzhugh — 7754

Federal Reserve System
Proposed rule making:
Advances and discounts by Federal Reserve Banks — 7746

General Services Administration
Notices:
Salem Fish Cultural Station, Salem, Maine; transfer — 7758

Internal Revenue Service
Proposed rule making:
Beer — 7726
Rules and regulations:
Income tax: Taxable years beginning after Dec. 31, 1951; filing information returns reporting dividends paid by national farm loan associations and production credit associations for calendar years after 1953 — 7722
Miscellaneous excise taxes; new procedure for certification of exempt officials and procurement of narcotics by such officials — 7723

Interstate Commerce Commission
Notices:
Applications for relief:
Bananas from New Orleans, La., to Memphis, Tenn — 7760
Beans, peas and lentils, dried, from West to southwestern territory — 7759
Coal, bituminous fine, from mines in Illinois to Chicago, Ill — 7760
Fertilizer and anhydrous ammonia to Howell's Transfer, Ga., and Maxine, Ala — 7759
Iron, scrap, from:
Cairo, Ill., to Steelton, Ky. — 7760
South to Mt. Vernon, Ohio — 7759
Rubber, crude, from Texas and Louisiana to Guntersville, Ala — 7760

State Department
Rules and regulations:
Fees for services — 7720

Treasury Department
See Coast Guard; Customs Bureau; Internal Revenue Service.

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title 7 — Page
Chapter IX:
Part 900 — 7707
Part 907 — 7709
Part 913 — 7709
Part 941 — 7710
Part 967 (proposed) — 7724
Part 988 — 7711

Title 12
Chapter II:
Part 201 (proposed) — 7746

Title 14
Chapter I:
Part 20 — 7719
Part 48 — 7719

Title 19
Chapter I:
Part 14 (proposed) — 7746

Title 22
Chapter I:
Part 2 — 7720

Title 26 (1939)
Chapter I:
Part 39 — 7722
Part 151 — 7723

Title 26 (1954)
Chapter I:
Part 245 (proposed) — 7726

Title 32A
Chapter I (ODM):
DMO I–14 — 7724

Title 46
Chapter I:
Part 10 — 7721

United States import requirements under said section 8e.

§ 900.153 *Inspection and certification requirements.* (a) Any such inspection may be performed, and an inspection certificate issued, by an inspector of the Federal or Federal-State Inspection Service or of such other governmental inspection service as may be designated, or approved, by the Administrator.

(b) In the event the required inspection is performed prior to the arrival of the commodity at the port of entry, the inspection certificate that is issued must show that the inspection was performed at the time of loading the commodity for direct transportation to the United States; and, if the commodity is to be transported by water, the certificate must show that the inspection was performed at the time of loading onto the vessel.

(c) Inspection certificates shall cover only the quantity of the commodity that is being imported at a particular port of entry by a particular importer.

(d) The inspections performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any

inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any listed commodity to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The name of the importer (consignee);

(4) The commodity inspected;

(5) The quantity of the commodity covered by the certificate;

(6) The principal identifying marks on the containers;

(7) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(8) The following statement, if the facts warrant:

Meets U. S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937.

§ 900.154 *Reconditioning prior to importation.* Nothing contained in this subpart shall be deemed to preclude any importer from reconditioning prior to importation any shipment of a listed commodity for the purpose of making it eligible for importation under the act.

Effective time. This subpart shall become effective on November 30, 1954.

It is hereby found that good cause exists for making the provisions of this subpart effective upon publication in the FEDERAL REGISTER in that (a) the basic procedure whereby importations of the listed commodities may be effected in accordance with the provisions of section 8e of the act and the provisions of this subpart should be made known to all interested persons as soon as practicable, and (b) the provisions of this subpart will not become applicable to the importation of any such commodity unless and until notice is given of the specified grade, size, quality, and maturity requirements that must be met in order that the importation may be made.

Dated: November 24, 1954.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 54-9424; Filed, Nov. 29, 1954; 8:50 a. m.]

[Docket No. AO-122-A8]

PART 907—MILK IN MILWAUKEE, WIS., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 907.0 *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 each of the previously issued amendments thereto; and all 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 orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Milwaukee, Wisconsin, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

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

(2) The parity prices of milk produced for sale in the said marketing area 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 such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is 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.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making effective not later than December 1, 1954 this order amending the order, as amended. This action is necessary in the public interest to reflect the current marketing conditions. Accordingly, any delay in the effective date of this order beyond the aforesaid date will seriously impair the orderly marketing of milk in the Milwaukee, Wisconsin, marketing area. The provisions of the said amendatory order are well known to handlers, a recommended decision in the matter having been issued October 26, 1954, and a final decision having been issued on November 23, 1954. Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. Therefore, it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this amendatory order 30 days after its publication in the FEDERAL REGISTER (see section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping the milk covered by this order amending the order, as amended, which is marketed within the Milwaukee, Wisconsin, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period (August 1954) were engaged in the production of milk for sale in the said marketing area.

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

1. In § 907.51 (a) delete the proviso and substitute: "*Provided*, That such Class I price differential shall be increased or decreased, respectively, 3 cents for each full percent that the current supply-demand ratio computed pursuant to paragraph (e) of this section is greater or less than 72 percent, but shall not be increased or decreased more than 24 cents due to the supply-demand ratio."

2. In § 907.51 delete paragraph (b) and substitute:

(b) *Class II milk.* The price for Class II milk shall be the basic formula price plus the following amounts as indicated: August, September, October, and November, 70 cents; all other months, 45 cents: *Provided*, That such Class II price differentials shall be adjusted by the amount of any adjustment made in the Class I price differential for the same month pursuant to the proviso of paragraph (a) of this section.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 26th day of November 1954, to be effective on and after the 1st day of December 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-9467; Filed, Nov. 29, 1954; 8:52 a. m.]

PART 913—MILK IN GREATER KANSAS CITY MARKETING AREA

ORDER SUSPENDING A CERTAIN PROVISION

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress, as amended, and as re-enacted and amend-

ed by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1940 ed. 601 et seq.), hereinafter referred to as the "act", and of the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area, hereinafter referred to as the "order", it is hereby found and determined that the provision "and for each minus percentage point in excess of 2 in the net utilization percentage the Class I price shall be decreased 4 cents" appearing in § 913.51 (a) (3) of the order does not tend to effectuate the declared policy of the act with respect to all milk subject to the provisions of the order for the delivery period of December 1954.

It is hereby further found and determined that notice of proposed rule making and public procedure thereon in connection with the issuance hereof is impracticable, unnecessary and contrary to the public interest in that (1) the information upon which this action is based did not become available in sufficient time for such compliance; (2) the issuance of this suspension order affective as set forth below is necessary to reflect current marketing conditions and to facilitate, promote, and maintain the orderly marketing of milk produced for the said marketing area; and (3) this action will serve to maintain the price for Class I milk for December 1954 at approximately present levels. The changes caused by this suspension order will not require of persons affected substantial or extensive preparation prior to its effective date.

It is therefore ordered, That the following provision of the order is hereby suspended with respect to all milk subject to the provisions of the order for the delivery period of December 1954: In § 913.51 (a) (3) the provision "and for each minus percentage point in excess of 2 in the net utilization percentage the Class I price shall be decreased 4 cents".

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 26th day of November 1954, to be effective on and after December 1, 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-9465; Filed, Nov. 29, 1954; 8:52 a. m.]

[Docket No. AO-101-A18]

PART 941—MILK IN CHICAGO, ILL., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 941.0 *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 each of the previously issued amendments thereto; and all 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 orders (7 CFR Part 900), a public hearing was held at Chicago, Illinois, on June 1–4, 7–11, and 14–15, 1954, upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

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

(2) The parity prices of milk produced for sale in said marketing area 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 such milk and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is 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.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making effective not later than December 1, 1954, this order amending the order, as amended. This action is necessary in the public interest to reflect current marketing conditions. Accordingly, any delay in the effective date of this order beyond the aforesaid date will seriously impair orderly marketing of milk in the Chicago, Illinois, marketing area. The provisions of the said amendatory order are well known to handlers, the public hearing having been held in June 1954, and a final decision having been issued on November 23, 1954. Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. Therefore, it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this amendatory order 30 days after its publication in the FEDERAL REGISTER (see section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determination.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping the milk covered by this order amending the order, as amended, which is marketed within the Chicago, Illinois, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period (August 1954) were engaged in the production of milk for sale in the said marketing area.

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

1. In § 941.7 (b) delete the word "July" and substitute the word "September."

2. In § 941.40 (b) after the words "plastic cream," delete the words "powdered cream."

3. Delete § 941.40 (c) and substitute the following:

(c) Any milk moved as milk, skim milk, or cream in fluid form from a regulated plant to the establishment of a commercial food or drug processor located within the surplus milk manufacturing area or to an unregulated milk plant so located, which milk plant manufactured during the delivery period butter, cheese, evaporated milk, condensed milk or skim milk, whole milk powder, nonfat dry milk solids, casein, powdered ice cream mix, or powdered cream, shall be classified under § 941.41 as follows:

(1) If the unregulated plant or establishment maintains adequate daily records showing the utilization of the milk, skim milk or cream, it shall be classified according to its use;

(2) If the unregulated plant or establishment maintains adequate daily records showing the utilization of all receipts of milk and milk products, and the milk, skim milk or cream received from the regulated plant is commingled with other receipts, the receipts of milk, or skim milk from the regulated plant shall be allocated, according to such daily records, to the available quantity of Class III (a) milk, Class III milk, Class IV milk, Class II milk and Class I milk, in that sequence; and any such receipts of cream from the regulated plant shall be allocated to Class IV milk, Class III milk, Class III (a) milk, Class II milk and Class I milk, in that sequence;

(3) If such unregulated plant or establishment does not make available to the market administrator adequate utilization records on a daily basis, but

does make available to the market administrator adequate utilization records on a monthly basis, the milk or skim milk received from the regulated plant shall be allocated to the available quantity of Class I milk, Class II milk, Class III milk, Class III (a) milk and Class IV milk, in that sequence; and the cream received from a regulated plant shall be allocated to the available quantities of Class II milk, Class III milk, Class III (a) milk, Class IV milk and Class I milk, in that sequence;

(4) If the unregulated plant or establishment described in subparagraphs (1), (2), and (3) of this paragraph, disposes of milk, skim milk or cream in bulk to another unregulated milk plant located within the surplus milk manufacturing area which is engaged in manufacturing one of the products named in this paragraph, the classification of such milk, skim milk or cream shall be ascertained at the second unregulated milk plant in the manner prescribed in subparagraphs (1), (2), or (3) of this paragraph whichever would be applicable to the second unregulated plant; and

(5) If the unregulated plant or establishment described in subparagraphs (1), (2) or (3) of this paragraph, disposes of milk, skim milk or cream in bulk to another unregulated plant located within the surplus milk manufacturing area which is not engaged in manufacturing one of the products named in this paragraph, such milk moved as milk or skim milk shall be classified as Class I milk, and such milk moved as cream in fluid form shall be classified as Class II milk.

4. In § 941.41 (b) after the words "plastic cream," delete the words "powdered cream," and after the words "ice cream mix (liquid" delete the words "or powder."

5. In § 941.51 delete paragraph (d).

6. In § 941.52 (d) delete subparagraph (4).

7. Delete § 941.52 (a) (1) and substitute the following:

(1) The price for Grade A Class I milk, except as set forth in subparagraph (3) of this paragraph, shall be the basic formula price plus the following amount for the delivery periods indicated: August, September, October, and November, $1.10; December, January, February, and July, $0.90; all others, $0.70: *Provided*, That such Class I price differential shall be increased, or decreased, respectively, 3 cents for each full percent that the current supply-demand ratio is greater or less than 72 percent, but shall not be increased or decreased more than 24 cents because of the supply-demand ratio.

8. Delete § 941.52 (b) (1) and substitute the following:

(1) The price for Grade A Class II milk, except as set forth in subparagraph (3) of this paragraph, shall be the basic formula price plus the following amount for the delivery periods indicated: August, September, October, and November, $0.70; all others, $0.45: *Provided*, That such Class II price differential shall be adjusted by the amount of any adjustment made in the Class I price differential for the same delivery period pursuant to the proviso of paragraph (a) (1) of this section.

9. In § 941.52 delete paragraph (c) and substitute:

(c) *Class III milk.* The price per hundredweight for Class III milk shall be the higher of the prices resulting from the formula set forth in paragraph (d) of this section and the average (adjusted to the nearest full cent) of the prices per hundredweight reported to have been paid, or to be paid, for such delivery period to farmers for milk containing 3.5 percent butterfat delivered during such delivery period at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator: *Provided*, That the price resulting from the formula set forth in this paragraph shall apply at all times to Class III (a) milk.

Companies and Location

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

10. In § 941.52 (d) (3) delete the period at the end of the sentence and add the following: "and adjust to the nearest full cent."

11. In § 941.60 delete the words "and from other handlers."

12. In § 941.67 (a) (1) (i) after the words "skim milk" insert the words "concentrated milk, condensed skim milk."

13. In § 941.71 (f) delete the words "4 cents nor more than 5 cents," and substitute therefor the words "6 cents nor more than 7 cents."

14. In § 941.50 change the comma just preceding the word "except" to a period, and delete the rest of the sentence.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 26th day of November 1954, to be effective on and after the 1st day of December 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-9464; Filed, Nov. 29, 1954; 8:52 a. m.]

[Docket No. AO 195-A7]

PART 988—MILK IN KNOXVILLE, TENN., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

Sec.
988.0 Findings and determinations.

DEFINITIONS

988.1 Act.
988.2 Secretary.
988.3 Department of Agriculture.
988.4 Person.
988.5 Knoxville, Tennessee Marketing Area.
988.6 Cooperative association.
988.7 Producer-handler.
988.8 Approved plant.
988.9 Pool plant.
988.10 Nonpool plant.
988.11 Handler.
988.12 Producer.
988.13 Producer milk.
988.14 Other source milk.
988.15 Base milk.
988.16 Excess milk.

MARKET ADMINISTRATOR

988.20 Designation.
988.21 Powers.
988.22 Duties.

REPORTS, RECORDS AND FACILITIES

988.30 Reports of receipts and utilization.
988.31 Other reports.
988.32 Records and facilities.
988.33 Retention of records.
988.34 Reports to cooperative associations.

CLASSIFICATION OF MILK

988.40 Skim milk and butterfat to be classified.
988.41 Classes of utilization.
988.42 Shrinkage.
988.43 Responsibility of handlers and reclassification of milk.
988.44 Transfers.
988.45 Computation of skim milk and butterfat in each class.
988.46 Allocation of skim milk and butterfat classified.

MINIMUM PRICES

988.50 Basic formula price.
988.51 Class prices.
988.52 Butterfat differential to handlers.
988.53 Location differentials to handlers.

DETERMINATION OF BASE

988.60 Daily average base.
988.61 Base rules.
988.62 Announcement of established bases.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

988.70 Computation of value of milk.
988.71 Computation of uniform price.
988.72 Computation of uniform prices for base milk and excess milk.
988.73 Notification of handlers.

PAYMENTS

988.80 Time and method of payment for producer milk.
988.81 Producer-settlement fund.
988.82 Payments to the producer-settlement fund.
988.83 Payments out of the producer-settlement fund.
988.84 Adjustment of errors in payment.
988.85 Butterfat and location differentials to producers.
988.86 Statement to producers.
988.87 Expense of administration.
988.88 Marketing services.
988.89 Termination of obligations.

APPLICATION OF PROVISIONS

988.90 Producer-handlers.
988.91 Plants subject to other Federal orders.
988.92 Handlers operating nonpool plants.
988.93 Rate of payment on unpriced milk.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

988.100 Effective time.
988.101 Suspension or termination.
988.102 Continuing power and duty of the market administrator.
988.103 Liquidation after suspension or termination.

MISCELLANOUS PROVISIONS

Sec.
988.110 Separability of provisions.
988.111 Agents.

AUTHORITY: §§ 988.0 to 988.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 988.0 *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 each 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 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, as amended, 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, as amended, regulating the handling of milk in the Knoxville, Tennessee, 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 amended, and as hereby further 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 of and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is 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.

(b) *Additional findings.* It is necessary, in the public interest, to make this order, amending the order, as amended, effective December 1, 1954. Any delay beyond that date in the effective date of this order would unnecessarily postpone needed changes in the order.

The provisions of the said order are well known to handlers. The recommended decision containing all amendment provisions of this order was issued November 1, 1954 (19 F. R. 7182). The decision of the Secretary concerning the proposed amendments was issued November 18, 1954 (19 F. R. 7583). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. It is hereby found, therefore, that good cause exists for making this order effective December 1, 1954. (Sec. 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order amending the order, as amended, which is marketed within the Knoxville, Tennessee, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (September 1954), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Knoxville, Tennessee, marketing area shall be in conformity to and in compliance with the following terms of this order as amended, and as hereby further amended to read as follows:

DEFINITIONS

§ 988.1 *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.).

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

§ 988.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

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

§ 988.5 *Knoxville, Tennessee, marketing area.* "Knoxville, Tennessee, marketing area," hereinafter called the "marketing area" means all of the territory within the boundaries of Knox County including the territory within the corporate limits of the City of Knoxville, all of the territory within the corporate limits of the Cities of Alcoa and Maryville in Blount County and all of that part of the Development of Oak Ridge which lies within Anderson County, all in the State of Tennessee.

§ 988.6 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 988.7 *Producer-handler.* "Producer-handler" means any person who produces Grade A milk under a dairy farm inspection permit issued by any duly constituted health authority, and who processes milk from his own production, distributing all or a portion of such milk within the marketing area as Class I milk, but who receives no milk from producers.

§ 988.8 *Approved plant.* "Approved plant" means the premises, buildings and facilities of any milk processing or packaging plant from which Grade A milk or skim milk is shipped during the month to a pool plant, or from which Class I milk is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) in the marketing area: *Provided,* That if the appropriate health authority does not permit a portion of such plant to be used for the handling of milk or milk products to be distributed under a Grade A label, such portion of the plant shall not be considered as part of the approved plant.

§ 988.9 *Pool plant.* "Pool plant" means (a) an approved plant from which a volume of Class I milk equal to not less than 50 percent of its receipts of producer milk and milk and skim milk from other pool plants is disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (including plant stores): *Provided,* That not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area; (b) an approved plant from which at least 50 percent of the hundredweight of its producer milk received during the month is shipped in the form of milk, skim milk or cream to a plant qualified pursuant to paragraph (a) of this section and classified as Class I milk: *Provided,* That if such shipments amount to not less than 65 percent of the producer milk of such plant during each of the preceding months of August through February, such plant may, upon written application to the market administrator on or before March 1 of any year be designated as a pool plant for the months of March through July of such year, or (c) from the effective date hereof, through July 1955, any plant not otherwise qualified as a pool plant pursuant to this section, from which Class I milk was disposed of to retail or wholesale outlets in the marketing area during the month of September 1954, which meets the following conditions for the month: (1) The operator of such plant makes application on or before the 10th

day of the month requesting designation of such plant as a pool plant for the month; (2) Class I milk is disposed of during the month to retail or wholesale outlets in the marketing area, and (3) the plant was not a non-pool plant pursuant to this order during the previous month.

§ 988.10 *Nonpool plant.* "Nonpool plant" means any milk receiving, manufacturing, processing or bottling plant other than a pool plant.

§ 988.11 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant, (b) a producer-handler or (c) a cooperative association with respect to milk diverted for its account pursuant to § 988.12.

§ 988.12 *Producer.* "Producer" means any person except a producer-handler who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant: *Provided,* That if such milk is diverted for his account by a handler from a pool plant to a nonpool plant (a) any day during the months of March through August, or (b) on not more than 10 days during the month in any of the other months of the year, the milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which it was diverted.

§ 988.13 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers, or (b) diverted from the pool plant to a nonpool plant in accordance with the conditions set forth in § 988.12.

§ 988.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month in the form of products designated as Class I milk pursuant to § 988.41 (a) except (1) such products received from other pool plants, or (2) producer milk; and (b) products designated as Class II milk pursuant to § 988.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 988.15 *Base milk.* "Base milk" means milk received by a handler from a producer during any of the months of April through August which is not in excess of such producer's daily average base computed pursuant to § 988.60 multiplied by the number of days in such month.

§ 988.16 *Excess milk.* "Excess milk" means milk received by a handler from a producer during any of the months of April through August which is in excess of base milk received from such producer during such month, and shall include all milk received during such month from a producer from whom no daily average base can be computed pursuant to § 988.60.

MARKET ADMINISTRATOR

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

§ 988.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

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

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

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

(d) Pay, out of the funds provided by § 988.87, (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 988.88, 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 herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose at his discretion to handlers and producers, unless otherwise directed by the Secretary the name of any person who, after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 988.30 or (2) payments pursuant to §§ 988.80 and 988.82;

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

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

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

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 10th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 988.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month each handler, except a producer-handler, shall report for each of his approved plants for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in producer milk including for the months of April through August a statement of the aggregate quantity of base milk;

(b) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 988.41 (a) (1) received from other handlers;

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

(d) Inventories of products designated as Class I milk pursuant to § 988.41 (a) (1) on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

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

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

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer: (i) The total pounds of milk received from such producer or cooperative association, including, for the months of April through August, the total pounds of base and excess milk, (ii) the days on which milk was received from such producer, if less than a full month, (iii) the average butterfat content of such milk, and (iv) the net amount of such handler's payment, to each 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 is received in the form of milk, fluid skim milk or cream at his pool plant(s), 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 utilization of butterfat and

skim milk as the market administrator may prescribe.

§ 988.32 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (b) weigh, sample, and test for butterfat content all milk and milk products handled; (c) verify payment to producers; and (d) make such examination of operations, equipment, and facilities, as are necessary and essential to the proper administration of this part or any amendments thereto.

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

§ 988.34 *Reports to cooperative associations.* On or before the 15th day after the end of each month, the market administrator shall report to each cooperative association as described in § 988.88 (b), upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handlers were used in each class.

CLASSIFICATION OF MILK

§ 988.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat at pool plants, which is required to be reported pursuant to § 988.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 988.41 through 988.46.

§ 988.41 *Classes of utilization.* Subject to the conditions set forth in §§ 988.42 through 988.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream and any cream product, except frozen cream and ice cream mix; (2) in inventory of products designated as Class I milk pursuant to subparagraph (1) of this paragraph; and (3) not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat: (1) Used to produce any item other than those specified in paragraph (a) of this section; (2) disposed of and used for livestock feed; and (3) in shrinkage assigned to Class II milk pursuant to § 988.42.

§ 988.42 *Shrinkage.* The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in the pool plant(s) of the handler;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 988.12) and other source milk by 0.025;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 988.41 (a) and (b) (1) and (2) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

§ 988.43 *Responsibility of handlers and reclassification of milk.* All skim milk and butterfat shall be classified as Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in Class II.

§ 988.44 *Transfers.* (a) Skim milk and butterfat when transferred or diverted by a handler from a pool plant to a pool plant of another handler (except a producer-handler) in the form of products designated as Class I milk pursuant to § 988.41 (a) of this section shall be classified as Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 988.30: *Provided,* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 988.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(b) As Class I milk if transferred to a producer-handler in the form of products designated as Class I milk in § 988.41 (a) (1);

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a nonpool plant, except that of a producer-handler, unless (1) the handler claims Class II utilization in his report submitted pursuant to § 988.30, (2) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant during the month in the use indicated in such statement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I milk: *And provided further,* That if such plant disposes of fluid cream to another nonpool plant which conforms with the requirements of subparagraphs (1), (2) and (3) of this paragraph, such cream shall be classified as Class II milk

§ 988.45 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors the monthly report submitted for the pool plant(s) of each handler pursuant to § 988.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 988.46 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations for the pool plant(s) of each handler for each month shall be the pounds in such class allocated to producer milk received by such handler:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 988.42 (d);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of other source skim milk in products defined as Class I milk pursuant to § 988.41 (a) received in consumer packages from a nonpool plant or the pounds of skim milk classified as Class I milk and transferred during the month to such nonpool plant whichever is less.

(3) Subtract from the pounds of skim milk remaining in Class II milk the remaining pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 988.41 (a) (1) on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class I milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class II milk;

(6) Subtract from the remaining pounds of skim milk in each class the skim milk received from the pool plants of other handlers in the form of products designated as Class I milk in § 988.41 (a) (1), according to its classification as determined pursuant to § 988.44 (a);

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

(8) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

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

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

MINIMUM PRICES

§ 988.50 *Basic formula price.* The basic formula price per hundredweight (computed to the nearest cent) to be used in determining the price for Class I milk pursuant to § 988.51 (a) shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraph (a), (b), or (c) of this section, or § 988.51 (b).

(a) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

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

and an amount computed by multiplying the butterfat differential computed pursuant to § 988.85 (a) by 5.

(b) The price per hundredweight computed as follows:

(1) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the month;

(2) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on such Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by 7, add 30 percent thereof, and then multiply by 4.

(c) The price per hundredweight computed as follows: Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the arithmetical average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture is above 5 cents.

§ 988.51 *Class prices.* Subject to the provisions of §§ 988.52 and 988.53 each handler shall pay producers, at the time and in the manner set forth in §§ 988.80 through 988.86, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk computed pursuant to § 988.46:

(a) *Class I milk price.* The price per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph:

(1) Add $1.50;

(2) Add if the utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than, or subtract if it is more than the base utilization range, an amount determined by multiplying the net utilization percentage calculated pursuant to subparagraph (4) of this paragraph or 12, whichever is less, by the appropriate rate as follows:

Pricing months:	*Rate (cents)*
December through February and August	2
March through July	1
September through November	4

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk disposed of from all pool plants for the first and second preceding months into the total hundredweight of producer milk for the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number.

(4) Calculate a "net utilization percentage" by determining the amount by which the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds the higher figure or is less than the lower figure of the appropriate base utilization range in the following table:

Pricing month	First and second preceding months	Base utilization range
January	November-December	111-114
February	December-January	112-115
March	January-February	113-116
April	February-March	114-118
May	March-April	115-119
June	April-May	120-125
July	May-June	120-125
August	June-July	116-120
September	July-August	114-118
October	August-September	113-116
November	September-October	110-112
December	October-November	110-112

(b) *Class II milk price.* For the months of December through August the price for Class II milk shall be the price determined pursuant to subparagraph (1) of this paragraph rounded to the nearest cent. For all other months it shall be the basic formula price or the price determined pursuant to subparagraph (1) of this paragraph, plus 25 cents, whichever is less.

(1) The arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the Market Administrator or to the Department of Agriculture on or before the 6th day after the end of the month.

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Carnation Co., Galax, Va.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.

§ 988.52 *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 988.46, is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply by 0.13 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the immediately preceding month;

(b) *Class II milk.* Multiply by 0.115 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month;

Provided, That such butterfat differential shall not exceed the result obtained

by dividing the Class II price pursuant to § 988.51 (b) by 40.

§ 988.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 50 miles or more from the City Hall in Knoxville, Tennessee, by shortest hard-surface highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 988.41 (a) (1) to another pool plant and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 988.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the city hall in Knoxville (miles):	*Rate per hundredweight (cents)*
50 but less than 60	15
For each additional 10 miles or fraction thereof, an additional	1.5

Provided, That for purposes of calculating such location differential, products so designated as Class I milk which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 988.46 (a) (1) through (4) and the comparable steps in § 988.46 (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

DETERMINATION OF BASE

§ 988.60 *Daily average base.* Subject to the rules set forth in § 988.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer by all handlers during the months of September through February immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of February, inclusive, but not less than 120 days: *Provided,* That in the case of a producer whose milk is received at a plant which becomes fully subject to regulation for the first time upon the effective date of this amendment, such base shall be that which would have been calculated for such producer for the entire base forming period beginning September 1, 1954, or that which would have been calculated for the period beginning November 1, 1954, whichever is higher.

§ 988.61 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) An entire base may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice: *Provided,* That if the base is held jointly and such joint holding is terminated, the entire base transferable by any joint holder shall be his portion of such jointly held base as indicated by the joint holders.

§ 988.62 *Announcement of established bases.* On or before April 1, of each year, the market administrator shall notify each producer and the handler receiving milk from such producers of the daily base established by such producer.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 988.70 *Computation of value of milk.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to adjust for errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and (e) add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 988.46 (a) (3) and (b) by the rate of payment on unpriced milk determined pursuant to § 988.93 adjusted where required by the location differential applicable at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided,* That if the nonpool plant source of any milk or milk product received at a pool plant is not clearly established such milk or product shall be considered to have been received from a source at the location of the pool plant where it is classified.

§ 988.71 *Computation of uniform price.* For each of the months of September through March the market administrator shall compute the uniform price per hundredweight for producer milk, of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 988.70 for all handlers who made the reports prescribed in § 988.30 for such month, except those in default of payments required pursuant to § 988.82 for the preceding month;

(b) Subtract if the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 988.85 (a), and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments pursuant to § 988.80 (b) (2);

(d) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 988.83;

(e) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 988.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through August, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the value computed pursuant to § 988.70 for all handlers who made the reports prescribed in § 988.30 for such month, except those in default of payments required pursuant to § 988.82 for the preceding month;

(b) Subtract, if the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 988.85 (a), and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments pursuant to § 988.80 (b) (2).

(d) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 988.83;

(e) Compute the value on a 4.0 percent butterfat basis of the aggregate quantity of excess milk for all handlers included in the computation pursuant to paragraph (a) of this section by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in such computation by the applicable prices for such Class II milk of 4.0 percent butterfat content beginning in series with the lowest price for Class II milk of 4.0 percent butterfat content; multiplying the hundredweight of sucn milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers;

(g) Subtract the value of excess milk determined by applying the uniform price obtained in paragraph (f) of this section from the value of all milk obtained in paragraph (d) of this section;

(h) Divide the amount obtained in paragraph (g) of this section by the total

hundredweight of base milk included in these computations;

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

§ 988.73 *Notification of handlers.* On or before the 10th 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 totals thereof;

(b) For the months of April through August the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 988.71 and 988.72 and the butterfat differential computed pursuant to § 988.85 (a); and

(d) The amounts to be paid by such handler pursuant to §§ 988.82, 988.87, and 988.88 or § 988.92.

PAYMENTS

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

(b) On or before the 15th day after the end of each month each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 988.71, for the months of September through March, or at not less than the uniform price for base milk computed pursuant to § 988.72 with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 988.72 with respect to excess milk received from such producer, for the months of April through August, subject to the following adjustment: (1) The butterfat differential pursuant to § 988.85 (a), (2) less location differentials pursuant to § 988.85 (b), (3) less payment made pursuant to paragraph (a) of this section, (4) less marketing service deductions pursuant to § 988.88, (5) less proper deductions authorized in writing by the producer, and (6) adjusted for any error in calculating payment to such individual producer for past months; *Provided,* That if such handler has not received full payment for such month pursuant to § 988.83 he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator: *Provided further,* That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator: *And provided further,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall if so requested pay such cooperative association, on or before the 13th day after the end of each month an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

§ 988.81 *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 §§ 988.82, 988.84, and 988.92, and out of which he shall make all payments pursuant to §§ 988.83 and 988.84: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 988.82 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 988.70 for such month is greater than the value of milk received by such handler from producers during the month, computed at the applicable minimum uniform prices as specified in §§ 988.71 and 988.72 adjusted for the differentials provided for in § 988.85.

§ 988.83 *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, any amount by which the total value of his milk computed pursuant to § 988.70 for such month is less than the value of his producer milk received during the month, computed at the applicable minimum uniform prices as specified in §§ 988.71 and 988.72 adjusted for the differentials provided for in § 988.85. 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 per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

§ 988.84 *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 988.82, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 988.83, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 988.80, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 988.85 *Butterfat and location differentials to producers.*—(a) *Butterfat differential to producers.* If, during the month, any handler has received, from any producer or cooperative association, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in § 988.80 (b), shall add to the uniform price(s) per hundredweight paid to such producer or cooperative association for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or may deduct from the uniform price(s) per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply by 0.12 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month and adjust to the nearest one-tenth of a cent.

(b) *Location differential to producers.* In making payment to producers pursuant to § 988.80, the uniform price to be paid for producer milk and the uniform price for base milk received at a pool plant located 50 miles or more from the City Hall in Knoxville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the following rate:

Distance from the city hall in Knoxville (miles):	*Rate per hundredweight (cents)*
50 but less than 60	15
For each additional 10 miles or fraction thereof an additional	1.5

§ 988.86 *Statement to producers.* In making payments required by § 988.80 each handler shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer including for the months of April through August, the pounds of base milk and excess milk;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 988.80 and 988.85;

(d) The rate which is used in making the payment if such rate is more than the applicable minimum;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 988.88, together with a description of the respective deductions; and

(f) The net amount of payment to the producer or cooperative association.

§ 988.87 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk (including such handler's own production), (b) other source milk at his pool plant(s), and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 988.88 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 988.80 (b), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 988.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before December 1, 1951, under section 8c (15) (A) of the act or before a court.

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

(1) The amount of the obligation;

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

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

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

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

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

APPLICATION OF PROVISIONS

§ 988.90 *Producer-handlers.* Sections 988.40 through 988.46, 988.50 through 988.53, 988.60 through 988.62, 988.70 through 988.73, 988.80 through 988.88 shall not apply to a producer-handler.

§ 988.91 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be considered as a nonpool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to §§ 988.30 and 988.31) and allow verification of such reports by the market administrator:

(a) Any pool plant qualified pursuant to § 988.9 (a) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that more Class I milk is disposed of from such plant on routes to retail or wholesale outlets in the Knoxville, Tennessee marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

(b) Any pool plant qualified pursuant to § 988.9 (b) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualified as a pool plant pursuant to the provisions of § 988.9 (b) during the preceding August through February period.

§ 988.92 *Handlers operating nonpool plants.* Sections 988.42 through 988.46; 988.50 through 988.53; 988.70 through 988.73; 988.80 through 988.83; 988.87 and 988.88 shall not apply to a handler in his capacity as the operator of a nonpool plant, except that such handler shall pay to the market administrator on or before the 12th day after the end of each month for deposit into the producer-settlement fund an amount of money computed by multiplying the hundredweight of Class I milk disposed of from his nonpool plant(s) (except any nonpool plant subject to the classification and pricing provisions of another order issued pursuant to the act) during the month to retail or wholesale outlets in the marketing area (including deliveries by vendors or sales through plant stores) by the rate of payment on unpriced milk calculated pursuant to § 988.93.

§ 988.93 *Rate of payment on unpriced milk.* The rate of payment per hundredweight on unpriced Class I milk shall be calculated as follows:

(a) For the months of March through July, subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential.

(b) For the months of August through February, subtract the uniform price to producers from the Class I price.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

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

§ 988.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

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

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

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

MISCELLANEOUS PROVISIONS

§ 988.110 *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.

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

Issued at Washington, D. C. this 26th day of November 1954 to be effective on and after December 1, 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-9466; Filed, Nov. 29, 1954; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 4]

PART 20—PILOT CERTIFICATES

CHANGES IN WRITTEN AND PRACTICAL TEST PROCEDURES AND REPORTS

The purpose of this supplement is to provide a uniform period of 24 months for the acceptance by the Administrator of reports of the successful completion of examinations or tests by applicants for a private or commercial pilot certificate; to relax the experience requirements prerequisite to taking the instrument written examination; to require a commercial pilot who has not taken a practical test on cross-country flying to demonstrate his competence; and to make certain editorial changes throughout the text of CAM 20.

1. Section 20.26–1 as published in 19 F. R. 2386 on April 23, 1954, is amended by adding a new paragraph (d), to read as follows:

§ 20.26–1 *Demonstration of skill; general (CAA interpretations which apply to § 20.26).* * * *

(d) *Flight test before written is passed.* The private pilot flight test may be taken before or after the written examination. An applicant who takes the flight test before passing the written examination will be issued a written report of the result of the test.

2. Section 20.34–1 as published in 19 F. R. 2387 on April 23, 1954, is amended by deleting the last sentence, beginning, "This report, and reports previously * * *".

3. Section 20.34–2 as published in 19 F. R. 2387 on April 23, 1954, is amended by adding the following: "A passing grade of 70 percent is required. Applicants who pass the written examination will be given a report of the grade achieved."

4. Section 20.36–1 as published in 19 F. R. 2387 on April 23, 1954, is revised to read as follows:

§ 20.36–1 *Demonstration of skill; general (CAA policies which apply to § 20.36).* The commercial pilot flight test may be taken either before or after the written examination. An applicant who takes the flight test before the written examination is passed will be given a written report of the result of the test.

5. Section 20.36–2 as published in 19 F. R. 2387 on April 23, 1954, is amended by adding the following item at the end of the list in Phase I of paragraph (b) (1):

§ 20.36–2 *Flight test; airplanes (CAA policies which apply to § 20.36 (a)).* * * *

Cross-country: Applicants who have not passed the private pilot flight test since August 1, 1951, will be required to demonstrate the competence in cross-country flight planning and flying required for a private pilot certificate by passing Phase II of the private pilot flight test, entitled Cross-country.

6. Section 20.42–1 as published in 19 F. R. 2387 on April 23, 1954, is revised to read as follows:

§ 20.42–1 *Demonstration of aeronautical knowledge (CAA policies which apply to § 20.42 (a)).* (a) The applicant must pass, within five hours at one sitting, the written examination furnished by the Administrator, which consists of three sections: Civil Air Regulations, Meteorology, and Radio Navigation. To pass, a grade of 70 percent must be achieved in each section. A written report of the grades achieved will be issued for each examination taken.

(b) An applicant for an instrument rating who is the holder of a private pilot certificate will not be required to take an additional examination to demonstrate compliance with § 20.34 (a). The portions of 43 and 60 pertaining to instrument flight rules, as well as the navigation and meteorology requirements of § 20.34 (a) are included in the instrument rating written examination.

7. Section 20.42–2 as published in 19 F. R. 2387 on April 23, 1954, is revised to read as follows:

§ 20.42–2 *Prerequisites for taking the instrument written examination (CAA policies which apply to § 20.42 (a)).* An applicant for an instrument rating written examination will be required to show that he meets the requirements of § 20.42 (b) (1); and, in addition, either has (a) at least 30 hours of instrument flight time under actual or simulated instrument flight conditions, or (b) if enrolled in an instrument flight course in a certificated instrument flying school, the written recommendation of the chief flight instructor of that school.

8. The following policy is hereby adopted:

§ 20.60–3 *Period of acceptance for reports of successful completion of examinations and tests (CAA policies which apply to § 20.60).* Reports of the results of oral or written examinations, or of flight tests, issued applicants for pilot certificates and ratings subsequent to June 1, 1954, will be accepted by the Administrator for a period of 24 months from the date of the examination or test reported thereon. Reports issued to an applicant on or before May 31, 1954, and acceptable under policies existing on that date, will continue to be accepted until May 31, 1956.

(Sec. 205, 52 Stat. 984, U. S. C. 425. Interpret or apply secs. 602, 308, 52 Stat. 1007, 1011, as amended; 49 U. S. C. 551, 558)

This supplement shall become effective November 30, 1954.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-9439; Filed, Nov. 29, 1954; 8:53 a. m.]

PART 48—OPERATION OF MOORED BALLOONS AND LARGE KITES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 24th day of November 1954.

Currently effective Part 48 applies to moored balloons of a certain size and specification, and sets up certain requirements for the operation of these balloons in order to safeguard air traffic. Recently it has been shown that kites when flown in certain locations or at sufficient altitude can also be a hazard to the flight of aircraft. In fact, large size kites having a 12-foot and 24-foot wing span and constructed of wood and nylon are now being manufactured and sold on a national basis. It has been reported that one of these kites was flown recently at an altitude of 5,000 feet on a civil airway. In view of this, the Board determined that there is a present need for amending Part 48 to apply to kites weighing more than five pounds. No change has been made in the moored balloon requirements.

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

Inasmuch as 4 of the 5 sections of the present Part 48 are hereby amended, the entire part is set forth below, including appropriate amendments.

In consideration of the foregoing, the Civil Aeronautics Board hereby revises Part 48 of the Civil Air Regulations (14 CFR Part 48, as amended) effective December 29, 1954, to read as follows:

Sec.
48.1 Scope.
48.2 General.
48.3 Operation requiring permit.
48.4 Operation requiring notice.
48.5 Rapid deflation device.

AUTHORITY: §§ 48.1 to 48.5 issued under sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551.

§ 48.1 *Scope.* This part shall apply to moored balloons having a diameter of more than 6 feet or a gas capacity of more than 115 cubic feet and kites weighing more than 5 pounds when operated anywhere in the United States, including the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

§ 48.2 *General.* Moored balloons having a diameter of more than 6 feet or a gas capacity of more than 115 cubic feet or kites weighing more than 5 pounds may be operated without permit from or notice to the Administrator when operated below 150 above the surface at a location more than 5 miles from the boundary of an airport. Kites and balloons of smaller size than specified herein are exempt from compliance with the regulations of this subchapter.

§ 48.3 *Operation requiring permit.* Unless operated under the conditions specified in § 48.2, moored balloons or kites subject to the regulations in this part shall be operated under the authority of and in compliance with the terms and conditions of a permit issued by the Administrator when such kites or moored balloons are operated:

(a) Closer than 500 feet to the base of any cloud, or

(b) During the hours of darkness, or

(c) When ground visibility is less than 3 miles, or

(d) At altitudes more than 500 feet above the surface, or

(e) Within 5 miles of the boundary of an airport.

§ 48.4 *Operation requiring notice.* Unless operated under the conditions specified in § 48.2 or § 48.3, written notice must be submitted to the nearest office of the Civil Aeronautics Administration at least 30 days prior to the date of operation when moored balloons or kites subject to the regulations in this part are operated between 150 and 500 feet above the surface. Such notice shall contain the name and address of the owner and person operating such balloon or kite, the date or dates of such proposed operation, and the location and altitude at which the proposed operation will be conducted.

§ 48.5 *Rapid deflation device.* No moored balloon having a diameter of more than 6 feet or a gas capacity of more than 115 cubic feet shall be operated unless it is equipped with a device or means of automatic and rapid deflation in the event of an escape from its moorings.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 54-9429; Filed, Nov. 29, 1954; 8:50 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.238]

PART 2—FEES FOR SERVICES

Sec.
2.1 Schedule of fees.
2.2 Authenticating defined.
2.3 Issuance of uncertified copies.
2.4 Requesting services and forwarding remittances.

AUTHORITY: §§ 2.1 to 2.4 issued under R. S. 161, 213; 5 U. S. C. 22, 166.

CROSS REFERENCES: For fees in connection with passport services, see Part 51 and § 103.1 of this chapter. For fees in connection with visa services, see Part 44 and § 103.1 of this chapter. For the tariff of United States Foreign Service fees covering invoice services, passport services, visa services for aliens, services to vessels and seamen, and miscellaneous notarial and other services, see § 103.1 of this chapter. For regulations concerning deposit of funds, see Part 9 of this subchapter.

§ 2.1 *Schedule of fees.*

Item No.	Description of service	Fee
1	For each search for a record of which an authenticated or certified copy or extract is issued, and for each signed statement of negative result of a search. (The routine servicing of requests of persons having permission to do research in the records under section 183.2 of the Manual of Regulations and Procedures of the Department of State is not to be considered as searching within the meaning of this Item, unless an authenticated or certified copy or extract of a record is issued.)	$0.90
2	For making out and authenticating copies of records in the Department of State, i. e., for copying (by photostat or otherwise) and certifying to correctness without affixing official seal, per sheet. (Fees for search and for official seal, if required, are chargeable separately under Items 1 and 4.)	$0.10
3	The same service as described in Item 2, when performed for any officer of the United States (Federal or State) in a matter relating to the duties of his office	No fee
4	For certifying under official seal to the correctness of copies or extracts made by the Department from its records, for each certification regardless of number of sheets in document. (Fees for search and for copying, if required, are chargeable separately under Items 1 and 2.)	$0.50
5	For authenticating Federal, State or Territorial seals, or for certifying to the official character of officers of the Department of State or of foreign diplomatic or consular officers in the United States, on any document submitted to the Department for that purpose	$1.50
6	For any service as described in Items 1, 4, or 5 above—	
	(a) Required for official use by an agency of the Federal Government or of any of the States or their subdivisions, or of the District of Columbia or of any of the territories and possessions of the United States	No fee
	(b) Required for the official use of any foreign government, or of an international agency of which the Government of the United States is a member, in circumstances where furnishing the service is an appropriate courtesy	No fee
	(c) Performed in response to a subpoena or other order of a court	No fee
	(d) Performed in providing to a party in interest, one copy of the transcript of a hearing held before a panel, board, or other authority of the Department	No fee
	(e) Performed in providing to a party in interest, for delivery to and retention by an agency of the Federal Government, one copy under seal of a personal document (viz., consular form report of birth, certificate of witness to marriage, or death of an American citizen, etc.)	No fee
	(f) Performed in providing to a near relative or legal representative, one copy under seal of a consular form report of death of an American citizen	No fee

§ 2.2 *Authenticating defined.* (a) For the purposes of Items 1, 2, and 3 in § 2.1, "authenticating" is defined in the sense in which the word was employed in the act of September 15, 1789, from which section 213 of the Revised Statutes (5 U. S. C. 166) is derived, that is to say, certifying to the correctness of a copy of a record, without affixing an official seal. In connection with the derivation of 5 U. S. C. 166 it is to be noted that an amending act of April 23, 1856, had abolished a fee of 25 cents which had originally been prescribed for "authenticating" any paper under seal.

(b) Where used elsewhere in this part, the word "authenticating" is defined in conformity with the Department's present usage as certifying to the genuineness of a seal, or to the official character or position of an official. It is an act done with the intention of causing a document to be admitted in evidence in a court of law or in administrative proceedings before other competent authorities.

§ 2.3 *Issuance of uncertified copies.* (a) Item 2 of § 2.1 prescribes a fee for

the combined service of copying and certifying to the accuracy of a record. It is for application in all cases where a record must be especially copied or reproduced, in order to comply with a request.

(b) Item 2 of § 2.1 shall not be construed to impose a fee upon the performance of such customary activities as issuance, without certification of correctness, of copies of records (1) from supplies kept for distribution without charge, such as press releases and information leaflets for visitors; (2) as part of normal and generally reciprocal services performed by the Library of the Department at the request of similar agencies or institutions; or (3) in lieu of or as enclosures to letters with the purpose of saving clerical costs in preparing mail.

§ 2.4 *Requesting services and forwarding remittances.* (a) Request for services, accompanied by remittance of the exact total fee chargeable (as well as by postage stamps or stamped return envelope if registered mail, air mail, or special delivery mail service is desired), should be addressed to the Authentication Officer, Department of State, Washington 25, D. C.

(b) Fees must be paid in full prior to issuance of requested documents. If, because of uncertainty as to existence of a record or of the number of sheets needing to be copied, the exact fee chargeable in a given case is not known in advance, the Authentication Officer will upon request ascertain it and (by form post card or other suitable means) notify the person requesting the service.

(c) Remittances should be in the form either of (1) cash, (2) check or bank draft drawn on a bank in the continental United States, or (3) postal money order. Remittances should be made payable to the order of the Department of State.

Effective date. The charges hereby established will become effective 30 days from the date of publication in the FEDERAL REGISTER. However, prior to the effective date, consideration will be given to any comments pertaining thereto which are submitted to the Department of State in writing.

Dated: November 22, 1954.

For the Secretary of State.

I. W. CARPENTER, Jr.,
Assistant Secretary of State for Personnel and Administration.

[F. R. Doc. 54-9423; Filed, Nov. 29, 1954; 8:50 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

Subchapter B—Merchant Marine Officers and Seamen

[CGFR 54-47]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

MISCELLANEOUS AMENDMENTS

A notice regarding proposed changes in the navigation and vessel inspection rules and regulations was published in the FEDERAL REGISTER dated August 20, 1954 (19 F. R. 5315–5319), as Items I to XXVII, inclusive, on the Agenda to be considered by the Merchant Marine Council, and a public hearing was held on September 21, 1954, at Washington, D. C. This document is the second of a series of documents covering the rules and regulations considered at this public hearing.

All the comments, views, and data submitted in connection with the items considered by the Merchant Marine Council at this public hearing have been very helpful to the Coast Guard and are very much appreciated. On the basis of the information received certain proposed regulations were revised. However, acknowledgment of the comments received or reasons why the suggested changes were or were not adopted cannot be furnished since personnel is not available to handle the necessary correspondence. This document contains the amendments based on Item II of the Agenda considered by the Merchant Marine Council.

The amendment to 46 CFR 10.02–5, regarding requirements for original licenses, sets up another acceptable means of establishing citizenship, revises required documentary evidence of service, revises the basis on which credit is given for service on foreign vessels, and cancels requirements regarding professional examinations conducted by Merchant Marine Details abroad.

The amendment to 46 CFR 10.02–7, regarding requirements for raise of grade of license, adds the requirements showing the basis on which credit is given for service on foreign vessels for a raise in grade, and cancels the requirements regarding professional examinations conducted by Coast Guard Merchant Marine Details abroad.

The amendment to 46 CFR 10.20–3 (a) (2) and (3), regarding the general requirements for an applicant for a motorboat operator's license, will require applicants for original motorboat operators' licenses to be able to speak, write, and understand English, except in the Commonwealth of Puerto Rico where Spanish is the recognized and legal language, but such operator who is unable to speak English will have his license limited to the navigable waters of the United States in the vicinity of the Commonwealth of Puerto Rico.

The amendment to 46 CFR 10.05–13, regarding professional requirements for master of Great Lakes steam or motor vessels, revises the requirements to show the minimum tonnage acceptable for an unlimited license in a similar manner to that presently established for masters holding ocean licenses.

The amendment to 46 CFR 10.05–39 (a) revises the minimum service required to qualify an applicant for license as pilot of any class by canceling reference to service in a lower grade while holding a license as second class pilot for a raise in grade to first class pilot. A determination has been made that the only requirement for a raise in grade to first class pilot from second class pilot is that the applicant be 21 years of age or over. All other requirements for the two grades of pilotage are identical.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments to the regulations are prescribed which shall become effective 90 days after the date of publication of this document in the FEDERAL REGISTER, except those regulations which provide additional alternate requirements which become effective upon the date of publication of this document in the FEDERAL REGISTER:

SUBPART 10.02—GENERAL REQUIREMENTS FOR ALL DECK AND ENGINEER OFFICERS' LICENSES

1. Section 10.02–5 (c) is amended by revising subparagraph (9) and renumbering to (10) and by adding a new subparagraph (9), which reads as follows:

§ 10.02–5 *Requirements for original licenses.* * * *

(c) *Citizenship.* * * *

(9) For persons deriving citizenship through naturalization of their parents, a Certificate of Citizenship issued by the U. S. Immigration and Naturalization Service is acceptable as documentary evidence of citizenship.

(10) If no one of the requirements set forth in subparagraphs (1) to (9) of this paragraph can be met by the applicant, he should make a statement to that effect, and in an attempt to establish citizenship, he may submit for consideration data of the following character:

(i) Report of the Census Bureau showing the earliest record of age or birth available. Request for such information should be addressed to the Director of the Census, Washington 25, D. C. In making such request, definite information must be furnished the Census Bureau as to the place when the first census was taken after birth of the applicant, giving the name of the street and number of the house, or the names of the cross streets between which the house was located if residing in a city; or the name of the town, township, precinct, magisterial district, militia district, beat or election district if residing in the country; also the names of parents, or the names of other persons with whom residing on the date specified.

NOTE: A census was taken in the following years: June 1, 1860, 1870, 1880, and 1900; April 15, 1910; January 1, 1920; April 1, 1930; April, 1940, and April, 1950. (Records for 1890 are not available.)

(ii) Affidavits of parents, or relatives; or affidavits by two or more responsible citizens of the United States, stating citizenship; school records; immigration records; or insurance policies.

2. Section 10.02–5 (g) is amended by revising subparagraphs (1) and (4) to read as follows:

(g) *Experience or training.* (1) All applicants for original licenses shall present to the Officer in Charge, Marine Inspection, letters, discharges or other

official documents certifying the amount and character of their experience and the names of the vessels on which acquired. The Officer in Charge, Marine Inspection, must be satisfied as to the bona fides of all evidence of experience or training presented and may reject any evidence that he has reason to believe is not authentic or which does not sufficiently outline the amount, type and character of service. Photstatic or certified copies of the aforementioned evidence may be accepted for the purpose of filing with the application. No license shall be considered as satisfactory evidence of any qualifying experience required herein.

* * * * *

(4) Experience and service acquired on foreign vessels is creditable for establishing eligibility for an original license, subject to evaluation by the Commandant to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters and operating conditions. An applicant who has obtained his qualifying experience on foreign vessels is required to submit satisfactory documentary evidence of such service in the forms prescribed by subparagraph (1) of this paragraph, which certify the amount, character and scope of his service in these respects.

3. Section 10.02–5 (h) (3) is canceled.

4. Section 10.02–7 is amended by canceling paragraph (g) (2) and by revising paragraph (f) (6) and adding paragraph (f) (7), reading as follows:

§ 10.02–7 *Requirements for raise of grade of license.* * * *

(f) *Experience or training.* * * *

(6) Experience and service acquired on foreign vessels while holding a valid U. S. Merchant Marine Officer's license is creditable for establishing eligibility for a raise in grade, subject to evaluation by the Commandant to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters and operating conditions. An applicant who has obtained his qualifying experience on foreign vessels is required to submit satisfactory documentary evidence of such service in the forms prescribed by subparagraph (2) of this paragraph which certify the amount, character and scope of his service in these respects.

(7) The fact that an applicant for a raise in grade of license is on probation as a result of action under R. S. 4450, as amended (46 U. S. C. 239), does not itself make such an applicant ineligible, provided he meets all the requirements for such raise in grade. However, a raise in grade of license issued under these circumstances will be subject to the same probationary conditions as were imposed against the seaman's certificates or licenses in proceedings under R. S. 4450, as amended. Any such applicant must file an application for license in the usual manner, and the offense for which he was placed on probation will be considered on the merits of the case in determining his fitness to hold the license applied for. Nothing in the regulations in this part, however, shall be construed to permit an applicant to be examined for a raise in grade of license during any period when a suspension without probation or a revocation imposed pursuant to R. S. 4450, as amended, is effective against his license or certificate.

SUBPART 10.05—PROFESSIONAL REQUIREMENTS FOR DECK OFFICERS' LICENSES (INSPECTED VESSELS)

5. Section 10.05–13 is amended to read as follows:

§ 10.05–13 *Master of Great Lakes steam and motor vessels.* (a) The minimum service required to qualify an applicant for a license as master is listed in this paragraph. In order to be eligible for an unlimited license, an applicant must have acquired his service on vessels of 4000 gross tons or over, except as specified herein.

(1) 1 year's service as first class pilot while acting in the capacity of first mate on Great Lakes steam or motor vessels. (No change in existing regulation.)

(2) 2 years' service as first class pilot while acting in the capacity of second mate on Great Lakes steam or motor vessels.

(3) 4 years' service as first class pilot on Great Lakes steam or motor vessels, one year of which shall have been while acting in the capacity of second mate.

(4) 1 year's service as master of Great Lakes steam or motor vessels of 150 gross tons or under while acting under the authority of a first class pilot's license, for a license as master of Great Lakes steam and motor vessels of not over 1000 gross tons.

(5) 1 year's service as master and/or first class pilot on lakes, bays and sounds steam or motor towing vessels, together with 1 year of service as first class pilot on Great Lakes vessels of over 100 gross tons, for a license as master of Great Lakes towing vessels of not over 750 gross tons.

6. Section 10.05–39 *Pilot* is amended by canceling paragraph (a) (1) and by redesignating subparagraphs (2) and (3) to (1) and (2) so that paragraph (a) reads as follows:

§ 10.05–39 *Pilot.* (a) The minimum service required to qualify an applicant for license as pilot of any class, except for special license as pilot of steam vessels of 10 gross tons and under, is:

(1) 3 years' service in the deck department of any vessel; and,

(i) 25 percent of such service shall have been obtained within the 3 years immediately preceding the date of application; and,

(ii) The required service shall include a minimum number of round trips over the particular waters for which the applicant seeks license as pilot as may be fixed by the Officer in Charge, Marine Inspection, having jurisdiction (Experience on motorboats, as defined by statutes, may be accepted by the Officer in Charge, Marine Inspectiton); and,

(iii) One of the required number of round trips shall have been made within the 6 months immediately preceding the date of application; or,

(2) 2 years' service in the deck department of vessels propelled by machinery, which vessels navigate canals and small lakes like Seneca and Cayuga Lakes in New York State, 1 year of which service shall have been within 2 years immediately preceding the date of application, for a license as pilot of steam vessels of limited tonnage and routes.

SUBPART 10.20—MOTORBOAT OPERATORS' LICENSES

7. Section 10.20–3 (a) is amended by adding subparagraphs (2) and (3), reading as follows:

§ 10.20–3 *General requirements.* (a). * * *

(2) An applicant for a motorboat operator's license must demonstrate his ability to speak, read and understand English as found in the pilot rules, aids to navigation publications, emergency equipment instructions and machinery instructions.

(3) An applicant for a motorboat operator's license to operate motorboats on the navigable waters of the United States in the vicinity of Puerto Rico, who speaks Spanish only, will be issued a license restricted to those waters.

(R. S. 4405, as amended, 4462, as amended, 46 U. S. C. 375, 416. Interpret or apply R. S. 4438, as amended; sec. 2, 29 Stat. 188, as amended, secs. 1, 2, 49 Stat. 1544, sec. 7, 53 Stat. 1147, sec. 17, 54 Stat. 166, as amended; 46 U. S. C. 224, 225, 367, 247, 526p)

Dated: November 19, 1954.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U. S. Coast Guard,
Acting Commandant.

[F. R. Doc. 54–9417; Filed, Nov. 29, 1954; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6113; Regs. 118]

PART 39—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

REQUIREMENT FOR FILING INFORMATION RETURNS REPORTING DIVIDENDS PAID BY NATIONAL FARM LOAN ASSOCIATIONS AND PRODUCTION CREDIT ASSOCIATIONS FOR CALENDAR YEARS AFTER 1953

On August 21, 1954, a proposed revision of § 39.148 (a)–1 (b) of Regulations 118 (26 CFR Part 39) appeared in tentative form attached to a notice of proposed rule making published in the FEDERAL REGISTER (19 F. R. 5341). No suggestions having been received from interested persons regarding the proposal, the amendment, as proposed, is hereby adopted, and reads as set forth below.

Section 39.148 (a)–1 (b) of Regulations 118 (26 CFR Part 39), is amended by inserting in the third sentence thereof after the words "described in section 101 (10), (11), (12), or (13)," the following: "or, for calendar years after 1953, in the

case of a national farm loan association or a production credit association,".

(53 Stat. 32, 65, 467; 26 U. S. C. 62, 148, 3791)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: November 24, 1954.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 54-9418; Filed, Nov. 29, 1954; 8:49 a. m.]

Subchapter C—Miscellaneous Excise Taxes

[T. D. 48; Regs. 5]

PART 151—REGULATIONS UNDER THE HARRISON NARCOTIC LAW, AS AMENDED

NEW PROCEDURE FOR CERTIFICATION OF EXEMPT OFFICIALS AND PROCUREMENT OF NARCOTICS BY SUCH OFFICIALS

Narcotic Regulations 5 (26 CFR Part 151), relating to narcotics subject to the Harrison Narcotic Law, but only as prescribed and made applicable to the Internal Revenue Code of 1939 by Treasury Decision 4884, approved February 11, 1939 (26 CFR, Cum. Supp., p. 5875), are amended as follows:

PARAGRAPH 1. Section 151.90 (Article 90) is amended as follows:

(A) By striking subparagraph (4) of paragraph (d) and

(B) By redesignating subparagraph (5) of paragraph (e) as subparagraph (4) of paragraph (d).

PAR. 2. Section 151.92 (Article 92) is amended to read as follows:

§ 151.92 *Military and naval officers.* Each official of the Army, Navy, Air Force, Public Health Service, or National Guard, who is authorized to procure or purchase narcotic drugs or preparations for official use shall file with the district director of internal revenue for the area in which such person is officially located a certificate on Form 1964 from a superior official showing the name, official address and official status of the person claiming exemption. Each such certificate shall be renewed on or before July 1 of each year. With respect to the procurement of narcotic drugs and preparations by officials of the character indicated, see § 151.94, *Procurement of narcotics.* No exemption certificate shall be required under this section for officials who only prescribe, dispense, or administer narcotic drugs in the course of their official duties.

PAR. 3. Section 151.93 (Article 93) as amended by Treasury Decision 44, approved November 24, 1950, is further amended to read as follows:

§ 151.93 *Civil officers.* Each civil officer of the United States, or the District of Columbia, or of any State, Territory, or insular possession of the United States, or any county, municipality, or other political subdivision, who is engaged in any activity mentioned in the act and who claims exemption from registration and tax under the act, shall file with the district director of internal revenue for the district in which he is located a certificate on Form 1964 from a superior official showing the official status and official address of the person claiming exemption and (a) whether he is to purchase the narcotics or obtain from official stocks and (b) whether or not the officer is to administer or dispense narcotics. Each such certificate shall be renewed on or before July 1 of each year and, except in the case of officials of the United States, shall be accompanied by an inventory on the reverse side of Form 1964 of the narcotic drugs and preparations on hand at the time the certificate is filed.

PAR. 4. Section 151.94 (Article 94) is amended to read as follows:

§ 151.94 *Procurement of narcotics.* (a) When properly notified, as provided in § 151.92 relating to military and naval officers, of the right of an official to exemption with authority to purchase narcotics or, as provided in § 151.93, of the right of a civil officer to exempt status, the district director of internal revenue will assign to such official an exemption identification number. The same number shall be retained throughout all the consecutive periods for which the official is entitled to exemption. To each such official who is certified to the district director as an authorized purchaser of narcotics (except an official of a civil defense organization) will be issued without charge and without additional request, a book of official narcotic order blanks at the time of his original certification. Each order for the purchase of taxable narcotic drugs by such official shall be prepared on one of these order blanks which will be similar to, and will be prepared, filled, filed and otherwise handled in the same manner as official opium order forms supplied to persons registered under the law. (See Chapter V, Articles 62 to 90 and the instructions in the order book). Orders for exempt narcotic preparations (see §§ 151.2 and 151.90) shall not be prepared on such blanks but shall be on official stationery of the institution or agency for which they are being purchased, bearing the exemption identification number assigned to the purchasing official by the district director. Each order, whether on a blank supplied by the district director for taxable narcotics or on the stationery of the agency for exempt narcotic preparations, must be signed by the official named in the certificate filed with the district director and to whom the exemption identification number has been assigned. When an exempt official is replaced by another or for any reason is no longer authorized to make purchases of narcotics for the institution or agency for which previously certified to the district director, the unused official order blanks remaining in his possession or custody shall not be used by his successor but shall be returned to the district director for cancellation, and new forms will be issued to the successor. After using the forms in the first book issued to him, an official can procure additional blanks without charge by making application on Form 679, a copy of which is placed in each book of forms issued.

(b) The exempt status of an official of a civil defense organization will be recognized only during a state of civil defense emergency proclaimed by the President or by concurrent resolution of the Congress as provided by law. Such officials will not procure narcotics through the use of official internal revenue order forms but shall use an order form approved by the Federal Civil Defense Administration. The order form shall bear the signature, title, official address, and exemption identification number of the person executing the form, and will otherwise be handled in the manner prescribed for official internal revenue order forms.

(c) If an official is engaged in a private business or privately practices a profession in which narcotics are manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered, or given away, such official shall register and pay the special tax for such private activity, and the narcotic drugs for such private purposes shall be secured upon regular order forms purchased under such registration.

PAR. 5. Section 151.95 (Article 95) is amended to read as follows:

§ 151.95 *Prescriptions.* (a) Prescriptions for narcotic drugs and preparations issued by exempt officials as such, in the course of official medical treatment of persons entitled to such official medical treatment, shall be prepared on official blanks if such blanks are provided, or otherwise on official stationery, and shall bear the signature, title, official address and exemption identification number of the person by whom executed. In the case of persons exempt under § 151.92 to whom no exemption identification number has been issued, the prescription shall bear, in lieu of the exemption identification number, the corps and jacket or serial number of the issuing officer. Such prescriptions issued in the course of official professional practice only and otherwise meeting the requirements of the regulations in this part may be filled by a duly registered druggist although they do not bear a registry number of the issuing practitioner.

(b) This procedure shall not apply in the case of prescriptions written by an exempt official in the treatment of a private patient, i. e., a patient not entitled to receive medical treatment from the physician in the course of the latter's official duties. In prescribing and dispensing narcotic drugs to such private persons, the officer is subject to all the requirements of the Federal narcotic law, including registration and payment of tax, as are imposed upon other physicians conducting private medical practice.

PAR. 6. Section 151.96 (Article 96) is amended by inserting the following new sentence after the first sentence thereof: "In time of a civil defense emergency, the Federal Civil Defense Administration order form may, in addition, be filled by local establishments, such as retail stores, and from Federal sources."

Because the purpose of this Treasury decision is merely to change the procedure to be followed by Government and State officials in applying for exemption and in procuring narcotics, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective

date limitation of section 4 (c) of said act.

This Treasury decision shall be effective on the first day of the first month which commences more than sixty days after publication in the FEDERAL REGISTER.

(53 Stat. 270, 277, 283, 383; 26 U. S. C. 2551, 2559, 2606, 3222)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.
H. J. ANSLINGER,
Commissioner of Narcotics.

Approved: November 24, 1954.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 54-9420; Filed, Nov. 29, 1954; 8:49 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Defense Mobilization

[Defense Mobilization Order I-14]

DMO I-14—ASSIGNMENT OF DEFENSE MOBILIZATION RESPONSIBILITIES TO THE HOUSING AND HOME FINANCE AGENCY

By virtue of the authority vested in me pursuant to the National Security Act of 1947, as amended; Reorganization Plan No. 3, effective June 12, 1953; the Defense Production Act of 1950, as amended; Executive Order 10480 of August 15, 1953; and in order to facilitate the coordination of Federal policies and programs for current defense activities and readiness for any future mobilization, it is hereby ordered:

1. The Housing and Home Finance Administrator will be responsible for the development and administration of preparedness measures relating to housing and those community facilities for which the Agency has responsibility. Such preparedness measures should be undertaken within a work program which is consistent with the defense mobilization assumptions and objectives for the Government as a whole. It should also take account of the delegation of authority and responsibility from Federal Civil Defense Administration. To assure consistency with the mobilization program as a whole, the proposed work program will be submitted to the Director of the Office of Defense Mobilization for review.

2. The measures for which the Housing and Home Finance Administrator is responsible are as follows:

a. Develop requirements for housing and community facilities construction, repair and rehabilitation in event of mobilization or attack on the United States and translate these needs into resources required.

b. Develop plans for and be prepared to undertake such housing and community facilities programs as will be necessary in event of mobilization or attack on the United States.

c. Under the policy direction and coordination of the Office of Defense Mobilization, develop programs and regulations relating to the financing, rent stabilization, and allocation of housing for varying mobilization assumptions.

d. Develop and maintain plans to insure the continuity of the essential functions of the Housing and Home Finance Agency in event of attack on the United States.

3. The work program to be undertaken by the Housing and Home Finance Agency shall indicate the priority and scope of the work to be carried on in the assigned areas. Periodic reports of programs shall be submitted as requested.

4. This order is not intended to affect any delegation of authority heretofore conferred upon the Housing and Home Finance Administrator.

OFFICE OF DEFENSE MOBILIZATION
ARTHUR S. FLEMMING,
Director.

NOVEMBER 26, 1954.

[F. R. Doc. 54-9488; Filed, Nov. 26, 1954; 3:22 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

[Docket No. AO 170-A8]

HANDLING OF MILK IN SOUTH BEND-LA PORTE, INDIANA, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

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, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at South Bend, Indiana, on July 6-7, 1954, pursuant to notice thereof which was issued on June 29, 1954 (19 F. R. 4040).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on November 5, 1954, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto. This recommended decision was published in the FEDERAL REGISTER on November 10, 1954 (19 F. R. 7298).

A previous recommended decision (19 F. R. 4999) filed on August 4, 1954, with the Hearing Clerk, and a decision of the Secretary filed on August 16, 1954 (19 F. R. 5283) dealt with issue No. 1 and with issue No. 2 on a temporary basis. This decision deals with issues No. 2 through No. 5.

The material issues, findings and conclusions, and general findings of the recommended decision (19 F. R. 7298; F. R. Doc. 54-8866) are hereby approved and adopted as the findings and conclusions of this decision as if set forth in full herein, with the following exceptions:

1. Delete in their entirety the findings and conclusions with respect to Class I price differentials beginning in column 2, page 7298, and substitute therefor the following:

4. *Class I differentials.* Class I differentials over the basic formula price should be revised.

With the base-excess plan of producer payment now in effect, seasonal variations in the Class I differentials should be reduced. Also, the seasonal pattern should be aligned closer to that of the Chicago area. These adjustments should not result in any material change in the annual level of the Class I price.

Official notice is taken of current published reports of the market administrator showing the present supply situation. Production for this area in August was 0.39 percent below a year ago. Production has declined from 15 percent above that of a year ago in January 1954 to slightly under the level of last year in August. But, the record shows that supplies last year were ample and that about the same level of production will fully meet the anticipated needs of the market. Class I sales in July this year were about the same as last year and in August they were nearly 5 percent below August 1953. Under these circumstances there should be no material change in the average annual Class I (fixed) differential over the basic formula price.

The chief concern of both producers and handlers was with a seasonal pattern of fixed differentials that would align prices closer with prices paid by handlers in surrounding market areas. While it was recognized that the adoption of the base-excess plan diminished the need for seasonal variation in the Class I price, parties were agreed that it is necessary to have a seasonal change in the differentials in order to keep the price here reasonably competitive throughout the year with prices in areas with adjoining or over-lapping milksheds. Of these, Chicago is the most influential. To be competitive with Chicago as well as with other markets, the $1.30 differential for fall and early winter months must be continued. Shortening this period from seven to five months conforms more closely with Chicago area pricing. For the months of January and February the Class I differential would be $1.10 and for March through July, $0.90. This would continue the average annual differential the same as at present but adjusts the seasonal pattern closer to that of prices in the Chicago area.

2. The proposed amendment to the order contained in the decision of the Secretary issued August 16, 1954, and the amendment to the order issued effective September 1, 1954 (19 F. R. 5574), did not bring § 967.80 (c) into full conformity with other order changes resulting from the adoption of the base and excess method of paying producers. The language for § 967.80 (c) adopted in the amendment effective September 1, 1954 should be deleted, and the language effective prior to that amendment should be substituted, with a slight change, however, in the heading of the schedule therein which sets forth the rate of advance payments. The column of brackets should be entitled "When the uniform price or base price for the preceding delivery period is:".

Rulings on exceptions. In arriving at the findings and conclusions included in this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions herein are at variance with the exceptions, such exceptions are overruled.

Determination of representative period. The month of August 1954 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the South Bend-La Porte, Indiana, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for a sale in the marketing area specified in such marketing order, as amended.

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 South Bend-La Porte, Indiana, Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the South Bend-La Porte, Indiana, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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 amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 24th day of November 1954.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the South Bend–La Porte, Indiana, Marketing Area

§ 967.0 *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 each 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, as amended, 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, as amended, regulating the handling of milk in the South Bend-La Porte, Indiana, 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 amended, and as hereby further 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 amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is 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.

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

1. In § 967.51 delete paragraph (a) and substitute the following:

(a) Add to the basic formula price (3.5 percent milk) the following amount for the delivery period indicated: August, September, October, November and December, $1.30; January and February, $1.10; all others $0.90; *Provided,* That such Class I price shall be increased or decreased respectively, 3 cents for each full percent that the current supply-demand ratio is greater or less than 72 percent, but shall not be increased or decreased more than 24 cents due to the supply-demand ratio.

2. In § 967.51 delete paragraph (b) and substitute the following:

(b) Add together the amount computed pursuant to § 967.50 (c) (2) and any amount per hundredweight by which (on a 3.5 percent butterfat basis) the effective basic formula price pursuant to § 967.50 is higher than the price computed pursuant to § 967.50 (c), divide such sum by 0.035, and then add thereto the following amount for the delivery period indicated: August, September, October, November and December, $13.75; all others, $12.00: *Provided,* That such amount for the delivery period indicated shall be increased or decreased, as the case may be, by the amount per hundredweight resulting from the proviso of paragraph (a) of this section divided by 0.035. The resulting amount shall be the price of butterfat in Class I milk.

3. In § 967.52 delete paragraphs (b) and (c), and insert a new paragraph (b) as follows:

(b) The price of skim milk in Class II milk shall be computed by subtracting the hundredweight price of butterfat computed pursuant to paragraph (a) of this section times 0.035, from the price determined pursuant to § 967.50 (a), and divide the remainder by 0.965.

4. Delete § 967.80 (c) and substitute therefor the following:

(c) On or before the 4th day after the end of such delivery period each handler shall pay to each producer, or to a cooperative association authorized to collect payment, not less than the amount per hundredweight provided in the schedule set forth in this paragraph, for milk received from such producer or caused to be delivered to such handler by such cooperative association during the first 15 days of such delivery period: *Provided,* That in the event any producer or cooperative association discontinues shipping to such handler during any delivery period, such partial payments shall not be made and full payment for all milk received from such producer or cooperative association during such delivery period shall be made on or before the 18th day after the end of such delivery period pursuant to paragraphs (a) and (b) of this section:

[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.

When the uniform price or base price for the preceding delivery period is:	*The amount of the partial payment shall be—*
Under $1.00	$0.00
$1.00 to $1.99	1.00
$2.00 to $2.99	2.00
$3.00 to $3.99	3.00
$4.00 to $4.99	4.00
$5.00 to $5.99	5.00
$6.00 to $6.99	6.00
$7.00 and over	7.00

[F. R. Doc. 54-9426; Filed, Nov. 29, 1954; 8:50 a. m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 245]

BEER

NOTICE OF PROPOSED RULE-MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 15 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Preamble: 1. These regulations, Part 245, Title 26, of the Code of Federal Regulations, shall, as to facts and circumstances arising on and after January 1, 1955, supersede Regulations 18, 1951 edition (26 CFR (1939) Part 192, 16 F. R. 9382) as amended by Treasury Decisions 6069 (19 F. R. 1929), 6075 (19 F. R. 4025), 6084 (19 F. R. 5059), and 6092 (19 F. R. 5219).

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

Subpart A—Scope of Regulations

Sec.
245.1 Beer.
245.2 Forms prescribed.

Subpart B—Definitions

245.5 Meaning of terms.
245.6 Assistant Regional Commissioner.
245.7 Beer.
245.8 Bottle and bottling.
245.9 Brewer.
245.10 Brewery.
245.11 Brewing.
245.12 Business day.
245.13 Cereal beverage.
245.14 Commissioner.
245.15 Director, Alcohol and Tobacco Tax Division.
245.16 District Director.
245.17 Gallon.
245.18 Includes and including.
245.19 Inclusive language.
245.20 I. R. C.
245.21 Person.
245.22 Region.
245.23 U. S. C.

Subpart C—Location and Use of Brewery

245.30 Restrictions.
245.31 Use of brewery.
245.32 Storage of bottled beer on which the tax has been paid or determined.

Subpart D—Construction

245.35 Brewery buildings.
245.36 Division of brewery.
245.37 Empty container storage room.
245.38 Government cabinet.

PIPELINE TRANSFERS TO BOTTLING HOUSE

245.39 General.
245.40 Pipelines.
245.41 Other pipelines.
245.42 Facilities for cleaning pipeline.

Subpart E—Equipment

245.50 Tanks and vats.
245.51 Other apparatus and equipment.

Subpart F—Beer Meters

245.55 Meters required.
245.56 Notice of meter shipment.
245.57 Location and installation.
245.58 Strainers.
245.59 Tests, repairs, and adjustments.
245.60 Facilities for meter tests.

Subpart G—Qualifying Documents

245.65 Notice on Form 27-C.
245.66 Description of brewery.
245.67 Description of buildings.
245.68 Description of apparatus and equipment.
245.69 Statement of title.
245.70 Supplemental notice.
245.71 Corporate documents.
245.72 List of stockholders.
245.73 Affidavit.
245.74 Articles of partnership or association.
245.75 Trade name certificate.
245.76 Bottling or packaging under trade name.
245.77 Power of attorney, Form 1534.
245.78 Execution of power of attorney.
245.79 Duration of power of attorney.
245.80 Bond, Form 1566.
245.81 Penal sum of bond.
245.82 Plat.
245.83 Additional information.
245.84 Examination of qualifying documents.
245.85 Return of qualifying documents to brewer or applicant.

Subpart H—Bonds and Consents of Surety

245.90 General requirements.
245.91 Conditions of bond.
245.92 Surety or security.
245.93 Corporate surety.
245.94 Two or more corporate sureties.
245.95 Powers of attorney.
245.96 Interest in business.
245.97 Deposit of collateral.
245.98 Consents of surety.
245.99 Approval required.
245.100 Renewal of bond.
245.101 Authority to approve.
245.102 Cause for disapproval.
245.103 Appeal to Director, Alcohol and Tobacco Tax Division.
245.104 Disapproval of Director, Alcohol and Tobacco Tax Division, final.
245.105 Additional or strengthening bonds.
245.106 New bond.
245.107 Superseding bond.

Subpart I—Plats

Sec.
245.110 Preparation.
245.111 Description of brewery.
245.112 Conduits or pipelines.
245.113 Certificate of accuracy.
245.114 Revised plats.

Subpart J—Changes in Name, Proprietorship, Control, Location, Premises, and Equipment

CHANGES IN INDIVIDUAL, FIRM, OR CORPORATE NAME

245.120 Notice, Form 27-C.
245.121 Amended articles of incorporation, etc.
245.122 Amended articles of partnership or association.
245.123 Records.
245.124 Marking and branding.

TRADE NAMES

245.125 General.
245.126 Trade name certificate.
245.127 Records.
245.128 Marking and branding.

CHANGES IN PROPRIETORSHIP

245.129 Nonfiduciary successor.
245.130 Fiduciary.
245.131 Consent of surety.
245.132 Plats.
245.133 Approval required.

OTHER CHANGES IN PROPRIETORSHIP OR CONTROL

245.134 Change in partnership.
245.135 Exception, change in partnership.
245.136 Changes in stockholders, officers, and directors of corporation.
245.137 Reincorporation.
245.138 Transfer of business.

CHANGES IN LOCATION, PREMISES, AND EQUIPMENT

245.139 Change in location.
245.140 Changes in premises.
245.141 Changes in equipment, or in construction or use of a room or building.

SPECIAL TAX STAMPS

245.142 Liability; change in name.
245.143 Liability; change in proprietorship.
245.144 Persons having right of succession.
245.145 Liability; change in location.

Subpart K—Termination of Bonds

245.150 Termination of brewer's bond.
245.151 Application of surety for relief from bond.
245.152 Action on application for termination of brewer's bond.
245.153 Notices, Forms 1490 and 1491.
245.154 Release of collateral.

Subpart L—Notice of Discontinuance of Business

245.160 Form of notice.

Subpart M—Special Taxes

245.165 Special tax.
245.166 Special tax return.
245.167 Execution of Form 11.
245.168 Wholesale and retail special tax exemption.
245.169 Sale of bottled beear.
245.170 Wholesale dealer in beer.
245.171 Retail dealer in beer.
245.172 Posting special tax stamp.
245.173 Sale at purchaser's place of business.
245.174 Each place of business taxable.

Subpart N—Tax on Beer

245.180 Rate of tax.
245.181 Persons liable for tax.
245.182 Method of taxpayment.
245.183 Determination of tax on keg beer.
245.184 Determination of tax on bottled beer.
245.185 Tax computations for bottled beer.
245.186 Time of tax determination and payment.

Sec.
245.187 Handling of a day's gross tax liability of less than $100.
245.188 Evasion of or failure to pay tax.

Subpart O—Marks, Brands, and Labels

245.195 Barrels and cases.
245.196 Bottles.

More Than One Brewery Owned by the Same Person

245.197 Barrels or kegs.
245.198 Cases.
245.199 Rebranding barrels or kegs.
245.200 Tanks, vehicles, and vessels.

Subpart P—Removal of Brewer's Yeast and Other Articles

245.205 Containers and records.
245.206 Malt sirup.

Subpart Q—Transfers to Another Brewery of Same Ownership

245.210 General.
245.211 Kinds of containers.
245.212 Determination of quantity transferred.
245.213 Losses in transit.
245.214 Mingling.
245.215 Report of transfers between breweries.
245.216 Transfers in same region.
245.217 Transfers to other regions.
245.218 Application for remission of tax.

Subpart R—Removals to Contiguous Alcohol Plants

245.225 Beer removed to contiguous alcohol plants.
245.226 Brewery and alcohol plant separate.
245.227 Measuring tanks.
245.228 Cereal beverage.
245.229 Production report.
245.230 Records.
245.231 Supervision by storekeeper-gauger.

Subpart S—Removal of Beer Unfit for Beverage Use

245.235 Removal of sour or damaged beer.
245.236 Packages.
245.237 Application.
245.238 Entry on Form 103.

Subpart T—Beer Returned to Brewery

245.240 Temporary storage of undelivered beer.
245.241 Temporary storage of repossessed bottled beer.
245.242 Recasing or relabeling; application.
245.243 Beer removed from market.

Subpart U—Refund and Credit of Tax or Relief From Liability

245.250 Beer returned for reconditioning, use as material, or destruction.
245.251 Brewer's application; beer removed from market.
245.252 Assignment of inspector.
245.253 Beer lost or destroyed by fire, casualty, or act of God.
245.254 Claims for refund of tax.
245.255 Claims for allowance of credit for tax.

Subpart V—Exportation

245.260 General.
245.261 Exportation of taxpaid beer.
245.262 Exportation without payment of tax.
245.263 Foreign trade zones.
245.264 Evidence of exportation.
245.265 Removal for exportation.
245.266 Marks on containers.
245.267 Consignment to Collector of Customs.
245.268 Notice, Form 1689.
245.269 Shipment to Armed Services.
245.270 Change in consignee.
245.271 Delivery to carrier.
245.272 Return of beer.
Sec.
245.273 Exportation through border port.
245.274 Certificate by export carrier.
245.275 Delay in lading.
245.276 Examination by customs officer.
245.277 Losses in transit.
245.278 Other evidence of exportation required.
245.279 Application for relief.
245.280 Evidence to support application.
245.281 Assistant Regional Commissioner's action on application.
245.282 Assistant Regional Commissioner's account.
245.283 Tax assessed.
245.284 Brewer's report.

Subpart W—Supplies for Vessels and Aircraft

245.290 General.
245.291 Reciprocating foreign countries.
245.292 Procedure applicable.
245.293 Form 1689.
245.294 Evidence of lading for use.

Subpart X—Beer Procured From Another Brewer

245.300 Notice to Assistant Regional Commissioner.
245.301 Producer's entries on Form 103.
245.302 Receiving brewer's entries on Form 103.
245.303 Form of notice.

Subpart Y—Cereal Beverage

245.305 Production of cereal beverage.
245.306 Method of production.
245.307 Transfer to bottling house.
245.308 Supervision by inspector.
245.309 Special taxes.
245.310 Samples for analysis.
245.311 Packages.
245.312 Cases.
245.313 Labels.
245.314 Unlabeled bottles.
245.315 Products kept separate.
245.316 Record and report of materials used.

Subpart Z—Samples of Beer

245.320 General.
245.321 Application.
245.322 Approval of application.
245.323 Labeling.
245.324 Records.
245.325 Residues of samples.
245.326 Analysis in brewery.
245.327 Taxpayment.

Subpart AA—Miscellaneous Provisions

245.330 Officer's right of entry and examination.

Variations From Requirements

245.331 Exceptions to construction and equipment requirements.
245.332 Exceptions to methods of operation.
245.333 Application.

Subpart BB—Records, Reports, and Returns

245.340 Form 2051.
245.341 Form 103.
245.342 Beer tax return, Form 2034.
245.343 Period for which return is filed.
245.344 Time and place of filing.
245.345 Pipeline transfer record.
245.346 Inventory of beer in bottling house.
245.347 Brewery bottling house losses.
245.348 Purchase record.
245.349 Production record.
245.350 Daily record.
245.351 Removal record.
245.352 Daily sales record.
245.353 Timely entry in records.
245.354 Brewer's application to destroy or return beer to brewery.
245.355 Verification.
245.356 Retention of records.

Authority: §§ 245.1 to 245.356 issued under 68A Stat. 917; 26 U. S. C. 7805. Other statutory provisions interpreted or applied are cited to text in parenthesis.

SUBPART A—SCOPE OF REGULATIONS

§ 245.1 *Beer.* The regulations in this part relate to beer and cereal beverages and cover the location, construction, equipment, and operations of breweries and the qualification of such establishments including the ownership, control, and management thereof.

§ 245.2 *Forms prescribed.* The Director, Alcohol and Tobacco Tax Division, is authorized to prescribe all forms required by this part, including bonds, applications, notices, reports, returns, and records. Information called for shall be furnished in accordance with the instructions on the forms or issued in respect thereto.

SUBPART B—DEFINITIONS

§ 245.5 *Meaning of terms.* When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this subpart.

§ 245.6 *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under the direction and supervision of, the Regional Commissioner of Internal Revenue.

§ 245.7 *Beer.* "Beer" shall mean beer, ale, porter, stout and other similar fermented beverages (including saké or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(68A Stat. 612; 26 U. S. C. 5052)

§ 245.8 *Bottle and bottling.* "Bottle" shall mean a bottle, can, or similar container, and "bottling" shall mean the filling of bottles, cans, and similar containers.

(68A Stat. 676; 26 U. S. C. 5416)

§ 245.9 *Brewer.* "Brewer" shall mean the proprietor of a brewery.

§ 245.10 *Brewery.* "Brewery" shall mean the land and buildings described as such in the brewer's notice on Form 27–C, where beer is to be produced and bottled. "Brewery bottling house" shall mean that portion of the brewery set apart by the brewer, and so described on Form 27–C, where beer is to be bottled.

(68A Stat. 674, 675; 26 U. S. C. 5402, 5411)

§ 245.11 *Brewing.* "Brewing" shall mean the production of beer for sale.

§ 245.12 *Business day.* "Business day" shall mean the 24-hour cycle of operations in effect at the brewery, which, if other than the calendar day, is subject to the approval of the Assistant Regional Commissioner, but in no event shall a closing hour earlier than noon be approved. The business day, having been once established, shall be applicable to all records and operations of the brewery, and shall not be changed without prior approval of the Assistant Regional Commissioner.

§ 245.13 *Cereal beverage.* "Cereal beverage" shall mean malt beverage, either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

§ 245.14 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 245.15 *Director, Alcohol and Tobacco Tax Division.* "Director, Alcohol and Tobacco Tax Division" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington, D. C.

§ 245.16 *District Director.* "District Director" shall mean a District Director of Internal Revenue.

§ 245.17 *Gallon.* "Gallon" shall mean the liquid measure containing 231 cubic inches.

(68A Stat. 612; 26 U. S. C. 5052)

§ 245.18 *Includes and including.* "Includes" and "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

§ 245.19 *Inclusive language.* Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine as well as individuals, trusts, estates, partnerships, associations, companies, corporations, and other legal entities.

§ 245.20 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code of 1954.

§ 245.21 *Person.* "Person" shall mean and include an individual, a trust, estate, partnership, association, company, corporation, and other legal entities.

(68A Stat. 911; 26 U. S. C. 7701)

§ 245.22 *Region.* "Region" shall mean an internal revenue region.

§ 245.23 *U. S. C.* "U. S. C." shall mean the United States Code.

SUBPART C—LOCATION AND USE OF BREWERY

§ 245.30 *Restrictions.* A brewery may not be established or operated in any dwelling house, shed, yard, or inclosure connected therewith or on board any vessel or boat, or in any building or on any premises where distilled spirits, alcohol, vinegar, or ether are manufactured, produced, or stored; or where any liquor or beverages (other than beer, cereal beverages, and soft drinks produced and packaged or bottled at the brewery) are kept, sold, or dealt in either at wholesale or retail.

§ 245.31 *Use of brewery.* The brewery shall be used exclusively, except as provided herein, for the purposes of producing and packaging or bottling beer, cereal beverages, soft drinks and other non-alcoholic beverages, vitamins, ice, malt, malt sirup, and other byproducts; of drying spent grain from the brewery; of recovering carbon dioxide and yeast; and of storing bottles, packages, and supplies necessary or incidental to all such operations. The bottling of beer, cereal beverages, soft drinks and other non-alcoholic beverages shall be conducted in the brewery bottling house. Where any brewery was on June 26, 1936, being used by a brewer for purposes other than those described in this subpart, the use of such premises for such other purposes may be continued by such brewer. Subject to such conditions as the Director, Alcohol and Tobacco Tax Division, may prescribe, the brewery may be used for other purposes, not involving the production or storage of alcoholic beverages, which (a) require the use of byproducts or wastage from the production of beer, or utilize buildings, rooms, areas, or equipment not fully employed in the production or bottling of beer, (b) are reasonably necessary to realize the maximum benefit from the premises and equipment and to reduce the overhead of the plant, and (c) will not impede the effective administration of this part: *Provided*, That the Director, Alcohol and Tobacco Tax Division, shall find, upon application made to him through the Assistant Regional Commissioner in each case, that such use will not jeopardize the revenue and is not contrary to the specific provisions of law.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.32 *Storage of bottled beer on which the tax has been paid or determined.* Bottled beer on which the tax has been paid or determined may not be stored in the brewery: *Provided*, That such beer, if it is undelivered, repossessed from a purchaser, or removed from the market by the brewer before transfer of title thereto to any other person, may be held temporarily pending its removal, destruction, reconditioning, or use as material, as provided in §§ 245.240, 245.241 and 245.243.

(68A Stat. 613, 675; 26 I. R. C. 5057, 5411)

SUBPART D—CONSTRUCTION

§ 245.35 *Brewery buildings.* Brewery buildings must be securely constructed of substantial materials and shall be adjacent or contiguous and so arranged and constructed as to afford adequate protection to the revenue and facilitate inspection by internal revenue officers. If there are buildings or parts of buildings which adjoin the brewery but are not part thereof, they must be separated from the brewery by substantial and unbroken walls and floors: *Provided*, That the Assistant Regional Commissioner may authorize doors or other openings when, in his opinion, such openings will not jeopardize the revenue.

§ 245.36 *Division of brewery.* The brewer shall designate the use of each building, cellar, room, or other division of the brewery by placing a plain and durable sign or legend (descriptive of its use) on or near the entrance thereto. If more than one building, room, etc., is used for the same purpose, alphabetical designations shall be used to further identify such divisions.

§ 245.37 *Empty container storage room.* If empty barrels, kegs, bottles, other containers, or other supplies are stored in the brewery, they must be so stored as to be completely segregated from filled containers. A separate room or building may be provided for that purpose.

§ 245.38 *Government cabinet.* The brewer shall provide a metal cabinet of adequate strength and size, suitably equipped for securing with a Government lock or cap seal, for use in safeguarding locks, keys, seals, and other Government property. Each such cabinet is subject to approval by the Assistant Regional Commissioner.

PIPELINE TRANSFERS TO BOTTLING HOUSE

§ 245.39 *General.* All beer and cereal beverage transferred to the brewery bottling house for bottling must pass through the authorized pipelines and meters.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.40 *Pipelines.* The pipeline used for the purpose of transferring beer and cereal beverage to the brewery bottling house for bottling must be constructed of metal and be exposed to view throughout its entire length; no opening will be permitted therein except as provided in §§ 245.42, 245.57 and 245.60. The sections of piping, if more than one section is employed, must be securely connected by brazing, sweating, or welding.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.41 *Other pipelines.* Pipelines for refrigeration, heating, or water, must be so installed that they cannot be used for conveying beer to the brewery bottling house.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.42 *Facilities for cleaning pipeline.* Where it is desired to clean the beer line to the brewery bottling house by the use of brush, ball, or similar device, a return line approved by the Assistant Regional Commissioner must be provided. Petcocks not larger than one-eighth inch may be installed in pipelines to facilitate draining and cleaning.

(68A Stat. 680; 26 U. S. C. 5552)

SUBPART E—EQUIPMENT

§ 245.50 *Tanks and vats.* The location and construction of each stationary tank, vat, cask, or other container used, or intended for use, as a receptacle for wort or beer, shall be suitable to the intended use and subject to approval by the Assistant Regional Commissioner. Each such tank, vat, cask, or other container shall be permanently marked to show its designated use or uses, and equipped with a suitable measuring device: *Provided*, That in lieu of equipping each tank or container with an individual measuring device, the brewer may provide meters, portable gauge glasses, or other suitable portable devices.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.51 *Other apparatus and equipment.* All other apparatus and equipment must be so constructed and arranged as to permit ready examination thereof, and shall be marked as to use, serial number, and capacity in barrels of 31 gallons (when applicable) except when specifically exempted from such markings by the Assistant Regional Commissioner.

(68A Stat. 680; 26 U. S. C. 5552)

SUBPART F—BEER METERS

§ 245.55 *Meters required.* Brewers shall be required to provide, at their own expense, approved meters for measuring beer to be packaged or transferred to the brewery bottling house, which meters shall be accessible to internal revenue officers at all hours during which the brewery is operating.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.56 *Notice of meter shipment.* On the date a meter is shipped to a brewery, the manufacturer shall so advise the Assistant Regional Commissioner of the region wherein the brewery is located, stating the date of shipment and the manufacturer's serial number of the meter. The brewer shall notify the Assistant Regional Commissioner when a meter has been received and is ready for installation. The meter must not be used until it has been tested by an inspector and installed under his supervision. The manufacturer's seals on the meter must remain intact until removed by an inspector and replaced with Government cap seals.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.57 *Location and installation.* Racking room meters will be installed as near as possible to the racker, and be connected thereto by a metal pipe, in such manner that all beer flowing to the racking machine will pass through the meter. The meter end of the pipe must be welded, sweated, or brazed to a companion flange to be secured to the meter with bolts sealed with Government cap seals. All other joints and fittings in the pipe must be equally secure. Each bottling meter must be installed in such manner that all beer transferred to the brewery bottling house by pipeline, will pass through the meter. The beer line to the brewery bottling house must be brazed, sweated, or welded to a companion flange which shall be fitted to the inlet flange of the meter when the meter is located in the brewery bottling house, and to the outlet flange of the meter when the meter is located elsewhere in the brewery. This companion flange will be bolted to the meter. The flange and all fittings in the pipeline will be sealed with Government cap seals. All meters will be so located that they will be readily accessible for tests and adjustments by internal revenue officers.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.58 *Strainers.* In order to protect meters from injury from foreign matter, a strainer must be placed in the pipeline ahead of each meter. In order that the strainer may be dismantled for cleaning without Government supervision, it shall not be located in the brewery bottling house.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.59 *Tests, repairs and adjustments.* When necessary in the opinion of the Assistant Regional Commissioner, he will detail an inspector to test the meter or supervise its dismantling and reassembling for the purpose of cleaning or repair. If a defective meter cannot be repaired without delay, its use must be discontinued and it must be removed. If a replacement meter is not installed immediately, the inspector will, upon removal of the meter, cause the open beer line to be closed by securing the cutoff valve with a Government seal lock or by affixing a Government cap seal. When the repairs are completed or a new meter is installed, the inspector will test the repaired or newly installed meter with a master meter. Minor repairs to the counter mechanism, such as cleaning to facilitate readings, will not necessitate a master meter check. If repair or adjustment of the meter is made, a copy of the meter test report will be given to the brewer. If the continuous counter of the meter is advanced with water during the test, a report thereof will be made on Form 138, in triplicate. One copy thereof will be given to the brewer, one will be filed in the Government cabinet and one forwarded to the Assistant Regional Commissioner. The use of any meter must be discontinued whenever it appears that the revenue will be jeopardized by the continued use of such meter.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.60 *Facilities for meter test.* The brewer shall provide adequate facilities for master meter tests of all regularly installed meters. The pipelines to all meters will contain removable sections or other facilities, properly secured, to permit the installation of the master meter close to, and in series with, the brewer's meter. The pipelines will also contain an arrangement of valves and by-pass lines for inserting the Government meter and making the test without interfering with pumping operations, unless the brewer elects to stop operations for the meter tests in lieu of making such installations. All such installations must conform with the requirements of § 245.57.

(68A Stat. 680; 26 U. S. C. 5552)

SUBPART G—QUALIFYING DOCUMENTS

§ 245.65 *Notice on Form 27–C.* Every person engaged in, or intending to engage in, the business of a brewer, shall give notice of such intention on Form 27–C, in triplicate, to the Assistant Regional Commissioner. Except as provided in § 245.70 in the case of amended or supplemental notices, all information indicated by the lines of the form and the instructions printed thereon, and required by this part or issued in respect thereto, shall be furnished. The notices shall be numbered serially, commencing with "1" for the original, and continuing in sequence for all amended or supplemental notices thereafter filed. All data, written statements, affidavits, and other documents submitted in support of the notice shall be deemed to be a part thereof.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.66 *Description of brewery.* The lot or tract of land comprising the brewery, and the portion of that lot or tract of land occupied by the brewery bottling house, must be separately described on Form 27–C, by courses and distances, in feet and hundredths thereof or inches, with the particularity required in conveyances of real estate. The continuity of the brewery must be unbroken, except that the continuity will not be considered as broken where the brewery is divided by a public street or highway, or by a railroad right-of-way where the railroad is a common carrier, if the parts of the brewery so divided abut on such street, highway or railroad right-of-way and are opposite or adjacent to each other. In such cases each tract of land constituting the brewery shall be described separately. Nothing in this section shall be construed to prevent the separation of the brewery bottling house into two or more parts or sections.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.67 *Description of buildings.* The notice shall contain a description of all buildings on the land comprising the brewery, the purpose for which each will be used, the size of each, and the material of which constructed. If two or more buildings are used for the same purpose, such buildings shall be given alphabetical designations, following the purpose for which used.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.68 *Description of apparatus and equipment.* The brew kettles, mash tubs, fermenting tanks, storage tanks, and other major equipment used in the production of beer shall be described separately in the notice as to use, serial number, and capacity in barrels of 31 gallons (if applicable). All tanks, bottling apparatus, and other major equipment in the brewery bottling house used for bottling beer shall be described in the notice, separately, as to use, serial number, and, in the case of tanks, capacity in barrels of 31 gallons: *Provided,* That bottling equipment such as pasteurizers, fillers, cappers, etc., which comprise bottling lines need not be described separately but the bottling lines shall be described as to use and serial number, such as "Quart line No. 1," "Can line No. 2," etc.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.69 *Statement of title.* The name and address of the owner of the fee and of any mortgagee, judgment creditor, or other encumbrancer of the land, buildings, or equipment comprising the brewery shall be stated in the notice.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.70 *Supplemental notice.* Amended or supplemental notices, Form 27–C, may be executed in skeleton form, except as to those items amended or supplemented. All other items which are correctly set forth in prior notices, and in which there has been no change since the last preceding notice, may be incorporated by reference to the respective notice previously filed. Such incorporation by reference shall be made by entering for each such item in the space provided therefore, the statement: "No change since filing Form 27–C, Serial No. _____, dated _____, 19___."

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.71 *Corporate documents.* There shall be submitted with, and made a part of, the original or initial notice on Form 27–C, given by a corporation to engage in

the business of a brewer, properly certified copies, in triplicate, of the following documents:

(a) Articles of incorporation and amended articles of incorporation.

(b) Certificate of incorporation.

(c) Certificate authorizing corporation to operate in State where brewery is located, if other than that in which incorporated.

(d) Extracts of minutes of meetings of stockholders, showing election of directors.

(e) By-laws.

(f) Extracts of the minutes of meetings of the board of directors showing the election of officers.

(g) Extracts of the minutes of meetings of the board of directors authorizing certain officers or other persons to sign for the corporation.

(h) List of the names and addresses of the officers and directors.

(i) List of stockholders, as provided in § 245.72.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.72 *List of stockholders.* In the case of corporations and similar legal entities, there shall be submitted with Form 27–C and be made a part thereof, at the commencement of business and annually thereafter on May 1, a list of the names and addresses of all stockholders and other persons interested in the corporation or other legal entity and the amount and nature of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him: *Provided,* That where more than 20 persons are interested in the corporation or other legal entity as stockholders or otherwise, there need be furnished only the names and addresses and the amounts and nature of the stockholding or other interest of the 20 persons having the largest ownership or other interest in each of the respective classes of stock or other interest, except where more complete information shall be specifically required by the Assistant Regional Commissioner: *And provided further,* That where there has been no change in the stockholders and other persons interested in the corporation or other legal entity, or in the extent of the stockholding or other interest of such persons, the brewer may furnish annually a certified statement, in triplicate, to that effect in lieu of the prescribed list. Where a corporation operates two or more breweries situated in the same region, or wholly owns one or more subsidiaries operating breweries so situated, and in connection with qualifying for the operation of one of such breweries files a list of stockholders and other persons interested, as prescribed in this subpart, the filing of an additional list for each brewery will not be required, *Provided,* That in lieu of such additional list there is submitted with the brewer's notice, Form 27–C, a certificate, in triplicate, definitely identifying the corporation and plant with whose notice the list of stockholders and other persons interested is filed, and giving the date of the filing thereof.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.73 *Affidavit.* In the case of a corporation, there shall be submitted with each list of stockholders an affidavit, in triplicate, executed by an officer of the corporation authorized so to do, showing the number of shares of each class of stock or other evidence of ownership in the corporation, such as voting trust certificates, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders and certifying to the correctness of the list of stockholders or the statement authorized to be furnished with the notice in lieu of such list. In the case of an individual owner or partnership, there shall be submitted with Form 27–C, at the commencement of business and annually thereafter on May 1, an affidavit, in triplicate, giving the name of every person interested or to be interested in the brewery, whether such interest appears in the name of the interested party or in the name of another for him.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.74 *Articles of partnership or association.* In the case of a partnership or association, a certified copy, in triplicate, of the articles of partnership or association, if any, and, where the business is to be conducted under a firm or trade name, a trade name certificate or statement in lieu thereof, in accordance with § 245.75, shall be submitted with and constitute a part of the notice, Form 27–C.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.75 *Trade name certificate.* Where the brewer intends to do business under a firm or trade name, there shall be submitted with and made a part of the notice, Form 27–C, certified copies, in triplicate, of the certificate or other document filed with or issued by State officials under the laws of the State to cover the transaction of business under such firm or trade name. If no certificate or other document is required by the laws of the State, the brewer shall furnish a statement, in triplicate, to that effect.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.76 *Bottling or packaging under trade name.* Where a brewer intends to bottle or package beer under a trade name, or names, other than the name under which he is qualified to operate, he shall include such trade name in Form 27–C, furnish the trade name certificate, or statement in lieu thereof required by section 245.75, and obtain appropriate certificates of label approval where such certificates are required by Part 7 of Title 27 of the Code of Federal Regulations.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.77 *Power of attorney, Form 1534.* If the notice or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, or corporation, or by one of the partners for a partnership or association, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in section 245.71 such notice or other qualifying documents shall be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the document to execute the same. Such powers of attorney shall be executed on Form 1534, in triplicate, and submitted to the Assistant Regional Commissioner.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.78 *Execution of power of attorney.* Where the principal giving the power of attorney is an individual, it shall be executed by him in person, and not by an agent. In the case of a partnership or association, powers of attorney authorizing one or more of the partners, or another person, to execute documents on behalf of the partnership or association shall be executed by all of the partners constituting the firm. However, if one or more members less than the whole number constituting the firm have been delegated the authority to appoint agents or attorneys in fact, the power of attorney may be executed by such member or members, provided it is supported by a duly authenticated copy, in triplicate, of the document conferring authority upon the member or members to execute the same. Where, in the case of a corporation, powers of attorney are executed by an officer thereof, such documents shall be supported by triplicate copies of the authorization of such officer so to do, certified by the secretary or assistant secretary of the corporation, under the corporate seal, to be true copies.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.79 *Duration of power of attorney.* Powers of attorney authorizing the execution of documents on behalf of a person engaged in, or intending to engage in, the business of a brewer shall continue in effect until written notice, in triplicate, of the revocation of such authority is received by the Assistant Regional Commissioner.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.80 *Bond, Form 1566.* Every person intending to commence or to continue the business of a brewer shall, upon filing his notice of such intention, Form 27–C, and before proceeding with such business, execute bond on Form 1566, in triplicate, in conformity with the provisions of Subpart H of this part, and file the same with the Assistant Regional Commissioner.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.81 *Penal sum of bond.* The penal sum of the brewer's bond shall be equal to the maximum amount of tax which, in the opinion of the Assistant Regional Commissioner, the brewer may become liable to pay during any one calendar month on beer (a) removed for transfer to the brewery from other breweries owned by him, (b) removed free of tax for export or use as supplies on vessels and aircraft and (c) sold, or removed for consumption or sale, calculated at the rate of tax prescribed by law: *Provided,* That the penal sum of any such bond shall not exceed $150,000 nor be less than $1,000.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.82 *Plat.* Every person intending to engage in the business of a brewer must submit to the Assistant Regional Commissioner with, and to be a part of, his notice, Form 27–C, an accurate plat of the brewery, in triplicate, conforming to the requirements of Subpart I of this part.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.83 *Additional information.* The Assistant Regional Commissioner may at any time, in his discretion, require the brewer to furnish such additional information as he may deem necessary to be a part of the notice.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.84 *Examination of qualifying documents.* All documents required by this subpart of persons intending to qualify as brewers, will be subject to examination by the Assistant Regional Commissioner to determine whether they have been properly executed. Such examination may include an inspection of the brewery to determine whether it is properly described and depicted in the notice and plat. Where discrepancies are found in the qualifying documents, the inaccurate or incomplete documents will be returned to the brewer for correction. Where any required document has not been filed, or where errors or discrepancies are found in those filed, or where the documents filed do not show compliance with this part, action thereon will be held in abeyance until the omission, or material errors or discrepancies, have been rectified and there has been full compliance with all requirements.

§ 245.85 *Return of qualifying documents to brewer or applicant.* On approval of the qualifying documents the Assistant Regional Commissioner will forward one copy of the bond, notice, plat, and other qualifying documents to the brewer. If the bond or consent of surety is disapproved by the Assistant Regional Commissioner, all copies thereof and all copies of other qualifying documents will be returned to the applicant, or the brewer.

SUBPART H—BONDS AND CONSENTS OF SURETY

§ 245.90 *General requirements.* Every person required to file a bond or consent of surety under this part shall prepare and execute it on the prescribed form, in triplicate, in accordance with this part and the instructions printed on the form, and shall submit it to the Assistant Regional Commissioner.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.91 *Conditions of bond.* The brewer's bond shall be conditioned that the brewer shall pay, or cause to be paid, to the United States according to the laws of the United States and this part, the taxes, including penalties and interest, for which the brewer shall become liable, on all beer, including all beer removed for transfer to the brewery from other breweries owned by the brewer, and all beer removed free of tax for export or removed for use as supplies on vessels or aircraft, which is not exported or otherwise accounted for, and shall in all respects comply without fraud or evasion with all requirements of law and this part relating to the production and sale of beer. The bond, Form 1566, may be drawn in such manner that if beer is not to be transferred to the brewery from other breweries owned by the brewer or withdrawn for export or for use as supplies on vessels or aircraft, either or both of those provisions may, at the time of execution of the bond, be stricken.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.92 *Surety or security.* Bonds required by this part shall be given with corporate surety or collateral security.

(Sec. 1, 28 Stat. 279; 6 U. S. C. 6; 40 Stat. 1148, as amended; 6 U. S. C. 15)

§ 245.93 *Corporate surety.* Surety bonds may be given only with surety companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356—Revised, and subject to such amendments as may be issued from time to time.

(Sec. 1, 28 Stat. 279; 6 U. S. C. 6)

§ 245.94 *Two or more corporate sureties.* A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided,* That each corporate surety may limit its liability in terms on the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356—Revised. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

§ 245.95 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, Assistant Regional Commissioners.

§ 245.96 *Interest in business.* The surety must have no interest whatever in the business covered by the bond.

§ 245.97 *Deposit of collateral.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of corporate sureties in accordance with the provisions of Department Circular No. 154, revised (31 CFR, Part 225): *Provided,* That United States Savings, Defense Savings, and War Savings Bonds issued under the authority of section 22 of the Second Liberty Bond Act, as amended, and other bonds and notes of the United States, which are nontransferable or the hypothecation of which will not be recognized by the Treasury Department, may not be pledged and deposited as security in lieu of corporate sureties.

(40 Stat. 1148, as amended; 6 U. S. C. 15; 68A Stat. 674; 26 U. S. C. 5401)

§ 245.98 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533 in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. The consent may be executed for the surety company by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate Assistant Regional Commissioner; or the consent may be executed by the home office officials of such corporate surety.

§ 245.99 *Approval required.* No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a brewer, shall commence or continue such busines until all bonds in respect of such business, required by any provision of law, have been approved by the Assistant Regional Commissioner.

(68A Stat. 680; 26 U. S. C. 5551)

§ 245.100 *Renewal of bond.* No person shall continue in the business of a brewer unless he files a new bond once in four years with the Assistant Regional Commissioner, and the same has been approved. Such bond shall be prepared in accordance with the provisions of this subpart.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.101 *Authority to approve.* Assistant Regional Commissioners are authorized to approve all brewers' bonds and consents of surety relating thereto.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.102 *Cause for disapproval.* Bonds or consents of surety submitted by an individual, firm, partnership, corporation, or association in respect to the business of a brewer may be disapproved if the individual, firm, partnership, corporation, or association giving the same, or owning, controlling, or actively participating in the management of such business of the individual, firm, partnership, corporation, or association giving the same, shall have been previously convicted in a court of competent jurisdiction of:

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of distilled spirits, wines, or beer, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise; or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting

the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(68A Stat. 680; 26 U. S. C. 5551)

§ 245.103 *Appeal to Director, Alcohol and Tobacco Tax Division.* Where a bond or consent of surety is disapproved by the Assistant Regional Commissioner, the person giving the bond may appeal from such disapproval to the Director, Alcohol and Tobacco Tax Division, who will grant a hearing in the matter if such is requested by the applicant or brewer.

(68A Stat. 680; 26 U. S. C. 5551)

§ 245.104 *Disapproval of Director, Alcohol and Tobacco Tax Division, final.* The disapproval by the Director, Alcohol and Tobacco Tax Division, of any bond or consent of surety with respect to the commencement or continuance of the business of the brewer shall be final.

(68A Stat. 680; 26 U. S. C. 5551)

§ 245.105 *Additional or strengthening bonds.* In all cases where the penal sum of the bond on file and in effect is not sufficient, computed as prescribed by this part, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, are in no sense substitute bonds, and the Assistant Regional Commissioner will refuse to approve any additional or strengthening bond where any notation is made thereon intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."

§ 245.106 *New bond.* A new bond may be required at any time in the discretion of the Director, Alcohol and Tobacco Tax Division, or Assistant Regional Commissioner. A new bond shall be required immediately in the case of the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing, or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Director, Alcohol and Tobacco Tax Division, or the Assistant Regional Commissioner, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. Where a bond is found to be not acceptable, the principal shall be required to file immediately a new and satisfactory bond, or discontinue business forthwith.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.107 *Superseding bond.* Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, notice of termination of the superseded bond may be issued as provided in Subpart K of this part. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by obligors at the time of execution, "Superseding Bond."

SUBPART I—PLATS

§ 245.110 *Preparation.* Every plat shall be drawn to scale and each sheet thereof shall bear a distinctive title, enabling ready identification, and shall show the cardinal points of the compass. The minimum scale of any plat shall be not less than 1/50 inch per foot. Each sheet of the plat shall be numbered, the first sheet being designated number 1, and the other sheets numbered in consecutive order. The dimensions of plats shall be 15 by 20 inches outside measurement, with a clear margin of at least 1 inch on each side of the drawing, lettering, and writing. Plats shall be submitted on sheets of tracing cloth, or sensitized linen and may be original drawings, or reproductions made by the "ditto process," or by blue or brown line lithoprint, if such reproductions are clear and distinct: *Provided,* That reproduction by other equally suitable methods may be approved by the Assistant Regional Commissioner.

§ 245.111 *Description of brewery.* The plat must show the outer boundaries of the brewery and of the portion thereof comprising the brewery bottling house by courses and distances, in feet and hundredths thereof or inches, and the point of beginning of each with respect to its distance and bearings from some near and wellknown landmark, and must contain an accurate depiction of the building, or buildings, located on the premises which comprise the brewery and any driveway, public highway, or railroad right-of-way adjacent thereto or connecting therewith. The brewery bottling house must be distinguished from the other portions of the brewery by a contrasting color or by a legend such as cross hatching, a broken line, etc. When the separation of the brewery bottling house from the remainder of the brewery is not vertical from ground to roof, such additional horizontal and vertical views shall be submitted as will clearly show the separation of the premises. If the premises comprising the brewery are separated by a public highway, or a railroad right-of-way, and the tracts of land comprising such premises, or parts thereof, abut on such highway, or right-of-way, opposite or adjacent to each other, the different tracts will be described separately by courses and distances, in feet and hundredths thereof or inches. If two or more buildings are used, the designated name or use of each will be indicated and all passageways and other openings, if any, and all connecting pipelines used for the conveyance of beer between the same depicted. All pipelines and other connections between the brewery bottling house and other areas of the brewery, or between the brewery and other premises must be indicated on the plat and identified as to use. Where two or more buildings are used for the same purpose, the identification of each building shall include an alphabetical designation, and shall be so shown on the plat. All first floor exterior doors of each building of the brewery will be shown on the plat.

§ 245.112 *Conduits or pipelines.* The conduit or pipeline used for the transfer of beer to the brewery bottling house will be shown in red on the plat, and the details of construction, the manner of securing same, and the location of meters will be shown. All other pipelines connecting the brewery bottling house with other areas of the brewery will be shown on the plat and will be designated as to use. The direction of flow of beer through the pipelines must be indicated by arrows on the plat.

§ 245.113 *Certificate of accuracy.* The plat shall bear a certificate of accuracy in the lower right-hand corner of each sheet signed by the brewer, the draftsman, and the Assistant Regional Commissioner, substantially in the following form:

(Name of brewer)

(Address)

Approved ----------
(Date)

(Assistant Regional Commissioner)

Accuracy certified by:

(Name and capacity—for the brewer)

(Draftsman)

Sheet No. ----------

----------, 19--.
(Date)

§ 245.114 *Revised plats.* A revised sheet of a plat shall bear the same number as the sheet superseded, but will be given a new date. Any additional sheet shall be given a new number in consecutive order, or will be otherwise numbered and lettered in such manner as will permit the filing of all sheets in proper sequence.

SUBPART J—CHANGES IN NAME, PROPRIETORSHIP, CONTROL, LOCATION, PREMISES, AND EQUIPMENT

CHANGES IN INDIVIDUAL, FIRM, OR CORPORATE NAME

§ 245.120 *Notice, Form 27–C.* Where there is a change in the individual, firm, or corporate name of the brewer, he must submit to the Assistant Regional Commissioner notice on Form 27–C, in triplicate, setting forth the new name, which notice must be approved before operations may be commenced under the new name.

§ 245.121 *Amended articles of incorporation, etc.* Where the brewer is a corporation and there is a change in the corporate name, the brewer must submit to the Assistant Regional Commissioner certified copies, in triplicate, of the amended articles of incorporation and the amended certificate of incorporation issued under the laws of the State in

which incorporated, setting forth the change in the corporate name. If the operations are conducted in a State other than the State in which incorporated, there must also be submitted to the Assistant Regional Commissioner certified copies, in triplicate, of the amended certificate issued under the laws of the State in which the operations are conducted authorizing the corporation to operate under its new name in such State.

§ 245.122 *Amended articles of partnership or association.* Where the brewer is a partnership or association and there is a change in the firm name, the brewer must submit to the Assistant Regional Commissioner certified copies, in triplicate, of the amended articles of partnership or association, if any.

§ 245.123 *Records.* Where there is a change in the individual, firm, or corporate name of the brewer, he must keep records and submit reports covering operations under the new name.

(68A Stat. 675; 26 U. S. C. 5415)

§ 245.124 *Marking and branding.* Where there is a change in the individual, firm, or corporate name of the brewer, he will mark and brand barrels, kegs, and cases with the new name in accordance with the provisions of Subpart O of this part.

(68A Stat. 675; 26 U. S. C. 5412)

TRADE NAMES

§ 245.125 *General.* Where the brewery is to be operated under a new trade name or style, the brewer must comply with the provisions of § 245.120, and, in addition thereto, with the requirements of §§ 245.126–245.128.

§ 245.126 *Trade name certificate.* Where the brewery is to be operated under a trade name or style, other than that previously approved, the brewer must submit to the Assistant Regional Commissioner certified copies, in triplicate, of the certificate or other document filed with or issued by State officials under the laws of the State, to cover the transaction of business under such trade name or style. If no such certificate or other document is required by the laws of the State to be filed with or issued by any State official to cover the transaction of business under a trade name, the brewer shall furnish a statement to that effect.

§ 245.127 *Records.* Where the brewery is to be operated under a trade name or style, other than that previously approved, the brewer must make appropriate entries in the brewer's records covering operations under the new trade name.

(68A Stat. 675; 26 U. S. C. 5415)

§ 245.128 *Marking and branding.* Where the brewery is to be operated under a trade name or style, other than that previously approved, the brewer must mark and brand barrels, kegs, and cases with the new trade name in accordance with the provisions of Subpart O of this part.

(68A Stat. 675; 26 U. S. C. 5412)

CHANGES IN PROPRIETORSHIP

§ 245.129 *Nonfiduciary successor.* If the change in proprietorship of the brewery is brought about otherwise than by appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must likewise qualify in the same manner as the proprietor of a new brewery, except that he may adopt the plat of the predecessor, as provided in this subpart.

§ 245.130 *Fiduciary.* If the brewery is to be operated by an administrator, executor, receiver, trustee, assignee, or other fiduciary, the fiduciary must comply with the provisions of Subparts G, H, and I of this part, to the extent that such provisions are applicable, except that in lieu of filing a new bond and new plat the fiduciary may furnish a consent of surety, extending the terms of his predecessor's bond, and adopt the plat of such predecessor. The fiduciary must also furnish certified copies, in triplicate, of the order of the court, or other pertinent documents, showing his qualifications as such fiduciary. The effective date of the qualifying documents filed by a fiduciary must be the same as the date of the court order, or the date specified therein, for him to assume control. If the fiduciary was not appointed by the court, the date of his appointment must coincide with the effective date of the qualifying documents filed by him.

§ 245.131 *Consent of surety.* The consent of surety extending the terms of the predecessor's bond to cover operation of the brewery by a fiduciary must conform to the requirements of § 245.98 and be executed by both the fiduciary and the surety.

§ 245.132 *Plats.* The adoption by a successor of the plat of his predecessor shall be in the form of a certificate, in triplicate, to be made a part of the notice, in which shall be set forth the name of the predecessor, the address of the brewery, a description of the brewery, the number of each page comprising the plat covered by such certificate, and a statement that the premises comprising the brewery, and the buildings, connecting pipelines, and meters, are correctly described and depicted on such plat.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.133 *Approval required.* Operations shall not be commenced by the successor until the qualifying documents required by the provisions of this subpart have been approved.

(68A Stat. 678; 26 U. S. C. 5551)

OTHER CHANGES IN PROPRIETORSHIP OR CONTROL

§ 245.134 *Change in partnership.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, shall constitute a change in proprietorship. Likewise, except as provided in § 245.135, the death, bankruptcy, or adjudicated insolvency of one or more of the partners results in a dissolution of the partnership and, consequently, a change in proprietorship. Where such a change in proprietorship of the brewery occurs, the successor must qualify in the same manner as a new applicant, except that the successor may adopt the plat of the predecessor as provided in § 245.132. Operations may not be commenced by the successor until the qualifying documents required by the provisions of this subpart have been approved.

§ 245.135 *Exception, change in partnership.* Where, under the laws of the particular State, the partnership is not terminated on the death or insolvency of a partner, but continues until the termination of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the brewery for such purpose under the prior qualification of the partnership, and the bond already on file will be considered sufficient, provided a consent of surety, wherein the surety and the surviving partner agree to remain liable on the bond, is filed. If such surviving partner acquires the business upon completion of the settlement of the partnership, he must qualify in his own name from the date of acquisition and give a new bond on Form 1566. The same rule shall apply where there is more than one surviving partner.

§ 245.136 *Changes in stockholders, officers, and directors of corporation.* The sale or transfer of the capital stock of a corporation operating a brewery does not constitute a change in the proprietorship of the brewery. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is any change in the officers or directors, the brewer must give notice thereof, in triplicate, to the Assistant Regional Commissioner within 10 days of such change. Mere changes in stockholders of corporations not constituting a change in control need not be so reported. The Assistant Regional Commissioner must, in the case of changes in officers or directors, be furnished extracts, in triplicate, of the minutes of the meetings showing the election of the new officers within 10 days after such election.

§ 245.137 *Reincorporation.* Where a corporation operating a brewery is reorganized and a new charter or certificate of incorporation is secured, the new corporation must qualify in the same manner as the new proprietor of a brewery, except that the new corporation may adopt the plat of the predecessor.

§ 245.138 *Transfer of business.* When a transfer is made of a brewer's business and the stock on hand, the beer in stock may be transferred untaxpaid and taken up and accounted for by the successor in business who fully qualifies as a brewer.

CHANGES IN LOCATION, PREMISES, AND EQUIPMENT

§ 245.139 *Change in location.* Where there is a change in the location of the brewery, the brewer must comply with all applicable provisions of Subparts G,

H, and I of this part, except that in lieu of the filing of a new bond, Form 1566, the brewer may furnish a consent of surety, Form 1533, in accordance with § 245.98 extending the terms of the brewer's bond given for the former location to cover operation of the brewery at the new location.

(68A Stat. 594, 616, 619, 624, 674, 846; 26 U. S. C. 4905, 5091, 5113, 5144, 5401, 7011)

§ 245.140 *Changes in premises.* Where the brewery (or brewery bottling house) is to be extended or curtailed, the brewer must file with the Assistant Regional Commissioner an amended Form 27–C and amended plat. The additional facilities covered by an extension may not be used for the proposed purposes, and the portion to be excluded by a curtailment may not be used for other than the previously approved purposes, prior to approval of Form 27–C.

(68A Stat. 674; 26 U. S. C. 5401)

§ 245.141 *Changes in equipment, or in construction or use of a room or building.* Where the brewer desires to make a change in equipment, or in the construction or use of a room or building, that will affect the accuracy of Form 27–C or of the plat, he will furnish the Assistant Regional Commissioner with written notification, in duplicate, describing specifically the change he proposes to make and when he proposes to commence and complete it: *Provided,* That emergency repairs coming under this category of change may be made without prior notification. Where such emergency repairs are made, the brewer will file immediately a complete report thereof, in duplicate, with the Assistant Regional Commissioner. The Assistant Regional Commissioner may specifically require the immediate filing of an amended Form 27–C and plat where the accuracy of existing documents has been materially affected by any change. The brewer will file an amended Form 27–C and plat on or before May 1 of each year to reflect any changes made during the preceding calendar year which affected the accuracy of Form 27–C and plat and which have not previously been so reported.

(68A Stat. 674; 26 U. S. C. 5401)

SPECIAL TAX STAMPS

§ 245.142 *Liability; change in name.* Where there is a change in the corporate name or firm name, or in the trade name, or names, the brewer must, within 30 days after such change is made, file with the District Director of Internal Revenue an additional return on Form 11, covering the new corporate name, firm name, or trade name or names, as the case may be. The special tax stamp, or stamps, must be forwarded to the District Director for appropriate notation with respect to such change.

(68A Stat. 846; 26 U. S. C. 7011)

§ 245.143 *Liability; change in proprietorship.* Where there is a change in proprietorship of the brewery, the successor must procure the required special tax stamps: *Provided,* That persons having right of succession as provided in § 245.144, may carry on the business for the remainder of the period for which the special tax was paid, if, within 30 days after the date on which such successor begins to carry on the business, a return on Form 11 showing the basis of the succession is filed with the District Director. The person so succeeding to a business for which special tax has been paid and who fails to register such succession as provided in this subpart, is liable for special tax computed from the first day of the calendar month in which he began to carry on such business.

(68A Stat. 624, 846; 26 U. S. C. 5144, 7011)

§ 245.144 *Persons having right of succession.* Under the conditions indicated in § 245.143, the persons having right of succession are as follows:

Death: The widow or child, or executor, administrator, or other legal representative of the taxpayer.

Husband and wife: A husband or wife succeeding to the business of his or her spouse (living).

Insolvency: A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

Withdrawal from firm: The partner or partners remaining after death or withdrawal of a member.

(68A Stat. 624; 26 U. S. C. 5144)

§ 245.145 *Liability; change in location.* Where there is a change in location, the brewer must, within 30 days after such change is made, file with the District Director an amended return on Form 11 covering the new location of the brewery; otherwise, new special tax stamps must be purchased. The special tax stamp, or stamps, must be forwarded to the District Director for endorsement of the change in location.

(68A Stat. 594, 624, 846; 26 U. S. C. 4905, 5144, 7011)

SUBPART K—TERMINATION OF BONDS

§ 245.150 *Termination of brewer's bond.* The brewer's bond, Form 1566, may be terminated as to future liability (a) pursuant to application by the surety as provided in § 245.151, or (b) pursuant to approval of a superseding bond or (c) discontinuance of business by the principal. Application for termination of a brewer's bond upon approval of a superseding bond or discontinuance of the business, must be filed in duplicate with the Assistant Regional Commissioner.

§ 245.151 *Application of surety for relief from bond.* A surety on any bond required by this part may at any time in writing notify the principal and the Assistant Regional Commissioner in whose office the bond is on file that he desires after a date named, which shall be at least 60 days after the date of the notification, to be relieved of liability under said bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and the other two to the Assistant Regional Commissioner, who will retain one copy and transmit the remaining copy to the Director, Alcohol and Tobacco Tax Division. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved, in the case of a brewer's bond, Form 1566, from liability for beer produced at, and for beer consigned to, the brewery wholly subsequent to the date named in the notice. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney duly executed by the surety, authorizing him to give such notice, or by a verified statement that such power of attorney is on file with the Treasury Department. The surety must also file with the Assistant Regional Commissioner an acknowledgment, or other proof of service, of such notice on the principal.

§ 245.152 *Action on application for termination of brewer's bond.* Upon receipt of an application for termination of a brewer's bond as to future liability, in a case where a superseding bond has been approved, or the principal has discontinued business, as provided in § 245.160, the Assistant Regional Commissioner will issue a notice of termination of the bond in accordance with § 245.153, if he finds that the bond may be properly terminated. If the Assistant Regional Commissioner finds that taxes are due and payable, that outstanding assessments, demands for payment of taxes, or other outstanding liabilities chargeable against the bond have not been paid or otherwise settled, or that penalties incurred or fines imposed because of violation of the law or this part during the period covered by the bond have not been satisfied, he will notify the applicant of their nature and amount and will withhold action on the application until all such liabilities are settled.

§ 245.153 *Notices, Forms 1490 and 1491.* Upon approval of the application for termination of a brewer's bond, the Assistant Regional Commissioner will execute Form 1490 where a superseding bond has been approved, or Form 1491, where the principal has discontinued business, in quadruplicate (in quintuplicate if there are two sureties) and will forward one copy to each obligor on the bond.

§ 245.154 *Release of collateral.* The release of collateral pledged and deposited to support bonds required by this part, will be in accordance with the provisions of Department Circular No. 154, revised (31 CFR Part 225), subject to the conditions governing the issuance of notices on Forms 1490 and 1491 of the termination of such bonds. When the Assistant Regional Commissioner determines that there is no outstanding liability against the bond, he will fix the date or dates on which a part or all of the security may be released, which date or dates ordinarily will be not less than six months from the date of such determination. At any time prior to the release of such security the Assistant Regional Commissioner may, in his discretion and for proper cause, further extend the date of release of such security for such additional length of time as in his judgment may be appropriate.

(40 Stat. 1148, as amended; 6 U. S. C. 15)

SUBPART L—NOTICE OF DISCONTINUANCE OF BUSINESS

§ 245.160 *Form of notice.* Where a brewer desires to discontinue business permanently, he will file with the Assistant Regional Commissioner notice thereof on Form 27–C, in triplicate, stating therein the purpose, "Discontinuance of business," and giving the date of the discontinuance. The Assistant Regional Commissioner will, when operations have been properly completed, note his approval on the notice, retain one copy and forward one copy to the Director, Alcohol and Tobacco Tax Division, and one copy to the brewer.

SUBPART M—SPECIAL TAXES

§ 245.165 *Special tax.* Brewers are required to pay, within the calendar month in which they commence operations, the special tax required by section 5091, I. R. C. Special taxes shall become due on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case, the tax is reckoned for 1 year, and in the latter, it is reckoned proportionately from the first day of the month in which the liability to special tax commenced, to and including the 30th day of June following.

(68A Stat. 624; 26 U. S. C. 5142)

§ 245.166 *Special tax return.* Every person liable to special tax shall render his return on Form 11 with remittance to the District Director of the district in which the business is carried on, at such time within the calendar month in which the special tax liability commences as will enable the District Director to receive such return and remittance not later than the last day of such month.

(68A Stat. 624; 26 U. S. C. 5143)

§ 245.167 *Execution of Form 11.* The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by any one of the partners; the return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his capacity as "individual owner," "member of firm," or in the case of a corporation the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., will indicate the fiduciary capacity in which they act. When a return is signed by an agent or attorney in fact, his signature should be preceded by the name of the principal and be followed by his title. A return signed by a person as agent will not be accepted unless there is filed with the District Director, a power of attorney, authorizing the agent to perform such act. Form 11 must contain or be verified by a written declaration that it has been executed under penalties of perjury.

(68A Stat. 748, 749, 757, 846; 26 U. S. C. 6061, 6065, 6151, 7011)

§ 245.168 *Wholesale and retail special tax exemption.* A brewer is not required to pay special tax as a wholesale or retail dealer in beer if he sells only in hogsheads, barrels, or kegs, whether at the place of production or elsewhere, beer produced by him or purchased and procured by him in his own hogsheads, barrels, or kegs from another brewer, but the quantity of beer so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same.

(68A Stat. 619; 26 U. S. C. 5113)

§ 245.169 *Sale of bottled beer.* The special tax liability as brewer does not include the sale of beer in bottles, or the sale of beer produced by other brewers which is not in his own barrels. Brewers who sell such products are required to pay special tax as wholesale or retail dealers in beer, or both, according to the quantities sold.

(68A Stat. 618, 620; 26 U. S. C. 5111, 5121)

§ 245.170 *Wholesale dealer in beer.* Except as provided in Part 194 of this chapter, every person who sells, or offers for sale, beer in quantities of 5 gallons or more, to the same person at the same time, and who does not deal in distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in beer.

(68A Stat. 618; 26 U. S. C. 5112)

§ 245.171 *Retail dealer in beer.* Except as provided in Part 194 of this chapter, every person who sells, or offers for sale, beer in quantities of less than 5 gallons to the same person at the same time, and does not deal in distilled spirits or wines, shall be regarded as a retail dealer in beer.

(68A Stat. 621; 26 U. S. C. 5122)

§ 245.172 *Posting special tax stamp.* All stamps denoting payment of special tax shall be posted conspicuously in the place of business of the taxpayer.

(68A Stat. 831; 26 U. S. C. 6806)

§ 245.173 *Sale at purchaser's place of business.* Wholesale and retail dealers in beer, who have paid special tax as such, may, without incurring liability for additional special tax, sell beer to wholesale and retail dealers in beer or liquors at the purchaser's place of business.

(68A Stat. 621; 26 U. S. C. 5123)

§ 245.174 *Each place of business taxable.* Liability to special tax is incurred by a brewer at each and every place of business where he carries on any occupation subject to such tax: *Provided,* That, by place of business is meant the entire office, plant or area of the business in any one location under the same proprietorship, and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require additional special tax, if the various divisions of the premises are otherwise contiguous.

(68A Stat. 624; 26 U. S. C. 5144)

SUBPART N—TAX ON BEER

§ 245.180 *Rate of tax.* All beer brewed or produced and sold, or removed for consumption or sale, is subject to the tax prescribed by section 5051, I. R. C., for every barrel containing not more than 31 gallons, and at a like rate for any other quantity, or for the fractional parts of a barrel authorized and defined by law.

(68A Stat. 611; 26 U. S. C. 5051)

§ 245.181 *Persons liable for tax.* The tax imposed by law on beer (including beer purchased or procured by one brewer from another) shall be paid by the owner, agent, or superintendent of the brewery in which the beer is made: *Provided,* That the tax on beer transferred to a brewery from other breweries owned by the same brewer shall be paid by the owner or his agent or superintendent at the brewery from which the beer is sold or removed for consumption or sale.

(68A Stat. 613, 675; 26 U. S. C. 5054, 5413, 5414)

§ 245.182 *Method of taxpayment.* The tax on beer shall be paid by return on Form 2034, as provided in §§ 245.342–245.344. The tax shall be paid by remittance to the District Director at the time the tax return is rendered and the remittance shall be in cash, or by check or money order made payable to the "District Director of Internal Revenue." In paying the tax a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(68A Stat. 614, 777, 778; 26 U. S. C. 5061, 6311, 6313)

§ 245.183 *Determination of tax on keg beer.* In determining the tax on beer removed in kegs, a barrel shall be regarded as being a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths. Any keg containing one-eighth or less will be accounted and taxpaid as one-eighth; if more than one-eighth and not more than one-sixth, as one-sixth; if more than one-sixth and not more than one-fourth, as one-fourth; if more than one-fourth and not more than one-third, as one-third; if more than one-third and not more than one-half, as one-half; if more than one-half and not more than one barrel, as one barrel; and if more than one barrel and not more than 63 gallons, as two barrels or a hogshead. The provisions of this section requiring the accounting and taxpayment of kegs at the next higher quantity shall not apply where the excess quantity of beer in any such container over the standard quantity does not exceed two percent by volume. The quantities of keg beer removed subject to tax shall be computed to 5 decimal places. The sum of the quantities so computed for any one day will be reduced to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax shall be calculated and paid on such reduced sum.

(68A Stat. 611; 26 U. S. C. 5051)

§ 245.184 *Determination of tax on bottled beer.* The quantities of bottled beer removed subject to tax shall be computed to 5 decimal places in accordance with the table and instructions in § 245.185. The sum of the quantities so computed for any one day will be reduced

to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax shall be calculated and paid on such reduced sum.

(68A Stat. 611; 26 U. S. C. 5051)

§ 245.185 *Tax computations for bottled beer.* Barrel equivalents for various case sizes are as follows:

Number of bottles per case	Fluid contents (ounces) of each bottle	Barrel equivalent
4	64	0.06452
6	64	.09677
12	6	.01815
12	7	.02117
12	8	.02419
12	12	.03629
12	14	.04234
12	30	.09073
12	32	.09677
24	6	.03629
24	7	.04234
24	8	.04839
24	9	.05444
24	10	.06048
24	11	.06653
24	12	.07258
24	13	.07863
24	14	.08468
24	15	.09073
24	16	.09677
36	6	.05444
36	7	.06351
36	8	.07258
48	12	.14516
50	12	.15120

Since the determination of tax liability is based upon a count of cases of bottles, various sized bottles may not be indiscriminately mixed in a case. This shall not be construed as prohibiting cases or bottles of sizes other than those listed in the above table or cases which contain bottles of more than one size where such cases are uniformly filled with a specific number of bottles of each size: *Provided,* That if beer is to be removed in cases or bottles of sizes other than those listed in the above table, the brewer will notify the Assistant Regional Commissioner in advance and request to be advised of the fractional barrel equivalent applicable to the proposed container.

§ 245.186 *Time of tax determination and payment.* The tax on beer shall be determined on sale or removal for consumption or sale. Except as provided in § 245.187, a brewer shall file the tax return with remittance not later than the close of the business day next succeeding that on which the beer was sold or removed for consumption or sale: *Provided,* That when the last day for filing a tax return and remittance falls on Saturday or Sunday, or on a legal holiday (of the particular State or of the District of Columbia wherein the return is required to be filed), the performance of such acts shall be considered timely if they are performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday (of the particular State or of the District of Columbia wherein the return is required to be filed): *And provided further,* That where the return and remittance are delivered by United States mail to the office of the District Director, the official postmark of the United States Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. Timely mailing (as evidenced by such postmark) will be treated as timely filing. Postmarks not made by the United States Post Office are not acceptable evidence of time of mailing.

(68A Stat. 613, 731, 895, 896; 26 U. S. C. 5055, 6001, 7502, 7503)

§ 245.187 *Handling of a day's gross tax liability of less than $100.* Notwithstanding the provision of § 245.186 regarding the filing of tax returns daily, a return need not be prepared (nor the remittance of tax made) until the total gross tax (for one or more days) reaches $100, when Form 2034 (with remittance) will be prepared and filed. Before the close of the first business day following the last day of each month, Form 2034 will be prepared and filed with remittance covering the last day or days of the next preceding month even though the amount of tax due is less than $100.

(68A Stat. 614, 675, 681; 26 U. S. C. 5061, 5415, 5555)

§ 245.188 *Evasion of or failure to pay tax.* Evasion or attempted evasion of the tax imposed on beer may subject the brewer to proceedings leading to the forfeiture of all the beer made by him or for him, the utensils and apparatus used in making such beer, and the land and buildings constituting the brewery, and to fine and imprisonment. A brewer who fails to pay such tax, or make a return as required by this part, shall in addition to other penalties provided by law be subject to a penalty of not more than $1,000.

(68A Stat. 696, 699; 26 U. S. C. 5671, 5673, 5684)

SUBPART O—MARKS, BRANDS, AND LABELS

§ 245.195 *Barrels and cases.* The brewer's name or trade name and the place of production must be embossed on, indented in, or otherwise permanently marked on (subject to the approval of the Assistant Regional Commissioner) each metal barrel or keg of beer. The same information must be branded by burning on the side, across the staves, and extending over 60 percent, or more, of the circumference, of each wooden barrel or keg. Such branding must be of sufficient depth and size so that it may not be effaced without leaving traces of scraping or other erasure. The brewer's name or trade name and place of production (city and state) must be shown on each case or other shipping container for bottled beer. No statement concerning payment of internal revenue tax shall appear on such shipping container.

(68A Stat. 675; 26 U. S. C. 5412)

§ 245.196 *Bottles.* Where beer is bottled in the brewery bottling house, the bottle shall show by label or otherwise the name or trade name, the place of production (city and state), the net contents of the container and the nature of the product, such as beer, lager beer, ale, stout, etc. No statement as to payment of internal revenue taxes shall be shown. The labels used by the brewer must be covered by certificates of label approval where required by Part 7 of Title 27 of the Code of Federal Regulations.

(68A Stat. 675; 26 U. S. C. 5412)

MORE THAN ONE BREWERY OWNED BY THE SAME PERSON

§ 245.197 *Barrels or kegs.* Where two or more breweries are owned and operated by the same person, firm, or corporation, barrels or kegs with the name of the brewer and the location of one or more of such breweries branded, embossed, or otherwise permanently marked thereon or indented therein may be used for the removal of beer subject to tax from all such breweries: *Provided,* That whenever a barrel or keg so branded is filled with beer for removal subject to tax, the location (city and state) of the brewery at which the beer was produced, shall be marked on the bung or shown on a label securely affixed to the container. If more than one such brewery is located in the same city, such bung or label shall show the location by street number, city and state.

(68A Stat. 675; 26 U. S. C. 5412)

§ 192.198 *Cases.* The place of production (city and state) must be shown on each case: *Provided,* That where two or more breweries are owned and operated by the same person, firm, or corporation the cases may show the addresses (city and state) of all of such breweries and be used interchangeably.

§ 245.199 *Rebranding barrels or kegs.* No barrel or keg which bears the name of more than one brewer may be used as a container for beer: *Provided,* That where barrels or kegs are purchased by one brewer from another or obtained by other legitimate means, and after the Assistant Regional Commissioner has been notified of the proposed action, the brands on such wooden barrels or kegs may be scraped and the barrels or kegs rebranded by the purchasing brewer, and in the case of metal barrels or kegs, the original marks may be covered by a metal plate so welded to the barrel as to become an integral part thereof, and the required marks may be embossed on, or indented in, such metal plates. The successor to a brewer who has discontinued business may place additional marks and brands on the barrels and kegs, in accordance with § 245.195, which indicate the successorship without removing the marks and brands of the predecessor.

(68A Stat. 675; 26 U. S. C. 5412)

§ 245.200 *Tanks, vehicles, and vessels.* Each tank, tank car, tank truck, tank ship, barge, or deep tank of a vessel, used for transferring beer from one brewery to another brewery belonging to the same brewer, as provided in § 245.211, must be plainly and durably marked with the brewer's name, the address of the brewery from which the beer was removed, the address of the brewery to which transferred, the date of shipment, and the quantity transferred (expressed in barrels). The marks may be placed on a suitable label securely affixed to the route board of such containers.

(68A Stat. 675; 26 U. S. C. 5414)

SUBPART P—REMOVAL OF BREWER'S YEAST AND OTHER ARTICLES

§ 245.205 *Containers and records.* Brewer's yeast, in liquid or solid form containing not less than 10 percent solids (as determined by the methods of analysis of the American Society of Brewing Chemists), may be removed from the brewery in barrels, tank trucks, or other suitable containers, or by pipeline. If removed in containers, the containers must bear labels giving the name and location of the brewery, and the words "Brewer's Yeast." If removed by pipeline, the pipeline will be indicated on the plat and described in the Form 27–C, and the premises receiving the product will be subject to inspection by internal revenue officers during ordinary business hours. The brewer must keep records open for inspection by internal revenue officers showing the quantity and date of removal, and the name and address of the consignee. Brewer's yeast may be removed for sale to other brewers for use in the production of beer and to other concerns for the preparation of stock foods and medicinal products, or for any other legitimate purposes.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.206 *Malt sirup.* Records shall be kept by the brewer of all malt and malt sirup removed from the brewery. Such records must show the quantity of each lot removed, together with the name and address of the person to whom shipped or delivered. The records must be available for inspection by internal revenue officers.

(68A Stat. 675; 26 U. S. C. 5411)

SUBPART Q—TRANSFERS TO ANOTHER BREWERY OF SAME OWNERSHIP

§ 245.210 *General.* In accordance with the provisions of this part, beer may be removed from one brewery for transfer to another brewery belonging to the same brewer, without payment of tax, and may be mingled with the beer of the second brewery.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.211 *Kinds of containers.* Beer may be transferred without payment of tax, from one brewery to another brewery belonging to the same brewer (a) in bottles and cases; (b) in the brewer's hogsheads, barrels, or kegs; or (c) in tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels provided the breweries are equipped with suitable railroad siding facilities or dock facilities, as applicable, and subject to such limitations and conditions as may be imposed by the Assistant Regional Commissioner. All such containers shall be marked, branded, or labeled as provided in §§ 245.195 to 245.200.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.212 *Determination of quantity transferred.* The quantity of beer shipped will be determined by the brewer at the time of removal from the consignor brewery and the quantity received will be determined at the time of receipt at the consignee brewery. Before any beer is transferred by tank, tank car, tank truck, tank ship, barge, or deep tanks of vessels, the brewer must satisfy the Assistant Regional Commissioner(s) that both the shipping and receiving breweries are so equipped that the quantities to be shipped and delivered in such bulk conveyances can be accurately determined.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.213 *Losses in transit.* The brewer is liable under the bond of the brewery to which the beer is transferred for the tax on beer lost in transit. Such liability may be remitted if such beer is lost other than by theft.

(a) *Losses allowable without claim.* Where such loss does not exceed 1 percent of the quantity shipped, application for allowance of the loss or report of loss will not be required provided there are no circumstances indicating that the beer lost, or any part thereof, was stolen or otherwise diverted to an unlawful purpose.

(b) *Losses requiring claim.* Where such loss exceeds 1 percent of the quantity shipped, the brewer shall submit an application under the penalties of perjury for remission of the tax on the entire loss to the Assistant Regional Commissioner of the region in which the receiving brewery is located. Such application shall be prepared and submitted in accordance with the provisions of § 245.218.

(c) *Losses requiring immediate report.* A loss by fire or other casualty, or any other unusual loss, including a loss by theft, must be reported to the Assistant Regional Commissioner immediately it becomes known.

(68A Stat. 613, 675; 26 U. S. C. 5057, 5414)

§ 245.214 *Mingling.* Beer transferred without payment of tax from one brewery to another brewery belonging to the same brewer may be mingled with beer of the receiving brewery: *Provided,* That (a) beer transferred in hogsheads, barrels, or kegs must be received in the racking room or keg beer storage room of the receiving brewery; (b) bottled beer must be received in the brewery bottling house; and (c) bulk beer transferred in tanks, vehicles, or vessels must be received in brewery tanks not located in the bottling department: *And provided further,* That such beer having been so received and accounted for in the records of the consignee brewery may be handled thereafter in accordance with the requirements of this part relating to beer produced in such brewery.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.215 *Report of transfers between breweries.* When beer is transferred without payment of tax from one brewery to another brewery belonging to the same brewer, the consignor brewery shall render notice thereof on the date of shipment on Form 2035 as provided in §§ 245.216 and 245.217. The quantity transferred will be entered on Forms 2051 and 103 of the shipping brewery. Similarly, the quantity received will be reported on Forms 2051 and 103 of the receiving brewery. Any discrepancy between the quantity shipped and the quantity received will be reported on Form 2035 in accordance with §§ 245.216 and 245.217.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.216 *Transfers in same region.* When beer is transferred from one brewery to another brewery belonging to the same brewer and located in the same region, the brewer shall prepare Form 2035, in quadruplicate, and forward, on the day of shipment, one copy to the Assistant Regional Commissioner of his region and two copies to the receiving brewery. One copy will be retained in the files of the shipping brewery. When the beer is received, the receiving brewery will enter on the two copies of Form 2035 the actual quantity received and any discrepancy between the quantities shipped and received. One copy of the form will be promptly forwarded to the Assistant Regional Commissioner and the other copy retained in the files of the receiving brewery.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.217 *Transfers to other regions.* When beer is transferred to a brewery located in another region, the brewer shall prepare Form 2035, in quintuplicate, and forward, on the day of shipment, one copy to the Assistant Regional Commissioner of the shipping region, one copy to the Assistant Regional Commissioner of the receiving region, and two copies to the receiving brewery. The remaining copy will be retained in the files of the shipping brewery. When the beer is received, the receiving brewery will enter on the two copies of Form 2035 the actual quantity received and any discrepancy between the quantities shipped and received. One copy of the form will be promptly forwarded to the Assistant Regional Commissioner of the receiving region and the other retained in the files of the brewery. On receipt of the Form 2035 showing the actual quantity received, the Assistant Regional Commissioner of the receiving region will complete the Form 2035 received from the brewer at the time of shipment and forward it to the Assistant Regional Commissioner of the shipping region.

(68A Stat. 675; 26 U. S. C. 5414)

§ 245.218 *Application for remission of tax.* Application for remission of tax on beer lost in transit between breweries of the same ownership shall be prepared by the brewer or his duly authorized agent and submitted with Form 103 of the receiving brewery for the month in which the shipment is received. Where the loss is by casualty, the application shall be submitted with the Form 103 for the month in which the loss is discovered. Where, for valid reason, the required application cannot be submitted with such report, a statement shall be attached to the monthly report setting forth the reason why the application cannot be filed at that time and specifying when it will be filed. No claim shall be allowed unless such application is filed with the Assistant Regional Commissioner within 6 months after the date of loss. The application shall set out:

(a) The date and serial number of the shipment (as shown on the transfer paper).

(b) The quantity of beer lost (number and size of packages and their equivalent in barrels).

(c) The percent of loss.

(d) The specific cause of the loss.

(e) The nature of the loss (leakage, breakage, casualty, etc.).

Full details shall be furnished on losses due to casualty or accident, supported if possible, by statements of the carrier or other parties having personal knowledge of the loss.

(68A Stat. 613, 675; 26 U. S. C. 5057, 5414)

SUBPART R—REMOVALS TO CONTIGUOUS ALCOHOL PLANTS

§ 245.225 *Beer removed to contiguous alcohol plants.* Beer to be used as distilling material may be conveyed by pipeline without taxpayment from the brewery where produced to an industrial alcohol plant contiguous to the brewery.

(68A Stat. 658, 675; 26 U. S. C. 5309, 5412)

§ 245.226 *Brewery and alcohol plant separate.* The brewery and the industrial alcohol plant must be separate and distinct. If the industrial alcohol plant is in a portion of a building in which the brewery is situated or is in a separate building immediately adjoining a brewery building, they must be separated by substantial unbroken walls from cellar to roof, on the lines of the premises on all floors, with the exception only that necessary openings will be permissible to allow the conveyance of beer, water, and carbon dioxide gas by pipes, and to permit the use of the same heat, light, and power plants in the conduct of both industries. Necessary openings will also be permitted in such partitions for the passage of pipes for the return of the residue after distillation for finishing as cereal beverage in the brewery.

(68A Stat. 658; 26 U. S. C. 5309)

§ 245.227 *Measuring tanks.* Necessary measuring tanks, with a 24-hour capacity for each, must be provided, either in the brewery or industrial alcohol plant, for the determination of the quantity of beer transferred, and records must be made thereof at the brewery and at the industrial alcohol plant. Each such measuring tank must be calibrated and provided with a suitable measuring device and the outlet must be equipped for locking with a Government seal lock. A meter to be approved by the Assistant Regional Commissioner may be provided in lieu of measuring tanks.

(68A Stat. 658; 26 U. S. C. 5309)

§ 245.228 *Cereal beverage.* The residue, which is to be used in making cereal beverage, may be transferred from the industrial alcohol plant premises to the brewery by means of packages unlike those ordinarily used for containing beer. If like packages are used, they must be equipped in the manner required where beer packages are used for containing nontaxable beverages removed from a brewery. Such residue may be transferred from the industrial alcohol plant to the brewery by means of a separate pipeline which must be visible throughout its entire length. The residue must be kept separate and distinct from taxable products of the brewery, and if the same apparatus is to be used for cereal beverage and beer it must be used at separate and distinct times for the two products.

(68A Stat. 658; 26 U. S. C. 5309)

§ 245.229 *Production report.* The beer conveyed to a contiguous alcohol plant shall be reported as produced by the brewer and so entered on Forms 2051 and 103.

(68A Stat. 658; 26 U. S. C. 5309)

§ 245.230 *Records.* Credit shall be taken on Forms 2051 and 103 for the quantity of beer removed as distilling material. Any residue returned from the industrial alcohol plant to the brewery for finishing as cereal beverage shall be accounted for as received, on Form 66.

(68A Stat. 658; 26 U. S. C. 5309)

§ 245.231 *Supervision by storekeeper-gauger.* The storekeeper-gauger assigned to supervise the operations of the industrial alcohol plant will also supervise the removal of the beer from the brewery to such industrial alcohol plant. Such removals shall be made only at times when the storekeeper-gauger is available to provide the required supervision.

(68A Stat. 658; 26 U. S. C. 5309)

SUBPART S—REMOVAL OF BEER UNFIT FOR BEVERAGE USE

§ 245.235 *Removal of sour or damaged beer.* When beer has become sour or damaged, so as to be incapable of use as such, a brewer may remove such beer from his brewery without payment of tax, for manufacturing purposes, in accordance with the provisions of this subpart.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.236 *Packages.* A brewer may remove sour or damaged beer in casks, or other packages, containing not less than one barrel each and unlike those ordinarily used for packaging beer. The nature of the contents shall be marked on such casks or other packages.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.237 *Application.* Before removing sour or damaged beer, the brewer shall apply to the Assistant Regional Commissioner for permission to make such removal, stating the quantity, type, condition, and proposed disposition of the beer. The Assistant Regional Commissioner, before granting permission for removal, may assign an inspector to inspect and identify the spoiled beer and to secure samples thereof for submission to the Government chemist. If the chemist's report of analysis shows the beer to be unsuitable for use as such, the Assistant Regional Commissioner will notify the brewer in writing that it may be removed. The Assistant Regional Commissioner may authorize such removal without inspection and sampling where he is satisfied that the revenue will not be jeopardized thereby.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.238 *Entry on Form 103.* Sour or damaged beer shall be removed from the brewery without passing through the meter and racking machine. Credit entry therefor must be made in the "Beer Summary" on Form 103.

(68A Stat. 612; 26 U. S. C. 5053)

SUBPART T—BEER RETURNED TO BREWERY

§ 245.240 *Temporary storage of undelivered beer.* Undelivered beer returned to the brewery may be held in temporary storage pending its removal again for sale. Such beer must be kept completely segregated from all other beer and be immediately accessible for examination by internal revenue officers. Undelivered beer must be the first of its kind, type, and container size removed: *Provided*, That beer in barrels and kegs may be held for not more than 5 days for refrigeration, after which it must be the first of its kind, type, and container size removed. Entry will not be made on Form 2051 for such beer while in temporary storage. The brewer must show on his commercial records the quantity of such beer returned to the brewery each day and the quantity remaining on hand. Such records must be supported by credits against loading slips or other commercial papers.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.241 *Temporary storage of repossessed bottled beer.* Bottled beer on which the tax has been determined or paid, and which is repossessed from the purchaser thereof, may be returned to the brewery bottling house and held in temporary storage pending its destruction, reconditioning, or use as material. Such beer must be completely segregated from all other beer, be identified as repossessed beer, and be immediately accessible for examination by internal revenue officers. No refund, credit, or remission of tax will be allowed on such beer, and such beer, after reconditioning, shall again be subject to the tax imposed by law. Immediately upon receipt the quantity of beer must be taken into account in the "Statement of Transactions in Beer" on Form 2051 and upon destruction, reconditioning, or use as material, an entry of the quantity involved must be made in the same statement. Similar special entries must be made in the "Beer Summary" on Form 103. Destruction, reconditioning, or use as material, may be effected only in accordance with the provisions of § 245.354.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.242 *Recasing or relabeling; application.* A brewer desiring to receive bottled beer on which the tax has been paid or determined, for recasing or relabeling in the brewery bottling house, must submit an application, in triplicate, with the Assistant Regional Commissioner, for permission so to do, stating the approximate quantity of beer and the date on which it is to be received for such reconditioning. The Assistant Regional Commissioner may assign an officer to supervise the receipt, recasing or relabeling, and removal of the beer or authorize such actions without supervision where he is satisfied that the revenue will not be jeopardized thereby. The

brewer may submit his application directly to an inspector at the brewery, who may thereupon supervise the operation. The beer must be recased or relabeled promptly after receipt at the brewery bottling house, be kept apart from all other beer, and be immediately removed from the bottling house after completion of the recasing or relabeling. If a brewer desires to hold small quantities of beer returned for recasing or relabeling until a sufficient quantity has been accumulated for economical handling, or if it is not otherwise feasible to recase or relabel returned beer immediately, such beer must be stored on premises other than the brewery. The brewer will file at the brewery one copy of the application as completed by the supervising officer or by the Assistant Regional Commissioner when supervision is not required. The quantity of beer so received and disposed of shall not be entered on Forms 2051 or 103.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.243 *Beer removed from market.* Beer on which the tax has been paid or determined, which is removed from the market before transfer of title thereto to any other person, may be returned to the brewery for destruction, reconditioning, or use as brewing material. Immediately upon receipt, the quantity of such beer must be taken into account in the "Statement of Transactions in Beer" on Form 2051, and when destroyed, reconditioned, or used as material, appropriate entries shall be made in the same statement. Similar special entries must be made in the "Beer Summary" on Form 103. When such beer is used as brewing material, the quantity so used must be entered on Form 2051 as materials received, in one of the unused columns, the heading of which should be marked "Returned Beer Salvaged". Entry of the quantity and balling shall also be made on Form 2051 under materials used in an unused column which should be headed "Salvaged Beer". Such salvaged beer used as brewing material shall also be reported in the "Summary of Materials" on Form 103. All such beer received at the brewery may be stored temporarily therein pending its disposition but must be completely segregated from all other beer, be identified as beer removed from the market without transfer of title, and be immediately accessible for inspection by internal revenue officers. The destruction, reconditioning, and use as material, of the beer, may be effected only in accordance with the provisions of §§ 245.251 and 245.252.

(68A Stat. 675; 26 U. S. C. 5411, 5415)

SUBPART U—REFUND AND CREDIT OF TAX OR RELIEF FROM LIABILITY

§ 245.250 *Beer returned for reconditioning, use as material, or destruction.* The tax paid by a brewer on beer produced by him in the United States may be refunded or credited to him (without interest), or, if the tax has not been paid, he may be relieved of liability therefor, if such beer is removed from the market before the transfer of title thereto to any other person, and such beer is returned to the brewery for reconditioning, for use as material, or is destroyed, as required by this part. Such beer may be returned to the brewery and held in temporary storage as provided in § 245.243. The destruction of such beer or its reconditioning or use as material, may be effected only in accordance with the provisions of §§ 245.251 and 245.252.

(68A Stat. 613; 26 U. S. C. 5057)

§ 245.251 *Brewer's application: beer removed from market.* When a brewer possesses returned taxpaid beer (or beer on which the tax has been determined) in his brewery or elsewhere, which he desires to destroy, recondition, or use as material, and such beer was removed from the market by the brewer before transfer of title thereto to any other person, he shall make written application, in triplicate, to the Assistant Regional Commissioner for permission so to do: *Provided,* That such application may be submitted directly to an inspector at the brewery who may thereupon supervise the destruction or removal of the beer from its containers for reconditioning or use as material. The application shall contain or be verified by a written declaration that it is made under the penalties of perjury and shall set forth the following information:

(a) The number and sizes of kegs and their total equivalent in barrels; or if in cases, the number of cases, the number and size in ounces of the bottles comprising the cases and the equivalent in barrels of the total contents of the cases.

(b) The date on which the beer was removed subject to tax, and, if the tax has been paid, the date and place of taxpayment.

(c) The date on which the beer was removed from the market.

(d) A statement that title to the beer has never passed to any other person.

(e) A notation with respect to each item or lot indicating whether the beer is to be destroyed, or whether it is to be returned for reconditioning or for use as brewing material.

(f) The percent of alcohol by volume and, if removed for use as material, the percent of balling.

(g) If returned for reconditioning, the reason such reconditioning is necessary.

(h) If to be destroyed, the location at which the brewer desires to accomplish destruction and, if not at the brewery, the reason for destruction elsewhere.

(68A Stat. 613; 26 U. S. C. 5057)

§ 245.252 *Assignment of inspector.* Upon receipt of the brewer's application, the Assistant Regional Commissioner will assign an inspector to verify the statements therein and to witness the destruction of the beer or its removal from containers for reconditioning or use as material, unless the Assistant Regional Commissioner determines that such supervision is unwarranted because of the small quantity of beer involved and such action will not jeopardize the revenue. In such case he shall approve the application without the assignment of an inspector. Special assignment of an inspector will not be made unless it is essential to return the beer for immediate reconditioning. If the brewer desires to destroy such beer at some place other than the brewery and such place is not readily accessible to an inspector, the Assistant Regional Commissioner may require that the beer be moved to a more convenient location.

(68A Stat. 613; 26 U. S. C. 5057)

§ 245.253 *Beer lost or destroyed by fire, casualty, or act of God.* In accordance with the provisions of this part the tax paid by any brewer on beer produced in the United States may be refunded or credited (without interest), or, if the tax has not been paid, the liability may be remitted, if such beer is lost other than by theft, or is destroyed by fire, casualty, or act of God, before transfer of title thereto to any other person. A brewer who sustains such loss and desires to file a claim for refund, credit, or remission of tax, shall, upon learning of such loss, immediately notify the Assistant Regional Commissioner of the nature, cause, and extent of the loss, and the place where such loss occurred. Statements of witnesses or other supporting documents should be furnished, if available. When such notice, and supporting documents where furnished, are received by the Assistant Regional Commissioner, he will examine the reasons for the described loss and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary for use in connection with the claim when it is submitted. The tax liability on excessive losses of beer from transfers between breweries of the same ownership may be remitted as provided in § 245.213.

(68A Stat. 613; 26 U. S. C. 5057)

§ 245.254 *Claims for refund of tax.* A claim for refund of tax paid on beer removed from the market by the brewer before the transfer of title thereto to any other person, which beer has been returned to the brewery for reconditioning or for use as material, or destroyed, as provided in this part, will be made on Form 843. A claim for refund of tax paid on beer lost, other than by theft, or destroyed by fire, casualty, or act of God, before the transfer of title thereto to any other person, will also be filed on Form 843. Any such claim must be filed with the Assistant Regional Commissioner having jurisdiction over the region in which the tax was paid, within 6 month after the date of such removal from the market, loss, or destruction by fire, casualty, or act of God. Such claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(68A Stat. 613; 26 U. S. C. 5057)

§ 245.255 *Claims for allowance of credit for tax.* In lieu of filing a claim for refund of tax as provided in § 245.254, a brewer, under the circumstances enumerated in that section, may file with the Assistant Regional Commissioner having jurisdiction over the region in which the tax was paid, a claim for allowance of credit for the tax paid. Any such claim shall be prepared in triplicate, be on the brewer's letterhead, and shall contain or be verified by a written

declaration that it is made under the penalties of perjury. Where the claim concerns beer destroyed or returned to the brewery for reconditioning or for use as material, the claim shall recite the pertinent details in connection with the transaction and shall make specific reference to the application filed in connection therewith pursuant to § 245.251. Where the claim concerns beer lost, other than by theft, or destroyed by fire, casualty, or act of God, the claim must likewise recite the pertinent details in connection with the loss or destruction and make specific reference to the written notification to the Assistant Regional Commissioner required by § 245.253. All such claims shall include a statement of the brewer's reasons for believing that the credit should be allowed. The brewer may not anticipate allowance of a credit or make an adjusting entry therefor in a tax return pending consideration and action on the claim by the Assistant Regional Commissioner. When written notification of allowance of the credit or any part thereof is received from the Assistant Regional Commissioner, the brewer may make a proper adjusting entry and explanatory statement in the next subsequent beer tax return (or returns) to the extent necessary to exhaust the credit. A claim for allowance of credit for tax paid on beer must be filed within 6 months after the date of removal from the market, loss, or destruction by fire, casualty, or act of God. A claim will not be allowed if filed after the prescribed time or if the brewer was indemnified by insurance or otherwise in respect of the tax.

(68A Stat. 613; 26 U. S. C. 5057)

SUBPART V—EXPORTATION

§ 245.260 *General.* An exportation is a severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment will be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country. Evidence of exportation, as provided in § 245.264, is required. In every case where a shipment is made, which is not a bona fide exportation, the tax due thereon will be assessed.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.261 *Exportation of taxpaid beer.* When beer brewed or produced in the United States is exported or used as supplies on the vessels and aircraft described in section 309 of the Tariff Act of 1930, as amended (19 U. S. C. 1309), the brewer thereof shall be allowed a drawback, in accordance with the provisions of Part 252 of this title, equal in amount to the tax found to have been paid on such beer.

(68A Stat. 613; 26 U. S. C. 5056)

§ 245.262 *Exportation without payment of tax.* Beer may be removed from a brewery, without payment of tax, for export to a foreign country. The provisions of this part and the forms prescribed in respect to the removal of beer without payment of tax for exportation to foreign countries, apply to like removals and shipments to Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Panama Canal Zone. Beer removed from a brewery for shipment to Hawaii, Alaska, Kingman's Reef, the Midway Islands, or Wake Island must be taxpaid in the same manner as beer sold or removed for consumption or sale in the United States.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.263 *Foreign trade zones.* Beer may be removed from a brewery without payment of tax for deposit in a foreign trade zone and taxpaid beer, brewed or produced in the United States, may be so deposited by the brewer thereof with benefit of drawback, in accordance with the provisions of Part 253 of this title.

(48 Stat. 999, 68A Stat. 612, 613; 19 U. S. C. 81c, 26 U. S. C. 5053, 5056)

§ 245.264 *Evidence of exportation.* Exportation of beer may be evidenced by (a) a copy of the export bill of lading executed, as described in § 245.271, by the export carrier, or (b) a certificate by the agent or representative of the export carrier, or by a proper United States customs officer showing that the beer has been laden for export, or (c) a certificate signed by the port transportation officer or the commanding officer of a supply base showing that the beer will be delivered only for consumption or use by the Armed Forces of the United States outside the jurisdiction of the internal revenue laws of the United States: *Provided,* That where the evidence of exportation described above is not furnished, or where deemed necessary to protect the revenue, the Assistant Regional Commissioner may require the submission of other evidence of exportation as provided in § 245.278.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.265 *Removal for exportation.* The quantity of beer removed for exportation in kegs or barrels or in bottles pursuant to Form 1689 will be entered on Forms 2051 and 103. Beer may be so removed only for immediate exportation and may not be returned to a brewery unless authorized under the provisions of § 245.272.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.266 *Marks on containers.* In addition to the marks and brands prescribed in § 245.195, each keg, barrel, case, crate, or other package containing beer to be exported under the provisions of this part, without the payment of tax, must plainly and legibly show the words: "Beer for Export—Lot No. _____", in letters and figures of not less than three-fourths of an inch in height. The lot number assigned must correspond with the serial number of Form 1689.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.267 *Consignment to Collector of Customs.* Every shipping container of beer destined for foreign countries or the insular possessions beyond the territorial waters of the United States must be consigned to the Collector of Customs at the port of exportation, and the brewer should notify his agent of such shipment. Where such containers are destined for contiguous foreign territory the shipments shall be consigned to the foreign consignee at destination and must be marked in care of the Collector or deputy collector of customs at the border port of exit: *Provided,* That beer removed for export and intended for the use of, or consumption by, the Armed Services of the United States will be consigned to the commanding officer or supply officer at the supply base or other place of delivery, as provided in § 245.269.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.268 *Notice, Form 1689.* The brewer shall prepare notice on Form 1689, in quadruplicate, for each withdrawal of beer intended for export without payment of tax. Each Form 1689 shall be given a serial number and the details shall be filled in completely and legibly by the brewer in accordance with the instructions on the form. The name or number of the vessel or vehicle on which the shipment will be carried from the exterior limits of the United States, if unknown to the brewer, will be filled in by the agent of the brewer at the port of exportation, who will sign the request for customs inspection as the agent for the exporter. On removing beer for export, the brewer shall file two copies of the notice with the Collector of Customs of the port of exportation, or of the border port through which a shipment is made to contiguous foreign territory, file one copy with the Assistant Regional Commissioner of the region in which the brewery is located, and retain one copy in the files at the brewery. If the place of production is located at some place other than the port of exportation, and the shipment is to be exported by vessel immediately, the brewer shall forward two copies of the Form 1689 to his agent at the port of exportation. The two copies of the Form 1689 must reach the agent in sufficient time for him to file them with the Collector of Customs of the port at least six hours prior to lading. The agent shall see that the name of the exporting vessel is properly entered in the Form 1689 giving the location of the pier where it will be laden, and shall subscribe his name as agent for the exporter.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.269 *Shipment to Armed Services.* On removing beer without payment of tax for export to the Armed Services of the United States, the brewer shall consign the shipment to the commanding officer or supply officer at the supply base or other place of delivery. One copy of the notice on Form 1689 shall be transmitted to such officer and one copy shall be sent to the Assistant Regional Commissioner of the region from which the beer is shipped. Form 1689 will be modified to show that the beer is consigned to a commanding officer or supply officer of the Armed Services of the United States and the location of the supply base or place of delivery. When the beer is received, the officer to whom consigned, or other authorized supply officer, at the supply base or other place of delivery, will, in the

space designated "Certificate of Inspection and Lading," on Form 1689, receipt for the number of cases received, and state that "The beer will be shipped or delivered only for consumption or use outside the jurisdiction of the internal revenue laws of the United States." The commanding officer or supply officer will return the Form 1689 direct to the Assistant Regional Commissioner who will credit the brewer's export account for the quantity of beer receipted for on Form 1689.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.270 *Change in consignee.* Where a change of consignee is desired after removal of the beer, the brewer shall notify the appropriate Collector of Customs and forward a copy of such notification to the appropriate Assistant Regional Commissioner.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.271 *Delivery to carrier.* The brewer, upon removal of beer for export without payment of tax, will deliver such beer either to the carrier or directly for customs inspection. If the place of production is located at the port of exportation, he will deliver the beer directly for customs inspection and supervision of lading, and will promptly forward a copy of the export bill of lading to the Assistant Regional Commissioner. If the place of production is located elsewhere than at the port of exportation, he will deliver the beer to the carrier for transportation to the port of exportation, and promptly forward one copy of the bill of lading covering such transportation to the Assistant Regional Commissioner of the region from which the beer was shipped. After the beer has been delivered to the export carrier, the brewer, or his agent, will forward a copy of the export bill of lading to the Assistant Regional Commissioner of the region from which the beer was shipped. The export bill of lading will not be accepted as evidence of exportation unless it has been executed by the export carrier to show that the beer has been accepted by such carrier for delivery to a foreign destination.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.272 *Return of beer.* Beer removed for export without payment of tax may be returned to the brewery from which removed if lading of the beer is delayed more than 30 days, or for such additional time as the Assistant Regional Commissioner may approve, as provided in § 245.275, or where the brewer has other good cause for such return. The brewer will request the Collector of Customs to release the beer for return to the brewery and, upon such release, the Collector of Customs will endorse his approval of the action taken, on both copies of Form 1689 covering the beer, and return the forms to the brewer. Upon return of the beer to the brewery, the brewer will record the quantity of beer as a special entry on Form 2051, mark the two copies of Form 1689 returned by the Collector of Customs, "Cancelled— returned to brewery," and forward one copy to the Assistant Regional Commissioner. The total quantity of beer involved in all export shipments returned during any calendar month shall be reported as a special entry on Form 103.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.273 *Exportation through border port.* In case of exportation through a border port to contiguous foreign territory, the bill of lading will cover transportation to the foreign destination, and must show the routing, particularly the carrier which will deliver the shipment of beer for customs inspection at the border; also that the beer was sent in care of the Collector of Customs or a deputy collector of customs at the border port: *Provided,* That where a through bill of lading is not obtainable, separate bills of lading covering the shipment from the place of production to the border port and from the border port to the foreign destination will be procured. A copy of the through bill of lading, or copies of the separate bills of lading, as the case may be, will be transmitted by the brewer or his agent immediately to the Assistant Regional Commissioner of the region from which the beer was shipped. Where a copy of a separate bill of lading covering the shipment from the border port to the foreign destination, and executed by the export carrier, is not obtainable, the brewer may procure a certificate by an agent of such carrier, as described in § 245.274, and transmit such certificate to the Assistant Regional Commissioner.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.274 *Certificate by export carrier.* A certificate, executed under the penalties of perjury, by an agent or representative of the export carrier, may be furnished by a brewer as evidence of exportation. The certificate must contain a description of the shipment, including the lot number, name of the exporter and of the consignee, date received and place where received by such carrier, and the name of the carrier from which received.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.275 *Delay in lading.* If beer to be exported without payment of tax arrives at the port of exportation before the vessel is prepared to receive it, such beer may remain in the custody of the transportation company, with the consent of such company, for a period of not more than 30 days until released by permit issued by the Collector of Customs. Storage elsewhere for like cause and not exceeding the same period must be with the approval of the Collector of Customs. In the event of any further delay, the facts shall be reported to the Assistant Regional Commissioner of the region from which the shipment was made. If further delay is not approved by the Assistant Regional Commissioner, he will request the Collector of Customs to release the beer for immediate return to the brewery from which removed. Such return shall be in accordance with the provisions of §245.272, insofar as applicable.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.276 *Examination by customs officer.* The Collector of Customs with whom the Form 1689 has been filed shall fill in on each copy of such form the order for inspection and lading. The inspector of customs shall carefully examine the packages of the beer described in the form. He shall examine the contents of such packages as are found broken or tampered with, or which he is led to suspect do not contain the beer originally packed therein, and make a special report thereon. The inspector of customs shall note in his report any deficiency in quantity or discrepancy between the article inspected and that described in the form. After having complied with the order of inspection and after the beer has been duly laden on board the exporting vessel or car, the inspector of customs shall complete and sign the certificate of inspection and lading on each copy of the Form 1689. If the inspector of customs discovers any evidence of fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, he shall detain the goods and notify the Collector of Customs, who shall inform the Assistant Regional Commissioner of the region in which the port is located. The Assistant Regional Commissioner shall take appropriate action to dispose of the matter in accordance with the provisions of § 245.277.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.277 *Losses in transit.* Where a large or unusual loss in transit is reported, the Assistant Regional Commissioner will cause an immediate investigation to be made. Unless it is found that such loss resulted from fraud by the brewer or theft, it will be allowed as provided in § 245.282. Where the investigation discloses evidence that the loss resulted from theft or from fraud by the brewer, the Assistant Regional Commissioner will propose an assessment against the brewer as provided in § 245.283.

(68A Stat. 611, 612; 26 U. S. C. 5051, 5053)

§ 245.278 *Other evidence of exportation required.* Where the data submitted as evidence of exportation are not satisfactory to the Assistant Regional Commissioner, or where evidence of exportation as prescribed in § 245.264, is not filed, the Assistant Regional Commissioner of the region from which the beer was shipped will require the brewer to furnish other evidence of exportation or proof of loss on land or at sea, as provided in §§ 245.279 and 245.280.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.279 *Application for relief.* When a brewer, from causes beyond his control, is unable to furnish the evidence of exportation required by § 245.264 within 90 days, he may file an application for relief setting forth the reasons why such evidence cannot be obtained. The application must recite the facts connected with the exportation, showing the date and lot number of the shipment, the kind and quantity of the beer shipped, the name of the consignee, the name of the port to which shipment was made, and the name of the export carrier. The application shall also show

that failure to furnish the required evidence was not due to any lack of diligence on the part of the applicant or his agents, and that he is unable to produce any better evidence than that submitted with his application.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.280 *Evidence to support application.* Each application for relief shall be supported by such collateral evidence as the brewer is able to submit. The evidence may consist of original or verified copies of letters from consignees acknowledging receipt of the shipment; the sales accounts and payments for the shipments; copies of delivering carriers' bills whereon consignees have acknowledged receipt of shipments; affidavits of insurance companies, masters of vessels, railroad officials, and others having knowledge of losses on land or sea after exportation; or any other competent evidence the brewer is able to obtain. Letters and documents in a foreign language must be accompanied by sworn translations and when the letters fail to identify sufficiently the goods the original sales account must be produced.

(68A Stat 612; 26 U. S. C. 5053)

§ 245.281 *Assistant Regional Commissioner's action on application.* The Assistant Regional Commissioner receiving such application and evidence shall examine same and endorse thereon his approval or disapproval and if satisfied as to its validity will enter proper credit in the export account.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.282 *Assistant Regional Commissioner's account.* The Assistant Regional Commissioner will keep an account of all beer removed by a brewer for export without payment of tax. The brewer will be charged with the internal revenue tax at the rate imposed by law on beer for each lot of beer so removed. Credit will be given on beer for which satisfactory evidence of export is filed with the Assistant Regional Commissioner and for losses of beer in transit where there is no evidence that such losses resulted from fraud by the brewer or theft.

(68A Stat. 611, 612; 26 U. S. C. 5051, 5053)

§ 245.283 *Tax assessed.* If losses which occur in transit are due to fraud by the brewer or theft, or if evidence of exportation or proof of loss on land or at sea, satisfactory to the Assistant Regional Commissioner, is not furnished within a reasonable time (not to exceed 6 months), an assessment shall be made against the brewer in a sufficient amount to cover the tax on the quantity of beer not satisfactorily accounted for.

(68A Stat. 611, 612; 26 U. S. C. 5051, 5053)

§ 245.284 *Brewer's report.* Each brewer shall record on Form 2051 the quantity of beer withdrawn and exported without payment of tax, and report the total quantity of beer so removed during the month, on Form 103.

(68A Stat. 612; 26 U. S. C. 5053)

SUBPART W—SUPPLIES FOR VESSELS AND AIRCRAFT

§ 245.290 *General.* Beer may be removed from breweries without payment of tax for use as supplies on vessels and aircraft as follows:

(a) Vessels or aircraft operated by the United States;

(b) Vessels of the United States employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(c) Aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions;

(d) Vessels of war of any foreign nation;

(e) Foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign vessels is permitted; or

(f) Aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found such foreign country allows, or will allow, substantially reciprocal privileges in respect to aircraft registered in the United States.

(46 Stat. 690 as amended; 68A Stat. 612; 19 U. S. C. 1309, 26 U. S. C. 5053)

§ 245.291 *Reciprocating foreign countries.* The Director, Alcohol and Tobacco Tax Division, will advise Assistant Regional Commissioners concerning those foreign countries which will allow, to aircraft registered in the United States and engaged in foreign trade, privileges substantially reciprocal to the privileges allowed herein to aircraft of a foreign country. Where a brewer proposes to withdraw beer without payment of tax for use on aircraft of other foreign countries, which it is claimed reciprocate similar privileges to aircraft of the United States, the brewer must first establish to the satisfaction of the Assistant Regional Commissioner the right of such withdrawal. In appropriate cases, the brewer should request the Secretary of Commerce to find and advise the Secretary of the Treasury that such foreign country or countries allow, or will allow, substantially reciprocal privileges to aircraft of the United States.

(46 Stat. 690 as amended; 19 U. S. C. 1309)

§ 245.292 *Procedure applicable.* The removal, shipment, examination by customs officers, and evidence of lading on vessels and aircraft, of beer from a brewery for use as supplies will, so far as applicable, follow the procedure of Subpart V of this part, concerning the exportation, without payment of tax, of beer.

(46 Stat. 690, as amended; 68A Stat. 612; 19 U. S. C. 1309; 26 U. S. C. 5053)

§ 245.293 *Form 1689.* Notice will be filed on Form 1689, for the removal of beer without payment of tax from a brewery for use as supplies on vessels and aircraft.

(46 Stat. 690, as amended; 68A Stat. 612; 19 U. S. C. 1309, 26 U. S. C. 5053)

§ 245.294 *Evidence of lading for use.* When beer has been laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted promptly to the Assistant Regional Commissioner an affidavit or statement made under the penalties of perjury, of the master or other officer of the vessel or aircraft on which the articles were laden, having knowledge of the facts, showing that the beer has been laden and will be used on board the vessel or aircraft, and that no portion thereof has been or will be unladen in the United States or any of its territories or possessions: *Provided,* That such affidavit will not be required, in the case of any shipment, where the beer has been laden on vessels of war, or where the amount of tax on the beer does not exceed $100. On receipt of a satisfactory affidavit (if required) the Assistant Regional Commissioner will enter proper credit in the export account. In the case of beer laden on vessels of war, or in the case where the amount of tax on the beer does not exceed $100, credit will be given at the time of receipt of the certificate of inspection and lading executed by the inspector of customs, as provided in § 245.276.

(68A Stat. 612; 26 U. S. C. 5053)

SUBPART X—BEER PROCURED FROM ANOTHER BREWER

§ 245.300 *Notice to Assistant Regional Commissioner.* Upon written notice to the Assistant Regional Commissioner of his intention so to do, a brewer may obtain from another brewer beer finished and ready for sale. The brewer who procures such beer may furnish his own barrels and kegs, branded with his name and the place where his brewery is situated, to be filled with the beer so procured, and to be so removed. The tax on such beer shall be paid by the producing brewer as provided in Subpart N.

(68A Stat. 675; 26 U. S. C. 5413)

§ 245.301 *Producer's entries on Form 103.* The producer of the beer will show in red ink in a footnote on Form 103, or on an attachment thereto, for the month in which the beer is removed, the quantity involved and the name and address of the receiving brewer.

(68A Stat. 675; 26 U. S. C. 5413)

§ 245.302 *Receiving brewer's entries on Form 103.* The receiving brewer will show in a footnote on Form 103, or on an attachment thereto, for the month in which the beer is received, the quantity received and the name and address of the producing brewer. When the beer thus acquired, or any portion thereof, is disposed of, the receiving brewer will make appropriate entries in a footnote on Form 103, or on an attach-

ment thereto, in red ink and in the following form:

Sold, in addition to the above, _____ barrels of beer received from _____

_____

(Name of brewer) (City) (State)

The transactions will not be taken into account on Forms 2051 or 103 of the receiving brewer. The details of each such transaction will be entered in the daily sales record of each of the brewers.

(68A Stat. 675; 26 U. S. C. 5413)

§ 245.303 *Form of notice.* A brewer who intends to procure beer from another brewer will furnish a notice of such intent to the Assistant Regional Commissioner of the region in which the receiving brewery is located. If the brewer from whom the beer is procured is located in another region, an additional copy of the notice will be prepared and sent to the Assistant Regional Commissioner of the region in which the producing brewer is located. Such notices shall be filed with the respective Assistant Regional Commissioners sufficiently in advance to insure the receipt of the notices before such beer is removed from the producing brewery. The form of such notice should be as follows:

_____, _____, 19 __.

(City) (State)

To the Assistant Regional Commissioner, _____Region, Alcohol and Tobacco Tax, Internal Revenue Service:

Sir: You are hereby notified that I intend to procure not more than _____ barrels of beer from _____,

(Name of brewer, city and state)

brewer, and that I intend to furnish my own barrels and kegs, branded with my name, for the reception of such beer, said barrels and kegs to be delivered from the premises of said brewer _____ 19__, and from time to time until _____, 19__.

_____

(Brewer)

(68A Stat. 675; 26 U. S. C. 5415)

SUBPART Y—CEREAL BEVERAGE

§ 245.305 *Production of cereal beverage.* Duly qualified brewers who produce fermented liquor containing, when ready for consumption, less than one-half of 1 percent of alcohol by volume, may remove such cereal beverage without taxpayment, even though it may at some stage of its manufacture contain alcohol in excess of such amount. Such cereal beverage and any unfermented product prepared from malt, hops, and a grain product may be produced on the same premises where beer is produced.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.306 *Method of production.* The method of producing cereal beverage must be such that the alcoholic content will not increase while in the original package or container after being removed from the place of production. The burden is on the brewer not only to determine that the cereal beverage he removes untaxpaid for consumption or sale is within the alcoholic content limitation, but also to insure that the condition of the product is such that an increase in the alcoholic content cannot take place after its removal from the brewery, sufficient to remove it from the cereal beverage class. In any instance where cereal beverage containing alcohol in excess of the limit is found on the market the producing brewer will be held liable to the tax thereon as beer. A brewer who evades or attempts to evade the tax by removing beer as cereal beverage will be liable to prosecution.

(68A Stat. 611, 675, 696; 26 U. S. C. 5051, 5411, 5671, 5672)

§ 245.307 *Transfer to bottling house.* Cereal beverage transferred to the brewery bottling house must pass through the pipeline and meter used for the transfer of beer. Before making such transfer of cereal beverage the brewer shall submit a letterhead application so to do, in duplicate, to the Assistant Regional Commissioner. Upon receipt of the brewer's application, the Assistant Regional Commissioner may assign an inspector to supervise the transfer or authorize such transfer without supervision where he is satisfied that the revenue will not be jeopardized thereby. If the transfer is made without supervision, the brewer shall record the readings of the continuous counter of the meter, before and after the transfer, and the total quantity (in whole barrels) transferred, on his copy of the approved application. The brewer shall retain such approved application as a part of the file of Forms 138 maintained at the brewery for the use of internal revenue officers.

(68A Stat. 675, 680; 26 U. S. C. 5411, 5552)

§ 245.308 *Supervision by inspector.* Where an inspector is assigned to supervise the transfer of cereal beverage to the brewery bottling house, he will examine such cereal beverage, determine its alcoholic content by ebulliometer test, and record the reading of the continuous counter of the meter, prior to such transfer. The inspector will remain in the brewery during the period of transfer to see that no liquids other than the contents of the tanks of cereal beverage examined and tested are removed to the brewery bottling house. The inspector shall report on Form 138, Part I, prepared in triplicate, the quantity (in whole barrels) of cereal beverage which passed through the meter, noting thereon the continuous counter readings of the meter before and after the transfer. One copy of the form will be placed in the Government cabinet, one copy will be given to the brewer, and one copy will be forwarded immediately to the Assistant Regional Commissioner.

(68A Stat. 675, 680; 26 U. S. C. 5411, 5552)

§ 245.309 *Special taxes.* Persons selling or offering for sale, as cereal beverages, malt liquors containing one-half of 1 percent or more of alcohol by volume, will be held liable to special tax as dealers in beer and the packages with their contents will be subject to seizure and forfeiture.

(68A Stat. 618, 620, 696; 26 U. S. C. 5111, 5121, 5671)

§ 245.310 *Samples for analysis.* Internal revenue officers having reason to suspect that any beverage claimed to be nontaxable as cereal beverage is, in fact, taxable as beer, shall take samples for analysis.

(68A Stat. 903; 26 U. S. C. 7606)

§ 245.311 *Packages.* Cereal beverage when removed from the brewery in bulk must be contained in packages unlike those ordinarily used for packaging beer: *Provided,* That regular beer cooperage may be used, if the head of the barrel is durably painted in a solid color, with conspicuous lettering in a contrasting color, reading: "Nontaxable as beer. Less than half of 1 percent of alcohol by volume." The word "Nontaxable" shall be not less than 1½ inches high and of proportionate width, the remaining words to be not less than one-half inch high and of proportionate width. The name or trade name of the producer and the place of production (city and state) must also be legibly marked on the package. The hoops, or the space between hoops at each end, must be durably painted in white.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.312 *Cases.* The name or trade name of the producer, the place of production (city and state), and the nature of the product must be shown on each case or other similar shipping container for bottled cereal beverage.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.313 *Labels.* Bottles containing cereal beverages not taxable as beer are required to have a label setting forth the following information:

(a) Name of the brewer.

(b) The location of the brewery by city and state, or street number, city, and state, if the brewer operates more than one brewery in the same city.

(c) Distinctive name of the beverage, if any.

(d) "Nontaxable as Beer Under Federal Law."

The label may contain other statements desired by the brewer if they are not inconsistent with the requirements of this section.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.314 *Unlabeled bottles.* The payment of special tax as dealer in beer will be required of all persons selling or offering for sale any unlabeled bottle or other package, the contents of which has the flavor or appearance of beer, and which is manifestly beer or an imitation beer, regardless of the alcoholic content thereof.

(68A Stat. 618, 621; 26 U. S. C. 5112, 5122)

§ 245.315 *Products kept separate.* Brewers who also produce cereal beverages not taxable as beer shall keep the finished products, taxable and nontaxable, separate and distinct one from the other.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.316 *Record and report of materials used.* Materials used at breweries in the production of cereal beverages shall be included in the quantities of materials recorded on Forms 2051 and 103 as used in the production of beer and shall not be shown separately. Breweries producing cereal beverages will

keep records and render reports on Form 66 in accordance with instructions printed thereon.

(68A Stat. 675; 26 U. S. C. 5415)

SUBPART Z—SAMPLES OF BEER

§ 245.320 *General.* Brewers may remove samples of beer from the brewery, without payment of tax, as provided in §§ 245.321–245.325, to a laboratory for analytical purposes (including organoleptic examination) to determine the character or quality of the product.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.321 *Application.* Whenever a brewer desires to remove samples of beer without payment of tax, for analytical purposes, he shall file application, in duplicate, with the Assistant Regional Commissioner. The application shall be serially numbered, beginning with "1" and running consecutively thereafter. The application shall set forth specifically the size, kind, and number of samples to be removed, the period during which the samples will be removed, and the name and address of the laboratory to which the samples will be removed for analysis. Where it is desired to remove samples regularly the application may be made for that purpose. The number and size of the samples must be restricted to the minimum necessary for the purpose. A statement of the necessity for the analysis of samples and for the number and size of such samples shall be incorporated in the application. The brewer shall also incorporate in the application a statement that the samples covered thereby will not be used for purposes other than laboratory analysis.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.322 *Approval of application.* The Assistant Regional Commissioner, on approval or disapproval of the application, shall return one copy to the brewer and retain the original in his office. Any approved application may be terminated if the Assistant Regional Commissioner determines that such action is warranted: *Provided,* That, except in cases involving willfulness or where the public interest requires otherwise, the brewer shall be notified in writing of the facts or conduct warranting such action and be accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.323 *Labeling.* Each bottle or other immediate container of beer to be removed, without payment of tax, for analytical purposes shall be labeled to show the nature and quantity of the contents, the name and address of the laboratory to which it will be removed, and the name and address of the brewer. The label shall bear the statement, "Sample for laboratory analysis only—not for sale or beverage use."

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.324 *Records.* A separate record shall be maintained showing by date, the quantity of beer removed pursuant to an approved application and the serial number of such application. Credit entry for the total quantity so removed during the month must be made in the "Beer Summary" on Form 103.

(68A Stat. 612, 675; 26 U. S. C. 5053, 5415)

§ 245.325 *Residues of samples.* Residues or remnants of samples remaining after laboratory analysis, or unused samples, which are not to be retained as laboratory specimens or for comparative purposes must be destroyed or returned to the brewery. The samples or the residues thereof may not, in any event, be sold, or disposed of otherwise.

(68A Stat. 612; 26 U. S. C. 5053)

§ 245.326 *Analysis in brewery.* Applications need not be filed where samples are to be taken for analysis in the brewer's laboratory located in the brewery.

§ 245.327 *Taxpayment.* Any samples of beer removed or used otherwise than as authorized in §§ 245.320–245.326 shall be subject to taxpayment in accordance with this part.

(68A Stat. 611; 26 U. S. C. 5051)

SUBPART AA—MISCELLANEOUS PROVISIONS

§ 245.330 *Officer's right of entry and examination.* An internal revenue officer may enter, in the daytime, a brewery or any place where beer is stored, and when such premises are open at night, he may enter them while so open, in the performance of his official duties. Internal revenue officers will make inspections at such frequency and with such thoroughness as necessary to determine that operations are being conducted in accordance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having the agency or superintendence of such premises, who refuses to admit an internal revenue officer, or refuses to permit him to examine such beer, shall, for every such refusal, forfeit $500.

(68A Stat. 872, 903; 26 U. S. C. 7342, 7606)

VARIATIONS FROM REQUIREMENTS

§ 245.331 *Exceptions to construction and equipment requirements.* The Director, Alcohol and Tobacco Tax Division, may approve details of construction and equipment in lieu of those specified in this part where it is shown that it is impracticable to conform to the prescribed specifications, and the proposed construction and equipment will afford as much or more security and protection to the revenue as is intended by the specifications prescribed in this part and where such variations will not be contrary to any provision of law. Where it is proposed to substitute construction and equipment for that for which specifications are prescribed, prior approval must be obtained in accordance with the provisions of § 245.333. Breweries heretofore established may continue to operate if the present construction and equipment afford adequate security and protection to the revenue. The Director, Alcohol and Tobacco Tax Division, or Assistant Regional Commissioner may at any time require the brewer to make changes in construction and equipment conforming to this part, if deemed necessary to protect the revenue.

(68A Stat. 680; 26 U. S. C. 5552)

§ 245.332 *Exceptions to methods of operation.* The Director, Alcohol and Tax Division, may, in case of emergency, approve methods of operation other than those provided for by this part, where it is shown that variations from the requirements are necessary, will not hinder the effective administration of this part, will not jeopardize the revenue and where such variations are not contrary to any provision of law. Where it is proposed to employ methods of operations other than those provided for by this part, prior approval must be obtained in accordance with the provisions of § 245.333.

(68A Stat. 675; 26 U. S. C. 5411)

§ 245.333 *Application.* A brewer who proposes to employ methods of operation or construction or to install equipment, other than as provided in this part, shall submit a letterhead application so to do, in triplicate, to the Assistant Regional Commissioner. Such application shall describe the proposed variations and state the need therefor. Where variations in construction and equipment cannot be adequately described in the application, drawings or photographs shall also be submitted. The Assistant Regional Commissioner will make such inquiry as is necessary to determine the necessity for the variations and whether approval thereof will hinder the effective administration of this part or result in jeopardy to the revenue. On completion of the inquiry, the Assistant Regional Commissioner will forward two copies of the application to the Director, Alcohol and Tobacco Tax Division, together with a report of his findings and his recommendation.

(68A Stat. 681; 26 U. S. C. 5556)

SUBPART BB—RECORDS, REPORTS, AND RETURNS

§ 245.340 *Form 2051.* The brewer shall keep Form 2051 at the brewery, recording daily thereon the quantity of each kind of material received at the brewery, the quantity used in the production of beer, the quantity of beer produced therefrom, the quantity of beer sold or removed from the brewery for consumption or sale, the quantity of beer bottled and other information as indicated by the headings of the various columns and lines of the form and in accordance with the instructions printed thereon, or issued in respect thereto, and as required by this part. Specimen copies of Form 2051 will be furnished brewers by Assistant Regional Commissioners. Such forms shall be provided by brewers at their own expense but must be in the prescribed form: *Provided,* That Assistant Regional Commissioners may authorize brewers to modify the prescribed record to adapt its use to tabulating or other mechanical equipment, or to the brewer's operations, or to provide additional information, where such modifications do not detract from the clarity and purpose of the record or

interfere with its ready interpretation and use by internal revenue officers.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.341 *Form 103.* A monthly report of brewery operations shall be prepared by each brewer on Form 103. It will contain a summary of the brewery operations recorded on Form 2051 and will be prepared as indicated by the headings of the various columns and lines of the form and in accordance with the instructions printed thereon, or issued in respect thereto, and as required by this part. Such monthly report shall be prepared in duplicate and each copy signed by the brewer or his duly authorized agent. The original shall be forwarded to the Assistant Regional Commissioner not later than the fifth day of the month succeeding that for which rendered. The duplicate copy will be retained by the brewer and filed as a permanent record at the brewery.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.342 *Beer tax return, Form 2034.* The quantities of keg and bottled beer sold or removed for a taxable purpose and the aggregate quantity thereof must be reported in the tax return, Form 2034, prepared in quadruplicate and as indicated by the headings of the various columns and lines of the form and in accordance with the instructions printed thereon, or issued in respect thereto, and as required by this part. All entries in the return must be fully supported by accurate and complete records.

(68A Stat. 614, 681; 26 U. S. C. 5061, 5555)

§ 245.343 *Period for which return is filed.* A tax return on Form 2034 is required for each day on which beer is sold or removed for a taxable purpose: *Provided,* That where the gross tax liability for any one day is less than $100, the preparation of the tax return and the payment of the tax due may be delayed until such day as the total gross tax liability (for one or more days) reaches $100: *And provided further,* That where such gross tax liability is less than $100 at the close of the last business day of a calendar month, the tax return shall be prepared and transmitted to the District Director (together with a remittance for the net tax then due).

(68A Stat. 614, 675, 681; 26 U. S. C. 5061, 5415, 5555)

§ 245.344 *Time and place of filing.* A tax return on Form 2034 must be rendered not later than the close of the business day next succeeding the period for which such return is rendered except as provided in § 245.186. The original and one copy of the return shall be transmitted to the District Director, who will indicate thereon receipt of the remittance, retain the original, and forward one copy to the Assistant Regional Commissioner. The brewer shall send one of his retained copies to the Assistant Regional Commissioner with the appropriate monthly report on Form 103 and file the remaining copy as a part of the Government records at the brewery.

(68A Stat. 614, 675, 681; 26 U. S. C. 5061, 5415, 5555)

§ 245.345 *Pipeline transfer record.* All beer transferred to the brewery bottling house for bottling must be shown in a daily record to be maintained in bound form at the brewery. The quantity of beer transferred will be recorded on the basis of meter readings as shown by the continuous counter. The setback counter may be used by the brewer for checking continuous counter readings, and upon completion of the day's run it shall be set at zero. Credits for water used in meter tests and for cereal beverage transferred shall also be shown in such record.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.346 *Inventory of beer in bottling house.* An actual inventory of bulk and bottled beer in the brewery bottling house shall be established as frequently as the brewer's operations may permit, and in any event shall be taken at least once during each calendar month. If the quantities of bulk and bottled beer shown by actual inventory as being on hand are less than the quantities indicated by brewery records as being on hand, the difference must be reported in the "Beer Summary" on Form 103 as a shortage disclosed by actual inventory. If the inventory discloses that the quantities actually on hand are greater than the quantities indicated by brewery records as being on hand, the difference must be reported in the "Beer Summary" on Form 103 as an overage disclosed by actual inventory. The quantities shown as on hand by actual inventory shall also be reported on Form 103. Work sheets used in establishing an actual inventory shall be appropriately identified and retained in the brewery available for examination by internal revenue officers. Undelivered taxpaid beer temporarily held in the brewery bottling house and cereal beverage shall be inventoried at the same time and reported on separate inventories on Form 2051, but the totals thereof shall not be included in the inventory of beer in the bottling house reported on Form 103.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.347 *Brewery bottling house losses.* Where a brewer desires to keep shortages disclosed by actual inventory at a minimum by taking credit currently for actual losses sustained in the brewery bottling house due to breakage, casualty, or other unusual cause, a record of daily losses showing the cause or causes thereof must be maintained by the brewer available for ready examination by internal revenue officers: *Provided,* That where a loss in a substantial amount is sustained due to a casualty, an immediate report thereof must be made to the Assistant Regional Commissioner, or to an inspector if one is at the brewery at the time the casualty is discovered. The Assistant Regional Commissioner will cause such investigation to be made as the facts and circumstances warrant. Where the extent of a loss is established, the quantity shall be reported on Forms 2051 and 103.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.348 *Purchase record.* Purchase invoices for brewing materials received by the brewer shall be maintained at the brewery for ready examination by internal revenue officers.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.349 *Production record.* Each brewer shall keep a daily record of each brew showing the business day on which the brew was started, the quantities of materials used therein by kinds, the quantity of wort produced therefrom as determined by actual measurement in the settling tank, and the balling of such wort. The quantity of water, if any, added after production has been determined, shall also be entered in this record.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.350 *Daily record.* Each brewer shall keep a daily record of all packages filled with beer and cereal beverages transferred through the racking meter; the number of packages of each size sold or removed from the brewery for consumption or sale; the quantity of untaxpaid keg and bottled beer set aside for consumption at the brewery; the quantity of untaxpaid beer returned to brewery stock from leaking packages; the quantity of repossessed beer on which the tax has been determined or paid and returned to brewery stock; and the quantity of beer on which the tax has been determined or paid which is returned to brewery stock and which the brewer removed from the market before transfer of title thereto to any other person.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.351 *Removal record.* Each brewer must keep at the brewery a daily summary record of the removals of bottled beer and cereal beverage by kind, number and size of container (if cases, the number and size of bottles). This record must show the quantities of such products removed from the brewery, the quantities sold or exported, and the quantities lost by breakage or otherwise after removal while still owned by the brewer. The record must also show the quantities of beer and cereal beverage on hand in off-premises storage: *Provided,* That this requirement shall not be applicable where the brewer maintains at the off-premises place of storage, available for examination, a complete record of receipts and sales at such premises. No separate record need be set up to comply with this section if current commercial records kept by the brewer, showing the required data, are summarized to reflect the totals of each day's transactions in a manner satisfactory to the Assistant Regional Commissioner.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.352 *Daily sales record.* Each brewer must keep at the brewery, and available for inspection at all times, a daily sales record, showing in detail the number and kind of packages, such as hogsheads, barrels, half-barrels, cases, etc., of beer and cereal beverages sold or removed, the names and addresses of the purchasers, and the amounts sold to each such purchaser.

(68A Stat. 675, 681; 26 U. S. C. 5415, 5555)

§ 245.353 *Timely entry in records.* All entries in records, reports, and returns, shall be made not later than the close of the business day next succeeding the day on which the transactions occur: *Provided,* That, when the last day for making such entries falls on Saturday, Sunday, or on a legal holiday (of the particular State or of the District of Columbia wherein the brewery is located), such entries shall be considered timely if they are made on the next succeeding day which is not a Saturday, Sunday, or legal holiday (of the particular State or District of Columbia wherein the brewery is located).

(68A Stat. 675, 896; 26 U. S. C. 5415, 7503)

§ 245.354 *Brewer's application to destroy or return beer to brewery.* When a brewer has beer in the brewery bottling house which has not been removed therefrom, or beer which has been repossessed from a purchaser, which he desires to destroy, recondition or use as material, he shall make written application, in triplicate, to the Assistant Regional Commissioner stating the approximate quantity of such beer, whether it is repossessed beer or beer which has not been removed from the bottling house, and what disposition he desires to make of it. Upon receipt of the application the Assistant Regional Commissioner may detail an inspector to supervise the destruction of such beer or its removal from the containers in which packaged for reconditioning or use as material, or authorize such action without supervision where he is satisfied that the revenue will not be jeopardized thereby. The brewer may submit his application directly to an inspector at the brewery, who may thereupon supervise the operation. The brewer will file at the brewery one copy of the application as completed by the supervising officer or by the Assistant Regional Commissioner when supervision is not required. The brewer must report the quantity of beer so destroyed, reconditioned, or used as material, on Forms 2051 and 103.

(68A Stat. 675, 681; 26 U. S. C. 5411, 5415, 5555)

§ 245.355 *Verification.* All records, reports, returns, and forms which require a signature shall contain or be verified by a written declaration that they are made under penalties of perjury.

(68A Stat. 748, 749; 26 U. S. C. 6061, 6065)

§ 245.356 *Retention of records.* A brewer shall retain all records reflecting his operations, at the brewery for a period of not less than two years. Such records shall be readily available for examination and taking abstracts therefrom by internal revenue officers.

(68A Stat. 675; 26 U. S. C. 5415)

[F. R. Doc. 54-9421; Filed, Nov. 29, 1954; 8:50 a. m.]

Bureau of Customs

[19 CFR Part 14]

[643.3]

PROCEDURES UNDER ANTIDUMPING ACT, 1921, AS AMENDED

NOTICE OF PUBLIC HEARING

A proposed amendment to the regulations under the Antidumping Act was published in the FEDERAL REGISTER dated November 4, 1954 (19 F. R. 7157).

All parties interested are hereby notified that they may be present and be heard in connection with this proposed amendment at a public hearing to be held in Room 4121, Treasury Building, Fifteenth Street and Pennsylvania Avenue, NW., Washington, D. C., beginning at 2 p. m., e. s. t., on the 16th day of December 1954.

Interested parties desiring to appear at the public hearing shall notify in writing the Commissioner of Customs at his office in the Bureau of Customs, Washington 25, D. C., stating the name(s) of the person(s) who will appear and the approximate length of time required for presentation of views and opinions. Parties will be heard in the order in which their requests are submitted.

Dated at Washington, D. C., November 26, 1954.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 54-9484; Filed, Nov. 29, 1954; 8:52 a. m.]

FEDERAL RESERVE SYSTEM

[12 CFR Part 201]

[Reg. A]

ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

NOTICE OF PROPOSED RULE MAKING

The Board of Governors of the Federal Reserve System is considering the revision of Part 201 (Regulation A) issued pursuant to authority cited at 12 CFR Part 201, relating to advances and discounts by Federal Reserve Banks.

While this revision of Part 201 makes certain changes in the language of the Part itself, the most important change is the revision of the Foreword (General Principles). The revised Foreword is designed merely to restate and clarify certain guiding principles which are observed by the Federal Reserve Banks in making advances and discounts in accordance with the applicable provisions of the Federal Reserve Act and of Part 201. The revision is not intended to further restrict or restrain access by member banks to the credit facilities of the Federal Reserve Banks.

This notice is published pursuant to section 4 of the Administrative Procedure Act and section 2 of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2). The proposed changes are authorized under the authority cited at 12 CFR Part 201.

To aid in the consideration of this matter the Board will be glad to receive from interested persons any relevant data, views or arguments. Although such material may be sent directly to the Board, it is preferable that it be sent to the Federal Reserve Bank of the district which will forward it to the Board to be considered. All such material should be submitted in writing to be received not later than January 3, 1955.

The proposed revision of Part 201 is as follows:

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Sec.
201.0 Foreword; general principles.
201.1 Introduction.
201.2 Advances to member banks.
201.3 Discount of notes, drafts and bills for member banks.
201.4 General requirements as to advances and discounts.
201.5 Paper acquired from nonmember banks.
201.6 Discounts for Federal Intermediate Credit Banks.

§ 201.0 *Foreword; general principles.* (a) A principal function of the Federal Reserve Banks under the law is to provide credit assistance to member banks, through advances and discounts, in order to accommodate commerce, industry, and agriculture. This function is administered in the light of the basic objective which underlies all Federal Reserve credit policy, i. e., the advancement of the public interest by contributing to the greatest extent possible to economic stability and growth.

(b) The Federal Reserve System promotes this objective largely by influencing the availability and cost of credit through action affecting the volume and cost of reserves available to the member banks. Through open market operations and through changes in reserve requirements of member banks, the Federal Reserve may release or absorb reserve funds in accordance with the credit and monetary needs of the economy as a whole. An individual member bank may also obtain reserves by borrowing from its Federal Reserve Bank at a discount rate which is raised or lowered from time to time to adjust to the credit and economic situation. The effects of borrowing from the Federal Reserve Banks by individual member banks are not localized, as such borrowing adds to the supply of reserves of the banking system as a whole. Therefore, use of the borrowing facility by member banks has an important bearing on the effectiveness of System credit policy.

(c) Access to the Federal Reserve discount facilities is granted as a privilege of membership in the Federal Reserve System in the light of the following general guiding principles.

(d) Federal Reserve credit is generally extended on a short-term basis to a member bank in order to enable it to adjust its asset position when necessary because of developments such as a sudden withdrawal of deposits or seasonal requirements for credit beyond those which can reasonably be met by use of the bank's own resources. Federal Reserve credit is also available for longer

periods when necessary in order to assist member banks in meeting unusual situations, such as may result from national, regional, or local difficulties or from exceptional circumstances involving only particular member banks. Under ordinary conditions, the continuous use of Federal Reserve credit by a member bank over a considerable period of time is not regarded as appropriate.

(e) In considering a request for credit accommodation, each Federal Reserve Bank gives due regard to the purpose of the credit and to its probable effects upon the maintenance of sound credit conditions, both as to the individual institution and the economy generally. It keeps informed of and takes into account the general character and amount of the loans and investments of the member bank. It considers whether the bank is borrowing principally for the purpose of obtaining a tax advantage or profiting from rate differentials and whether the bank is extending an undue amount of credit for the speculative carrying of or trading in securities, real estate, or commodities, or otherwise.

(f) Applications for Federal Reserve Credit accommodations are considered by a Federal Reserve Bank in the light of its best judgment in conformity with the foregoing principles and with the provisions of the Federal Reserve Act and this part.

§ 201.1 *Introduction.* This part is based upon and issued pursuant to various provisions of the Federal Reserve Act. The part is applicable to the following forms of borrowing from a Federal Reserve Bank: (a) advances to member banks on their own notes secured (1) by direct obligations of the United States, by paper eligible for discount or purchase by Federal Reserve Banks, or by obligations of certain corporations owned by the United States, or (2) by other security which is satisfactory to the Federal Reserve Bank; (b) discounts for member banks of commercial, agricultural and industrial paper and bankers' acceptances; and (c) discounts for Federal Intermediate Credit banks.

§ 201.2 *Advances to member banks—*(a) *Advances on Government obligations.* Any Federal Reserve Bank may make advances, under authority of section 13 of the Federal Reserve Act, to any of its member banks for periods not exceeding fifteen days[1] on the promissory note of such member bank secured (1) by the deposit or pledge of bonds, notes, certificates of indebtedness, or Treasury bills of the United States, or (2) by the deposit or pledge of debentures or other such obligations of Federal Intermediate Credit banks having maturities of not exceeding six months from the date of the advance.[2]

(b) *Advances on eligible paper.* (1) Any Federal Reserve Bank may make advances, under authority of section 13 of the Federal Reserve Act, to any of its member banks for periods not exceeding ninety days[3] on the promissory note of such member bank secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for discount by Federal Reserve Banks under the provisions of this part or for purchase by such banks under the provisions of the Federal Reserve Act.

(2) In the event notes which evidence loans made pursuant to a commodity loan program of the Commodity Credit Corporation and which comply with the maturity requirements of paragraph (a) of § 201.3 have been deposited in a pool of notes operated by the Commodity Credit Corporation, the certificate of interest issued by the Commodity Credit Corporation which evidences the deposit of such notes may be accepted as security for an advance made to a member bank under this paragraph.

(c) *Advances on other security under section 10 (b) of the Federal Reserve Act.* Any Federal Reserve Bank may make advances, under authority of section 10 (b) of the Federal Reserve Act, to any of its member banks upon the latter's promissory note secured to the satisfaction of such Federal Reserve Bank regardless of whether the collateral offered as security conforms to eligibility requirements under other provisions of this part. The rate on advances made under the provisions of this paragraph shall in no event be less than one-half of 1 percent per annum higher than the highest rate applicable to discounts for member banks under the provisions of sections 13 and 13a of the Federal Reserve Act in effect at such Federal Reserve Bank. Such an advance must be evidenced by the promissory note of such member bank payable either (1) on a definite date not more than four months after the date of such advance, or (2) at the option of the holder on or before a definite date not more than four months after the date of such advance.

§ 201.3 *Discount of notes, drafts and bills for member banks*[4]*—*(a) *Commercial, agricultural and industrial paper.* Any Federal Reserve Bank may discount for any of its member banks, under authority of sections 13 and 13a of the Federal Reserve Act, any note, draft, or bill of exchange which meets the following requirements:

(1) It must be a negotiable note, draft, or bill of exchange, bearing the endorsement of a member bank, which has been issued or drawn, or the proceeds of which have been used or are to be used, in producing, purchasing, carrying or marketing goods[5] in one or more of the steps of the process of production, manufacture, or distribution, or in meeting current operating expenses of a commercial, agricultural or industrial business, or for the purpose of carrying or trading in direct obligations of the United States (i. e., bonds, notes, Treasury bills or certificates of indebtedness of the United States);

(2) It must not be a note, draft, or bill of exchange the proceeds of which have been used or are to be used for permanent or fixed investments of any kind, such as land, buildings or machinery, or for any other fixed capital purpose;

(3) It must not be a note, draft, or bill of exchange the proceeds of which have been used or are to be used for transactions of a purely speculative character or issued or drawn for the purpose of carrying or trading in stocks, bonds or other investment securities except direct obligations of the United States (i. e., bonds, notes, Treasury bills or certificates of indebtedness of the United States);

(4) It must have a maturity at the time of discount of not exceeding ninety days, exclusive of days of grace; except that agricultural paper as defined in this section may have a maturity of not exceeding nine months, exclusive of days of grace; but this requirement is not applicable with respect to bills of exchange payable at sight or on demand of the kind described in paragraph (b) of this section.

(b) *Bills of exchange payable at sight or on demand.* Any Federal Reserve Bany may discount for any of its member banks, under authority of section 13 of the Federal Reserve Act negotiable bills of exchange payable at sight or on demand which (1) bear the endorsement of a member bank, (2) grow out of the domestic shipment or the exportation of nonperishable, readily marketable staples,[6] and (3) are secured by bills of lading or other shipping documents conveying or securing title to such staples. All such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made promptly, unless the drawer instructs that they be held until arrival of such staples at their destination, in which event they must be presented for pay-

[1] Under the last paragraph of section 13 of the Federal Reserve Act, a Federal Reserve Bank has authority to make advances for periods not exceeding 90 days to individuals, partnerships, and corporations (including member and nonmember banks) on their promissory notes secured by direct obligations of the United States. However, advances to member banks on the security of direct obligations of the United States are normally for short periods of not exceeding 15 days; and it is not the practice to make advances to others than member banks except in unusual or exigent circumstances.

[2] Such advances may also be made on notes secured by the deposit or pledge of Federal Farm Mortgage Corporation bonds issued under the Federal Farm Mortgage Corporation Act.

[3] However, borrowings by member banks are generally for short periods.

[4] Even though paper is not eligible for discount by a Federal Reserve Bank for a member bank under the provisions of this part, it may be used as security for an advance by a Federal Reserve Bank to a member bank under the terms and conditions of paragraph (c) of § 201.2 if it constitutes security satisfactory to the Federal Reserve Bank.

[5] As used in this part the word "goods" shall be construed to include goods, wares, merchandise, or agricultural products, including livestock.

[6] A readily marketable staple within the meaning of this part means an article of commerce, agriculture, or industry of such uses as to make it the subject of constant dealings in ready markets with such frequent quotations of price as to make (a) the price easily and definitely ascertainable and (b) the staple itself easy to realize upon by sale at any time.

ment within a reasonable time after notice of such arrival has been received. In no event shall any such bill be held by or for the account of a Federal Reserve Bank for a period in excess of ninety days.

(c) *Banker's acceptances.* Any Federal Reserve Bank may discount for any of its member banks a banker's acceptance [7] which bears the endorsement of a member bank and (1) which grows out of transactions involving the importation or exportation of goods, the shipment of goods within the United States, or the storage of readily marketable staples,[8] as such transactions are more fully described in subparagraphs (1), (2), and (3), respectively, of paragraph (a) of § 203.1 [9] of this subchapter or (2) which has been drawn by a bank or banker in a foreign country or dependency or insular possession of the United States for the purpose of furnishing dollar exchange as provided in § 203.2 of this subchapter: *Provided,* That any such acceptance shall have a maturity at the time of discount of not more than 90 days' sight, exclusive of days of grace, except that an acceptance drawn for agricultural purposes and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight, exclusive of days of grace: [10] *And provided further,* That acceptances for any one customer in excess of 10 per cent of the capital and surplus of the accepting bank must remain actually secured throughout the life of the acceptance.[11]

(d) *Construction loans.* In addition to paper of the kinds specified above, any Federal Reserve Bank may discount for any of its member banks, under authority of section 24 of the Federal Reserve Act, a negotiable note which (1) represents a loan made to finance the construction of a residential or a farm building whether or not secured by lien upon real estate, (2) is endorsed by such member bank, (3) is accompanied by a valid and binding agreement, entered into by a person [12] acceptable to the discounting Federal Reserve Bank, requiring such person to advance the full amount of the loan upon the completion of the construction of such residential or farm building, and (4) matures not more than six months from the date such loan was made and not more than ninety days from the date of such discount by such Federal Reserve Bank, exclusive of days of grace.

(e) *Agricultural paper.* Agricultural paper, within the meaning of this part, is a negotiable note, draft, or bill of exchange issued or drawn, or the proceeds of which have been or are to be used, for agricultural purposes, including the production of agricultural products, the marketing of agricultural products by the growers thereof, or the carrying of agricultural products by the growers thereof pending orderly marketing, and the breeding, raising, fattening, or marketing of livestock.

(f) *Paper of cooperative marketing associations.* Notes, drafts, bills of exchange, or acceptances issued or drawn by cooperative marketing associations composed of producers of agricultural products are deemed to have been issued or drawn for an agricultural purpose within the meaning of the foregoing definition of "agricultural paper", if the proceeds thereof have been or are to be used by such association in making advances to any members thereof for an agricultural purpose, in making payments to any members thereof on account of agricultural products delivered by such members to the association, or to meet expenditures incurred or to be incurred by the association in connection with the grading, processing, packing, preparation for market, or marketing of any agricultural product handled by such association for any of its members. In addition, any other paper of such associations which complies with the applicable requirements of this part may be discounted. Paper of cooperative marketing associations the proceeds of which have been or are to be used (1) to defray the expenses of organizing such associations, or (2) for the acquisition of warehouses, for the purchase or improvement of real estate, or for any other permanent or fixed investment of any kind, is not eligible for discount, even though such warehouses or other property is to be used exclusively in connection with the ordinary operations of the association.

(g) *Factors' paper.* Notes, drafts, and bills of exchange of factors issued as such for the purpose of making advances exclusively to producers of staple agricultural products in their raw state are eligible for discount with maturities not in excess of ninety days, exclusive of days of grace.

(h) *Collateral securing discounted paper.* Any note, draft, or bill of exchange eligible for discount is not rendered ineligible because it is secured by the pledge of goods or collateral of any nature, including paper ineligible for discount.

(i) *Determination of eligibility.* (1) A Federal Reserve Bank shall take such steps as may be necessary to satisfy itself as to the eligibility of any paper offered for discount. Compliance of paper with the provisions of paragraph (a) (2) of this section may be evidenced by a statement which adequately reflects the borrower's financial worth and evidences a reasonable excess of quick assets over current liabilities, or such compliance may be evidenced in any other manner satisfactory to the Federal Reserve Bank.

(2) The requirement of this section that a note be negotiable shall not be applicable with respect to any note evidencing a loan which is made pursuant to a commodity loan program of the Commodity Credit Corporation and which is subject to a commitment to purchase by the commodity Credit Corporation or with respect to any note evidencing a loan which is in whole or in part the subject of a guarantee or commitment made pursuant to section 301 of the Defense Production Act of 1950 as amended.

(j) *Limitations.* (1) The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, endorser, drawer, or guarantor, discounted for any member bank shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national bank under the terms of section 5200 of the Revised Statutes of the United States, as amended.

(2) The law forbids a Federal Reserve Bank to discount for any State member bank notes, drafts, or bills of exchange

---

[7] A banker's acceptance within the meaning of this part is a draft or bill of exchange, whether payable in the United States or abroad and whether payable in dollars or some other money, accepted by a bank or trust company or a firm, person, company, or corporation engaged generally in the business of granting bankers' acceptance credits.

[8] In the case of an acceptance growing out of the storage of readily marketable staples, the bill must be secured at the time of acceptance by a warehouse, terminal, or other similar receipt, conveying security title to such staples, issued by a party independent of the customer or issued by a grain elevator or warehouse company duly bonded and licensed and regularly inspected by State or Federal authorities with whom all receipts for such staples and all transfers thereof are registered and without whose consent no staples may be withdrawn; and the acceptor must remain secured throughout the life of the acceptance. If the goods are withdrawn from storage before maturity of the acceptance or retirement of the credit, a trust receipt or other similar document covering the goods may be substituted in lieu of the original document, provided that such substitution is conditioned upon a reasonably prompt liquidation of the credit; and, to this end, it should be required, when the original document is released, either that the proceeds of the goods will be applied within a specified time toward a liquidation of the acceptance credit or that a new document, similar to the original one, will be resubstituted within a specified time.

[9] The bill itself should be drawn so as to evidence the character of the underlying transaction, but if it is not so drawn evidence of eligibility may consist of a stamp or certificate affixed by the acceptor in form satisfactory to the Federal Reserve Bank.

[10] No acceptance discounted by a Federal Reserve Bank should have a maturity in excess of the usual or customary period of credit required to finance the underlying transaction or of the period reasonably necessary to finance such transaction; and no acceptance growing out of the storage of readily marketable staples should have a maturity in excess of the time ordinarily necessary to effect a reasonably prompt sale, shipment, or distribution into the process of manufacture or consumption.

[11] In the case of the acceptances of member banks this security must consist of shipping documents, warehouse receipts, or other such documents, or some other actual security growing out of the same transaction as the acceptance, such as documentary drafts, trade acceptances, terminal receipts, or trust receipts which have been issued under such circumstances, and which cover goods of such a character, as to insure at all times a continuance of an effective and lawful lien in favor of the accepting bank, other trust receipts not being considered such actual security if they permit the customer to have access to or control over the goods.

[12] Such person may be the member bank offering the note for discount or any other individual, partnership, association or corporation.

of any one borrower who is liable for borrowed money to such State member bank in an amount greater than that which could be borrowed lawfully from such State member bank were it a national bank.

§ 201.4 *General requirements as to advances and discounts*—(a) *Applications for advances or discounts.* (1) Every application by a member bank for an advance to such bank or for the discount of paper must contain a certificate of such bank, in form to be prescribed by the Federal Reserve Bank, that the security offered for the advance or the paper offered for discount, as the case may be, has not been acquired from a nonmember bank (otherwise than in accordance with § 201.5) or, if so acquired, that the applying member bank has received permission from the Board of Governors of the Federal Reserve System to obtain advances from the Federal Reserve Bank on security so acquired or to discount with the Federal Reserve Bank paper acquired from nonmember banks.

(2) Every such application shall also contain a notation by the member bank as to whether it has on file a statement which adequately reflects the financial worth of a party primarily liable on the paper offered as security for an advance or for discount or of the person from whom the member bank acquired such paper if such person is legally liable thereon.

(3) Every application of a State member bank for the discount of paper must contain a certificate or guaranty to the effect that the borrower is not liable and will not be permitted to become liable to such bank for borrowed money during the time his paper is under discount with the Federal Reserve Bank in an amount greater than that which could be borrowed lawfully from such State bank were it a national bank.

(b) *Financial statements.* In order to determine whether security offered for an advance or paper offered for discount is eligible and acceptable, any Federal Reserve Bank may require that there be filed with it statements, or certified copies thereof, which adequately reflect the financial worth (1) of one or more parties to any obligation offered as security for an advance or to any note, draft, or bill of exchange offered for discount and (2) of any corporations or firms affiliated with or subsidiary to such party or parties. A Federal Reserve Bank may in any case require such other information as it deems necessary.

(c) *Other information.* Each Federal Reserve Bank is required by law to keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances or discounts, the Federal Reserve Bank is required to give consideration to such information. Each Federal Reserve Bank may require such information from its member banks as it may deem necessary in order to determine whether such undue use of bank credit is being made and whether the granting of any requested credit accommodation would be consistent with the general principles applicable to extensions of credit under this part.

(d) *Amount of collateral.* In connection with any advance or discount under this part, a Federal Reserve Bank may require such collateral as it may deem advisable or necessary; but it is expected that the Federal Reserve Bank in determining the amount of collateral will give due regard to the public welfare and the general effects that its action may have on the position of the member bank, on its depositors, and on the community; and in general a Federal Reserve Bank should limit the amount of collateral it requires to the minimum consistent with safety.

§ 201.5 *Paper acquired from nonmember banks*—(a) *Prohibition upon acceptance of nonmember bank paper.* Except with the permission of the Board of Governors of the Federal Reserve System, no Federal Reserve Bank shall accept as security for an advance or discount any assets acquired by a member bank from, or bearing the signature or endorsement of, a nonmember bank, except assets otherwise eligible which were purchased by the offering bank on the open market or otherwise acquired in good faith and not for the purpose of obtaining credit for a nonmember bank.

(b) *Applications for permission.* An application for permission to use as security for advances assets acquired from nonmember banks or to discount paper acquired from nonmember banks shall be made by the member bank which desires to offer such assets as security or such paper for discount and shall state fully the facts which give rise to such application and the reasons why the applying member bank desires such permission. Such application shall be addressed to the Board of Governors of the Federal Reserve System but shall be submitted by the member bank to the Federal Reserve Bank of the district, which will forward it promptly to the Board of Governors of the Federal Reserve System with its recommendation.

(c) *Paper acquired from Federal Intermediate Credit banks.* The Board of Governors of the Federal Reserve System hereby grants permission to Federal Reserve Banks to make advances to member banks upon the security of paper or assets bearing the signature or endorsement of, or acquired from, Federal Intermediate Credit banks or to discount for member banks paper bearing such a signature or endorsement or so acquired, if otherwise eligible under the law and this part.

§ 201.6 *Discounts for Federal Intermediate Credit Banks*—(a) *Kinds and maturity of paper.* Any Federal Reserve Bank, under authority of section 13a of the Federal Reserve Act, may, with the permission of the Board of Governors, discount for any Federal Intermediate Credit bank (1) agricultural paper as defined in § 201.3, or (2) notes payable to such Federal Intermediate Credit bank covering loans or advances made by it pursuant to the provisions of section 202 (a) of Title II of the Federal Farm Loan Act, which are secured by notes, drafts, or bills of exchange eligible for discount by Federal Reserve Banks. Any paper discounted for a Federal Intermediate Credit bank must bear the endorsement of such bank and must have a maturity at the time of discount of not more than nine months, exclusive of days of grace.

(b) *Limitations.* No Federal Reserve Bank shall discount for any Federal Intermediate Credit bank any paper which bears the endorsement of any nonmember State bank or trust company which is eligible for membership in the Federal Reserve System under the terms of section 9 of the Federal Reserve Act. In acting upon applications for the discount of paper for Federal Intermediate Credit banks, each Federal Reserve Bank shall give preference to the demands of its own member banks and shall have due regard to the probable future needs of its own member banks.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 54-9407; Filed, Nov. 29, 1954; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53676]

FARRELL LINES, INC.

REGISTRATION OF HOUSE FLAG AND FUNNEL MARK

NOVEMBER 24, 1954.

The Commissioner of Customs by virtue of the authority vested in him and in accordance with § 3.81 (a), Customs Regulations (19 CFR 3.81 (a)), has registered the house flag and funnel mark of Farrell Lines, Inc., as described below:

(a) *House flag.* The house flag is rectangular in shape, the fly is 1½ times the height of the hoist, the field of the fly consists of a white St. Andrews Cross superimposed upon an alternate blue and red field. The upper and lower segments of the field are red, the inner and outer segments of the field are blue. The width of the St. Andrews Cross is ⅙ the height of the hoist.

(b) *Funnel mark.* The funnel mark is to appear on a round funnel of buff. At the top of the funnel there is a black band which extends from the top of the funnel down a distance equal to ⅙ the width of the funnel. Three feet below

this black band there is superimposed the above-described house flag which is centered in relation to the width of the funnel. The length of the funnel mark is ½ the width of the funnel and the height is ⅔ of the length of the funnel mark. The mark consists of a St. Andrews Cross superimposed upon an alternate blue and red field. The upper and lower segments of the field are red, the inner and outer segments of the field are blue. The width of the St. Andrews Cross is ⅙ the height of the mark.

Colored scale replica drawings of the house flag and funnel mark are on file with the Federal Register Division.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 54-9422; Filed, Nov. 29, 1954; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

FOREST SERVICE

ASSIGNMENT OF FUNCTIONS; FEDERAL-STATE RELATIONS

The statement of delegations of authority and assignment of functions (19 F. R. 74), as amended, is further amended by revising section 300i to read as follows:

SEC. 300. *Assignment of functions.* * * *

i. The responsibility, under such general principles, criteria and procedures as may be established by the Soil Conservation Service, for making preliminary examinations and surveys under the flood prevention program (Flood Control Act of 1936, as amended and supplemented), for conducting surveys and investigations under the small watershed protection program (item for Watershed Protection in the Department of Agriculture Appropriation Act, 1954), for making surveys, investigations and studies under the program for flood prevention and agricultural phases of the conservation, development, utilization, and disposal of water (Watershed Protection and Flood Prevention Act), and for the collection of data necessary to the preparation of comprehensive river basin reports in the watershed or basin for the following: All national forests and other lands administered by the Forest Service; range lands within national forest boundaries and range lands adjacent to national forests which are administered in conjunction with such forests under formal agreement with the owner or lessee; and other forest lands except that the determination as to what lands are to be in forest or woodlands shall be the responsibility of the Soil Conservation Service.

Done at Washington, D. C., this 23d day of November 1954.

[SEAL] RALPH S. ROBERTS,
Administrative Assistant Secretary.

[F. R. Doc. 54-9408; Filed, Nov. 29, 1954; 8:48 a. m.]

SOIL CONSERVATION SERVICE

ASSIGNMENT OF FUNCTIONS; FEDERAL-STATE RELATIONS

The statement of degelations of authority and assignment of functions (19 F. R. 74), as amended, is further amended by revising section 400c to read as follows:

SEC. 400. *Assignment of functions.* * * *.

c. General responsibility for administration of the flood prevention program (Flood Control Act of 1936, as amended and supplemented), the small watershed protection program (item for watershed protection in the Department of Agriculture Appropriation Act, 1954), the program for flood prevention and agricultural phases of the conservation, development, utilization, and disposal of water (Watershed Protection and Flood Prevention Act), and activities in connection with river basin investigations and preparation of reports thereon (with due recognition to the responsibilities otherwise assigned).

Done at Washington, D. C., this 23d day of November 1954.

[SEAL] RALPH S. ROBERTS,
Administrative Assistant Secretary.

[F. R. Doc. 54-9409; Filed,, Nov. 29, 1954; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF ATLANTIC CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 7840-25 between the member lines of the Atlantic Conference, modifies the basic agreement of that conference (No. 7840) to provide (1) that the Secretary will arrange for a periodic examination of the appropriate documents of the member lines connected with passenger traffic for the purpose of determining strict compliance by the lines of the terms and conditions of the agreement; (2) that the confidential report of such examination of the Secretary will be circulated among the members; (3) that in case of finding of an infraction of the terms and conditions of the agreement by any member line, such report will be submitted to three representatives of the member lines to be selected by ballot, for adjudication and penalty as set forth in the agreement.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9431; Filed, Nov. 29, 1954; 8:51 a. m.]

AGUSTIN CALVO

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, Agustin Calvo, pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 879 on July 28, 1950; and

Whereas, the Board has, by registered letter dated September 24, 1954, and by one previous communication requested this registrant to furnish certain information in connection with his forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, both communications addressed to this registrant have been returned by the post office as undeliverable; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over him; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at his last known address.

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why his freight forwarder Certificate of Registration No. 879 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at his last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9430; Filed, Nov. 29, 1954; 8:50 a. m.]

COMMONWEALTH DOMESTIC & OVERSEAS CORP.

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held

at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, Commonwealth Domestic & Overseas Corp., pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 339 on August 28, 1950; and

Whereas, the Board has, by registered letter dated September 24, 1954, and by numerous previous communications requested this registrant to furnish certain information in connection with its forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244), and

Whereas, the last communication addressed to this registrant has been returned by the post office as undeliverable and other communications addressed to it beginning on January 7, 1952, have remained unanswered; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over it; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at its last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why its freight forwarder Certificate of Registration No. 339 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9432; Filed, Nov. 29, 1954; 8:51 a. m.]

DOCUMENTATION & SERVICE CO.

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, James V. Ferreras, pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 407 on August 22, 1951; and

Whereas, the Board has, by registered letter dated September 27, 1954, and by numerous previous communications requested this registrant to furnish certain information in connection with his forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, the last communication addressed to this registrant has been returned by the post office as undeliverable and other communications addressed to him beginning on June 5, 1952, have remained unanswered; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over him; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at his last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why his freight forwarder Certificate of Registration No. 407 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this orer be sent by registered mail to this registrant at his last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By. order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9433; Filed, Nov. 29, 1954; 8:51 a. m.]

A. C. HUFF & CO.

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, A. C. Huff & Co., pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 1017 on August 11, 1950; and

Whereas, the Board has, by registered letter dated September 27, 1954, and by four previous communications requested this registrant to furnish certain information in connection with its forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, the last communication addressed to this registrant has been returned by the post office as undeliverable and other communications addressed to it beginning on October 13, 1952, have remained unanswered; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over it; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at its last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why its freight forwarder Certificate of Registration No. 1017 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9434; Filed, Nov. 29, 1954; 8:51 a. m.]

LUCY IGLESIAS

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, Lucy Iglesias, pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 1450 on March 4, 1952; and

Whereas, the Board has, by registered letter dated August 19, 1954, and by four previous communications requested this registrant to furnish certain information in connection with her forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, the last communication addressed to this registrant has been returned by the post office as undeliverable and other communications addressed to her beginning on May 20, 1953, have remained unanswered; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over her; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at her last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why her freight forwarder Certificate of Registration No. 1450 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at her last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-9435; Filed, Nov. 29, 1954; 8:51 a. m.]

MERITO'S FORWARDING CO.

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order;

Whereas, Merito's Forwarding Company, pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 1355 on August 9, 1951; and

Whereas, the Board has, by registered letter dated September 27, 1954, and by two previous communications requested this registrant to furnish certain information in connection with its forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, the last communication addressed to this registrant has been returned by the post office as undeliverable and other communications addressed to it beginning on October 3, 1952, have remained unanswered; and

Whereas, the Board has no knowledge of the whereabouts of this registrant, and cannot, therefore, exercise proper regulatory authority over it; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at its last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why its freight forwarder Certificate of Registration No. 1355 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 54-9436; Filed, Nov. 29, 1954; 8:51 a. m.]

QUEEN VANT FORWARDING CO.

NOTICE TO SHOW CAUSE WHY CERTIFICATE OF REGISTRATION SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its office in Washington, D. C., the 17th day of November 1954, the Board entered the following order:

Whereas, Queen Vant Forwarding Co., pursuant to General Order 72, was issued freight forwarder Certificate of Registration No. 619 on July 18, 1950; and

Whereas, the Board has, by registered letter dated September 27, 1954, and by one previous communication requested this registrant to furnish certian information in connection with its forwarding activities pursuant to § 244.3, General Order 72 (46 CFR Part 244); and

Whereas, both communications addressed to this registrant have been returned by the post office as undeliverable; and

Whereas, the Board has no knowledge of the whereabouts of this registrant and cannot, therefore, exercise proper regulatory authority over it; and

Whereas, it appears that this registrant is no longer in the business of freight forwarding at its last known address;

It is ordered, That this registrant show cause in writing or, if requested by registrant, at a public hearing within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER why its freight forwarder Certificate of Registration No. 619 should not be cancelled for the reasons above stated; and

It is further ordered, That a copy of this order be sent by registered mail to this registrant at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: November 24, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 54-9437; Filed, Nov. 29, 1954; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 6848]

DELTA AIR LINES, INC.

NOTICE OF POSTPONEMENT OF HEARING

Delta-C&S application to make Fort Wayne, Ind., an alternate intermediate point to Anderson-Muncie-New Castle, Ind.

In the matter of the application of Delta Air Lines, Inc., for an amendment of its certificate of public convenience and necessity for route no. 54.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled proceeding previously assigned to be held on December 1, 1954, at 10:00 a. m., e. s. t., in Room 5855, Commerce Building, 15th Street and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice, is hereby postponed until further notice.

Dated at Washington, D. C., November 24, 1954.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 54-9428; Filed, Nov. 29, 1954; 8:50 a. m.]

[Docket No. 6848]

DELTA AIR LINES, INC.

NOTICE OF REASSIGNMENT OF HEARING

In the matter of Delta-C&S application to make Fort Wayne, Ind., an alternate intermediate point to Anderson/Muncie/New Castle, Ind.

In the matter of the application of Delta Air Lines, Inc., for an amendment of its certificate of public convenience and necessity for route No. 54.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding heretofore assigned to be held on December 1, 1954, at 10:00 a. m., e. s. t., in Room 5855, Commerce Building, Fifteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice, is hereby reassigned and will be held on January 5, 1955, at 10:00 a. m., in Room E-206, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., November 26, 1954.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 54-9499; Filed, Nov. 29, 1954; 8:56 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2671, G-2672, G-2673]

BLALACK & WALTER

NOTICE OF APPLICATION AND ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

Take notice that Blalack & Walter, a partnership consisting of Joe Blalack and W. R. Walter (Applicant), with a principal office in Longview, Texas, filed on September 7, 1954, applications under Docket Nos. G-2671, G-2672 and G-2673 for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas in interstate commerce as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their applications filed therein.

Applicant produces natural gas in (1) Carthage Field, Panola County, Texas, Ivy Gas Unit, (2) Carthage Field, Panola County, Texas, Jernigan Gas Unit and in (3) South Hallsville Field, Harrison County, Texas, which they sell to Arkansas Louisiana Gas Company at the well-head for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 6th day of December 1954. The application is on file with the Commission for public inspection.

These matters are ones that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that (1) notice of the applications and order fixing date of hearing be published simultaneously, and (2) the proceedings at

Docket Nos. G–2671, G–2672, and G–2673 be consolidated for the purposes of hearing.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, (a) the proceedings at Docket Nos. G–2671, G–2672, and G–2673 be and are hereby consolidated for the purposes of hearing and (b) a hearing be held on December 15, 1954, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by the applications in the consolidated proceedings: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54–9389; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G–2691]

RODNEY DELANGE AND O. NEATHERY, JR.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Rodney DeLange and O. Neathery, Jr. (Applicants), independent producers of natural gas with a principal office in San Antonio, Texas, filed on September 8, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their application filed herein.

Applicants produce natural gas in Goliad County, Texas (Dreier Lease—Maetze Field) which they sell to Trunkline Gas Company under contract dated October 1952, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 10:15 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54–9390; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G–2735]

GLADSTONE GASOLINE CO., INC.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Gladstone Gasoline Company, Inc. (Applicant), a Delaware corporation with its principal office in Shreveport, Louisiana, filed on September 13, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant owns non-operating interests in natural gas produced in the North Lansing Field, Gregg and Harrison Counties, Texas, and which is sold to Arkansas Louisiana Gas Company and in the Willow Springs Gas Field, Gregg County, Texas, which it sells to Texas Eastern Transmission Corporation for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 6th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that (a) notice of the application and order fixing date of hearing be published simultaneously and (b) the application be disposed of as requested by Applicant in accordance with the shortened procedure rule (§ 1.32) of the Commission's rules of practice and procedure.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 16, 1954, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.32 of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54–9391; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G–2949]

JOHN V. BOYCE, TRUSTEE FOR STEPHENS PETROLEUM CO.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that John G. Boyce, Trustee for Stephens Petroleum Company, a Delaware corporation with its principal office in Oklahoma City, Oklahoma, filed on September 22, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing John V. Boyce, Trustee for Stephens Petroleum Company to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in an application filed herein.

Applicant produces natural gas in (1) Stephens County, Oklahoma, which is sold to Lone Star Gas Company under contract dated January 1, 1953, (b) Carter County, Oklahoma, which is sold to Lone Star Gas Company under contract dated April 29, 1953, (c) Grady County, Oklahoma, which is sold to Consolidated Gas Utilities Corporation (Aetna), under contract dated February 20, 1953 (Chickasha Gas Field and East Cement (Johnson) Gas Field, (d) Caddo County, Oklahoma, to Ray Stephens, Incorporated, under contract dated August 4, 1954, all sold for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and

participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9392; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G-2963]

VINCENT & WELCH, INC., ET AL.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Vincent & Welch, Inc. (Applicant), a Delaware corporation with its principal office in Lake Charles, Louisiana, filed on September 22, 1954, an application for themselves and National Bulk Carriers, Inc., for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicants to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their application filed herein.

Applicants produce natural gas in the Sweetville Field of Beauregard Parish, Louisiana, which they sell to Trunkline Gas Company under contract dated August 24, 1953, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 10:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9393; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G-3001]

PAN-AM SOUTHERN CORP.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Pan-Am Southern Corporation (Applicant), a Delaware corporation with its principal office in New Orleans, Louisiana, filed on September 23, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas in the Simsboro Field, Lincoln Parish, Louisiana, which it sells to Arkansas Louisiana Gas Company under contract on file with the Commission for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 11:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street, N.W., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9394; Filed, Nov. 29, 1954; 8:45 a. m.]

[Docket No. G-3003]

FRANK G. WEIMER AND JOHN R. FITZHUGH

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Frank G. Weimer and John R. Fitzhugh (Applicants), with a principal office in Tulsa, Oklahoma, filed on September 23, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their application filed herein.

Applicants produce natural gas in Grayson County, Texas (Big Mineral Creek Field—Oil Creek Sand), which they sell to Lone Star Gas Company under contract dated July 24, 1953, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and

procedure, a hearing be held on December 17th, 1954, at 11:15 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9395; Filed, Nov. 29, 1954; 8.46 a. m.]

[Docket No. G-3052]

DEE FOREHAND

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Dee Forehand (Applicant), with principal office in Crockett, Texas, filed on September 24, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas in Blanco Field in San Juan County, New Mexico, which it sells to El Paso Natural Gas Company for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 8th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 15, 1954, at 9:45 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9396; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3149]

SINKING CREEK OIL & GAS CO.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Sinking Creek Oil & Gas Company (Applicant), a partnership with its principal office in Glenville, West Virginia, filed on September 27, 1954, application, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas in the Sinking Creek Field, Dekalb District, Gilmer County, West Virginia, which it sells to Equitable Gas Company for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 9th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 16, 1954, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9397; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3157]

LAURENCE CORBETT KELLY

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Laurence Corbett Kelly (Applicant), an individual with principal office in Beverly Hills, California, filed on September 27, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas in the Blanco Field in San Juan County, New Mexico, which he sells to El Paso Natural Gas Company for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 8th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 14, 1954, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceeding pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9398; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3167]

RAYMOND KIGHT

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Raymond Kight (Applicant), an individual whose address is Glenville, West Virginia, filed an application on September 27, 1954, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in his application filed herein.

Applicant produces natural gas in the Cedar Creek Field, Dekalb District, Gilmer County, West Virginia, which he sells to Carnegie Natural Gas Company for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 9th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 16, 1954, at 9:50 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9399; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3215]

P. G. LAKE, INC., ET AL.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that P. G. Lake, Inc., a Delaware corporation, R. H. Hedge, Z. J. Spruiell and the Estate of Sam Gross, deceased (Applicants), as individuals with a principal office in Tyler, Texas, filed on September 27, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicants to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in an application filed herein.

Applicants produce natural gas in the Waskom Field, Harrison County, Texas, which they sell to Arkansas Louisiana Gas Company under contracts on file with the Commission for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9400; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3254]

L. E. SMITH & L. G. CAMERON

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that L. E. Smith and L. G. Cameron (Applicants), with a principal office in Shreveport, Louisiana, filed on September 27, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their application filed herein.

Applicants produce natural gas in the Rodessa Field, Cass County, Texas, which they sell to Arkansas Louisiana Gas Company under contract dated December 21, 1951, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 11:45 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9401; Filed, Nov. 29, 1954; 8:46 a. m.]

[Docket No. G-3262]

C. F. ENGEL

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that C. F. Engel, agent and partner of C. F. Chrisman, hereinafter called "Applicant", with his principal office in Gassaway, West Virginia, filed on September 27, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application herein.

Applicant produces natural gas in Braxton County, West Virginia, which it sells to Cumberland & Allegheny Gas Company for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 9th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 16, 1954, at 9:40 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54–9402; Filed, Nov. 29, 1954; 8:47 a. m.]

[Docket No. G–3565]

JAMES I. SHEARER

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that James I. Shearer (Applicant), an individual with an office in Blairsville, Pennsylvania, filed on September 28, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application filed herein.

Applicant produces natural gas in Benezette Township, Elk County, Pennsylvania, which is sold to New York State Natural Gas Corporation under contract dated August 12, 1953, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 9:45 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54–9403; Filed, Nov. 29, 1954; 8:47 a. m.]

[Docket No. G–3660]

PAN AMERICAN PRODUCTION CO.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Pan American Production Company (Applicant), a Delaware corporation with its principal office in Houston, Texas, filed on September 29, 1954, application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas in the Sentell Gas Field of Bossier and Caddo Parishes, Louisiana, which it proposes to sell to Arkansas Louisiana Gas Company under contract dated April 28, 1954, for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules and practice and procedure (18 CFR 1.8 or 1.10) on or before the 6th day of December 1954. The application is on file with the Commission for public inspection.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure.

The Commission finds: It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 16, 1954, at 10:15 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54–9404; Filed, Nov. 29, 1954; 8:47 a. m.]

[Docket No. G–3712]

LOUIS J. RONSSEL

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

Take notice that Louis J. Ronssel (Applicant), an individual with his principal office in New Orleans, Louisiana, filed on September 30, 1954, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in his application filed herein.

Applicant produces natural gas in South Bayou Mallet Field, Acadia Parish, Louisiana, which it sells to Texas Northern Gas Corporation for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 6th day of December 1954. The application is on file with the Commission for public inspection.

Applicant requests that the application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure.

The Commission finds:

(1) It is proper and consistent with the public interest that notice of the application and order fixing date of hearing be published simultaneously.

(2) This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)), Applicants having requested that their application be heard under the shortened procedure provided for by the aforesaid rule for noncontested proceedings: *Provided, however,* That no request to be heard, protest or petition is filed raising an issue of substance.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 17, 1954, at 9:50 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9405; Filed, Nov. 29, 1954; 8:47 a. m.]

[Docket No. G-4373]

EL PASO NATURAL GAS CO.

NOTICE OF APPLICATION AND ORDER FIXING DATE OF HEARING

El Paso Natural Gas Company (Applicant), a Delaware corporation with its principal place of business in El Paso, Texas, filed an application on October 25, 1954, with the Federal Power Commission, for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing the construction and operation of facilities for the transportation and sale of natural gas as hereinafter described and as more fully described in the application on file with the Commission for public inspection.

Applicant proposes to construct and operate: (1) Approximately 1.3 miles of 2⅜-inch pipe line in Cochise County, Arizona, from a point of connection with its Huachuca line to a point adjacent to Fry, Arizona, together with necessary metering facilities at the Fry City Gate; (2) a tap in Maricopa County, Arizona, on Applicant's Phoenix power plant line, together with necessary regulating equipment to deliver gas for the St. John's Indian Mission; and (3) a tap in Pima County, Arizona, on Applicant's 6⅝-inch Tucson line, together with necessary metering facilities at the Alvernon City Gate near Tucson, Arizona.

The proposed facilities will enable Applicant to sell and deliver natural gas: (1) To Arizona Public Service Company for resale at Fry, Arizona, and at the St. John's Indian Mission near Laveen, Arizona; and (2) to the Tucson Gas, Electric Light and Power Company for resale in the suburban area of Estrella adjacent to the City of Tucson, Arizona. The estimated cost of the proposed facilities is $18,843 and their financing is to be out of Applicant's available treasury funds.

Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure.

The Commission finds:

(1) It is appropriate, reasonable, and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, to give due notice of the application filed herein, including publication in the FEDERAL REGISTER, and to hold a public hearing in the above-entitled proceeding, all as hereinafter provided and ordered.

(2) This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)), Applicant having requested that its application be heard under the shortened procedure provided for by the aforesaid rule for noncontested proceedings: *Provided, however,* That no request to be heard, protest or petition is filed raising an issue of substance.

The Commission orders:

(A) Due notice be given, including publication in the FEDERAL REGISTER, of this notice of application and order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7, 15 and 16 of the Natural Gas Act, and the Commission's general rules and regulations, including rules of practice and procedure (18 CFR, Chapter I), a hearing be held on December 13, 1954, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the application: *Provided, however,* That the Commission may, after a noncontested hearing, forthwith dispose of the proceedings pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)).

(C) Protests or petitions to intervene may be filed with the Commission in accordance with §§ 1.8 and 1.10 of its rules of practice and procedure (18 CFR 1.8 and 1.10) on or before December 8, 1954.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Adopted: November 17, 1954.

Issued: November 19, 1954.

By the Commission.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-9406; Filed, Nov. 29, 1954; 8:47 a. m.]

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[Wildlife Order 28]

SALEM FISH CULTURAL STATION, SALEM, MAINE

TRANSFER OF PROPERTY

Pursuant to the authority granted under Public Law 537, approved May 19, 1948, Eightieth Congress, notice is hereby given that:

1. By deed from the United States of America, dated October 22, 1954, to the State of Maine, that property known as Salem Fish Cultural Station, Salem, Maine, and more particularly described in said deed, has been transferred from the United States to the State of Maine.

2. The above described property is transferred to the State of Maine for wildlife conservation purposes (other than migratory birds) in accordance with the provisions of said Public Law 537.

P. A. STROBEL,
Commissioner of Public Buildings Service.

NOVEMBER 19, 1954.

[F. R. Doc. 54-9458; Filed, Nov. 26, 1954; 12:48 p. m.]

OFFICE OF DEFENSE MOBILIZATION

[ODM (DPA) Request 55; DPAV-53]

REQUEST TO PARTICIPATE IN FORMATION AND ACTIVITIES OF AN INTEGRATION COMMITTEE ON CRITICAL QUARTZ CRYSTALS

Pursuant to section 708 of the Defense Production Act of 1950, as amended, the request set forth below to participate in the formation and activities of an Integration Committee on Critical Quartz Crystals in accordance with the voluntary plan entitled, "Plan and Regulations of Signal Corps Governing the Integration Committee on Critical Quartz Crystals," was approved by the Attorney General, after consultations with respect thereto between the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Office of Defense Mobilization, and was accepted by the companies listed below.

This voluntary plan provides for the formation and activities of an Integration Committee on Critical Quartz Crystals to facilitate the exchange of information between the contractors and generally to achieve close cooperation in the solution of production problems by all concerned. The voluntary plan has been approved by the Director of the Office of Defense Mobilization and found to be in the public interest as contributing to the national defense.

CONTENTS OF REQUEST

You are requested to participate in the formation and activities of an Integration Committee on Critical Quartz Crystals in accordance with the voluntary plan entitled "Plan and Regulations of Signal Corps Governing the Integration Committee on Critical Quartz Crystals," a copy of which is enclosed.

In my opinion your participation in the activities of this Committee will assist in the accomplishment of our national defense program.

The Attorney General has approved this request after consultation with respect thereto between his representatives, representatives of the Chairman of the Federal Trade Commission and my representatives, pursuant to section 708 of the Defense Production Act of 1950, as amended.

I have approved the voluntary plan and have found it to be in the public interest as contributing to the national defense. You will become a participant therein upon notifying me in writing of your acceptance of this request. Will you kindly also send two copies of your acceptance to the Procurement Division, Production Branch, Office of the Assistant Chief of Staff, G–4, United States Army, Pentagon Building, Washington 25, D. C.

Immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act will be given upon such acceptance, provided that the activities of the Integration Committee on Critical Quartz Crystals and your participation therein are within the limits set forth in the voluntary plan.

Your cooperation in this matter will be appreciated.

Sincerely yours,

ARTHUR S. FLEMMING,
Director.

ACCEPTANCES

Bliley Electric Company, Union Station Building, Erie, Pa.

Bulova Watch Company, Bulova Park, Flushing 70, N. Y.

Cryco, Inc., 1138 Mission Street, South Pasadena, Calif.

Dalton Corporation, 5066 Santa Monica Boulevard, Los Angeles 29, Calif.

Downing Crystal Company, 921 East Fort Avenue, Baltimore 30, Md.

The Hunt Corporation, 453 Lincoln Street, Carlisle, Pa.

Keystone Electronics Company, 114 Manhattan Street, Stamford, Conn.

McCoy Electronics Company, Mt. Holly Springs, Pa.

Midland Manufacturing Co., Inc., Kansas City 15, Kans.

Pan-Electronics Corporation, 901 West Peachtree Street N. E., Atlanta, Ga.

The Pioneer Electric and Research Corp., Forest Park, Ill.

P. R. Hoffman Company, 321 Cherry Street, Carlisle, Pa.

Reeves-Hoffman Corporation, Cherry and North Streets, Carlisle, Pa.

Research and Development Company, 1512 McGee Street, Kansas City, Mo.

Scientific Radio Products, Inc., 215 South Eleventh Street, Omaha 8, Nebr.

Sherold Crystals, Inc., 1401 Fairfax Trafficway, Kansas City 15, Kans.

Standard Crystal Company, 1714 Locust Street, Kansas City 8, Mo.

Standard Piezo Company, P. O. Box 513, Carlisle, Pa.

Tedford Crystal Labs, 4126 Colerain Avenue, Cincinnati 23, Ohio.

Wright Electronic Development Co., 1519 McGee Street, Kansas City 8, Mo,

(Sec. 708, 64 Stat. 818, as amended; 50 U. S. C. App. Sup. 2158; E. O. 10480, August 14, 1953, 18 F. R. 4939)

Dated: November 26, 1954.

ARTHUR S. FLEMMING,
Director.

[F. R. Doc. 54–9487; Filed, Nov. 26, 1954; 3:22 p. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 29950]

DRIED BEANS, PEAS AND LENTILS FROM THE WEST TO SOUTHWESTERN TERRITORY

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Beans, peas and lentils, dried, carloads.

From: Points in Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, and Wyoming.

To: Destinations in southwestern territory, including Kansas, Missouri, and New Mexico, Vicksburg and Natchez, Miss., and Memphis, Tenn., etc.

Grounds for relief: Rail competition, circuity, competition with motor carriers, and to maintain grouping.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 4046, supp. 70; W. J. Prueter, Agent, I. C. C. No. A–3885, supp. 25.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54–9410; Filed, Nov. 29, 1954; 8:48 a. m.]

[4th Sec. Application 29951]

FERTILIZER AND ANHYDROUS AMMONIA FROM SOUTHWESTERN TERRITORY AND KANSAS TO HOWELL'S TRANSFER, GA., AND MAXINE, ALA.

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by' F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Fertilizer and fertilizer materials and anhydrous ammonia, carloads.

From: Specified points in southwestern territory, also Military and Parsons, Kans.

To: Howell's Transfer, Ga., and Maxine, Ala.

Grounds for relief: Rail competition, circuity, market competition, to maintain grouping, and additional destinations.

Schedules filed containing proposed rates; F. C. Kratzmeir, Agent, I. C. C. No. 4112, supp. 28.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54–9411; Filed, Nov. 29, 1954; 8:48 a. m.]

[4th Sec. Application 29952]

SCRAP IRON FROM THE SOUTH TO MT. VERNON, OHIO

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Scrap iron and steel, carloads.

From: Points in southern territory.

To: Mt. Vernon, Ohio.

Grounds for relief: Rail competition, circuity, to apply rates constructed on the basis of the short line distance formula, and additional destination.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1329, supp. 58.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emer-

gency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-9412; Filed, Nov. 29, 1954; 8:48 a. m.]

[4th Sec. Application 29953]

SCRAP IRON FROM CAIRO, ILL., TO STEELTON, KY.

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Scrap iron and steel, carloads.

From: Cairo, Ill.

To: Steelton, Ky.

Grounds for relief: Rail competition, circuitous routes, and additional route.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1329, supp. 58.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-9413; Filed, Nov. 29, 1954; 8:48 a. m.]

[4th Sec. Application 29954]

CRUDE RUBBER FROM TEXAS AND LOUISIANA TO GUNTERSVILLE, ALA.

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Crude rubber, viz: artificial, synthetic or neoprene, carloads.

From: Specified points in Texas and Louisiana.

To: Guntersville, Ala.

Grounds for relief: Rail competition, circuity, to apply rates constructed on the basis of the short line distance formula, and additional destination.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3967, supp. 405; F. C. Kratzmeir, Agent, I. C. C. No. 4087, supp. 42.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-9414; Filed, Nov. 29, 1954; 8:49 a. m.]

[4th Sec. Application 29955]

BANANAS FROM NEW ORLEANS AND CHALMETTE, LA., TO MEMPHIS, TENN.

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to Agent W. P. Emerson, Jr.'s tariff I. C. C. No. 4141, pursuant to fourth-section No. 16101.

Commodities involved: Bananas, carloads.

From: New Orleans and Chalmette, La., and points taking same rates.

To: Memphis, Tenn.

Grounds for relief: Competition with rail carriers, circuitous routes, and operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-9415; Filed, Nov. 29, 1954; 8:49 a. m.]

[4th Sec. Application 29956]

BITUMINOUS FINE COAL FROM MINES IN ILLINOIS TO CHICAGO, ILL.

APPLICATION FOR RELIEF

NOVEMBER 24, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Litchfield and Madison Railway Company for itself and on behalf of carriers parties to schedule listed below.

Commodities involved: Bituminous fine coal, carloads.

From: Mines in Illinois.

To: Chicago, Ill., and points taking same rates.

Grounds for relief: Rail competition, circuity, market competition, and to meet intrastate rates.

Schedules filed containing proposed rates: Litchfield and Madison Railway Company, I. C. C. No. 441, supp. 13.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-9416; Filed, Nov. 29, 1954; 8:49 a. m.]