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Title 7—AGRICULTURE

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

MISCELLANEOUS AMENDMENTS TO CHAPTER

Statement of considerations. Pursuant to the statutory authorities cited below, the fees relating to cotton classing, standards and inspection, sampling, and certification of cottonseed are hereby amended to reflect increased costs since the last adjustment in fees including the increases in Federal employees salaries authorized by the Federal Employees Salary Act of 1970 (Public Law 91-231).

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

Subpart A—Regulations

1. Sections 27.80 and 27.81 are revised to read as follows:

§ 27.80 Fees; classification, Micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—45 cents per bale.

(b) Review classification and certification—60 cents per bale.

(c) Micronaire determination and certification—10 cents per bale.

(d) Combination service—90 cents per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—50 cents per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—50 cents per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$1.25 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—75 cents per bale.

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his business convenience, or when made necessary by the transfer of the cotton under the supervision of an exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 20 cents for each certificate issued.

(Sec. 4863, 68 A Stat. 582; 26 U.S.C. 4863)

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Subpart A—Regulations Under the U.S. Cotton Standards Act

2. Sections 28.116, 28.117, 28.120, 28.122, 28.123, 28.148, 28.149, and 28.151 are revised to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the service shall pay a fee, as follows, subject to the minimum fee provided in paragraph (c) of this section:

(1) Grade, staple, and Micronaire reading—55 cents per sample.

(2) Grade and staple only, or grade only, or staple only—45 cents per sample.

(3) Micronaire reading only—10 cents per sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) A minimum fee of $3 shall be assessed for services described in paragraphs (a) and (b) of this section for each lot or mark of cotton reported or handled separately, unless the request for service is so worded that the samples become Government property immediately after classification.

(d) For any review of classification or comparison of any cotton, the fees prescribed in paragraph (a) of this section shall apply. The minimum fee prescribed in paragraph (c) of this section is not applicable to review of classification or comparison.

(e) The fees provided for in paragraphs (a) and (b) of this section may be waived in whole or in part, as to the classification and comparison and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency, and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any governmental agency shall be disposed of as required by such agency.

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 75 cents when the number of bales covered by the new memorandum or certificate is 10 or less, or a fee of $1 per sheet when the number of bales covered by such memorandum or certificate is more than 10.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expense of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room of the board or other place specifically designated for the purpose by the Director or by the chairman of such board, shall be borne by the party requesting the classification. For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $9 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the practical classing examination for cotton or cotton linters shall be $50. Any applicant who passes the examination may be issued a certificate indicating this accomplishment.

§ 28.123 Costs of practical forms of cotton standards.

The cost of practical forms of the cotton standards of the United States shall be as follows:

	Domestic shipments f.o.b. Memphis, Tenn.	Shipments delivered outside the Continental United States
Grade standards		
American Upland:		
12-sample official boxes (Universal Standards)	*Dollars each box* 15.00	17.00
6-sample guide boxes	9.00	11.00
American Pima:		
6-sample official boxes	15.00	17.00
Tentative standards for preparation of American Upland long-staple cotton		
6-sample boxes	10.00	12.00
Standards for length of staple		
American Upland (prepared in 1 pound rolls for each length)	*Dollars each length* 3.00	3.50
American Pima (prepared in 1 pound rolls for each length)	3.00	3.50

§ 28.148 Fees and costs; classifications; reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of 40 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determinations.

For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $9 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.151 Cost of practical forms; period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105: *Provided*, That no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the official standards for grade shall be at the rate of $10 each, f.o.b., Memphis, Tenn., for shipments within the continental United States, and $12 each, delivered to destination, for shipments outside the United States. The cost of the official standards for staple shall be at the rate of $2.50 each, f.o.b., Memphis, Tenn., for shipments within the continental United States, and $3 each, delivered to destination, for shipments outside the continental United States.

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61)

Subpart B—Classification for Foreign Growth Cotton and Cotton Linters

3. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Board of Cotton Linters Examiners. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 40 cents per sample.

(Sec 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

Subpart D—Cotton Classification and Market News Services for Organized Groups of Producers

4. Section 28.911 is revised to read as follows:

§ 28.911 Review classification.

A producer may request one review classification for each bale of eligible cotton. The fee for review classification is 45 cents per sample. Samples for review classification may be drawn by samplers bonded pursuant to § 28.906, or by samplers at warehouses which issue negotiable warehouse receipts, or by employees of the U.S. Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or his representatives. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be without expense to the Government.

(Sec. 10, 42 Stat. 1519, sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c)

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING, AND CERTIFICATION)

Subpart A—Regulations

5. Sections 61.43, 61.44, and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $10, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $7.50.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $150, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $50.

§ 61.46 Fees for review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $20. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Consumer and Marketing Service, USDA," shall accompany each application for review. Of each such fee collected, $6 shall be covered into the Treasury and $7 disbursed to each of the two licensed chemists designated to make reanalyses of such seed.

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

The need for these increased fees and the amount thereof are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other procedure with respect to these revisions are impracticable and unnecessary.

Effective date. These revisions shall become effective July 1, 1970, except § 28.123, which shall become effective on August 1, 1970.

Dated: May 26, 1970.

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

[F.R. Doc. 70-6762; Filed, June 2, 1970; 8:48 a.m.]

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Subpart E—Cotton Fiber and Processing Tests

REVISIONS IN TESTS AND FEES

Statement of considerations leading to revision. The purposes of this revision of the Regulations for Cotton Fiber and Processing Tests are to: (1) Change fees to reflect increases in Federal employee salaries authorized by the Federal Employees Salary Act of 1970 (Public Law 91-231) and Executive Order 11524; (2) delete several test items which are no longer in demand by users of the service; (3) make minor clarification changes in the wording of §§ 28.955 and 28.957; (4) provide for additional test items and services which are now used by the industry.

Pursuant to authority contained in section 3c of the Cotton Statistics and Estimates Act (sec. 3c, 50 Stat. 62; 7 U.S.C. 473c), the Regulations for Cotton Fiber and Processing Tests are revised to read as follows:

Subpart E—Cotton Fiber and Processing Tests

DEFINITIONS

ADMINISTRATION

FIBER AND PROCESSING TESTS

AUTHORITY: The provisions of this Subpart E issued under sec. 3c, 50 Stat. 62; 7 U.S.C. 473c. Interpret or apply sec. 3d, 55 Stat. 131; 7 U.S.C. 473d.

DEFINITIONS

§ 28.950 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Regulations.* Regulations mean the provisions in this subpart.

(b) *Service.* The Consumer and Marketing Service of the U.S. Department of Agriculture.

(c) *Administrator.* The Administrator of the Consumer and Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Division.* The Cotton Division of the Consumer and Marketing Service.

(e) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Laboratories.* Laboratories of the Cotton Division that perform the fiber and processing tests described in this subpart.

ADMINISTRATION

§ 28.951 Director.

The Director shall perform, for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

FIBER AND PROCESSING TESTS

§ 28.952 Testing of samples.

The director or his authorized representatives, upon written requests, shall make fiber and processing tests of the properties of cotton samples and report the results thereof to the person from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

§ 28.953 Requirements as to samples.

Each sample of ginned cotton lint submitted for fiber and processing tests shall weigh approximately as shown below unless otherwise specified in the particular test item as prescribed herein:

1 ounce or more for fiber tests.
6 pounds or more for carded yarn spinning tests.
8 pounds or more for combed yarn spinning tests.
10 pounds or more for carded and combed yarn spinning tests.

Each individual sample submitted for testing shall contain a tag or coupon bearing a number or other identification symbol. Individually labeled samples may be sent in one or more parcels, each of which shall bear on the outside thereof the name and address of the person submitting it. Persons who submit samples to laboratories for testing shall comply with any Federal or State quarantine requirements applicable to counties from which such samples are shipped.

§ 28.954 Costs of submitting samples.

The transportation of samples to a laboratory for testing shall be without expense to the Government.

§ 28.955 Disposition of samples.

The remnants of samples accumulated in the making of tests under the regulations in this subpart shall be the property of the Government unless the applicant requests that such remnants be returned to him at his expense.

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item Number, Kind of Test, and Fee per test	
1. Furnishing U.S.D.A. calibration cotton in the short, medium, long, and extra long staple lengths, including standard values for length by both array and Fibrograph methods, strength by flat bundle method at ⅛-inch gauge, and maturity and fineness by the Causticaire methods:	
a. By surface delivery, 1-pound sample	$9.00
b. By air delivery within the United States, 1-pound sample	10.50
c. By air delivery outside the United States, 1-pound sample	12.00
2. Furnishing international calibration cotton standard values for Micronaire reading and Pressley fiber strength at zero gauge:	
a. By surface delivery, ½-pound sample	6.00
b. By air delivery within United States, ½-pound sample	7.00
c. By air delivery outside United States, ½-pound sample	8.00
3. Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length, and average length variability as based on three specimens from a blended sample:	
a. Ginned cotton lint, per sample	20.00
b. Cotton comber noils, per sample	30.00
c. Other cotton wastes, per sample	40.00
3.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length, and average length variability as based on two specimens from a blended sample:	
a. Ginned cotton lint, per sample	15.00
b. Cotton comber noils, per sample	22.50
c. Other cotton wastes, per sample	30.00
3.2 Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers one-half inch and longer by weight, the average of fibers shorter than one-fourth inch by weight, average length, and average length variability as based on three specimens from each sample, per sample	20.00
4. Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on four specimens from a blended sample, per sample	$2.00
Minimum fee unless performed in connection with other tests requiring a blended specimen	4.00
4.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the length of each subsample and average length and average length uniformity for each group of replicate subsamples as based on two specimens from each of three or more replicate unblended subsamples, per subsample	1.25
Minimum fee	3.75
5. Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gauge as specified by applicant. Reporting the average strength as based on six specimens from a blended sample, per sample	2.00
Minimum fee unless performed in connection with other tests requiring a blended sample	4.00
5.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gauge as specified by applicant. Reporting the strength of each subsample and the average strength for each group of replicate subsamples as based on two specimens for each of three or more replicate unblended subsamples, per subsample	1.25
Minimum fee	3.75
5.2 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gauge. Reporting the average strength and elongation as based on six specimens from a blended sample, per sample	3.00
Minimum fee unless performed in connection with other tests requiring blended sample	6.00
5.3 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gauge. Reporting the strength and elongation of each subsample and the average of the group of replicate subsamples as based on two specimens from each of three or more unblended samples, per subsample	1.50
Minimum fee	4.50
6. Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and Micronaire reading as based on two specimens from a blended sample, per sample	3.00
Minimum fee	9.00
7. Micronaire readings on ginned cotton lint. Reporting the Micronaire reading as based on one specimen from each sample, per sample	.10
Minimum fee	1.00
8. Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample	3.75
Minimum fee unless performed in connection with other tests requiring a blended specimen	7.50
9. Blending samples of ginned cotton lint, including the blending of a 10-gram sample on the mechanical fiber blender and returning the blended sample to the applicant, per sample	1.50

Item Number, Kind of Test, and Fee per test	
10. Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn imperfections, and classification and fiber length as specified in items 27 and 4 as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, or 50s employing a standard twist multiplier unless otherwise specified, per sample	$50.00
Minimum fee	100.00
11. Spinning potential test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test is made in connection with item 10 and requires an additional 4 pounds of cotton, per sample	50.00
Minimum fee	100.00
12. Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn imperfections, and classification and fiber length as specified in items 27 and 4 as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½, pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	60.00
Minimum fee	120.00
13. Cotton carded and combed yarn spinning test. Reporting the results specified in item Nos. 10 and 12 in combination as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	75.00
Minimum fee	150.00
14. Cotton carded and combed yarn spinning test. Reporting the results specified in item Nos. 10 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	90.00
Minimum fee	180.00
15. Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn imperfections, and the classification and the fiber length of the cotton as specified in item Nos. 27 and 4 as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample	$30.00
Minimum fee	60.00
16. Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests as specified in item Nos. 10, 12, 13, and 14 including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	7.50
16.1 Processing and furnishing of additional yarn. Any yarn number processed in connection with spinning tests as specified in items 10, 12, 13, and 14. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	15.00
17. Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
a. Single yarns based on 40 specimens per lot of yarn	35.00
b. Plied or cabled yarns based on 10 specimens per lot of yarn	8.50
18. Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample	4.00
18.1 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	1.50
18.2 Furnishing yarn wound on boards in connection with yarn appearance tests as specified in item Nos. 10, 12, 13, 14, and 15, per yarn number	1.50
19. Processing, weaving, and testing of fabric. Reporting data on the warp and the filling strength by the grab method:	
a. Processed in connection with spinning tests as specified in item Nos. 10, 12, 13, and 14, per lot of fabric	110.00
b. Processed from yarns furnished by the applicant, per lot of fabric	90.00
20. Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on five breaks for both warp and filling of fabric furnished by the applicant, per sample	6.00
20.1 Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and the weight per yard of fabric as based on at least three (3) 6- x 6-inch specimens of fabric which was processed as specified in item No. 19, or furnished by the applicant, per sample	11.00
Minimum fee	22.00
21. Color of ginned cotton lint. Reporting data on the reflectance in terms of Rd values and the degree of yellowness in terms of b valves as based on color tests employing the Nickerson-Hunter Colorimeter on samples which have a uniform surface measuring 5 x 6½ inches and weighing approximately 50 grams in order to provide specimens which are sufficiently thick to be opaque, per sample	.25
Minimum fee	2.00
22. Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	$50.00
22.1 Furnishing replacement calibration tiles for above sets, each tile	5.00
22.2 Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Colorimeter, per box	9.00
22.3 Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	2.00
23. Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	1.00
24. Foreign matter content of cotton samples. Reporting data on the nonlint content as based on the Shirley Analyzer separation of lint and foreign matter:	
a. For samples of ginned lint or comber noils, per 100-gram specimen	2.50
Minimum fee	5.00
b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	7.50
Minimum fee	15.00
25. Furnishing identified cotton samples. Includes samples of ginned lint, stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	1.00
26. Furnishing additional copies of test reports. Includes extra copies in addition to the two copies routinely furnished in connection with each test item, per additional sheet	.50
26.1 Furnishing a certified relisting of test results. Includes samples or subsamples selected from any previous tests, per sheet	2.50
27. Classification of ginned cotton lint in connection with fiber tests. Classification includes grade, staple and mike reading which requires a 6-ounce sample, per sample	.55
28. Combination fiber tests:	
a. Test items 4, 5, and 6, per sample	6.00
b. Test items 4, 5.2, and 6, per sample	7.00
28.1 Combination fiber tests:	
a. Test items 4, 5, and 7, per sample	3.50
a. Test items 4, 5.2, and 7, per sample	4.50
28.2 Combination fiber tests:	
a. Test items 4.1, 5.1, and 7 on three or more replicate subsamples, per subsample	2.25
Minimum fee	6.75
b. Test items 4.1, 5.3 and 7 on three or more replicate subsamples, per subsample	2.50
Minimum fee	7.50
29. Mercerizing and testing of cotton yarn. Reporting data on the luster of two 120-yard skeins and strength of the yarn as based on twenty-five 120-yard skeins mercerized in accordance with standard laboratory procedures.	
a. Including the processing of the extra yarn in connection with spinning test item Nos. 10, 12, 13, and 14, per lot of yarn	15.00
Minimum fee	60.00

Item Number, Kind of Test, and Fee per test	
b. For yarn furnished by the applicant, 27 skeins of 120 yards each required, per lot of yarn	$12.50
Minimum fee	50.00
30. Bleaching and testing of cotton yarn. Reporting data on the color of the yarn in terms of Rd reflectance values and plus b degree of yellowness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and bleached in accordance with standard laboratory procedures, per lot of yarn	5.00
Minimum fee	50.00
31. Bleaching, dyeing, and testing of cotton yarn. Reporting data on the color of the dyed yarn in terms of Rd reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and bleached then dyed in accordance with standard laboratory procedures, per lot of yarn	7.50
Minimum fee	75.00
32. Dyeing and testing of grey cotton yarn. Reporting data on the color of the dyed yarn in terms of Rd reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and dyed in accordance with standard laboratory procedures, per lot of yarn	5.00
Minimum fee	50.00
33. Luster of cotton yarn. Reporting data on the percent luster of grey or mercerized yarn either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant as based on the measurement of two 120-yard skeins, per lot of yarn	1.50
Minimum fee	4.50
34. Color of cotton yarn. Reporting data on the color of grey, bleached, dyed, or bleached and dyed yarn either processed in connection with spinning test items 10, 12, 13, and 14 or furnished by the applicant as based on the measurement of two 120-yard skeins, per lot of yarn	1.50
Minimum fee	4.50

§ 28.957 Special tests and fees.

Tests may be performed for cooperating agencies and organizations to the extent that available facilities will permit, subject to the payment of fees as determined by the Director. Special tests and services not listed in § 28.956 may be performed to the extent that available facilities will permit, subject to the payment of fees determined by the Director.

§ 28.958 Fees and charges for inspection and checkloading services.

(a) *Base rate.* Fees to be charged and collected for inspection and checkloading services furnished on a fee basis shall be based on the time required to render such service including but not limited to, the time required for the travel of the inspector or inspectors in connection therewith, at the rate of $9 per hour for each inspector for the time actually required, except as provided in paragraph (b) of this section.

(b) *Overtime rate.* If an applicant requires that any inspection or checkloading service be performed on a holiday, Saturday, Sunday, or outside the inspector's regularly scheduled tour of duty on Monday through Friday, he shall be charged for such service at the rate of $11 per hour.

(c) *Travel expenses and other charges.* Charges may be made to cover the cost of travel and other expenses incurred by the Service in connection with the performance of any inspection or checkloading service on a fee basis. Such charges shall include the costs of travel, per diem, and other expenses.

§ 28.959 Payment of fees.

As soon as practicable after the last day of each calendar month, bills shall be rendered by officers in charge of testing laboratories to all persons from whom payment of fees and costs under the regulations in this subpart shall become due, provided that when desirable any bill may be rendered at an earlier date. Payment shall be by check or by draft or post office or express money order, payable to the order of "Consumer and Marketing Service, USDA."

§ 28.960 Limitation of testing services.

If at any time funds available for services under the regulations in this subpart may be insufficient to provide for the testing of all samples that may be submitted for the purpose, the Director may place reasonable limitations upon the quantities of samples to be submitted by individuals during any one fiscal year or any one calendar month, and may direct that samples received from cotton breeders shall take precedence over those received from other persons.

§ 28.961 Confidential information.

No information concerning individual tests under the regulations in this subpart shall be published or communicated in such a way as to disclose to others the identity of the owners of cotton represented by samples submitted for testing, except with the written permission of such owners.

§ 28.962 False and misleading information.

The publication or communication by any person of false or misleading information concerning the results of tests as reported by laboratories under the regulations in this subpart shall be deemed sufficient cause for denial of testing services to such persons.

This revision pertains to changes in fees, deletion of obsolete test items, clarifications in wording of existing sections, and addition of new test items. The revision of fees depends upon facts within the knowledge of the Consumer and Marketing Service. The other changes will not require advance preparation or cause undue hardships on the part of users of the testing service. Moreover, it will be to the advantage of such users to have the new test items available at the earliest possible date. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and public procedure with respect to the revision are impracticable and unnecessary.

Effective date. This revision shall become effective on July 1, 1970.

Dated. May 26, 1970.

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

[F.R. Doc. 70-6763; Filed, June 2, 1970; 8:48 a.m.]

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees and Charges for Certain Federal Inspection Services

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 68.42 prescribing fees in connection with the inspection of agricultural commodities administratively assigned to the Grain Division are hereby amended as follows:

Statement of considerations.—The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be the cost of inspection services rendered under its provisions. This amendment increases the hourly rate for services charged by the hour under Part 68 from $8.25 to $8.80 per hour and makes corresponding changes in fees or charges for certain other services which are based on the hourly rate. The changes are necessary due to recent general salary increases to Federal employees and increased per diem rates.

The amendment also provides for the addition of the laboratory test, linolenic acid, and establishes a fee for this test.

Section 68.42 is amended to read as follows:

§ 68.42 Fees and charges for certain Federal inspection services.

The following fees and charges apply to the Federal inspection services specified below:

Service	*Fee or Charge*
Appeal inspection:	
(a) Basis original sample:	
(1) Rice	(1)
(2) Other commodities	(2)
(b) Basis new sample:	
(1) All commodities	(3)
Bean, lentil, and pea inspection (including chick peas, cowpeas, split peas, and similar commodities):	
(a) Lot inspection:	
(1) Field run (quality and dockage analysis)—per lot	$5.60
(2) Other than field run (grade, class, and quality)—per lot	4.20
(In addition to the fee for analysis or grading in (1) and (2) above, a fee for sampling, checkweighing, and checkloading, if any, will be assessed at the prescribed rate.)	

See footnotes at end of table.

Service	Fee or Charge
(b) Sample inspection:	
(1) Field run (quality and dockage analysis)—per lot	$5.60
(2) Other than field run (grade, class, and quality)—per sample	4.20
Checkloading—per man-hour	[4] 8.80
Checkweighing—per man-hour	[4] 8.80
Condition examination—per man-hour	[4] 8.80
Extra copies of certificates—per copy	.75
Grade factor analysis (as defined in any official U.S. Standards) per factor	2.80
Hay and straw inspection:	
(a) Lot inspection:	
(1) For sampling and grading—per man-hour	8.80
(b) Sample inspection:	
(1) Grade only—per sample	5.60
(2) Factor analysis—per man-hour	8.80
Hop inspection:	
(a) Lot inspection:	
(1) For seed, leaf, and stem content—per lot	6.65
(2) Aphid infestation—per lot	8.80
(In addition to the fee for analysis in (1) and (2) above, a charge for sampling, if any, will be assessed at the prescribed rate.)	
(b) Sample inspection:	
(1) For seed, leaf, and stem content—per sample	6.65
(2) Aphid infestation—per sample	8.80
Laboratory testing:	
(a) In addition to the charges, if any, for sampling or other requested service, a fee will be assessed for each laboratory analysis or test as follows:	
(1) Acetyl value	5.00
(2) Acidity—Greek	1.70
(3) Acid value—oil	2.35
(4) Appearance, flavor, and odor of oils	1.10
(5) Ash	1.70
(6) Bacteria Count	3.50
(7) Baking test—Bread	3.95
(8) Baking test—prepared mix	3.05
(9) Baume	4.50
(10) Break test	3.05
(11) Calcium—AOAC	4.00
(12) Calcium enrichment	4.00
(13) Calcium carbonate	4.00
(14) Carotenoid color	4.50
(15) Clarity of oils involving heating	1.45
(16) Cold test—oil	.75
(17) Color—bleached	2.10
(18) Color—Gardner	2.10
(19) Color—Lovibond	2.10
(20) Color—Wesson	2.10
(21) Color—oil and shortening	2.10
(22) Congeal point	4.30
(23) Consistency	1.35
(24) Cooking test	1.85
(25) Crude fat	2.25
(26) Crude fiber	3.35
(27) Density	1.20
(28) Diatomaceous earth—on grain	3.05
(29) Diastatic activity of flour	2.80
(30) Enrichment—quick test	.85
(31) Falling number	1.25
(32) Fat—acid hydrolysis	4.40
(33) Fat, crude	2.25
(34) Fat, extraction	2.25
(35) Fat acidity	1.70
(36) Fat stability—AOM	4.80
(37) Fiber, crude	$3.35
(38) Filth — heavy	3.05
(39) Filth — light	4.85
(40) Flash point — open and closed cup	3.05
(41) Flavor, odor, and appearance of oils	1.10
(42) Foots — heated and/or chilled	2.15
(43) Foreign material — processed grain products	2.65
(44) Free fatty acids—oil and shortening	2.35
(45) Gossypol, free	3.00
(46) Grade and class of unprocessed grain	[5] 2.00
(47) Heating test — oil and shortening	2.25
(48) Hydrogen-ion concentration — pH	1.70
(49) Insoluble bromides	2.20
(50) Insoluble impurities — oil and shortening	2.80
(51) Iodine number or value	2.60
(52) Iron — enrichment	6.65
(53) Keeping time—oil and shortening	4.90
(54) Kjeldahl—protein	2.05
(55) Linolenic acid	12.00
(56) Lipoid phosphoric acid	5.75
(57) Loss on heating (oil)	1.35
(58) Lysine	15.00
(59) Maltose value	2.80
(60) Marine oil in vegetable oil—qualitative	2.20
(61) Melting point—Wiley	2.60
(62) Milling—wheat to flour	4.65
(63) Moisture—distillation	2.15
(64) Moisture—oven	1.45
(65) Moisture and volatile matter—oil and shortening	1.35
(66) Nitrogen solubility index	2.60
(67) Odor, appearance, and flavor of oils	1.10
(68) Oil content—oilseeds	3.50
(69) pH—Hydrogen-ion concentration	1.70
(70) Peroxide value	1.75
(71) Peroxide value after 8 hours AOM	4.80
(72) Phosphorus—photometric	3.65
(73) Popping value—popcorn	1.50
(74) Potassium bromate—qualitative	.85
(75) Potassium bromate—quantitative	3.25
(76) Protein for cargo wheat—duplicate test required	[5] 5.45
(77) Protein—Kjeldahl	2.05
(78) Reducing sugars	8.40
(79) Refining loss—oils	5.75
(80) Refractive index	1.20
(81) Riboflavin	6.60
(82) Rope spore count	11.10
(83) Salt	3.50
(84) Saponification number	3.05
(85) Sedimentation value—wheat	[5] 1.25
(86) Sieve test	2.20
(87) Smoke point	1.40
(88) Softening point	4.30
(89) Solid fat index	9.90
(90) Solubility in alcohol (oil)	1.10
(91) Specific baking volume—prepared mix	3.05
(92) Specific gravity—oils	2.95
(93) Test weight per bushel—other than grain	1.20
(94) Unsaponifiable matter	5.80
(95) Urease activity	2.25
(96) Viscosity — Gardner-Holdt—oils	1.50
(97) Viscosity—Saybolt	3.85
(98) Water soluble protein	2.60
(99) Xanthydrol test for rodent urine	$2.50
(If a requested analysis or test is on the basis of a specified moisture content, a charge for an oven moisture test will also be made.)	
Lentil inspection: (See Bean inspection)	
Minimum fee for services covered by hourly rates—a minimum fee for 2 hours per man, per service request, will be assessed at the applicable hourly rate.	
New inspection (retest)—fees and charges to be based on services requested.	
Pea inspection: (See Bean inspection)	
Rice inspection:	
(a) Lot inspection:	
(1) For sampling, inspection for grade, factor analysis, equal to type, or milling yield—whether singly or combined—100 lbs	[7].0125
(i) Minimum fee—per lot:	
Milled rice	2.50
Brown rice or rough rice	4.00
(2) For sampling and inspection for origin—per 100 lbs	[7].005
(i) Minimum fee—per lot	2.00
(3) For inspection for origin when inspected for grade, factor analysis, equal to type, or milling yield—per lot	1.00
(b) Sample inspection:	
(1) For inspection for grade, factor analysis, equal to type, or milling yield—whether singly or combined—per sample:	
(i) Brown rice or rough rice (including milling yield)	3.50
(ii) Brown rice or rough rice (excluding milling yield)	2.00
Milled rice	2.00
Sampling per man-hour	8.80
Special inspection service per man-hour	[4] 8.80
Split pea inspection: (See Bean inspection)	
Standby time per man-hour	8.80
Straw inspection: (See Hay inspection)	
Type samples, rice milling degrees	[5] 50.00

See footnotes at end of table.

[1] One quarter of the fee for the original inspection. Minimum fee, if any, for rice $8.80.

[2] The applicable grading or laboratory analysis or testing charge. Minimum fee, if any, $8.80.

[3] Applicable sampling charge, if any plus applicable grading, or laboratory analysis or testing fee.

[4] Only one fee will be charged for these services whether performed singly or concurrently. (But see minimum fee requirement.)

[5] To be used only in conjunction with the inspection of a processed product for compliance with contract specifications.

[6] No sampling fee will be assessed if a portion of an appeal sample, license inspector's sample, or submitted sample is used for these tests. (In no instance will more than one sampling fee be assessed per service request.)

[7] In the case of railroad cars, the weight shall be based on weight tickets, or weight certificates, if available at the time of inspection; otherwise, on the marked capacity of the railroad car.

*The type samples illustrate the lower limit for milling degrees only. Type samples will be available for examination at, or may be purchased from the Grain Inspection Branch, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782. Type samples will also be available for examination at selected Field Offices of the Grain Division. A list of the Field Offices may be obtained from the above address.

(Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624; 29 F.R. 16210, as amended, 33 F.R. 10750)

The need for increases in the fees for services and the amount thereof are dependent upon facts within the knowledge of the Consumer and Marketing Service. The additional services provided for in this document are voluntary in nature. The provisions therefor do not require any action by any member of the public but make available services for which there is a public need. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures on the amendments are impracticable and unnecessary.

This amendment shall become effective July 1, 1970.

Done at Washington, D.C., this 28th day of May 1970.

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

[F.R. Doc. 70-6861; Filed, June 2, 1970; 8:52 a.m.]

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

SUBCHAPTER C—SPECIAL PROGRAMS

PART 775—FEED GRAINS

Subpart—1970 Feed Grain Program

COUNTY PROJECTED YIELDS AND COUNTY RATES; CORRECTION

In F.R. Doc. 70-3322 appearing at page 5082 in the issue of Thursday, March 26, 1970, the following corrections are made in the tabular material in § 775.25:

1. Under Arkansas, the projected yield for Benton County for grain sorghum, now reading "29.1," should read "29.2."

2. Under Massachusetts, the projected yields for all counties for corn and grain sorghum are changed to read as follows:

County	Corn	Grain sorghum
Barnstable	72.0	49.4
Berkshire	77.0	59.7
Bristol	74.0	49.4
Dukes	72.0	----
Essex	74.0	44.5
Franklin	77.0	----
Hampden	75.0	----
Hampshire	78.0	56.0
Middlesex	73.0	----
Nantucket	76.0	----
Norfolk	75.0	----
Plymouth	76.0	----
Suffolk	----	----
Worcester	74.0	46.3
State	75.5	52.3

3. Under New Jersey, the rate for computing diversion payments for Warren County for barley should read "1.09."

4. Under New York, the rate for computing diversion payments for Wayne County for barley should read "1.09."

5. Under Ohio, the rate for computing diversion payments for Jackson County for grain sorghum should read "1.15."

(Sec. 16(1), 79 Stat. 1190, as amended, 16 U.S.C. 590p(1); sec. 105(e), 79 Stat. 1188, as amended, 7 U.S.C. 1441 note)

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 26, 1970.

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

[F.R. Doc. 70-6862; Filed, June 2, 1970; 8:52 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

[Amdt. 2]

PART 1402—POLICY FOR CERTAIN COMMODITIES AVAILABLE FOR SALE

Publication of Monthly Sales List

Part 1402 of Chapter XIV of Title 7 of the Code of Federal Regulations, published in the FEDERAL REGISTER of October 16, 1954 (19 F.R. 6669), redesignated in the FEDERAL REGISTER of January 23, 1963 (28 F.R. 579), and amended in the FEDERAL REGISTER of January 31, 1970 (35 F.R. 1276), is further amended as follows:

Section 1402.101 is amended by deleting the references to the Annual Sales List and by providing that a Monthly Sales List will be published in press release form on a monthly revision basis with intra-month amendments and will be published in the FEDERAL REGISTER on a yearly revision basis with intra-month and end-of-month amendments. Section 1402.101, as amended, reads as follows:

§ 1402.101 General.

To facilitate trade in private trade channels the Commodity Credit Corporation will disseminate general sales offering information via press release and FEDERAL REGISTER notice. Since carrying charges must be incorporated in statutory minimum prices for certain commodities and since such carrying charges are conveniently accrued on a monthly basis, a Monthly Sales List will be published in press release form. The Monthly Sales List will be completely revised and republished by press release at the beginning of each month and amended as necessary during the month. The Monthly Sales List, containing sales information for as many months of the fiscal year as is possible, will be published in full in the FEDERAL REGISTER at the beginning of each fiscal year (July 1), and will be amended in the FEDERAL REGISTER from time to time during the fiscal year to reflect intra-month and end-of-month changes. The publication annually in the FEDERAL REGISTER of the Monthly Sales List is designed to minimize the repetitive publication of price information and shall not be construed as an annual sales policy commitment by CCC. The Commodity Credit Corporation reserves the right to make any amendments deleting or adding to the provisions of the Monthly Sales List or changing prices or methods of sale, including but not limited to, changes in the minimum price percentage, markups and carrying charges. These lists are issued for the purpose of public information and do not constitute an offer to sell by the Commodity Credit Corporation or an invitation for offers to purchase from the Corporation. The Monthly Sales List will set forth either the prices or the pricing basis at which commodity holdings of the Commodity Credit Corporation are available for sale for domestic unrestricted use, for export, and redemption of payment-in-kind certificates. Information concerning barter and credit will also be included. To be placed on the mailing list for the Monthly Sales List press release, applications should be made to the Director, Grain Division, ASCS, USDA, Washington, D.C. 20250.

Effective date: July 1, 1970.

Signed at Washington, D.C., on May 27, 1970.

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

[F.R. Doc. 70-6865; Filed, June 2, 1970; 8:52 a.m.]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 and Subsequent Crops Dry Edible Bean Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Dry Edible Bean Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops (35 F.R. 7363) issued by the Commodity Credit Corporation which contain regulations of a general nature with respect to price support operations are supplemented for the 1970 and subsequent crops of dry edible beans as herein stated. The regulations previously appearing in §§ 1421.2460 through 1421.-72 remains in full force and effect as to prior crops of dry edible beans.

Sec.
1421.120 Purpose.
1421.121 Availability.
1421.122 Eligible beans.
1421.123 Determination of quality.
1421.124 Determination of quantity for loans.
1421.125 Warehouse receipts.
1421.126 Warehouse charges and packaging.
1421.127 Fees and charges.
1421.128 Maturity of loans.
1421.129 Inspection certificates.
1421.130 Settlement.
1421.131 Storage in-transit.
1421.132 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.120 Purpose.

This supplement contains program provisions which, together with the annual dry edible bean crop year supplement and the provisions of the General Regulations Governing Price Support for the 1970 and Subsequent Crops and any amendments thereto or revisions thereof, and the Cooperative Marketing Association Eligibility Requirements for Price Support in Part 1425 of this chapter and any amendments thereto or revisions thereof, apply to loans and purchases for the 1970 and subsequent crops of dry edible beans.

§ 1421.121 Availability.

Producers desiring price support for dry edible beans must request their loans or notify the ASCS County Office of intentions to sell to CCC no later than the dates set forth in the applicable annual crop-year supplement to the regulations contained in this part.

§ 1421.122 Eligible beans.

(a) *General.* To be eligible for price support, the beans must be merchantable for use as food or feed or for other use, as determined by CCC, and must meet the additional requirements of this section.

(1) *Classes.* The beans must be dry edible beans of the classes Pea, Medium White, Great Northern, Small White, Flat Small White, Pink, Small Red, Pinto, Dark Red Kidney, Light Red Kidney, Western Red Kidney, Large Lima, and Baby Lima.

(2) *Contamination and poisonous substances.* The beans must not be contaminated by rodents, birds, insects, or other vermin or contain mercurial compounds or other substances poisonous to man or animals.

(b) *Warehouse stored.* To be eligible as security for a warehouse storage loan, the beans must also be (1) stored in an approved warehouse, and (2) represented by warehouse receipts (or warehouse receipts and supplemental certificates) for beans grading No. 2 or better and containing not more than 18 percent moisture.

§ 1421.123 Determination of quality.

(a) *Quality.* The class, grade, and all other quality factors shall be in accordance with the Official U.S. Standards for Beans, whether or not such determinations are made on the basis of an official inspection.

(b) *Warehouse storage.* If the beans are stored in an approved warehouse, loans will be made on the class, grade, and quality of beans specified on the warehouse receipt, or supplemental certificate, if applicable, representing such beans.

§ 1421.124 Determination of quantity for loans.

(a) *In warehouse*—(1) *Commingled.* The amount of a loan on eligible beans stored commingled in an approved warehouse shall be based on the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable, representing such beans.

(2) *Identity preserved.* The amount of a loan on a quantity of eligible beans stored identity preserved in an approved warehouse shall be based on a percentage, as determined by the State committee of the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable, representing such beans. Such percentage shall not exceed 95 percent of the net weight so specified. The State committee's determination shall be made on a statewide basis or for specified areas within the State. The county committee may lower such percentage on an individual basis when determined by it to be in the best interest of CCC.

(b) *On farm.* Amount of a loan on a quantity of beans stored in approved farm storage shall be determined in accordance with § 1421.18 on the basis of a percentage of the estimated net weight of the beans so stored, or, if the beans have not been processed, on the basis of a percentage of the estimated net weight of the sound beans so stored as determined by an inspection by a representative of the county committee. Such quantity shall be expressed in whole units of 100 pounds.

§ 1421.125 Warehouse receipts.

(a) *General.* Warehouse receipts representing beans in approved warehouse storage placed under warehouse storage loan, or delivered in satisfaction of a farm storage loan or for purchase must meet the requirements of this section and the General Regulations Governing Price Support for 1970 and Subsequent Crops as amended or revised.

(b) *Grade and class.* A separate warehouse receipt must be submitted for each grade and class of beans.

(c) *Entries.* Each warehouse receipt, or supplemental certificate properly identified with the warehouse receipt, must show (1) net weight, (2) class, (3) grade, (4) whether the beans will be packaged in jute or paper bags on delivery, and (5) in the case of "identity preserved" beans, the warehouse receipt shall show the lot number, and must be accompanied by a supplemental certificate executed by the producer in which he assumes responsibility for any loss in the quantity or quality of beans shown thereon to the extent provided in the program regulations. When beans stored on a commingled basis have not been processed prior to issuance of the warehouse receipt, the warehouse receipt or the supplemental certificate must also show the gross weight, moisture, and percentage of total defects of the beans received and the quantity and quality which the warehouseman guarantees to deliver.

§ 1421.126 Warehouse charges and packaging.

(a) *Warehouse charges.* Prior to the time that the beans are placed under warehouse-storage loans, or acquired by CCC, the producer shall arrange for payment of storage, bagging, processing, inspection, and all other charges (except receiving and loading out charges in the warehouse in which the beans are acquired by CCC) accruing through the maturity date for loans. Such charges shall include the cost of movement to a normal railroad shipping point if the warehouse is not located on a railroad, and any unpiling, turning, repiling, or other charges, except loading out charges incident to official weight and grade determinations on identity-preserved beans. CCC will assume warehouse storage charges in accordance with the Bean Storage Agreement accruing after the maturity date for loans for beans acquired by CCC.

(b) *Packaging.* The producer must arrange for the beans to be packaged 100 pounds net weight in new jute or multiwall paper bags prior to their delivery to CCC. Bags must be marked to show the commodity name and class, the net weight, and the name and address of the packer. The bags in which the beans are packed must meet the specifications of subparagraph (1) or (2) of this paragraph:

(1) *Jute bags.* The bags must be made of 36-inch, extra quality 10.4-ounce or heavier jute. Bag seams must be as strong as the full strength of the cloth.

(2) *Multiwall paper bags.* Paper bags must meet the requirements of Federal Specification UU–S–48 as supplemented. The walls shall be either Class A Heavy Duty Shipping Sack Kraft or Class F Heavy Duty Extensible Shipping Sack Kraft Papers. The bag shall be open-mouth style constructed of four walls of either 2/50# and 2/60# 220 pounds total basis weight Class A paper or 4/50# 200 pounds total basis weight Class F paper. The outer wall shall be treated (mechanically or chemically) for antiskid properties. The bottom and top of the bag shall be closed by sewing through all walls with 12/6 needle and 12/5 cotton looper thread, or with a single thread chain stitch, Type 101, with a 12/6 cotton thread (other threads of equivalent strength are permitted). Stitches shall be spaced 3.0 to 3.6 to the inch. The manufactured end of the bag shall be sewn at a depth of not less than three-eighths inch nor more than three-fourths inch and shall incorporate a 2⅛-inch minimum width 70-pound nominal basis weight, flat, creped, or extensible kraft paper. After filling, the top of the bag shall be machine sewn at a depth of not less than three-eighths inch.

§ 1421.127 Fees and charges.

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

§ 1421.128 Maturity of loans.

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

§ 1421.129 Inspection certificates.

Except in the case of loans on beans stored commingled in an approved warehouse, settlement with the producer on all beans acquired by CCC will be based on the class, grade, and quality shown on

Federal or Federal-State lot inspection certificates. Such inspection certificates shall be dated not earlier than 30 days prior to the applicable maturity date for beans. The cost of Federal or Federal-State lot inspections as required by this section and § 1421.130 shall not be for the account of CCC.

§ 1421.130 Settlement.

Settlement for eligible beans acquired by CCC under loan or by purchase will be made with the producer as provided in § 1421.23 and this section.

(a) *Commingled warehouse stored.* Settlement for eligible beans stored commingled in an approved warehouse and acquired by CCC under a loan or by purchase shall be made on the basis of the class, grade, and quality and net weight which are specified by the warehouse receipt representing such beans or the supplemental certificate, if applicable.

(b) *Other storage.* Settlement for eligible beans acquired under loan or by purchase not stored commingled in an approved warehouse shall be made on the basis of the class, grade, and quality shown on Federal or Federal-State lot inspection certificates and on the basis of the quantity shown on official weight certificates, except that the weight of bagged beans shall be the net weight of the lot as determined from the official weight certificate or a quantity determined by multiplying the number of bags by 100 pounds, whichever is smaller. The inspection and weight certificates specified above in this program must be dated not earlier than 30 days prior to the applicable maturity date for beans and shall be furnished the county committee at the time of delivery.

§ 1421.131 Storage in-transit.

Reimbursement will be made by CCC to producers or warehousemen for paid-in freight on beans stored in approved warehouses, subject to the following conditions:

(a) The movement from point of origin to storage point must be an "in-line" movement as determined by CCC, and must be no greater than 100 miles from the point of production unless otherwise approved by CCC prior to the date of shipment.

(b) The freight must have been paid by the person claiming reimbursement and he must not have been otherwise reimbursed.

(c) The warehousemen must furnish the descriptive data on all freight bills or transit tonnage slips on all eligible beans received into the storage facility at the time and in the manner stipulated in the Bean Storage Agreement.

(d) The freight bills or transit tonnage slips must be made available to CCC in accordance with the provisions of the Bean Storage Agreement.

(e) Not more than one transit stop must have been used on billing.

(f) The freight bills must be otherwise acceptable to CCC under the terms of the Bean Storage Agreement.

(g) Reimbursement for paid-in freight under this section will be made by the ASCS commodity office subsequent to actual acquisition of the beans by CCC.

§ 1421.132 Support rates.

The support rates and the schedule of premiums and discounts for use in making loans and for use in settling loans and for purchases shall be set forth in the annual crop year supplement to the regulations in this part.

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 20, 1970.

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

[F.R. Doc. 70-6866; Filed, June 2, 1970; 8:52 a.m.]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 Crop Oat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 Crop Oat Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops, published at 35 F.R. 7363 and the 1970 and Subsequent Crop Oats Loan and Purchase Program regulations published at 35 F.R. 8340 and any amendments to such regulations, are further supplemented for the 1970 crop of oats by adding §§ 1421.270–1421.274 to read as follows. The material previously appearing in §§ 1421.2661–1421.2665 remains in full force and effect as to the crops to which it was applicable.

Sec.
1421.270 Purpose.
1421.271 Availability.
1421.272 Maturity of loans.
1421.273 Deduction of storage charges.
1421.274 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714c; 7 U.S.C. 1421, 1441.

§ 1421.270 Purpose.

This supplement contains additional program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1970 and Subsequent Crops, the 1970 and Subsequent Crop Oats Loan and Purchase Program regulations, and any amendments thereto, apply to price support loans on and purchases of the 1970 crop of oats.

§ 1421.271 Availability.

A producer desiring price support must request a loan on his 1970 crop of eligible oats on or before April 30, 1971, in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, and by March 31, 1971, in all other States. To obtain price support through sales, a producer must execute and deliver to the appropriate ASCS county office a Purchase Agreement (Form CCC–614), indicating the approximate quantity of 1970 crop oats he will sell to CCC, on or before May 31, 1971, in the States named in this section and on or before April 30, 1971, in all other States.

§ 1421.272 Maturity of loans.

Unless demand is made earlier, loans on oats stored in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, mature on May 31, 1971, and loans on oats stored in all other States mature on April 30, 1971.

§ 1421.273 Deduction of storage charges.

(a) *Warehouses approved under Uniform Grain Storage Agreement.* Subject to the provisions of § 1421.252, the following schedules of deductions shall apply to oats stored in an approved warehouse operating under the Uniform Grain Storage Agreement.

Maturity date Apr. 30, 1971	Deduction (cents per bushel)	Maturity date May 31, 1971
[1].....	.....	[1].
	11	Prior to May 8, 1970.
Prior to May 14, 1970.	10	May 8–June 13.
May 14–June 19.....	9	June 14–July 29.
June 20–July 26.....	8	July 21–Aug. 26.
July 27–Sept. 1.....	7	Aug. 27–Oct. 2.
Sept. 2–Oct. 8.....	6	Oct. 3–Nov. 8.
Oct. 9–Nov. 14.....	5	Nov. 9–Dec. 15.
Nov. 15–Dec. 21.....	4	Dec. 16, 1970–Jan. 21, 1971.
Dec. 22, 1970–Jan. 27, 1971.	3	Jan. 22–Feb. 27.
Jan. 28–Mar. 5.....	2	Feb. 28–Apr. 5.
Mar. 6–Apr. 30, 1971..	1	Apr. 6–May 31, 1971.

[1] Dates storage charges start, all dates inclusive.

(b) *Warehouse operated by eastern common carriers.* (1) Eligible oats stored in the following approved eastern common carrier warehouse may be placed under loan or offered for sale to CCC:

Pennsylvania Railroad Co., Canton Elevator—Warehouse Code 9–2151, Baltimore, Md.

(2) Subject to the provisions of § 1421.252, the following schedule of deductions shall apply to oats stored in the approved warehouse listed in subparagraph (1) of this paragraph b:

Maturity date Apr. 30, 1971	Deduction (cents per bushel)	Maturity date May 31, 1971
[1].....	[2]	[1].
Prior to June 25, 1970.	16	Prior to July 26, 1970.
June 25–July 14.....	15	July 26–Aug. 14.
July 15–Aug. 3.....	14	Aug. 15–Sept. 3.
Aug. 4–Aug. 23.....	13	Sept. 4–Sept. 23.
Aug. 24–Sept. 12.....	12	Sept. 24–Oct. 13.
Sept. 13–Oct. 2.....	11	Oct. 14–Nov. 2.
Oct. 3–Oct. 27.....	10	Nov. 3–Nov. 22.
Oct. 28–Nov. 11.....	9	Nov. 23–Dec. 12.
Nov. 12–Dec. 1.....	8	Dec. 13, 1970–Jan. 1, 1971.
Dec. 2–Dec. 21.....	7	Jan. 2–Jan. 21.
Dec. 22, 1970–Jan. 10, 1971.	6	Jan. 22–Feb. 10.
Jan. 11–Jan. 30.....	5	Feb. 11–Mar. 2.
Jan. 31–Feb. 19.....	4	Mar. 3–Mar. 22.
Feb. 20–Mar. 11.....	3	Mar. 23–Apr. 11.
Mar. 12–Mar. 31.....	2	Apr. 12–May 1.
Apr. 1–Apr. 30, 1971..	1	May 2–May 31, 1971.

[1] Storage commence date, all dates inclusive.
[2] Charges shall be reduced by 2½ cents per bushel if producer presents evidence that elevation charges were prepaid.

§ 1421.274 Support rates.

(a) *Basic support rates.* The basic county support rates for use in making loans and for use in settling loans and for purchases are listed below. The term "county" as used in this subpart with reference to the State of Alaska shall mean "marketing area". Marketing areas in Alaska shall be the areas established under the State Small Grain Incentive Program. Farm stored loans shall be made at the basic support rate for the county in which the oats are produced, adjusted by the Weed Control discount where applicable. Warehouse stored loans, farm stored loan settlements and purchases shall be made on the basis of the basic support rate for the county in which the oats were produced, adjusted by the premiums and discounts established in paragraph (b) of this section and any other discounts established by CCC applicable to the grade and quality of the oats on which the loan or settlement is made. The basic county support rate applies to oats grading No. 3, having moisture not in excess of 14 percent.

ALABAMA

County	Rate per bushel
All counties	$4.74

ALASKA [1]

Delta	$0.63	Kenai-Soldotna	$0.71
Fairbanks	.62	Palmer	.75
Glenallen	.69	Talkeetna	.75
Homer	.66		

ARIZONA

All counties	$0.82

ARKANSAS

All counties	$0.72

CALIFORNIA

Alameda	$0.77	Plumas	$0.73
Alpine	.75	Riverside	.77
Amador	.75	Sacramento	.75
Butte	.74	San Benito	.76
Calaveras	.75	San Bernardino	.77
Colusa	.75	San Diego	.77
Contra Costa	.77	San Francisco	.77
Del Norte	.73	San Joaquin	.76
El Dorado	.75	San Luis Obispo	.76
Fresno	.76	San Mateo	.77
Glenn	.74	Santa Barbara	.76
Humboldt	.75	Santa Clara	.77
Imperial	.77	Santa Cruz	.76
Inyo	.77	Shasta	.72
Kern	.77	Sierra	.73
Kings	.76	Siskiyou	.71
Lake	.75	Solano	.77
Lassen	.72	Sonoma	.76
Los Angeles	.78	Stanislaus	.76
Madera	.76	Sutter	.75
Marin	.77	Tehama	.73
Mariposa	.76	Trinity	.75
Mendocino	.75	Tulare	.76
Merced	.76	Tuolumne	.75
Modoc	.71	Ventura	.77
Mono	.76	Yolo	.76
Monterey	.76	Yuba	.74
Napa	.76		
Nevada	.73		
Orange	.77		
Placer	.74		

COLORADO

All counties	$0.69

CONNECTICUT

All counties	$0.72

[1] In Alaska loan rates are for marketing areas.

DELAWARE

County	Rate per bushel
All counties	$0.73

FLORIDA

All counties	$0.78

GEORGIA

All counties	$0.74

IDAHO

Ada	$0.69	Gem	$0.69
Adams	.67	Gooding	.68
Bannock	.67	Idaho	.66
Bear Lake	.67	Jefferson	.65
Benewah	.67	Jerome	.68
Bingham	.65	Kootenai	.67
Blaine	.67	Latah	.68
Boise	.69	Lemhi	.65
Bonner	.65	Lewis	.67
Bonneville	.65	Lincoln	.68
Boundary	.65	Madison	.65
Butte	.65	Minidoka	.68
Camas	.68	Nez Perce	.68
Canyon	.69	Oneida	.67
Caribou	.66	Owyhee	.69
Cassia	.68	Payette	.69
Clark	.65	Power	.67
Clearwater	.67	Shoshone	.65
Custer	.65	Teton	.65
Elmore	.69	Twin Falls	.68
Franklin	.67	Valley	.67
Fremont	.65	Washington	.68

ILLINOIS

Adams	$0.65	Lee	$0.65
Alexander	.68	Livingston	.65
Bond	.66	Logan	.65
Boone	.65	McDonough	.65
Brown	.65	McHenry	.65
Bureau	.65	McLean	.65
Calhoun	.66	Macon	.65
Carroll	.65	Macoupin	.66
Cass	.65	Madison	.67
Champaign	.65	Marion	.67
Christian	.65	Marshall	.65
Clark	.66	Mason	.65
Clay	.67	Massac	.68
Clinton	.67	Menard	.65
Coles	.65	Mercer	.65
Cook	.67	Monroe	.68
Crawford	.67	Montgomery	.66
Cumberland	.66	Morgan	.65
De Kalb	.65	Moultrie	.65
De Witt	.65	Ogle	.65
Douglas	.65	Peoria	.65
Du Page	.65	Perry	.68
Edgar	.65	Piatt	.65
Edwards	.68	Pike	.65
Effingham	.66	Pope	.69
Fayette	.66	Pulaski	.68
Ford	.65	Putnam	.65
Franklin	.68	Randolph	.68
Fulton	.65	Richland	.67
Gallatin	.69	Rock Island	.65
Greene	.66	St. Clair	.68
Grundy	.65	Saline	.69
Hamilton	.68	Sangamon	.65
Hancock	.65	Schuyler	.65
Hardin	.69	Scott	.65
Henderson	.65	Shelby	.65
Henry	.65	Stark	.65
Iroquois	.65	Stephenson	.65
Jackson	.68	Tazewell	.65
Jasper	.67	Union	.68
Jefferson	.68	Vermilion	.65
Jersey	.66	Wabash	.68
Jo Daviess	.65	Warren	.65
Johnson	.68	Washington	.68
Kane	.65	Wayne	.68
Kankakee	.65	White	.68
Kendall	.65	Whiteside	.65
Knox	.65	Will	.66
Lake	.66	Williamson	.68
La Salle	.65	Winnebago	.65
Lawrence	.67	Woodford	.65

INDIANA

County	Rate per bushel	County	Rate per bushel
Adams	$0.66	Lawrence	$0.68
Allen	.66	Madison	.66
Bartholomew	.67	Marion	.66
Benton	.65	Marshall	.66
Blackford	.66	Martin	.68
Boone	.66	Miami	.66
Brown	.68	Monroe	.68
Carroll	.66	Montgomery	.66
Cass	.66	Morgan	.66
Clark	.68	Newton	.65
Clay	.66	Noble	.66
Clinton	.66	Ohio	.69
Crawford	.68	Orange	.68
Daviess	.68	Owen	.68
Dearborn	.69	Parke	.65
Decatur	.67	Perry	.68
De Kalb	.66	Pike	.68
Delaware	.66	Porter	.66
Dubois	.68	Posey	.68
Elkhart	.67	Pulaski	.66
Fayette	.66	Putnam	.66
Floyd	.68	Randolph	.66
Fountain	.65	Ripley	.69
Franklin	.68	Rush	.66
Fulton	.66	St. Joseph	.67
Gibson	.68	Scott	.69
Grant	.66	Shelby	.66
Greene	.68	Spencer	.68
Hamilton	.66	Starke	.66
Hancock	.66	Steuben	.67
Harrison	.68	Sullivan	.67
Hendricks	.66	Switzerland	.69
Henry	.66	Tippecanoe	.66
Howard	.66	Tipton	.66
Huntington	.66	Union	.66
Jackson	.68	Vanderburgh	.68
Jasper	.65	Vermillion	.65
Jay	.66	Vigo	.66
Jefferson	.69	Wabash	.66
Jennings	.69	Warren	.65
Johnson	.66	Warrick	.68
Knox	.68	Washington	.68
Kosciusko	.66	Wayne	.66
Lagrange	.67	Wells	.66
Lake	.66	White	.66
La Porte	.67	Whitley	.66

IOWA

Adair	$0.65	Greene	$0.64
Adams	.65	Grundy	.64
Allamakee	.65	Guthrie	.64
Appanoose	.65	Hamilton	.64
Audubon	.64	Hancock	.64
Benton	.65	Hardin	.64
Black Hawk	.65	Harrison	.64
Boone	.64	Henry	.65
Bremer	.65	Howard	.65
Buchanan	.65	Humboldt	.64
Buena Vista	.64	Ida	.63
Butler	.64	Iowa	.65
Calhoun	.64	Jackson	.65
Carroll	.64	Jasper	.64
Cass	.65	Jefferson	.65
Cedar	.65	Johnson	.65
Cerro Gordo	.64	Jones	.65
Cherokee	.63	Keokuk	.65
Chickasaw	.65	Kossuth	.64
Clarke	.65	Lee	.65
Clay	.64	Linn	.65
Clayton	.65	Louisa	.65
Clinton	.65	Lucas	.65
Crawford	.63	Lyon	.62
Dallas	.64	Madison	.65
Davis	.66	Mahaska	.65
Decatur	.65	Marion	.65
Delaware	.65	Marshall	.64
Des Moines	.65	Mills	.65
Dickinson	.63	Mitchell	.64
Dubuque	.65	Monona	.63
Emmet	.63	Monroe	.65
Fayette	.65	Montgomery	.65
Floyd	.64	Muscatine	.65
Franklin	.64	O'Brien	.63
Fremont	.65	Osceola	.62

IOWA—Continued

County	Rate per bushel	County	Rate per bushel
Page	$0.65	Tama	$0.64
Palo Alto	.64	Taylor	.65
Plymouth	.63	Union	.65
Pocahontas	.64	Van Buren	.65
Polk	.64	Wapello	.65
Pottawattamie	.65	Warren	.65
Poweshiek	.64	Washington	.65
Ringgold	.65	Wayne	.65
Sac	.64	Webster	.64
Scott	.65	Winnebago	.64
Shelby	.64	Winneshiek	.65
Sioux	.62	Woodbury	.63
Story	.64	Worth	.64
		Wright	.64

KANSAS

Allen	$0.68	Linn	$0.68
Anderson	.68	Logan	.69
Atchison	.68	Lyon	.68
Barber	.71	McPherson	.69
Barton	.69	Marion	.69
Bourbon	.69	Marshall	.67
Brown	.67	Meade	.71
Butler	.70	Miami	.68
Chase	.69	Mitchell	.67
Chautauqua	.70	Montgomery	.70
Cherokee	.70	Morris	.68
Cheyenne	.68	Morton	.71
Clark	.71	Nemaha	.67
Clay	.67	Neosho	.69
Cloud	.67	Ness	.69
Coffey	.68	Norton	.67
Comanche	.71	Osage	.68
Cowley	.70	Osborne	.67
Crawford	.69	Ottawa	.67
Decatur	.67	Pawnee	.69
Dickinson	.68	Phillips	.66
Doniphan	.68	Pottawatomie	.67
Douglas	.68	Pratt	.70
Edwards	.69	Rawlins	.68
Elk	.69	Reno	.69
Ellis	.68	Republic	.66
Ellsworth	.68	Rice	.69
Finney	.70	Riley	.67
Ford	.70	Rooks	.67
Franklin	.68	Rush	.69
Geary	.68	Russell	.68
Gove	.69	Saline	.68
Graham	.68	Scott	.69
Grant	.70	Sedgwick	.70
Gray	.70	Seward	.71
Greeley	.69	Shawnee	.68
Greenwood	.69	Sheridan	.68
Hamilton	.70	Sherman	.68
Harper	.71	Smith	.66
Harvey	.69	Stafford	.69
Haskell	.70	Stanton	.70
Hodgeman	.69	Stevens	.71
Jackson	.68	Sumner	.71
Jefferson	.68	Thomas	.68
Jewell	.66	Trego	.68
Johnson	.69	Wabaunsee	.68
Kearny	.70	Wallace	.69
Kingman	.70	Washington	.66
Kiowa	.70	Wichita	.69
Labette	.70	Wilson	.69
Lane	.69	Woodson	.68
Leavenworth	.69	Wyandotte	.69
Lincoln	.67		

KENTUCKY

All counties $0.74

LOUISIANA

All parishes $0.74

MAINE

All counties $0.72

MARYLAND

All counties $0.73

MASSACHUSETTS

All counties $0.72

MICHIGAN

County	Rate per bushel	County	Rate per bushel
Alcona	$0.65	Lake	$0.67
Alger	.67	Lapeer	.65
Allegan	.67	Leelanau	.66
Alpena	.65	Lenawee	.67
Antrim	.66	Livingston	.66
Arenac	.65	Luce	.67
Baraga	.66	Mackinac	.67
Barry	.67	Macomb	.66
Bay	.65	Mainstee	.67
Benzie	.66	Marquette	.66
Berrien	.66	Mason	.67
Branch	.66	Mecosta	.66
Calhoun	.66	Menominee	.66
Cass	.66	Midland	.65
Charlevoix	.66	Missaukee	.66
Cheboygan	.66	Monroe	.67
Chippewa	.67	Montcalm	.66
Clare	.66	Montmorency	.65
Clinton	.66	Muskegon	.67
Crawford	.65	Newaygo	.67
Delta	.66	Oakland	.66
Dickinson	.66	Oceana	.67
Eaton	.66	Ogemaw	.65
Emmet	.66	Ontonagon	.66
Genesee	.65	Osceola	.66
Gladwin	.65	Oscoda	.65
Gogebic	.66	Otsego	.66
Grand Traverse	.66	Ottawa	.67
Gratiot	.66	Presque Isle	.65
Hillsdale	.67	Roscommon	.65
Houghton	.66	Saginaw	.65
Huron	.65	St. Clair	.66
Ingham	.66	St. Joseph	.66
Ionia	.66	Sanilac	.65
Iosco	.65	Schoolcraft	.67
Iron	.66	Shiawassee	.65
Isabella	.66	Tuscola	.65
Jackson	.66	Van Buren	.67
Kalamazoo	.67	Washtenaw	.66
Kalkaska	.66	Wayne	.66
Kent	.67	Wexford	.67
Keweenaw	.66		

MINNESOTA

County	Rate per bushel	County	Rate per bushel
Aitkin	$0.61	Lake	$0.63
Anoka	.63	Lake of the Woods	.56
Becker	.57	Le Sueur	.62
Beltrami	.56	Lincoln	.59
Benton	.61	Lyon	.59
Big Stone	.58	McLeod	.62
Blue Earth	.62	Mahnomen	.56
Brown	.61	Marshall	.55
Carlton	.62	Martin	.61
Carver	.63	Meeker	.61
Cass	.59	Mille Lacs	.61
Chippewa	.59	Morrison	.60
Chisago	.63	Mower	.62
Clay	.56	Murray	.59
Clearwater	.56	Nicollet	.62
Cook	.63	Nobles	.60
Cottonwood	.60	Norman	.55
Crow Wing	.60	Olmstead	.62
Dakota	.63	Otter Tail	.58
Dodge	.62	Pennington	.55
Douglas	.59	Pine	.62
Faribault	.62	Pipestone	.59
Fillmore	.63	Polk	.55
Freeborn	.62	Pope	.59
Goodhue	.62	Ramsey	.63
Grant	.58	Red Lake	.55
Hennepin	.63	Redwood	.60
Houston	.63	Renville	.61
Hubbard	.58	Rice	.62
Isanti	.62	Rock	.60
Itasca	.59	Roseau	.55
Jackson	.61	Saint Louis	.62
Kanabec	.62	Scott	.63
Kandiyohi	.61	Sherburne	.62
Kittson	.54	Sibley	.62
Koochiching	.58	Stearns	.61
Lac qui Parle	.59	Steele	.62

MINNESOTA—Continued

County	Rate per bushel	County	Rate per bushel
Stevens	$0.58	Washington	$0.63
Swift	.59	Watonwan	.61
Todd	.60	Wilkin	.57
Traverse	.57	Winona	.63
Wabasha	.62	Wright	.62
Wadena	.59	Yellow Medicine	.59
Waseca	.63		

MISSISSIPPI

All counties $0.73

MISSOURI

Adair	$0.67	Linn	$0.68
Andrew	.67	Livingston	.68
Atchinson	.66	McDonald	.70
Audrain	.66	Macon	.67
Barry	.70	Madison	.69
Barton	.69	Maries	.69
Bates	.68	Marion	.65
Benton	.68	Mercer	.68
Bollinger	.69	Miller	.69
Boone	.68	Mississippi	.68
Buchanan	.69	Moniteau	.69
Butler	.69	Monroe	.66
Caldwell	.69	Montgomery	.68
Callaway	.68	Morgan	.69
Camden	.69	New Madrid	.69
Cape Girardeau	.68	Newton	.69
Carroll	.68	Nodaway	.66
Carter	.69	Oregon	.70
Cass	.68	Osage	.69
Cedar	.68	Ozark	.70
Chariton	.68	Pemiscot	.69
Christian	.70	Perry	.68
Clark	.65	Pettis	.69
Clay	.69	Phelps	.69
Clinton	.69	Pike	.65
Cole	.69	Platte	.69
Cooper	.69	Polk	.68
Crawford	.69	Pulaski	.69
Dade	.68	Putnam	.67
Dallas	.69	Ralls	.65
Daviess	.68	Randolph	.67
De Kalb	.68	Ray	.69
Dent	.69	Reynolds	.69
Douglas	.70	Ripley	.70
Dunklin	.69	St. Charles	.67
Franklin	.69	St. Clair	.68
Gasconade	.69	St. Genevieve	.68
Gentry	.67	St. Francois	.69
Greene	.69	St. Louis	.68
Grundy	.67	Saline	.68
Harrison	.67	Schuyler	.67
Henry	.68	Scotland	.66
Hickory	.68	Scott	.68
Holt	.67	Shannon	.69
Howard	.68	Shelby	.66
Howell	.70	Stoddard	.69
Iron	.69	Stone	.70
Jackson	.68	Sullivan	.67
Jasper	.69	Taney	.70
Jefferson	.68	Texas	.69
Johnson	.68	Vernon	.68
Knox	.66	Warren	.68
Laclede	.69	Washington	.69
Lafayette	.68	Wayne	.69
Lawrence	.69	Webster	.69
Lewis	.65	Worth	.66
Lincoln	.67	Wright	.69

MONTANA

Beaverhead	$0.64	Fallon	$0.53
Big Horn	.58	Fergus	.57
Blaine	.55	Flathead	.62
Broadwater	.60	Gallatin	.60
Carbon	.59	Garfield	.54
Carter	.56	Glacier	.59
Cascade	.59	Golden Valley	.58
Chouteau	.57	Granite	.63
Custer	.55	Hill	.56
Daniels	.52	Jefferson	.61
Dawson	.52	Judith Basin	.58
Deer Lodge	.62		

MONTANA—Continued

County	Rate per bushel	County	Rate per bushel
Lake	$0.63	Prairie	$0.54
Lewis and Clark	.61	Ravalli	.63
Liberty	.57	Richland	.52
Lincoln	.64	Roosevelt	.51
McCone	.53	Rosebud	.56
Madison	.62	Sanders	.64
Meagher	.59	Sheridan	.51
Mineral	.64	Silver Bow	.62
Missoula	.63	Stillwater	.59
Musselshell	.57	Sweet Grass	.59
Park	.60	Teton	.58
Petroleum	.56	Toole	.58
Phillips	.54	Treasure	.57
Pondera	.58	Valley	.53
Powder River	.57	Wheatland	.58
Powell	.62	Wilbaux	.53
		Yellowstone	.59

NEBRASKA

Adams	$0.64	Jefferson	$0.65
Antelope	.61	Johnson	.66
Arthur	.62	Kearney	.64
Banner	.62	Keith	.63
Blaine	.61	Keya Paha	.60
Boone	.62	Kimball	.63
Box Butte	.62	Knox	.61
Boyd	.60	Lancaster	.65
Brown	.61	Lincoln	.63
Buffalo	.63	Logan	.62
Burt	.63	Loup	.61
Butler	.64	McPherson	.62
Cass	.65	Madison	.62
Cedar	.62	Merrick	.62
Chase	.65	Morrill	.62
Cherry	.61	Nance	.62
Cheyenne	.63	Nemaha	.66
Clay	.64	Nuckolls	.65
Colfax	.63	Otoe	.65
Cuming	.63	Pawnee	.66
Custer	.62	Perkins	.64
Dakota	.63	Phelps	.64
Dawes	.62	Pierce	.61
Dawson	.63	Platte	.62
Deuel	.63	Polk	.63
Dixon	.63	Red Willow	.65
Dodge	.64	Richardson	.66
Douglas	.65	Rock	.61
Dundy	.66	Saline	.65
Fillmore	.64	Sarpy	.65
Franklin	.65	Saunders	.65
Frontier	.64	Scotts Bluff	.62
Furnas	.65	Seward	.64
Gage	.66	Sheridan	.62
Garden	.62	Sherman	.62
Garfield	.61	Sioux	.62
Gosper	.64	Stanton	.62
Grant	.61	Thayer	.65
Greeley	.62	Thomas	.61
Hall	.63	Thurston	.63
Hamilton	.63	Valley	.62
Harlan	.65	Washington	.64
Hayes	.65	Wayne	.62
Hitchcock	.66	Webster	.65
Holt	.61	Wheeler	.61
Hooker	.61	York	.63
Howard	.62		

NEVADA

All counties $0.79

NEW HAMPSHIRE

All counties $0.72

NEW JERSEY

All counties $0.73

NEW MEXICO

All counties $0.76

NEW YORK

All counties $0.74

NORTH CAROLINA

All counties $0.74

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$0.52	McKenzie	$0.50
Barnes	.54	McLean	.50
Benson	.52	Mercer	.50
Billings	.51	Mountrail	.49
Bottineau	.50	Morton	.51
Bowman	.52	Nelson	.53
Burke	.49	Oliver	.51
Burleigh	.52	Pembina	.52
Cass	.54	Pierce	.51
Cavalier	.52	Ramsey	.52
Dickey	.54	Ransom	.54
Divide	.49	Renville	.50
Dunn	.50	Richland	.55
Eddy	.53	Rolette	.50
Emmons	.52	Sargent	.54
Foster	.53	Sheridan	.51
Golden Valley	.51	Sioux	.52
Grand Forks	.53	Slope	.51
Grant	.51	Stark	.51
Griggs	.53	Steele	.53
Hettinger	.51	Stutsman	.54
Kidder	.53	Towner	.51
La Moure	.54	Traill	.53
Logan	.53	Walsh	.52
McHenry	.50	Ward	.50
McIntoch	.53	Wells	.52
		Williams	.49

OHIO

Adams	$0.72	Licking	$0.69
Allen	.68	Logan	.69
Ashland	.69	Lorain	.70
Ashtabula	.73	Lucas	.68
Athens	.73	Madison	.69
Augulaize	.68	Mahoning	.73
Belmont	.74	Marion	.69
Brown	.71	Medina	.71
Butler	.68	Meigs	.73
Carroll	.73	Mercer	.66
Champaign	.69	Miami	.68
Clark	.69	Monroe	.74
Clermont	.70	Montgomery	.68
Clinton	.70	Morgan	.73
Columbiana	.73	Morrow	.69
Coshocton	.71	Muskingum	.72
Crawford	.69	Noble	.73
Cuyahoga	.71	Ottawa	.69
Darke	.67	Paulding	.67
Defiance	.67	Perry	.71
Delaware	.69	Pickaway	.69
Erie	.69	Pike	.72
Fairfield	.69	Portage	.72
Fayette	.69	Preble	.67
Franklin	.69	Putnam	.68
Fulton	.68	Richland	.69
Gallia	.73	Ross	.70
Geauga	.72	Sandusky	.69
Greene	.69	Scioto	.72
Guernsey	.73	Seneca	.69
Hamilton	.69	Shelby	.68
Hancock	.68	Stark	.72
Hardin	.68	Summit	.71
Harrison	.73	Trumbull	.73
Henry	.68	Tuscarawas	.72
Highland	.71	Union	.69
Hocking	.71	Van Wert	.67
Holmes	.71	Vinton	.72
Huron	.69	Warren	.69
Jackson	.72	Washington	.74
Jefferson	.74	Wayne	.71
Knox	.69	Williams	.68
Lake	.72	Wood	.68
Lawrence	.72	Wyandot	.69

OKLAHOMA

All counties $0.72

OREGON

Baker	$0.68	Crook	$0.71
Benton	.73	Curry	.72
Clackamas	.73	Deschutes	.71
Clatsop	.73	Douglas	.72
Columbia	.73	Gilliam	.71
Coos	.72	Grant	.70

OREGON—Continued

County	Rate per bushel	County	Rate per bushel
Harney	$0.69	Morrow	$0.70
Hood River	.73	Multnomah	.73
Jackson	.72	Polk	.73
Jefferson	.71	Sherman	.71
Josephine	.72	Tillamook	.73
Klamath	.70	Umatilla	.69
Lake	.70	Union	.69
Lane	.72	Wallowa	.68
Lincoln	.73	Wasco	.71
Linn	.72	Washington	.73
Malheur	.68	Wheeler	.71
Marion	.73	Yamhill	.73

PENNSYLVANIA

All counties $0.74

RHODE ISLAND

All counties $0.72

SOUTH CAROLINA

All counties $0.74

SOUTH DAKOTA

Aurora	$0.57	Jackson	$0.56
Beadle	.57	Jerauld	.57
Bennett	.57	Jones	.56
Bon Homme	.59	Kingsbury	.57
Brookings	.58	Lake	.57
Brown	.55	Lawrence	.55
Brule	.57	Lincoln	.60
Buffalo	.57	Lyman	.56
Butte	.55	McCook	.58
Campbell	.54	McPherson	.54
Charles Mix	.58	Marshall	.55
Clark	.56	Meade	.55
Clay	.61	Mellette	.57
Codington	.57	Miner	.57
Corson	.54	Minnehaha	.59
Custer	.58	Moody	.58
Davison	.57	Pennington	.56
Day	.56	Perkins	.54
Deuel	.58	Potter	.55
Dewey	.55	Roberts	.56
Douglas	.58	Sanborn	.57
Edmunds	.55	Shannon	.58
Fall River	.58	Spink	.56
Faulk	.55	Stanley	.56
Grant	.58	Sully	.56
Gregory	.57	Todd	.57
Haakon	.56	Tripp	.57
Hamlin	.57	Turner	.60
Hand	.56	Union	.61
Hanson	.57	Walworth	.55
Harding	.54	Washabaugh	.57
Hughes	.56	Yankton	.60
Hutchinson	.59	Ziebach	.55
Hyde	.56		

TENNESSEE

All counties $0.74

TEXAS

All counties $0.74

UTAH

All counties $0.76

VERMONT

All counties $0.72

VIRGINIA

All counties $0.73

WASHINGTON

Adams	$0.68	Grays Harbor	$0.73
Asotin	.68	Island	.73
Benton	.70	Jefferson	.73
Chelan	.71	King	.73
Clallam	.73	Kitsap	.73
Clark	.73	Kittitas	.71
Columbia	.68	Klickitat	.71
Cowlitz	.73	Lewis	.73
Douglas	.70	Lincoln	.68
Ferry	.69	Mason	.73
Franklin	.68	Okanogan	.71
Garfield	.68	Pacific	.73
Grant	.69	Pend Oreille	.66

WASHINGTON—Continued

County	Rate per bushel	County	Rate per bushel
Pierce	$0.73	Thurston	$0.73
San Juan	.73	Wahkiakum	.73
Skagit	.73	Walla Walla	.68
Skamania	.73	Whatcom	.73
Snohomish	.73	Whitman	.67
Spokane	.67	Yakima	.71
Stevens	.67		

WEST VIRGINIA

All counties	$0.74

WISCONSIN

Adams	$0.65	Marathon	$0.65
Ashland	.65	Marinette	.66
Barron	.63	Marquette	.65
Bayfield	.64	Menominee	.65
Brown	.64	Milwaukee	.67
Buffalo	.63	Monroe	.65
Burnett	.63	Oconto	.65
Calumet	.64	Oneida	.66
Chippewa	.64	Outagamie	.64
Clark	.64	Ozaukee	.66
Columbia	.65	Pepin	.63
Crawford	.66	Pierce	.63
Dane	.66	Polk	.63
Dodge	.65	Portage	.65
Door	.64	Price	.65
Douglas	.63	Racine	.67
Dunn	.64	Richland	.66
Eau Claire	.64	Rock	.66
Florence	.66	Rusk	.64
Fond du Lac	.64	St. Croix	.63
Forest	.66	Sauk	.66
Grant	.66	Sawyer	.64
Green	.66	Shawano	.65
Green Lake	.65	Sheboygan	.65
Iowa	.67	Taylor	.65
Iron	.66	Trempealeau	.64
Jackson	.65	Vernon	.65
Jefferson	.66	Vilas	.66
Juneau	.65	Walworth	.66
Kenosha	.67	Washburn	.63
Kewaunee	.64	Washington	.66
La Crosse	.64	Waukesha	.67
Lafayette	.67	Waupaca	.65
Langlade	.65	Waushara	.65
Lincoln	.65	Winnebago	.64
Manitowoc	.64	Wood	.65

WYOMING

All counties	$0.66

(b) *Premiums and discounts.*[2]

	Cents per bushel
Premiums:[1]	
Grade No. 2 or better	1
Test weight:	
Heavy	1
Extra Heavy	2
Discounts:	
Grade No. 4 on the factor of test weight only but otherwise No. 3 or better	3
Grade No. 4 because of being "badly stained or materially weathered"	7
No. 4 on the factor of test weight and because of being "badly stained or materially weathered"	10
Garlicky	3
Weed control discount (where required by § 1421.25)	10
Other factors:	
Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the oats, such as (but not limited to) low test weight, foreign material, heat damage, percent of sound cultivated oats, wild oats, moisture, sour, stones, musty, ergoty, weevily, smutty, and bleached. Such discounts will be established not later than the time delivery of oats to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately 1 month prior to the loan maturity date.	

[1] Premiums shall not be applicable to "badly stained or materially weathered oats.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 21, 1970.

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

[F.R. Doc. 70-6668; Filed, June 2, 1970; 8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, the introductory portion of paragraph (e) is amended by deleting therefrom the names of the States of Georgia and North Carolina, and by adding thereto the name of the State of Arkansas; and paragraph (f) is amended by adding the name of the State of Georgia.

2. In § 76.2, paragraph (e)(3) relating to the State of Georgia and paragraph (e)(12) relating to the State of North Carolina are deleted; and a new paragraph (e)(3) relating to the State of Arkansas is added to read:

(3) *Arkansas.* That portion of Chicot County bounded by a line beginning at the junction of U.S. Highway 82 and the west bank of the Mississippi River; thence, following U.S. Highway 82 in a generally westerly direction to the Chicot-Ashley County line; thence, following the Chicot-Ashley County line in a southerly direction to State Highway 8; thence, following State Highway 8 in a generally southeasterly direction to Grand Lake Road; thence, following Grand Lake Road in a northeasterly direction to the west bank of the Mississippi River; thence, following the west bank of the Mississippi River in a generally northerly direction to its junction with U.S. Highway 82.

3. In § 76.2, in paragraph (e)(8) relating to the State of Mississippi, subdivision (iv) relating to Rankin County is deleted, and subdivision (i) relating to Alcorn, Prentiss, Tippah, and Tishomingo Counties and subdivision (v) relating to Holmes and Attala Counties are amended to read:

(8) *Mississippi.* (i) Prentiss, Tippah, and Tishomingo Counties.

* * * * *

(v) The adjacent portions of Holmes and Attala Counties bounded by a line beginning at the junction of Interstate Highway 55 and the Holmes-Carroll County line; thence, following the Holmes-Carroll County line in a southeasterly direction to the Big Black River (also Holmes-Attala County line); thence, following the west bank of the Big Black River in a southwesterly direction to State Highway 19; thence, following State Highway 19 in a southeasterly direction to State Highway 35; thence, following State Highway 35 in a southerly direction to State Highway 43; thence, following State Highway 43 in a southwesterly direction to State Highway 14; thence, following State Highway 14 in a generally southwesterly direction to Interstate Highway 55; thence, following Interstate Highway 55 in a northeasterly direction to its junction with the Holmes-Carroll County line.

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

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

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

The amendments also exclude all of Alcorn and portions of Holmes and Rankin Counties in Mississippi; a portion of Pasquotank County, N.C.; and a portion of Marion County, Ga., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

The foregoing amendments also add the State of Georgia to the list of hog cholera eradication States in § 76.2(f).

Insofar as the amendments impose certain further restrictions necessary to

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

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

Done at Washington, D.C., this 28th day of May 1970.

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

[F.R. Doc. 70-6867; Filed, June 2, 1970; 8:52 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[No. 24,053]

PART 511—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Outside Employment and Other Activities

APRIL 30, 1970.

Resolved that, pursuant to and in accordance with sections 201 through 209 of title 18, United States Code, Executive Order 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, § 511.735-14 of the General Regulations of the Federal Home Loan Bank Board (12 CFR § 511.735-14) is hereby amended by adding a new subparagraph (3) to paragraph (a) thereof, to read as follows:

§ 511.735-14 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his employment. Incompatible activities include but are not limited to:

* * * * *

(3) Private practice of the law by attorneys in the Office of the General Counsel, with or without compensation, except with the prior written consent of the General Counsel.

* * * * *

(E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1964-65 Comp., p. 306; 5 CFR 735.104)

This amendment is effective on publication in the FEDERAL REGISTER.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 70-6807; Filed, June 2, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-7-AD; Amdt. 39-999]

PART 39—AIRWORTHINESS DIRECTIVES

Navion Model Aircraft

AD 47-21-6 (21 F.R. 9462), formerly Mandatory Note 5 to AD 782-3 dated May 6, 1947, applicable to Navion Model aircraft, is an airworthiness directive which requires the installation of Continental P/N 520023 spacers under the valve springs at the first engine overhaul on certain Continental Model E-185 engines installed in these model aircraft. After issuing AD 47-21-6 the Agency has determined that due to full compliance and/or subsequent design changes, the need for this AD is obviated. Therefore, action is taken herein to rescind AD 47-21-6.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by rescinding AD 47-21-6 (21 F.R. 9462), formerly Mandatory Note 5 of AD 782-3.

This amendment becomes effective June 3, 1970.

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

Issued in Kansas City, Mo., on May 25, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-6809; Filed, June 2, 1970; 8:48 a.m.]

[Airspace Docket No. 70-WA-21]

PART 73—SPECIAL USE AIRSPACE

Reestablishment of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reestablish Restricted Area R-2916 at Cudjoe Key, Fla.

The Department of the Air Force has advised the Federal Aviation Administration that there is an urgent military necessity for the reestablishment of R-2916 at Cudjoe Key for an immediate and continuing research program to collect scientific data at several altitude levels associated with the persistence of winds, trade wind inversion and variation of humidity with altitude. The scientific data would be obtained by specialized instrumentation suspended from a tethered balloon approximately 40 feet in diameter and 120 feet long. The Air Force has stated that due to the type and frequency of observations, the required data cannot be obtained by other means.

This research project is of immediate military importance bearing directly upon the military readiness of the Nation. Accordingly, action is taken herein to reestablish Restricted Area R-2916 at Cudjoe Key, Fla.

Since the Administrator of the Federal Aviation Administration finds that this amendement is essential and that urgent military necessity requires adoption of the amendment, it is found that notice and public procedure thereon are impracticable. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

Section 73.29 (35 F.R. 2322) is amended by adding the following:

R-2916 CUDJOE KEY, FLA.

Boundaries. A circular area 4 statute miles in diameter centered at lat. 24°42'01" N., long. 81°30'30" W.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Using agency. Department of the Air Force.

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

Issued in Washington, D.C., on May 26, 1970.

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

[F.R. Doc. 70-6869; Filed, June 2, 1970; 8:52 a.m.]

[Docket No. 9818; Amdt. No. 167-1]

PART 167—ANNETTE ISLAND, ALASKA, AIRPORT

Revised Landing and Parking Charges, and Additional Rules

The purpose of these amendments to Part 167 of the Federal Aviation Regulations is to (1) revise the landing and parking charges at Annette Island, Alaska, Airport; and (2) adopt rules governing motor vehicles, aircraft, conduct, fire hazards and fueling operations, obligations of tenants at that airport and the enforcement thereof.

Interested persons have been afforded an opportunity to participate in the making of these amendments by notice of proposed rule making (Notice 69-39) issued on August 21, 1969, and published in the FEDERAL REGISTER on September 6, 1969 (34 F.R. 14129). Due consideration

has been given to all comments presented in response to that notice.

Most of the small number of comments received on the notice concurred with the proposal. The U.S. Coast Guard noted a typographical error in the land area described in § 167.1(a), and that paragraph is corrected accordingly in the final rule. This reduces that portion of the island covered by the rules as described in the notice from approximately 2,955 acres to approximately 2,681 acres and eliminates the FAA/Coast Guard housing area from the area covered by the rules. Additionally, the Coast Guard leases certain parcels of land from the FAA on the airport. In order to insure that there is no confusion as to the regulations governing these parcels, a paragraph (e) is added at the end of § 167.1 which states that "the rules in this part apply to those areas of the Airport under lease to the U.S. Coast Guard so far as they are not inconsistent with any rules prescribed for those areas by the Commanding Officer, U.S. Coast Guard Air Station, Annette Island, Alaska."

Two commentators objected to the proposal to increase landing charges to 40 cents per 1,000 pounds on the grounds that this increase in charges is excessive, unreasonable, and discriminatory. The landing rate referred to is increased from 10 cents to 40 cents per 1,000 pounds. The previous rate was a sliding scale from 25 cents down to 10 cents per 1,000 pounds. A comparison of actual landing fee collections on the previous rate with what they should be under the new rate shows an increase of a little under 200 percent. The landing rates when initially established were low. Considering the services rendered at the Annette Island, Alaska, Airport with those at other airports in Alaska operated by the State, the proposed rate of 40 cents per 1,000 pounds is reasonable.

Additionally, both commentators objected to the provision relieving public aircraft and aircraft of 6,000 pounds or less weight from payment of landing charges. Both of these commentators asserted that the State of Alaska, that operates most of the 500 or more airports in Alaska, does not attempt to recover costs of operation through landing charges, but uses other revenues. Consequently, the commentators considered it unreasonable to attempt to support the cost of the Annette Island, Alaska, Airport by landing charges. The cost of operating the Annette Island, Alaska, Airport will be met from all available sources of revenue bearing a reasonable relevancy to the operation of the airport. These additional sources include revenues obtained from land rentals, sales of utilities, and concessions and parking fees.

In consideration of the foregoing, Part 167 of the Federal Aviation Regulations is amended, effective July 3, 1970, as hereinafter set forth.

Issued in Washington, D.C., on May 25, 1970.

J. H. SHAFFER,
Administrator.

Subpart A—General

Subpart B—Motor Vehicle Rules

Subpart C—Aircraft Rules

Subpart D—Rules of Conduct

Subpart E—Fire Hazards and Fueling Operations

Subpart F—Obligations of Tenants

Subpart G—Charges

Subpart H—Enforcement

AUTHORITY: The provisions of this Part 167 issued under sec. 10, International Aviation Facilities Act; 49 U.S.C. 1159, secs. 303(d), 307(b), 313(a), and 1107(a), Federal Aviation Act of 1958; 49 U.S.C. 1344(d), 1348(b), 1354(a), 1507(a), Budget Bureau Circular A-25 of Sept. 23, 1959, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c), sec. 1.4(b)(2), Regulations of the Office of the Secretary of Transportation.

Subpart A—General

§ 167.1 Applicability.

(a) This part prescribes the rules governing the use of the Annette Island, Alaska, Airport (in this part referred to as "the Airport") operated by the Federal Aviation Administration, described in a lease entered into on December 13, 1948, by and between the United States of America and the Council of the Annette Island Reserve, identified as Contract No. C5ca-284-A (formerly C8ca-3095), originally covering 4,880 acres of land, more or less, including buildings and facilities, located on Annette Island, Alaska, that portion of which is covered by these rules and is more particularly described as follows:

Commencing at U.S.C. & G.S. Triangulation Station "Yellow", latitude N. 56°06'09.129", longitude W. 131°34'25.982", proceed south 7°31' west 13,189.30 feet to the true point of beginning; thence east 3,000 feet; thence south 1,000 feet; thence east 1,695.41 feet to a point on the mean high tide line; thence south 49°35' east 6,337.71 feet to a point on the mean high tide line; thence south 42°19' west 7,864.11 feet; thence south 28°41' east 4,395 feet to a point on the mean high tide line; thence along the meander of the mean high tide line a distance of approximately 8,000 feet; thence north 28°41' west 4,000 feet; thence south 44°56' west 1,610 feet; thence north 43°57' west 1,750 feet; thence north 44°56' east 1,570 feet; thence north 28°41' west 8,602.70 feet; thence north 33°55' east 3,235 feet; thence north 55°28' east 2,047.80 feet to the true point of beginning of this description, containing 2,681 acres, more or less.

(b) The Regional Director for the Alaskan Region (in this part referred to as the "Regional Director") and the Manager of the Airport (in this part referred to as the "Airport Manager") may issue such orders and instructions as are necessary for administering this part.

(c) The Airport Manager may post signs that state or apply the rules or provisions of this part. Each person on the Airport shall comply with these signs.

(d) The rules in this part do not vary the provisions of any legislation or contractual arrangement that determine the terms of tenure of the Department of Transportation, Federal Aviation Administration, at the Airport.

(e) The rules in this part apply to those areas of the airport under lease to the U.S. Coast Guard so far as they are not inconsistent with any rules prescribed

for those areas by the Commanding Officer, U.S. Coast Guard Air Station, Annette Island, Alaska.

§ 167.3 Motor vehicles carrying passengers for hire.

(a) Except as otherwise specifically authorized by the Administrator, no person may operate a vehicle that is carrying passengers for hire from the Airport unless he has a permit from the Airport Manager.

(b) Except for discharging passengers and as otherwise directed by the Airport Manager, no person may park, on the Airport, a vehicle used for the purpose of carrying passengers for hire unless he has a permit from the Airport Manager.

(c) Except with the specific approval of the Airport Manager under conditions prescribed by him, no person may, on the Airport, solicit or invite any person to ride in a vehicle used for the purpose of carrying passengers for hire, either by driving slowly past a loading entrance to an Airport building or by any other act or the speaking of words that are intended to induce that person to engage the vehicle.

(d) Each person who requests a permit to operate, on the Airport, a vehicle used for the purpose of carrying passengers for hire must apply in writing to the Airport Manager. The application must contain—

(1) The applicant's name and address;

(2) The make, model, and license number of the vehicle to be used;

(3) A description, and the serial or other identifying number, of each permit or license that the applicant has for operating that vehicle; and

(4) A list, and the serial or other identifying number of each public liability insurance policy carried by the applicant, the names of the insurance companies that issued them, and their expiration dates.

(e) Upon receiving an application under paragraph (d) of this section, the Airport Manager may issue a permit, authorizing the holder to operate, on the Airport, a vehicle used for the purpose of carrying passengers for hire. The Manager may, in his discretion, revoke such a permit at any time.

§ 167.5 Lost articles.

Each person who finds a lost article on the Airport shall deposit it at the office of the Airport Manager. If the article is not claimed by its owner within 90 days after it is deposited, it may be returned to the finder.

§ 167.7 Publication of rates and charges for supplies and services fixed by the Regional Director.

Whenever this part provides that the Regional Director fixes charges for supplies or services, the orders prescribing these charges are on file, and may be inspected at the FAA Regional Office, 632 Sixth Avenue, Anchorage, Alaska. Copies of the orders are on file, and may be inspected at the office of the Area Manager at Juneau, Alaska. Lists of all charges in effect are posted at the office of that Area Manager and at the Airport.

Subpart B—Motor Vehicle Rules

§ 167.11 Applicability of Alaska laws.

(a) Section 13 of title 18 of the United States Code makes applicable on the Airport the laws of the State of Alaska governing operation of motor vehicles on public highways, to the extent that those laws are not inconsistent with this part.

(b) The rules of conduct and prohibitions of Chapter 35 of Title 28, Motor Vehicles of the Alaska Statutes, 1962, as amended, that carry penalties greater than a fine of not more than $500 or imprisonment for not more than 6 months, or both, apply on the Airport, to the extent that they apply by their terms to the circumstances at the Airport and are not inconsistent with specific provisions of this part. The penalties provided by Alaska law for violations of these rules and prohibitions do not apply.

§ 167.13 Special operating rules.

(a) No person may operate a motor vehicle on the landing area, ramp, or trucking concourse in the terminal building, unless—

(1) The vehicle has been inspected and approved by the Airport Manager or his agent; and

(2) That person holds a current operator's permit issued by the Airport Manager or is properly escorted by an airport vehicle.

(b) The Airport Manager may issue a motor vehicle operator permit to any competent operator that he considers necessary for the safe and efficient operation of the Airport. The Airport Manager may, in his discretion, revoke such a permit at any time.

(c) No person may operate a two-wheeled motor vehicle on the landing area, or ramp on the Airport.

§ 167.15 Operator's license.

(a) No person may operate any motor vehicle on an airport road unless he holds a current operator's license issued by a political jurisdiction or Government agency in the United States or a foreign country.

(b) No person may operate any U.S. Government motor vehicle on the Airport unless he holds a current U.S. Government Motor Vehicle Operator's Identification Card.

§ 167.17 Speed.

(a) Unless otherwise authorized by the Airport Manager, no person may operate a motor vehicle at a speed—

(1) Of more than 6 miles an hour in the baggage concourse in the terminal building;

(2) Of more than 15 miles an hour on any apron or ramp;

(3) Of more than 25 miles an hour on any taxiway, runway, restricted service road, or other aircraft movement area other than the apron or ramp; or

(4) Higher than the speed limit posted by the Airport Manager on any area of the Airport not covered by subparagraphs (1) through (3) of this paragraph.

(b) No person may operate a motor vehicle on the Airport in a careless or reckless manner.

(c) Each person operating a motor vehicle on the Airport shall operate it so as to have it under safe control at all times, weather and traffic conditions considered.

§ 167.19 Passenger's occupancy.

Except in a vehicle designed to carry passengers in such a manner, no person may, while on the Airport, ride on the running board of a moving motor vehicle, stand up in the body of a moving motor vehicle, ride on the outside of the body of a moving motor vehicle, or ride on such a vehicle with his arms or legs protruding from the body of the vehicle.

§ 167.21 Emergency vehicles; right-of-way.

Upon the approach of a police, ambulance, fire department, or other emergency vehicle giving an audible or visual signal that it is on an emergency call, each person operating another vehicle on any road on the Airport shall immediately drive his vehicle parallel with, and as near as possible to, the right-hand edge of the road, clear of all intersections, and stay there until the emergency vehicle has stopped or passed, unless otherwise directed by the Airport Manager or his authorized representative.

§ 167.23 Parking.

(a) No person may park or stand a motor vehicle on the Airport except in an area specifically designated for parking or standing.

(b) No person may park a motor vehicle in any area on the Airport for a period longer than is prescribed for that area by the Airport Manager.

(c) No person may park a motor vehicle on the Airport, except in an attended parking area, for a period longer than 72 hours, without the specific approval of the Airport Manager.

(d) No person may park a motor vehicle in a restricted or reserved area on the Airport unless he displays, in the manner prescribed by the Airport Manager, a parking permit issued by the Airport Manager for that area.

(e) No person may double park a motor vehicle on any road on the Airport. For the purpose of this paragraph, parking a vehicle at such a distance from the curb that another vehicle could park between it and the curb, is considered to be double parking.

(f) No person may abandon a motor vehicle on the Airport.

(g) No person may park a motor vehicle on the Airport, in a space marked for the parking of vehicles, in a manner to occupy a part of another marked space.

(h) No person may leave a motor vehicle standing unattended or parked on the Airport with a key in the ignition switch, the motor running, a key in the door lock, or an open door.

(i) No person may park or stand a motor vehicle at any place on the Airport in violation of any sign posted by the Airport Manager.

(j) No person may park or stand a motor vehicle within 10 feet of a fire hydrant on the Airport.

§ 167.25 Accident reports.

Each operator of a motor vehicle involved in an accident between that vehicle and an aircraft, or in any other motor vehicle accident, on the Airport, that results in personal injury or in total property damages of more than $50, shall report it fully to the Airport Manager as soon as possible after the accident. The report must include the name and address of the person reporting.

§ 167.27 Repair of motor vehicles.

(a) Except for persons authorized by the Airport Manager and except for minor repairs necessary to move the vehicle from the Airport, no person may clean or repair a motor vehicle on a road or in a parking area of the Airport.

(b) No person may, on the Airport, move or interfere or tamper with any motor vehicle, put its motor into motion, or take or use any part, instrument, or tool of it, unless he has the permission of the owner or presents satisfactory evidence to the Airport Manager of his right to do so.

§ 167.29 License tags.

No person may operate, stand, or park a motor vehicle on any road or parking area on the Airport unless it has current license tags issued by an appropriate authority. Any motor vehicle that is found standing or parked on the Airport in violation of this section may be impounded by the Airport Manager or his authorized representative and removed to an area of the Airport designated for that purpose by the Airport Manager.

§ 167.31 Moving of motor vehicles.

The Airport Manager or his agent may tow away or otherwise move any motor vehicle on the Airport that is parked in violation of the regulations of the Airport, if the Airport Manager or his agent determines that it is a nuisance or hazard. The Airport Manager may charge a reasonable amount for the moving service and for the storage of the vehicle, if any. The vehicle is subject to a lien for that charge.

Subpart C—Aircraft Rules

§ 167.41 Confinement of aircraft operations.

No person may operate an aircraft on the Airport except on a designated runway, taxiway, ramp or parking area, unless authorized by the air traffic control tower or the flight service station. No person may use the taxi strip on the Airport for a takeoff or landing.

§ 167.43 Parking of aircraft.

No person may park an aircraft in any area on the Airport other than that prescribed by the Airport Manager or his authorized representative. No employee of the FAA may make the United States responsible for the care or protection of any aircraft (other than of the United States) that is parked on the Airport.

§ 167.45 Disabled aircraft.

The owner of an aircraft or part thereof that is disabled shall have it promptly repaired or moved from the Airport unless he is required to delay it pending investigation of an accident. If he does not remove it within a reasonable time, the Airport Manager may remove it at the owner's expense and without liability for additional damage resulting from the removal.

§ 167.47 Malfunctioning aircraft.

No person may operate an aircraft on the ramp area or at any aircraft gate position on the Airport until the Airport Manager or his designee has allowed that operation if—

(a) That person has reported, has knowledge of, or has been advised of, an indication of a fire in the aircraft;

(b) The brakes of the aircraft are inadequate because they are malfunctioning; or

(c) The aircraft has completely lost power on one side. Complete loss of power on one side in the case of three-engine aircraft means loss of power of the center and one other engine.

§ 167.49 Accident reports.

(a) Each operator of an aircraft that is involved in an accident on the Airport shall report it fully to the Airport Manager within 24 hours after the accident. The report must include the name and address of the person reporting.

(b) In a case where a written report of the accident is otherwise required, a copy of that report may be given to the Airport Manager instead of the one required by paragraph (a) of this section.

§ 167.51 Refusal of clearance.

The Airport Manager may delay or restrict any flight or other aircraft operation at the Airport for any reason that he considers justifiable.

§ 167.53 Minimum pilot license requirements.

To be eligible to operate aircraft on the Airport, a person must have in his personal possession a current pilot certificate issued to him under Part 61 of this chapter or issued to him or validated for him by the country in which the aircraft is registered.

§ 167.55 Registration of aircraft.

The pilot of each aircraft whose owner or lessee does not have a contract with the United States for the aircraft to use the Airport, shall register at the operations office on the Airport immediately upon landing and shall report to that operations office before taking off.

§ 167.57 Demonstrations.

No person may give a flight or ground demonstration on the Airport, and no person may bring an aircraft to the Airport for an aerial demonstration within the Airport control zone without the specific approval of the Airport Manager. This section does not apply to courtesy flights, with new equipment, by air carriers.

§ 167.59 Aircraft equipment and operation rules.

(a) Except when authorized by the Airport Manager, no person may operate a fixed-wing aircraft on the land portion of the Airport unless it has wheels and wheel brakes.

(b) If the pilot of an aircraft that does not have adequate brakes is authorized by the Airport Manager to taxi his aircraft, he may not taxi it near a building or a parked aircraft unless there is an attendant at the wing of his aircraft to help him.

(c) Notwithstanding paragraphs (a) and (b) of this section, an aircraft that has wings and tail higher than 5 feet from the ground and does not have adequate brakes, may not be taxied on the Airport under any conditions, and must be towed if it is necessary to move it.

§ 167.61 Taxiing rules.

(a) No person may move an aircraft on the Airport in a careless or reckless manner.

(b) No person may start or run an engine in an aircraft on the Airport unless there is a competent person in the aircraft at the engine controls, and unless blocks have been placed in front of the wheels or the aircraft has adequate parking brakes.

(c) No person may run an engine of an aircraft parked on the Airport in a manner that damages any other property or aircraft, or that blows paper, dirt, or other material across taxiways or runways, so as to endanger the safety of operation on the Airport.

(d) Each person operating an aircraft on a part of the Airport that is not under the direction of air traffic control shall comply with the orders, signals, and directions of the authorized representative of the Airport Manager.

(e) No person may start or taxi any aircraft on the Airport in a place where the exhaust blast is likely to cause injury to persons or property. If the aircraft cannot be taxied without violating this paragraph, the operator must have it towed to the desired destination.

(f) Each person operating a large propeller-driven aircraft shall lower its flaps when taxiing out of an aircraft gate position.

(g) No person may move a rotorcraft at a place on the Airport (other than a heliport) while its rotors are turning unless there is a clear area of at least 50 feet from the outer tip of each rotor. No person may move a rotorcraft at a heliport while its rotors are turning unless there is a clear area of at least 20 feet from the outer tip of each rotor.

§ 167.63 Use of gate positions.

(a) No person may use an aircraft gate position on the Airport unless he has been authorized to use it.

(b) Except in an emergency, no person may enplane or deplane passengers on the Airport in an area that has not been established for that purpose by the Airport Manager.

(c) No person operating a private, itinerant, nonscheduled, or military aircraft may park, stand, unload passengers, obstruct or attempt to use any aircraft gate position assigned to a scheduled air carrier, without the advance approval of the Airport Manager.

(d) Except when specifically authorized by the Airport Manager, no person may double park an aircraft at a passenger gate.

(e) No person may enplane or deplane passengers from a double parked aircraft through any gate other than the gate at which the aircraft is parked.

(f) Each person operating a jet aircraft on the Airport shall use only the gates designated by the Airport Manager for jet aircraft.

Subpart D—Rules of Conduct

§ 167.71 Applicable laws.

Section 13 of title 18 of the United States Code makes applicable on the Airport the criminal laws of the State of Alaska, to the extent that those laws are not inconsistent with this part.

§ 167.73 Sanitation.

(a) No person may release, deposit, blow, or spread any bodily discharge on the floor, wall, partition, furniture, or any other part of a public comfort station, terminal building, hangar, or other building on the Airport, other than directly into a fixture provided for that purpose.

(b) No person may place any foreign object in any plumbing fixture of a public comfort station, terminal building, hangar, or other building on the Airport.

(c) No person may dispose of sewage, garbage, refuse, paper, or other material on the Airport except in a receptacle provided for that purpose.

§ 167.75 Preservation of property.

No person may, without the specific permission of the Airport Manager—

(a) Destroy, injure, deface, or disturb any building, sign, equipment, marker, or other structure, tree, flower, lawn, or other public property on the Airport;

(b) Walk on a lawn or seeded area of the Airport;

(c) Alter, add to, or erect any building on the Airport;

(d) Make an excavation on the Airport; or

(e) Willfully abandon any personal property on the Airport.

§ 167.77 Airport and equipment.

No person may interfere or tamper with, or injure, any part of the Airport or its equipment.

§ 167.79 Dangerous objects.

(a) No person except a peace officer, an authorized post office, airport, or air carrier employee, or a member of an armed force on official duty, may carry any weapon, explosive, or inflammable material on or about his person, openly or concealed, on the Airport without the written permission of the Airport Manager.

(b) No person may furnish, give, sell, or trade a weapon on the the Airport.

(c) For the purposes of this section a weapon includes a gun, dirk, bowie knife, blackjack, switch blade knife, slingshot, or metal knuckles.

§ 167.81 Coin-operated machines.

No person may, on the Airport—

(a) Use or attempt to use a coin-operated machine that requires the deposit of a coin for its use, without first depositing the coins required by the instructions on the machine;

(b) Place or attempt to place, in a coin-operated machine, a slug, foreign coin, or object other than the coin required by the instructions on the machine; or

(c) Pass through, over, or under a turnstile that requires the deposit of a coin for its use, without first depositing the required coin in the turnstile.

§ 167.83 False report.

No person may make a false report of conduct on, or the operation or use of, the Airport to the Airport Manager or any of his authorized representatives.

§ 167.85 Interfering or tampering with aircraft.

No person may interfere or tamper with an aircraft on the Airport or put its engine in motion, or use any aircraft, aircraft parts, instruments, or tools on the Airport, without the permission of the owner.

§ 167.87 Repairing of aircraft.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager. However, this does not prevent a minor adjustment being made while the aircraft is on a landing ramp preparing to takeoff, if the adjustment is necessary to prevent a delayed takeoff.

§ 167.89 Restricted areas.

(a) Except as otherwise provided in this part, no person may, without the written permission of the Airport Manager, enter any restricted area on the Airport that is posted as closed to the public.

(b) No person may enter the aerodrome, the control tower, any hangar, the apron, or any other part of the Airport specified by the Airport Manager except—

(1) A person assigned to duty at that place;

(2) An authorized representative of the Administrator, Department of Transportation, National Transportation Safety Board, or Civil Aeronautics Board;

(3) A passenger who, under appropriate supervision, is entering the apron to embark or debark; or

(4) Any other person authorized by the Airport Manager, or by a tenant for an area he occupies.

§ 167.91 Soliciting and canvassing.

No person may, on the Airport, solicit fares, alms, or funds, for any purpose without the permission of the Airport Manager.

§ 167.93 Commercial photography.

(a) Except as provided in paragraph (b) of this section, no person may take a still, motion, or sound picture on the Airport for commercial purposes without the permission of the Administrator.

(b) The Airport Manager may allow any of the following to take pictures on the Airport for commercial purposes:

(1) Professional photographers and motion picture cameramen photographing events on the Airport as representatives of news concerns or bona fide news publications.

(2) Professional photographers and motion picture cameramen photographing events at the Airport, for nonprofit exhibit, to stimulate interest in air commerce or travel, or for nonprofit educational purposes.

(3) Professional photographers photographing scenes on the Airport for general artistic purposes.

§ 167.95 Use of roads and walks.

(a) No person may travel on the Airport except on a road, walk, or other place provided for the kind of travel he is doing.

(b) No person may occupy or place an object on a road or walk on the Airport in a manner that hinders or obstructs its proper use.

(c) No person may walk in a picket line as a picket or take part in a labor or other public demonstration on any part of the Airport except a place specifically assigned by the Airport Manager for picket lines or other public demonstrations.

(d) No person may operate any vehicle for the disposal of garbage, ashes, or other waste material on the Airport without the approval of the Airport Manager.

§ 167.97 Animals.

No person may enter the Airport with a domestic or wild animal without the written permission of the Airport Manager, except a—

(a) Person entering any part of the Airport (other than the terminal building, gate loading area, or other restricted area) with a domestic animal that is kept restrained by a leash or in confined so as to be completely under control;

(b) Person entering the terminal building or gate loading area with a small domestic animal (such as a dog or cat) that is to be transported by air and is kept restrained by a leash or is confined so as to be completely under control; or

(c) Blind person entering the terminal building or gate loading area with a seeing-eye dog.

§ 167.99 Loitering.

No person may loiter or loaf on any part of the Airport. If a loitering or loafing person is told by the Airport Manager or his agent to move on or leave the Airport, he shall do so.

§ 167.101 Use of Airport and airspace.

(a) No person who has been denied the use of the Airport by the Airport Manager may enter on or use the Airport except while traveling through as a passenger in an interstate bus or taxi or while embarking or debarking as a passenger on an aircraft operating on the Airport.

(b) No person, except an employee of the United States performing his official duties or a person who has the specific permission of the Airport Manager, may prepare to operate, operate, or release a kite, parachute, or balloon, model aircraft, or rocket on the Airport.

Subpart E—Fire Hazards and Fueling Operations

§ 167.111 Cleaning fluids.

(a) Except as provided in paragraph (b) of this section, no person may use a flammable volatile liquid having a flash point of less than 110° Fahrenheit for cleaning purposes in a hangar or other building on the Airport.

(b) No person may use a flammable volatile liquid having a flash point of less than 110° Fahrenheit to clean an aircraft, aircraft engine, propeller, or appliance, on the Airport, unless it is done in the open air or in a room specifically set aside for that purpose. If a room is used, it must be fireproofed, be equipped with automatic sprinklers, and have adequate and readily accessible fire extinguishing apparatus.

§ 167.113 Open-flame operations.

No person may conduct an open-flame operation on the Airport without the specific permission of the Airport Manager.

§ 167.115 Smoking.

No person may smoke on any airport apron or ramps, in any hangar or shop, in any aircraft, on the Airport, or in any other place on the Airport where smoking is specifically prohibited by the Airport Manager.

§ 167.117 Storage.

(a) No person may store or stock material or equipment on the Airport in a manner that constitutes a fire hazard.

(b) No person may keep or store any flammable liquid, gas, signal flare, or other similar material in a hangar or other building on the Airport. However, such a material may be kept in an aircraft in proper receptacles, in rooms or areas specifically approved for that storage by the Airport Manager, or in safety cans approved by appropriate insurance underwriters.

(c) No person may keep or store lubricating or waste oils in or about a hangar, except in a room specifically designated for oil storage. However, not more than a 12-hour supply of lubricating oil may be kept in or about a hangar in containers or receptacles approved by appropriate insurance underwriters.

(d) Each lessee of a hangar (or its sublessee) on the Airport shall provide suitable metal receptacles, with self-closing covers, for storing waste, rags, and other rubbish, and shall remove all rubbish from its premises each day.

§ 167.119 Apron surface areas and floor surface.

(a) Each person to whom space on the Airport is leased, assigned, or made available for use shall keep the space free and clear of oil, grease, or other foreign materials that could cause a fire hazard or a slippery or otherwise unsafe condition.

(b) No person may use any material (such as oil absorbents or similar material) that creates an eye hazard when picked up, swirled, or blown about by the blast from an aircraft engine in any passenger loading area or other public area.

§ 167.121 Doping.

(a) No person may conduct a doping process on the Airport except in a properly designed, fireproof, and ventilated room or building in which all lights, wiring, heating, ventilation equipment, switches, outlets, and fixtures are explosion-proof, spark-proof, and vapor-proof, and in which all windows and doors are easily opened.

(b) No person may enter or work in a dope room while doping processes are are being conducted unless he is wearing spark-proof shoes.

§ 167.123 Fueling operations.

(a) No person may fuel or defuel an aircraft on the Airport while—

(1) Its engine is running or is being warmed by applying external heat;

(2) It is in a hangar or enclosed space;

(3) It is within 50 feet of any hangar or other building on the Airport; or

(4) Passengers are in the aircraft, unless a passenger loading ramp is in place at the cabin door, the door is open, and a cabin attendant is at or near the door.

(b) No person other than those covered by subparagraph (4) of paragraph (a) of this section and those persons necessarily engaged in the fueling or defueling may be within 100 feet of an aircraft that is being fueled or defueled.

(c) No person may start the engine of an aircraft on the Airport if there is any gasoline or other volatile flammable liquid on the ground underneath it.

(d) No person may operate a radio transmitter or receiver, or switch electrical appliances on or off, in an aircraft on the Airport, while it is being fueled or defueled.

(e) During the fueling of an aircraft, on the Airport, the dispensing apparatus and the aircraft must both be grounded in accordance with orders and instructions of the Airport Manager.

(f) Each person engaged in fueling or defueling, on the Airport, shall exercise care to prevent the overflow of fuel, and must have readily accessible and adequate fire extinguishers.

(g) During the fueling or defueling of an aircraft, on the Airport, no person may, within 50 feet of that aircraft, smoke or use any material that is likely to cause a spark or be a source of ignition.

(h) Each hose, funnel, or appurtenance used in fueling or defueling an aircraft on the Airport must be maintained in a safe, sound, and nonleaking condition and must be properly grounded to prevent ignition of volatile liquids.

§ 167.125 Radio operation.

No person may operate any radio equipment in an aircraft while the aircraft is in a hangar on the Airport if any maintenance work, other than radio maintenance, is being done on that aircraft.

§ 167.127 Operating motor vehicles in hangar.

No person may, in any hangar on the Airport, operate a motor scooter, truck, or other motor vehicle, except a tractor with its exhaust protected by screens or baffles to prevent sparks from escaping or the propagation of flame.

§ 167.129 Grounding of aircraft in hangars.

No person may park an aircraft in any hangar or other structure on the Airport unless the aircraft is grounded in accordance with the orders and instructions of the Airport Manager.

§ 167.131 Runway foaming services.

Each operator of an aircraft for which runway foaming services are provided on the Airport at his request shall pay the expenses arising from providing those services.

Subpart F—Obligations of Tenants

§ 167.141 Use of premises.

No lessee of airport property may knowingly allow that property to be used or occupied for any purpose prohibited by this part.

§ 167.143 Trash containers.

(a) No tenant, lessee, concessionaire, or agent of any of them, doing business on the Airport, may keep uncovered trash containers on a sidewalk or road, or in a public area, of the Airport.

(b) No person may operate an uncovered vehicle to haul trash on the Airport.

(c) No person may operate a vehicle for hauling trash, dirt, or any other material on the Airport unless it is built to prevent its contents from dropping, sifting, leaking, or otherwise escaping.

(d) No person may spill dirt or any other material from a vehicle operated on the Airport.

§ 167.145 Bulletin boards.

Each lessee of a hangar or other operational area specified by the Airport Manager on the Airport shall maintain a bulletin board in a conspicuous place in his hangar or area. He shall post on that board current workmen's compensation notices, a list of competent physicians, a list of his liability insurance carriers, a copy of this part, and a copy of each pertinent order or instruction issued under this part.

§ 167.147 Storage of equipment.

No tenant or lessee of a hangar, shop facility, or other operational area specified by the Airport Manager on the Airport may store or stack equipment or material in a manner to be a hazard to persons or property.

§ 167.149 Fire apparatus.

Each tenant or lessee of a hangar, shop facility, or other operational area specified by the Airport Manager on the Airport shall supply and maintain adequate and readily accessible fire extinguishers, approved by fire underwriters for the hazard involved, that the Airport Manager considers necessary.

§ 167.151 Discrimination or segregation.

All services performed in operating a facility at the Airport must be without discrimination or segregation as to race, creed, color, sex, or national origin.

Subpart G—Charges

§ 167.161 Landing charges.

(a) Except as provided in paragraph (b) of this section and in § 167.167, the charge for each landing of an aircraft at the Airport is forty (40) cents per 1,000 pounds.

(b) There is no landing charge under this subpart for the following:

(1) Public aircraft.

(2) Aircraft engaged in a test flight, not including a survey or proving run.

(3) Aircraft compelled to return after takeoff.

(4) Aircraft of 6,000 pounds or less weight.

§ 167.163 Parking charges.

(a) The charge for parking an aircraft of 6,000 pounds or less weight at the Airport is as follows:

Period of time	*Charge*
Each day or fraction thereof	$1.00
Each week	3.00
Each month	10.00

(b) The charge for parking an aircraft of more than 6,000 pounds weight at the Airport is as follows:

Period of time	*Charge for each 1,000 lbs. (Minimum charge $1.50)*
Each day or fraction thereof	$0.20
Each week	.75
Each month	2.50

(c) Charges for parking aircraft under this section begin 6 hours after the aircraft lands at the Airport.

§ 167.165 Computation of weight for payment of charges.

For purposes of §§ 167.161(a) and 167.163(b) the weight of an aircraft is the maximum takeoff weight permitted for that aircraft by the appropriate aeronautical authority of the country in which it was made, computed to the nearest 1,000 pounds.

§ 167.167 Charges for aircraft based at the Airport.

The Regional Director may fix such fair and reasonable landing and parking charges for aircraft based at the Airport as he considers appropriate without regard to §§ 167.161 and 167.163.

§ 167.169 Payment of charges.

Charges for storage, repairs, supplies, and other services furnished by the FAA at the Airport, and for the use of the Airport facilities, must be paid to the Airport Manager before leaving the Airport. The user shall pay the charges in U.S. currency, unless he has arranged with the Regional Director, or the Airport Manager, to pay the charges in some other manner.

Subpart H—Enforcement

§ 167.181 Penalties.

(a) Any person who willfully and knowingly violates a rule prescribed or made applicable in this part, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500, or imprisoned for not more than 6 months.

(b) In addition to the penalties prescribed in paragraph (a) of this section, the Airport Manager may remove or eject any person from the Airport, if that person willfully and knowingly violates a rule prescribed in this part, or an order or instruction issued by the Regional Director or Airport Manager under this part, or any applicable State or Federal law. The Airport Manager may deny the use of the Airport and its facilities to such a person if the Airport Manager determines that the denial is necessary under the circumstances.

[F.R. Doc. 70-6779; Filed, June 2, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Quantity of Contents Declaration on Multiunit Containers; Ruling on Objections

In the matter of adding § 1.8b(s) to the enforcement regulations (21 CFR Part 1) to require the quantity of contents declaration to be in terms of the number of units, the quantity of each individual unit, and the total quantity of the contents of multiunit containers:

The proposal in this matter was published in the FEDERAL REGISTER of June 26, 1969 (34 F.R. 9874), and the order ruling thereon was published February 12, 1970 (35 F.R. 2869). Five objections were received as follows:

1. The American Butter Institute and the National Association of Margarine Manufacturers request that butter and margarine in 1-pound packages of 4-ounce prints be excluded from the triple declaration requirement of § 1.8b(s). They assert that by regulation and commercial practice such consumer packages are uniformly 1 pound or 8 ounces and in quarter-pound multiples and that the labeling provisions of § 1.1c(a) (10) and (11) are adequate to fully inform the consumer. The Commissioner of Food and Drugs concludes that the request is reasonable and § 1.8b(s) is revised below accordingly.

2. Borden, Inc., interprets § 1.8b(s) as providing for the labeling of its multiunit packages of 18 cupcakes by combining the count with the identity statement and placing the net weight statement "Six 2¾-oz. units (Net Wt. 16.5 oz.)" in the lower 30 percent of the principal display panel. That firm objects to § 1.8b(s) if their interpretation is incorrect. Since it would not preclude such labeling, no special provisions need be included in § 1.8b(s).

3. The National Canners Association points out that § 1.8b(s) states that the declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof but is silent as to whether or not such parenthetical declaration is required following the declaration of the quantity of each unit. As suggested, examples have been added to § 1.8b(s) below to show that dual declaration is not required in either declaration.

4. The National Soft Drink Association (NSDA) objects that the final sentence of § 1.8b(s) implies that open basket type carriers and wooden cases used traditionally in the soft drink industry are "packages" as defined by the Fair Packaging and Labeling Act. NSDA states they were advised in 1967 that these items were "convenience carriers," not "packages," and therefore the entire final sentence of § 1.8b(s) is superfluous. Further, NSDA contends that the language of the final sentence causes the "convenience carriers" to be subject to the regulation since the sidewalls of the compartments obscure a portion of the labeling on the individual units. NSDA asserts that even though the carriers must have pockets or compartments of sufficient depth to safely transport the bottles, the purchaser has ready access to each of the individual units for label examination. They recommend that the final sentence of § 1.8b(s) be revised to state that open multiunit convenience carriers are not packages and are therefore not subject to § 1.8b(s).

The Commissioner concludes that the wooden cases for soft drinks referred to in the objection would be customarily regarded as shipping containers within the meaning of section 10(b)(1) of the Fair Packaging and Labeling Act. He reaffirms the opinion rendered previously that the subject containers are convenience carriers, rather than packages, within the meaning of section 10(b)(2) of said act. The cited opinion, however, stipulated that a manufacturer could render such convenience carriers "packages" by appropriate labeling, particularly within a declaration of the quantity of contents. In keeping with this opinion, if manufacturers choose to label such carriers with a quantity of contents declaration, it should comply with § 1.8b(s).

The fact that the compartment sidewalls of the convenience carriers obscure portions of the labeling of the individual units was one of the chief arguments presented by NSDA in their request for the exemption, granting in § 1.1c(a)(5), which provides for placing mandatory labeling on the neck and crown or closure of soft drinks bottles where it is readily accessible to purchasers. The Commissioner recognizes the accessibility of the individual units to consumers and concludes that the compartment sidewalls of the convenience carriers do not necessarily obscure the labeling of the individual units. The language of the final sentence of § 1.8b(s) is revised below accordingly.

The Commissioner concludes that the request by NSDA for an opinion that open multiunit containers are not "packages" is neither feasible nor in the public interest since the manufacturer may

elect to render such containers "packages" by appropriate labeling. Further, because the issues raised by NSDA involve a determination whether or not these convenience carriers are "packages" as defined by the Fair Packaging and Labeling Act, the Commissioner concludes that a public hearing would not be the proper forum for a resolution of this legal question.

Therefore, the Commissioner finds that none of the objections received during the statutory period warrant a stay of the effective date of the subject order or the holding of a public hearing and hereby announces that § 1.8b(s) as published in the FEDERAL REGISTER of February 12, 1970 (35 F.R. 2869), including clarifying changes hereinafter set forth, is final.

Accordingly, pursuant to provisions of the Fair Packaging and Labeling Act (secs. 4, 5(a), 6(a), 80 Stat. 1297–1300; 15 U.S.C. 1453–55) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That § 1.8b(s), established by the order of February 12, 1970 (35 F.R. 2869), be revised and adopted as follows:

§ 1.8b Food labeling; declaration of net quantity of contents; when exempt.

* * * * *

(s) On a multiunit retail package, a statement of the quantity of contents shall appear on the outside of the package and shall include the number of individual units, the quantity of each individual unit, and, in parentheses, the total quantity of contents of the multiunit package in terms of avoirdupois or fluid ounces, except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as required by paragraph (j)(1) of this section. A multiunit retail package may thus be properly labeled: "6–16 oz. bottles—(96 fl. oz.)" or "3–16 oz. cans—(net wt. 48 oz.)." For the purposes of this section, "multiunit retail package" means a package containing two or more individually packaged units of the identical commodity and in the same quantity, intended to be sold as part of the multiunit retail package but capable of being individually sold in full compliance with all requirements of the regulations in this part. Open multiunit retail packages that do not obscure the number of units nor prevent examination of the labeling on each of the individual units are not subject to this paragraph if the labeling of each individual unit complies with the requirements of pargaraphs (f) and (i) of this section. The provisions of this section do not apply to that butter or margarine covered by the exemptions in § 1.1c(a) (10) and (11).

Effective date. This order shall be effective February 12, 1971.

(Secs. 4, 5(a), 6(a), 80 Stat. 1297–1300; 15 U.S.C. 1453–55; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

Dated: May 25, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-6798; Filed, June 2, 1970; 8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

BUQUINOLATE, CHLORTETRACYCLINE

The Commissioner of Food and Drugs has evaluated a new animal drug application (38-657V) filed by The Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, proposing the use of buquinolate and chlortetracycline with sodium sulfate in the feed of broiler chickens for treatment of specified conditions. The application is approved.

Pending recodification of previously established regulations in Part 121 under regulations to be established under the provisions of section 512(i) of the Federal Food, Drug, and Cosmetic Act, this order is in accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the act.*

Therefore, pursuant to provisions of the act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.208(d) is amended in Table 1 by adding under item 8 a new subitem a, as follows:

§ 121.208 Chlortetracycline.

* * * * *

(d) * * *

TABLE 1.—CHLORTETRACYCLINE IN COMPLETE CHICKEN AND TURKEY FEEDS

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
8. * * *					
a. Chlortetracycline...	200	Buquinolate....	75	For broiler chickens in low calcium feed containing 0.8 percent dietary calcium and 1 percent to 1.5 percent sodium sulfate; to be fed continuously for not more than the first 3 weeks of life.	As an aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*
* * *	* * *	* * *	* * *	* * *	* * *

* * * * * * * *

2. Section 121.291(a) is amended in the table by adding after item 1.4 a new subitem d, as follows:

§ 121.291 Buquinolate.

* * * * *

(a) * * *

BUQUINOLATE IN ANIMAL FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
1.4 * * *					
d. 1.1		Chlortetracycline.	200	For broiler chickens in low calcium feed containing 0.8 percent dietary calcium and 1 percent to 1.5 percent sodium sulfate; to be fed continuously for not more than the first 3 weeks of life.	Treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.
* * *	* * *	* * *	* * *	* * *	* * *

* * * * * * * *

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

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

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 22, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6799; Filed, June 2, 1970; 8:47 a.m.]

PART 121—FOOD ADDITIVES

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

RESINOUS AND POLYMERIC COATINGS; ADHESIVES

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 9B2320) filed by Tenneco Plastics Division, Tenneco Chemicals, Inc., Post Office Box 129, Flemington, N.J. 08822, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of tridecyl alcohol as a component of resinous and polymeric food-contact coatings and food-packaging adhesives. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.2514(b)(3)(xxxiii) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * * *

(b) * * *
(3) * * *
(xxxiii) * * *

Tridecyl alcohol produced from tetrapropylene by the oxo process, for use only as a processing aid in polyvinyl chloride resins.	

* * * * *

2. Section 121.2520(c)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2520 Adhesives.

* * * * * *

(c) * * *
(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
Tridecyl alcohol	
* * *	* * *

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

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

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

Dated: May 21, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6677; Filed, June 2, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

STABILIZER FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated data submitted in a petition (FAP 6B2049) filed by American Hoechst Corp., 777 Third Avenue, New York, N.Y. 10017, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the substance specified below as a stabilizer in certain semirigid and rigid polyvinyl chloride materials used in the manufacture of food-contact articles. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

	Limitations
* * *	* * *
Poly[(1,3-dibutyldistannthianediylidene)-1,3-dithio] having the formula $[C_4H_{10}Sn_2S_2]_n$ (where n averages 1.5–2) and produced so as to meet the following specifications: Softening point, 130–145° C.; volatile components at 150° C., less than 1.0 percent; sulphur (sulfide) content in the range 20.5–22.0 percent; tin content in the range 52.0–53.2 percent.	For use only at levels not to exceed 0.2 percent by weight in polyvinyl chloride resin where such resin constitutes not less than 98.7 percent of a finished semirigid or rigid polyvinyl chloride food-contact surface, provided that the finished food-contact article is employed only to package meat, cheese, or food of type VIII as described in table 2 of § 121.2526(c). The finished food-contact article containing this stabilizer, when extracted with refined cottonseed oil at 120° F. for 48 hours, using a volume-to-surface ratio of 2 milliliters per square inch of surface tested, shall yield tin (Sn) not to exceed 0.0005 milligram per square inch of food-contact surface.
* * *	* * *

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

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

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

Dated: May 21, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6678; Filed June 2, 1970; 8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 149b—AMPICILLIN

Ampicillin Tablets

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21,U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new section is added to Part 149b to provide for certification of the subject antibiotic drug:

§ 149b.4 Ampicillin tablets.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Ampicillin tablets are tablets composed of ampicillin with one or more suitable and harmless diluents and lubricants. Each tablet contains 250 or 500 milligrams of ampicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not more than 4 percent. The tablets disintegrate within 15 minutes. The ampicillin used conforms to the standards prescribed by § 146a.123 of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, loss on drying, and disintegration time.

(ii) Samples required:

(*a*) The ampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend a representative number of tablets in a high-speed glass blender with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample solution as follows: Blend a representative number of tablets in a high-speed glass blender with distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to give a concentration of 1.0 milligram of ampicillin per milliliter.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 141.540 of this chapter, using the procedure described in paragraph (e)(1) of that section.

Data supplied by the manufacturer concerning the subject antibiotic drug have been evaluated. Since the conditions prerequisite to providing for certification of this drug have been complied with and since not delaying in so providing is in the public interest, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: May 22, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6800; Filed, June 2, 1970; 8:47 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter V—Federal Water Quality Administration, Department of the Interior

CHANGE OF CHAPTER HEADING

MAY 22, 1970.

Section 110 of the Water Quality Improvement Act of 1970 (Public Law 91-224, dated Apr. 3, 1970, 84 Stat. 91) changed the name of the Federal Water Pollution Control Administration to the Federal Water Quality Administration.

To conform to that provision of the law, Chapter V of Title 18 of the Code of Federal Regulations is accordingly changed to the Federal Water Quality Administration.

LAWRENCE H. DUNN,
Assistant Secretary for Administration.

[F.R. Doc. 70-6824; Filed, June 2, 1970; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7041]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT

Election by Certain Domestic Financing Companies To Be Treated as Foreign Issuers or Obligors; Correction

On May 15, 1970, T.D. 7041 was published in the FEDERAL REGISTER (35 F.R. 7555).

The language "[insert date 30 days after promulgation of T.D.]" appearing in the third and fourth lines in paragraph (f)(1) of § 147.7-7 of the temporary regulations under the Interest Equalization Tax Act, as amended by the Interest Equalization Tax Extension Act of 1969 (26 CFR Part 147), as prescribed by T.D. 7041 should have been "June 14, 1970". Accordingly, replace said language with "June 14, 1970".

Paragraph (i) of § 147.7-7 of the temporary regulations under the Interest Equalization Tax Act, as amended by the Interest Equalization Tax Extension Act of 1969 (26 CFR Part 147), as prescribed by T.D. 7041 should have been designated paragraph "(h)". Accordingly, redesignate paragraph "(i)" as paragraph "(h)".

[SEAL] JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 70-6814; Filed, June 2, 1970; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 87, Rev., Amdt. 4]

PART 310—MERCHANT MARINE TRAINING

Subpart A—Regulations and Minimum Standards for State Maritime Academies and Colleges

GREAT LAKES MARITIME ACADEMY

Effective upon the date of publication in the FEDERAL REGISTER, §§ 310.3, 310.6, and 310.10 of Subpart A of this part are amended as follows:

Section 310.3 is amended as follows:

1. Amend paragraph (a) *State Maritime Schools operating with Federal aid* by adding the words "The Great Lakes Maritime Academy of Northwestern Michigan College" at the end thereof.

2. Amend supbaragraph (1) of paragraph (c) *Curriculum* to read as follows:

(c) *Curriculum.* (1) The minimum period of training shall be 3 years. For the cadets at the Schools located in California, Maine, Massachusetts, New York, and Texas at least 6 months of the total time must be aboard a schoolship in cruise status. A maximum of 2 months of training time aboard commercial vessels may be substituted for 2 months of the specified schoolship time. For the cadets at The Great Lakes Maritime Academy 3 months of the time must be aboard a schoolship in cruise status and 6 months of the time must be aboard Great Lakes commercial vessels. Cadets in training status aboard commercial vessels shall sign on board as cadets and shall pursue their training within the framework of formal sea projects prepared and monitored by their respective schools. Should any school extend the minimum training period beyond 3 years, such school shall notify the Maritime Administrator.

Section 310.6 is amended as follows:

Amend paragraph (a) by adding the following new sentence at the end of subparagraphs (2) and (5) thereof: "The requirements of this paragraph shall not apply at The Great Lakes Maritime Academy."

Section 310.10 is amended as follows:

Amend paragraph (a) by adding the following sentence at the end thereof: "The requirements of this paragraph shall not apply to cadets at The Great Lakes Maritime Academy."

(Sec. 101, 49 Stat. 1985, 46 U.S.C. 1101; Public Law 85-672, 72 Stat. 622, 46 U.S.C. 1381)

Dated: May 27, 1970.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-6808; Filed, June 2, 1970; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Title 32, Chapter V, Subchapter G, is amended as follows:

PART 591—GENERAL PROVISIONS

1. Section 591.109–2 is revised; in § 591.150 paragraphs (b) (6), (7), (8), (11), and (e) are revised; §§ 591.322–6, 591.322–7, 591.350–5 (a) and (c), 591.351–1, 591.352(a), 591.401–50(a), 591.401–51, 591.403–55 (a) and (c) are revised; in § 591.405 paragraph (a)(3) and paragraph (c) are revised and new paragraphs (d) and (e) are added; §§ 591.406–51, 591.450–1, 591.450–5(d), 591.450–10(b), 591.450–11(b), 591.452–1(a)(1) are revised; in § 591.650 new paragraphs (c) and (d) are added; §§ 591.705–4, 591.751–2(e), 591.751–3(b), 591.751–4 (b) and (c), 591.1004 (a) and (b), 591.2100–5(b), 591.5003, 591.5005, and 591.5006 (b) and (c) are revised, as follows:

§ 591.109–2 Deviations affecting one contract or transaction.

(a) The Director of Requirements and Procurement, Headquarters U.S. Army Materiel Command, is authorized, without power of redelegation, to approve deviations from ASPR which affect only one contract or transaction except that the authority granted does not extend to—

(1) ASPR Section IX,

(2) Other ASPR provisions as to which the Department of Defense has suspended Departmental deviation authority, or

(3) Other ASPR provisions as to which action or deviation authority is limited by ASPR or APP to a level higher than Headquarters, U.S. Army Materiel Command.

Unless exigency of the situation requires immediate action, a written notice of each proposed deviation shall be forwarded the addressee in § 591–150(b)(6) prior to the effective date of the deviation. Six copies of each deviation shall be furnished the addressee in § 591.150 (b)(6) at the time the deviation is granted.

(b) A head of procuring activity, his deputy, or a principal assistant responsible for procurement, is authorized, without power of redelegation, to approve deviations from APP which affect only one contract or transaction; except that the authority granted does not extend to—

(1) APP Section IX,

(2) Other APP provisions as to which action or deviation authority is limited by APP to a level higher than a head of procuring activity, or

(3) A deviation which would conflict with ASPR or with a statutory requirement.

One copy of each deviation shall be furnished the addressee in § 591.150(b)(6) at the time the deviation is granted.

(c) Except as authorized in paragraphs (a) and (b) of this section, a deviation from ASPR, APP, or other Department of Defense or Department of the Army publication governing procurement which affects only one contract or transaction shall require prior written approval of the addressee in § 591.150 (b)(6).

§ 591.150 Procurement channels and mailing addresses.

* * * * *

(b) * * *

(6) Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

(7) [Reserved]

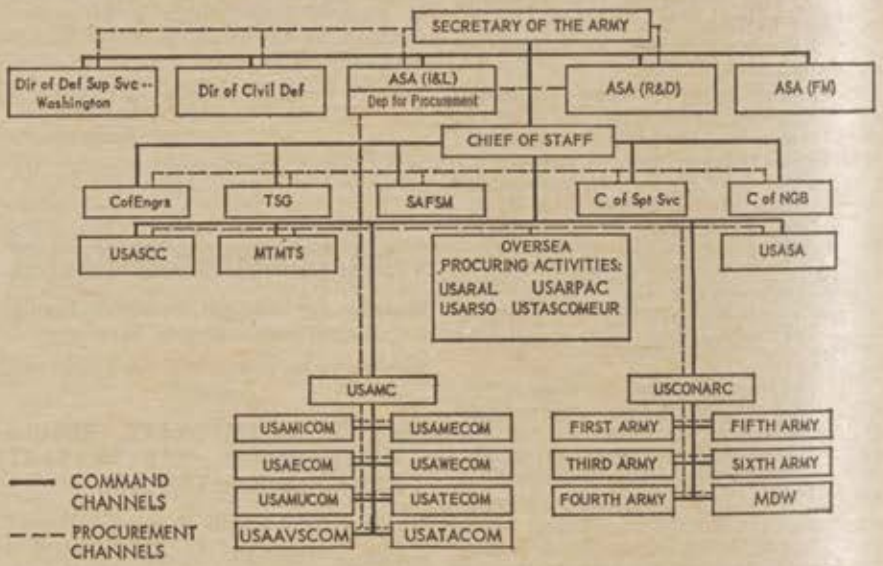
(8) Recorder, Army Contract Adjustment Board, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

* * * * *

(11) Director of Requirements and Procurement, Headquarters, U.S. Army Materiel Command, Washington, D.C. 20315.

* * * * *

(e) *Flow of procurement authority.*



§ 591.322–6 Multiyear procurement of services.

Requests for determinations and findings required to be made by the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded through the cognizant Head of Procuring Activity (see § 591.150(d)) to the addressee in § 591.150(b)(6).

§ 591.322–7 Procedures for service contracts.

Requests for determinations and findings required to be made by the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded through the cognizant Head of Procuring Activity (see § 591.150(d)) to the addressee in § 591.150(b)(6).

§ 591.350–5 Extensions beyond fourth.

* * * * *

(a) The Director of Requirements and Procurement, U.S. Army Materiel Command, for procuring activities of that command;

* * * * *

(c) The Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics) for all other procuring activities.

§ 591.351–1 Authorizations.

Section 607 of the Department of Defense Appropriations Act, 1970 permits the leasing of real or personal property using annual funds for 12 months beginning at anytime during a fiscal year (Public Law 91–171). Construction funds have also been made available for the hire of passenger motor vehicles (Public Law 91–170, section 105).

§ 591.352 Open end contract information circulars (OECIC).

(a) Open end contract information circulars (OECIC) shall be published as Department of the Army circulars in the 715 series to provide general information relative to indefinite delivery type contracts (see § 3.409 of this title) established by contracting officers within the U.S. Army Materiel Command for requirements that are nationwide in scope or that cover a large geographic area. The Director of Requirements and Procurement, Headquarters, U.S. Army Materiel Command, is responsible for determining the need for publication of an OECIC. OECIC's shall not be published for contracts for subsistence items or for petroleums, oils, and lubricants.

* * * * *

§ 591.401–50 Exercise of functions of head of procuring activity.

* * * * *

(a) Director of Requirements and Procurement, Headquarters, U.S. Army Materiel Command, for the—

* * * * *

§ 591.401–51 Purchasing offices not assigned to a head of procuring activity.

The Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics), shall exercise the functions of head of procuring activity for any purchasing office within the Department of the Army which has not otherwise been assigned to a head of procuring activity.

§ 591.403–55 Procurements in support of Southeast Asia (SEA).

(a) All procurements in support of Southeast Asia (SEA) which propose a shift from a competitive to a noncompetitive basis shall be approved in advance at the following levels (exempt report, paragraph 7–2*b* AR 335–15)—

(1) From $10,000 to $25,000 at a level higher than the contracting officer;

(2) From $25,000 to $200,000 at a level higher than the contracting officer, after review by an appropriate Board;

(3) From $200,000 to $1 million by the head of procuring activity, his deputy, or a principal assistant responsible for procurement, after review by an appropriate Board; and

(4) Over $1 million by the Assistant Secretary of Army (Installations and Logistics) after approval recommendation by the appropriate head of procuring activity.

* * * * *

(c) Requests for approval of Assistant Secretary of the Army (Installations and Logistics) shall be concise and specific but in sufficient detail to demonstrate clearly the need to use noncompetitive procurement. As a minimum the following information shall be submitted by letter or message, marked "For Official Use Only," or classified higher, as appropriate, through the Deputy Chief of Staff for Logistics, Department of the Army, to the addressee in § 1.150(6) of this title—

* * * * *

§ 591.405 Selection, appointment, and termination of appointment of contracting officers.

(a) * * *

(3) The Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics);

* * * * *

(c) It is Department of the Army policy that the procurement mission assigned an installation/activity be the responsibility of a central purchasing office at the installation/activity. The number of contracting officers appointed shall be kept to the minimum essential for efficient operation.

(d) Organizational charts of each Army purchasing office are maintained on file in the office of the Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics). Accordingly, whenever the organization of an Army purchasing office is changed, one copy of the revised organizational chart shall be forwarded the addressee in § 591.150(b)(6).

(e) One copy of contracting officers' Certificates of Appointment, DD Forms 1539, shall be forwarded the addressee in § 591.150(b)(6) at time of issuance.

§ 591.406–51 Authority and limitations.

(a) A COR may not be empowered to award, agree to, or sign any contract or modification thereto, or in any way to obligate the payment of money by the Government; except that—

(1) A COR may be empowered to issue change orders under the Changes clause in contracts for supplies and services and under the Changes (Standard Form 23) or subparagraph (a) of the Changes and Changed Conditions (Standard Form 19) clauses in construction contracts, provided such change orders do not involve a change in unit price, total contract price, quantity, quality, or delivery schedule; and

(2) A COR may be empowered to issue or change shipping and marking instructions which may affect the unit or total contract price within the limits of funding authority certified to him, provided such shipping and marking instructions or changes thereto in no way change the total production quantity in the contract delivery schedule, and provided further that the COR furnishes a copy of each document issuing or changing shipping and marking instructions to the contracting officer concurrently with its release to the contractor.

(b) Within the limitations in paragraph (a) of this section, a COR may be empowered to take any actions under a contract which could lawfully be taken by the contracting officer except where the terms of the contract itself specifically prohibit a COR from exercising such authority.

(c) A COR may not be authorized to initiate procurement actions by use of imprest funds, blanket purchase agreements, or other small purchase methods, nor to place calls or delivery orders under basic agreements, basic ordering agreements, or indefinite delivery type contracts.

§ 591.450–1 By contracting officers.

Except as prescribed in ASPR or in §§ 591.403–52, 591.403–55, and 591.450–3 through 591.450–11, contracting officers may award contracts and modifications without approval of award by higher authority, subject to limitations in their Certificates of Appointment and to limitations which may otherwise be imposed by the cognizant head of procuring activity. Contracting officers shall insure that contracts and modifications have been reviewed by Boards of Awards in accordance with § 591.450–2 prior to making awards.

§ 591.450–3 Architect-engineer (A–E) services.

* * * * *

(d) When a Secretarial delegation of authority imposes a dollar limitation upon award approval, the cognizant head of procuring activity subject to the limitation shall submit any proposed award of an A–E contract for title I or title II services, or both, to the addressee in § 591.150(b)(6) through the Office, Chief of Engineers, in the following cases—

* * * * *

§ 591.450–10 Leases of Government personal property.

* * * * *

(b) Proposed leases and modifications thereto of Government personal property shall be submitted for approval to the addressee in § 591.150(b)(6), except when approval authority has been delegated to heads of procuring activities.

§ 591.450–11 Automatic data processing equipment (ADPE).

* * * * *

(b) If the proposed equipment is to be used for classified information, consideration shall be given to AR 380–46(C) before requests for ADPE procurement are submitted.

§ 591.452–1 Policy.

(a) * * *

(1) Contracting officers in a central purchasing office shall be responsible for the efficient performance of the procurement mission assigned the installation/activity concerned, and

* * * * *

§ 591.650 Fraud or criminal conduct.

* * * * *

(c) When a contractor has been added to the consolidated list in § 1.601 of this title, or allegations of fraud or criminal conduct in connection with procurement activities are reported, the reporting agency shall make a determination as to whether a review also shall be made of contractual relationships with the contractor and its affiliates. The review, if made, shall cover a period of 2 years, or longer if considered necessary to determine whether there is procurement fraud or other criminal conduct and whether the Government may have any basis for recovery of damages, or payments from the contractor in connections with such other procurement activities. Results of the review shall be reported through procurement channels to the addressee in § 591.150(b)(2) (exempt report, paragraph 7–2t, AR 335–15).

(d) Appropriate legal personnel who have cognizance of the legal aspects of contracts in the field (see § 591.403–51) and the Advisor on Fraud Matters to the Assistant Secretary of the Army (Installations and Logistics) shall review each pending fraud matter to determine the adequacy of the scope of the investigation made or being requested.

§ 591.705–4 Certificates of competency.

Documents required to be forwarded to the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded to the addressee in § 591.150(b)(6) (see § 591.150(d)).

§ 591.751–2 Preparation.

* * * * *

(e) When completed, DA Forms 1877 shall be made available only to personnel who have a "need-to-know" until the

date of award of contract. Copies of DA Forms 1877 distributed outside the Department of the Army shall be marked "For Official Use Only" in accordance with AR 340–16.

§ 591.751–3 Review after preparation.

* * * * *

(b) Whenever the contracting officer and the Small Business and Economic Utilization Advisor (or, when the contracting officer also functions as the Small Business and Economic Utilization Advisor, the contracting officer and the individual at a level higher than the contracting officer who reviews the DA Form 1877) are not in agreement and cannot reach an agreement, the DA Form 1877 shall be forwarded to the cognizant head of procuring activity for review and decision at that level. If an issue cannot be resolved at head of procuring activity level, the DA Form 1877 shall be forwarded to the addressee in § 591.150(b)(6) for resolution (see § 591–150(d)).

§ 591.751–4 Due date and distribution.

* * * * *

(b) For proposed procurements having an estimated cost of more than $300,000, one copy of DA Form 1877 together with any appropriate attachments shall be forwarded direct to the addressee in § 591.150(b)(6), Attention: Army Small Business and Economic Utilization Policy Advisor. Concurrent distribution shall be made to intermediate commands. Letters of transmittal are not required. The original DA Form 1877 shall become a part of the contract file.

(c) At the time of an award of a contract of more than $10,000 for which a DD Form 350 is required, a copy of the relevant DA Form 1877 shall be attached to a copy of the DD Form 350 and furnished the installation/activity Small Business and Economic Utilization Advisor. For contracts of more than $300,000, one copy of the DA Form 1877 attached to the DD Form 350 shall be forwarded direct to the addressee in § 591.150(b)(6), Attention: Army Small Business and Economic Utilization Policy Advisor. This distribution is in addition to the distribution prescribed for DD Form 350.

* * * * *

§ 591.1004 Disclosure of information prior to award.

(a) For proposed unclassified negotiated procurements estimated to exceed $100,000 and which involve competition, the marking "For Official Use Only" shall be applied in accordance with AR 340–16 to— * * *

(b) Contracting officers shall consider using the protective marking for other sensitive types of information associated with unclassified procurement actions, giving due consideration to the magnitude of workload involved. The marking of certain information received in confidence from private industry, regardless of the monetary value of the procurement involved, is governed by AR 340–16.

§ 591.2100–5 Approval.

* * * * *

(b) All other AP Plans or updates thereof shall be submitted through the Deputy Chief of Staff for Logistics, Department of the Army, to the addressee in § 591.150(b)(6) (see § 591.150(d)) for approval, whether negotiated or formally advertised, if for—

* * * * *

§ 591.5003 Determination and referral for hearing.

(a) The Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics), shall determine whether the matter shall be referred for a hearing. When he determines that the matter shall be so referred, he shall advise the Chairman of the Armed Services Board of Contract Appeals (ASBCA) in writing of his determination and request that the case be heard by a division of the Board. The request for hearing shall contain sufficient information to permit the Board Recorder to provide due notice to the contractor.

(b) The Deputy for Procurement shall furnish the files in the case to The Judge Advocate General, Attention: Chief, Contract Appeals Division, for use of Government counsel.

§ 591.5005 Withholding of funds.

Pending determination of the Deputy for Procurement as to referral of a case to the Board and pending a decision of the Board if a hearing is recommended, the contracting officer administering the contract or contracts involved shall withhold from payments otherwise due the contractor a sum equivalent to 10 times the estimated costs of the gratuities alleged to have been offered or given by the contractor, his agents, or other representatives, in violation of the Gratuities clause.

§ 591.5006 Posthearing actions.

* * * * *

(b) The Deputy for Procurement shall promptly furnish the contractor with a copy of the Secretarial decision. He shall also advise the cognizant head of procuring activity of the Secretarial decision, who in turn shall furnish notification and instructions to the contracting officer without delay.

(c) At the conclusion of the case, the Board Recorder shall forward all files in the matter to the Office of The Judge Advocate General which shall serve as the Office of Record for cases brought for hearing under 10 U.S.C. 2207. With the approval of the Deputy for Procurement, the Office of Record may make available to persons properly and directly concerned matters of official record pertaining to the case.

PART 592—PROCUREMENT BY FORMAL ADVERTISING

2. Section 592.407–8 is added; and § 592.407–9 is revoked, as follows:

§ 592.407–8 Protests against award.

(a) When a protest is received prior to award of a contract, the contracting officer shall attempt to resolve the issue, except when—

(1) He considers it desirable to submit the protest to a higher authority for resolution,

(2) He considers it desirable to obtain the opinion of the Comptroller General before award, or

(3) The person making the protest indicates that he intends to carry the protest to a higher authority.

(b) Protest cases submitted to higher authority for resolution shall be fully documented and shall include the information set forth in § 2.407–8(a)(2) of this title.

(c) Cases under paragraph (a)(1) of this section shall be referred, in turn, to the next higher level of authority for resolution. Each referral shall be accompanied by an explanation why the matter cannot be resolved at the lower level.

(d) Cases under paragraph (a)(2) of this section shall be processed as follows:

(1) Those cases emanating in purchasing offices under the jurisdiction of Headquarters, U.S. Army Materiel Command, shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(12) of this chapter. Each intervening level of authority shall add its recommendations in the matter. Headquarters, U.S. Army Materiel Command, shall forward protests directly to the Comptroller General:

(2) Those cases emanating in purchasing offices under the jurisdiction of the Chief of Engineers shall be forwarded to the Chief of Engineers, Attention: ENGGC–M, Department of the Army, Washington, D.C. 20315. The Chief of Engineers shall in turn forward protests directly to the Comptroller General;

(3) Headquarters, U.S. Army Materiel Command, and the Chief of Engineers shall forward a copy of each transmittal letter, the contracting officer's administrative report, and the legal analysis and opinion of the issues (when appropriate) relative to each protest forwarded directly to the Comptroller General to the addressee in § 591.150(b)(6) of this chapter;

(4) Those cases emanating in purchasing offices other than those enumerated in subparagraphs (1) and (2) of this paragraph shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) (see § 591.150(d) of this chapter). Each intervening level of authority through which the protest is forwarded shall add its recommendations in the matter.

(e) Cases under paragraph (a)(3) of this section shall be referred for necessary action to the level of authority designated by the protestor. Such cases shall be forwarded through procurement channels.

(f) When a contracting officer makes an award pursuant to § 2.407–8(b)(3) of this title, he shall furnish copies of his decision to award to:

(1) The cognizant head of procuring activity, and

(2) The authority to which the person making the protest had indicated

that he intended to carry the protest, if applicable.

(g) When a contracting officer forwards a protest received prior to award to a higher authority for resolution, he shall withhold the award pending instructions from the authority to which the protest was forwarded for resolution.

(h) When a protest is filed directly with the Comptroller General, the cognizant head of procuring activity shall be notified by the Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics). The head of procuring activities shall in turn notify the contracting officer concerned and the contracting officer shall promptly forward the information prescribed in paragraph (b) of this section together with any other documentation specifically requested by the Comptroller General. Cases shall be forwarded in accordance with paragraph (d) (1), (2), or (4) of this section.

(i) Because of the sensitivity of many protests filed with the Comptroller General, no award will be made under the provisions of § 2.407–8(b) (2) of this title without prior approval of the Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics). Furthermore, unless otherwise authorized by the Director of Materiel Acquisition, all informal contracts with the Comptroller General shall be made by the Office of the Assistant Secretary of the Army (Installations and Logistics). Such contacts include advising the Comptroller General in appropriate cases of the intent of the Department of the Army to make an award prior to the resolution of the protest.

(j) When a protest is received after award of a contract, the following actions shall be taken:

(1) The contracting officer shall immediately notify the cognizant head of procuring activity of the nature of the protest;

(2) Where it reasonably appears that the award of the contract may be held to be invalid and a delay in receiving supplies or services covered by the contract is not prejudicial to the Government's interest, the contracting officer shall, subject to such instructions as the head of procuring activity deems appropriate, seek a mutual agreement with the contractor to "stop work" on a no cost basis;

(3) If the contractor refuses to enter into such a mutual "stop work" agreement, the head of procuring activity may direct the contracting officer in writing to issue a "stop work" order, unless the head of procuring activity determines that receipt of the supplies or services is so urgent that a "stop work" order would be prejudicial to the Government's interest;

(4) When a head of procuring activity considers that guidance from higher authority is necessary, the matter of withholding contract performance shall be submitted to the next higher level of authority.

(5) The contracting officer shall take no action pending receipt of advice from the appropriate level of higher authority.

§ 592.407–9 Protests against award. [Revoked]

PART 593—PROCUREMENT BY NEGOTIATION

3. Sections 593.213–2 (b) and (e), 593.213–5, 593.301(c), 593.408–50, 593.605–3(a)(1), 593.609–1(b), 593.703 (a) and (c)(1), 593.705 (a), (b), (e)(3), and (h)(1), 593.750(b), 593.750–1(b), and 593.750–6(b) are revised, as follows:

§ 593.213–2 Application.

* * * * *

(b) Responsibility within the Department of the Army for action concerning candidate items for standardization and for monitoring the standardization program under 10 U.S.C. 2304(a)(13) is vested in the Commanding General, U.S. Army Materiel Command, who has assigned the responsibility to the Director of Requirements and Procurement of that command. The Director of Requirements and Procurement, U.S. Army Materiel Command, assigns responsibility for initiating standardization action, according to groups or categories of candidate items, to a head of procuring activity who is then responsible within the assigned category for—

* * * * *

(e) When redesign or redesignation of a standardized model will not affect interchangeability of parts of the new and old models, the standardization file of the cognizant head of procuring activity and the Director of Requirements and Procurement, U.S. Army Materiel Command, shall reflect a revision to the original standardization approval, supported by a determination of the head of procuring activity that cancellation of standardization is not warranted. When, for any reason, the head of procuring activity or the Director of Requirements and Procurement conclude that an approved standardization should be canceled, written notification shall be given promptly to the addressee in § 593.150 (b)(6) of this chapter and to the Assistant Secretary of Defense (Installations and Logistics). Consideration shall be given to cancellation when, after standardization, the quantity in the Army supply system of one or more of the selected suppliers falls below 15 percent, but cancellation is not required unless it reasonably appears that in future negotiated procurements such supplier(s) will not be able to offer effective competition. Nevertheless, when the quantity of one or more of the selected supplies falls below 15 percent, standardization shall not be continued beyond one procurement except for the most compelling reasons.

§ 593.213–5 Records and reports.

The Director of Requirements and Procurement, U.S. Army Materiel Command, is responsible for maintaining and furnishing records pursuant to § 3.213–5 of this title.

§ 593.301 Nature of determinations and findings.

* * * * *

(c) Premature disclosure of information contained in a determination and findings and its supporting data could provide an unfair advantage to one prospective contractor over another or create an impression that fair treatment was not being accorded all concerned. Accordingly, determinations and findings and supporting data not classified for other reasons shall be marked "For Official Use Only," unless the contracting officer determines in writing that there is no likely risk of prejudice to prospective contractors. Marking and removal of marking "For Official Use Only" shall be in accordance with AR 340–16.

§ 593.408–50 Letter contracts awarded, definitized, and outstanding.

(a) Heads of procuring activities who award letter contracts shall prepare and submit quarterly reports on Letter Contracts Awarded, Definitized, and Outstanding, Reports Control Symbol DD–I&L (Q)–679, in the format in § 593.408–51. Reports shall be signed by an individual named in § 591.150(c) of this title and submitted in duplicate to the addressee in § 591.150(b)(6) of this chapter within 25 calendar days after the close of each quarter year. Negative reports are not required.

(b) Heads of procuring activities subordinate to Headquarters, U.S. Army Materiel Command or U.S. Continental Army Command shall submit their reports to the appropriate Headquarters which shall consolidate the report for submission to the addressee in § 591.150 (b)(6) of this chapter.

(c) For reporting purposes a letter contract consists of a basic letter contract with all amendments and shall be reported as a single letter contract. The total obligated dollar value of the basic letter contract combined with the obligated dollar value of all amendments shall be included. Letter contracts and amendments designated as supplemental agreements to definitive contracts shall be considered as a letter contract and shall be reported as such.

(d) The dollar amounts to be reported shall be obligated amounts prior to definitization. Definitization shall be considered complete when a definitized contract is signed by Government and contractor representatives.

(e) In addition to the quarterly reports from Headquarters, U.S. Army Materiel Command, information required by the quarterly report shall be submitted by that Command monthly in duplicate to the addressee in § 591.150(b)(6) of this chapter not later than the 25th calendar day of each month.

§ 593.605–3 Establishment of blanket purchase agreements.

(a) Blanket purchase agreements shall not be established—

(1) For supplies or services for which unpriced purchase orders should be used (§ 3.608–3 of this title), e.g., repair services where disassembly of the item to be repaired is required to determine the nature and extent of repairs or where exact prices of repair services are not known; or

* * * * *

§ 593.609–1 General.

* * * * *

(b) The delivery ticket prepared by the service station attendant and signed by the identification card holder at the time of delivery constitutes a delivery order consistent with AR 37–107. See ASPR 21–204.1 for instructions for reporting purchases made by U.S. Government National Credit Cards on DD Forms 1057.

§ 593.703 Applicability.

(a) The appropriate Negotiated Overhead Rates clause is authorized for use in all cost-reimbursement type contracts, except facilities contracts, with contractors listed for overhead negotiation in the Master List of Contractors for Negotiated Overhead Rates and Advance Agreements for Independent Research and Development Costs. The Master List is published annually and revisions thereto are published as required in Defense Procurement Circulars (DPC's). The responsibility within the Department of the Army for the administration and maintenance of the Master List is vested in the Commanding General, U.S. Army Materiel Command, who has assigned such responsibility to his Director of Requirements and Procurement.

* * * * *

(c) * * *

(1) Notification of the clearance by the cognizant head of procuring activity shall be furnished upon issuance to the addressee in § 591.150(b)(11) of this chapter, Attention: AMCRP–SC for appropriate action to have the Master List revised; and * * *

* * * * *

§ 593.705 Procedure.

(a) When the Department of the Army is the sponsor of coordinated negotiations as described in § 3.706 of this title or when the contractor concerned has contracts with more than one Department of the Army procuring activity, negotiation cognizance shall be assigned to the procuring activity having the preponderance of contract interest. The conduct of negotiations may be assigned by the designated head of procuring activity to a field command or purchasing office of that activity, except where such reassignment is restricted by specific instructions from the SAFEGUARD System Manager for the SAFEGUARD System Organization or from the Director of Requirements and Procurement, Headquarters, U.S. Army Materiel Command, for all other Department of the Army procuring activities.

(b) Upon notifications by the Departments of the Navy or Air Force that coordinated overhead rate negotiations have been scheduled with a contractor, the Director of Requirements and Procurement, Headquarters U.S. Army Materiel Command, or the SAFEGUARD System Manager, as appropriate, shall designate a procuring activity to represent the Department of the Army in the negotiations.

* * * * *

(c) * * *

(3) Develop the Department of the Army position in coordination with other interested Department of the Army procuring activities, with consideration being given to the limitations, special provisions, and cost-sharing arrangements of the affected contracts (any case in which agreement as to the Department of the Army position cannot be reached shall be referred to the SAFEGUARD System manager or to the addressee in § 591.150(b)(11) of this chapter, as appropriate); and

* * * * *

(h) * * *

(1) Distribution:

Headquarters, U.S. Army Materiel Command, Attention: AMCRP–SC	[1] 3
Each subordinate command, installation, and activity of U.S. Army Materiel Command having contractual interest	3
Each other Department of the Army procuring activity having contractual interest	3
Headquarters, cognizant audit office	3
Headquarters, Defense Supply Agency, Attention: DSAH–FCA, Cameron Station, Alexandria, Va. 22314	25
Headquarters, Naval Materiel Command, NAVMAT 0241, Washington, D.C. 20360	90
Headquarters, Air Force Systems Command (SCKPF), Andrews Air Force Base, Washington, D.C. 20331	60

[1] With one copy of distribution list.

* * * * *

§ 593.750 Negotiation of independent research and development costs.

* * * * *

(b) The SAFEGUARD System Manager for the SAFEGUARD System Organization and Headquarters, U.S. Army Materiel Command, for all other Department of the Army procuring activities, are responsible for administration of the program of coordinated negotiation of IR&D costs encompassed in the procedures set forth herein. Information required under the procedures herein shall be furnished the SAFEGUARD System Manager or the addressee in § 591.150(b)(11) of this chapter, Attention: AMCRP–SC, as appropriate.

§ 593.750–1 Negotiation cognizance.

* * * * *

(b) When no procuring activity has been assigned negotiation cognizance under § 593.705 and when it is desired to undertake IR&D negotiations with a contractor who is doing business with more than one military department, negotiation cognizance shall be assigned by Headquarters, U.S. Army Materiel Command, in accordance with the criteria and procedures in § 593.705. When the contractor is doing business only with the Department of the Army, negotiation cognizance shall be exercised by the procuring activity having the preponderant dollar interest after coordination with other purchasing offices concerned. Notification of the assumption of such cognizance shall be given promptly to the addressee in § 591.150(b)(11) of this chapter, Attention: AMCRP–SC.

§ 593.750–6 Negotiation summary.

* * * * *

(b) The negotiation summary shall be signed and approved by the officials designated in § 593.705(h). Copies of the negotiation summary shall be distributed as follows, except that no distribution shall be made to the Departments of the Navy and Air Force when the contractor has no contracts with those Departments—

Headquarters, U.S. Army Materiel Command, Attention: AMCRP–SC	[1] 3
Each subordinate command, installation, and activity of U.S. Army Materiel Command having contractual interest	3
Each other Department of the Army procuring activity having contractual interest	3
Headquarters, cognizant audit office	3
Headquarters, Defense Supply Agency, Attention: DSAH–FCA, Cameron Station, Alexandria, Va. 22314	25
Headquarters, Naval Materiel Command, NAVMAT 0241, Washington, D.C. 20360	115
Headquarters, Air Force Systems Command (SCKPF), Andrews Air Force Base, Washington, D.C. 20331	177
Armed Services Research Specialists Committee, c/o addressee in § 591.150(b)(11) of this chapter	5

[1] With one copy of distribution list.

PART 594—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. New Subparts BBB and CCC are added, as follows:

Subpart BBB—General Educational Development Contracts

Sec.	
594.5401	General Educational Development (GED) Program.
594.5402	Educational service contracts.
594.5403	Procedures.
594.5404	Required clauses for contracts for conducting Army education center classes.
594.5404–1	Statement of work.
594.5404–2	Performance of services.
594.5404–3	Contract price.
594.5404–4	Subcontracting.
594.5404–5	Termination.
594.5404–6	Inspection and acceptance.
594.5404–7	Inapplicability of employee benefits.
594.5404–8	Changes.
594.5404–9	Definitions.
594.5404–10	Assignment of claims.
594.5404–11	Disputes.
594.5404–12	Renegotiation.
594.5404–13	Communist areas.
594.5404–14	Equal opportunity.
594.5404–15	Officials not to benefit.
594.5404–16	Covenant against contingent fees.
594.5404–17	Examination of records.
594.5404–18	Gratuities.
594.5404–19	Government-furnished property.
594.5405	Required clauses for contracts for counseling students and administering USAFI tests in Army education centers.
594.5405–1	Statement of work.
594.5405–2	Performance of services.
594.5405–3	Contract price.
594.5405–4	Subcontracting.
594.5405–5	Termination.
594.5405–6	Liquidated damages.
594.5405–7	Inspection and acceptance.

Subpart BBB—General Educational Development Contracts

§ 594.5401 General Educational Development (GED) Program.

(a) AR 621-5 sets forth the Army General Educational Development (GED) Program and prescribes policies and responsibilities for it administration.

(b) This subpart prescribes policies and procedures for establishing contracts in support of the GED Program.

§ 594.5402 Educational service contracts.

(a) Contracts using appropriated funds may be entered into for obtaining from qualified instructors nonpersonal services for—

(1) Conducting Army Education Center classes (see § 594.5404),

(2) Counseling and testing individuals or groups of individuals who desire to participate in the GED Program (see § 594.5405), and

(3) Monitoring and instructing in language laboratories (see § 594.5406).

(b) Contracts shall not be entered into with a member of the Armed Forces serving on active duty.

(c) Contracts may be entered into with Government employees only under the circumstances described in § 1.302-6 of this title and only if approval has been obtained in accordance therewith.

(d) Those clauses in §§ 594.5404, 594.5405, and 594.5406, except for ASPR-prescribed clauses, may be changed when necessary to conform the contract to the details of the particular procurement. No changes shall be made to such clauses, however, to alter the nonpersonal services nature of the contract and no provision shall be included in the contract which subject the contractor to the direction, control, or direct supervision of the Government.

(e) The contract price shall be based upon the requirements of the contract, e.g., work to be performed, results to be accomplished, and special qualifications needed by the contractor for satisfactory performance. The contract price shall not be determined on a per hour, per day, or other time basis nor shall payment be made on such basis.

(f) The Government furnishes to the students necessary textbooks, classroom materials, and classroom space. The Government furnishes to the contractor certain instructor materials and provides a centralized end-of-course testing system. The items furnished the contractor shall be described in the schedule of the contract.

(g) Contract payments are not subject to Federal income tax withholding (26 U.S.C. 3401-3404) nor to the Federal Insurance Contributions Act (26 U.S.C. 3101-3126). Contractors are not entitled to unemployment compensation benefits under title XV of the Social Security Act, as amended.

§ 594.5403 Procedures.

(a) Directors of General Educational Development or Education Advisors shall request the appropriate purchasing office to establish general educational development contracts.

(b) Contracting officers shall use Standard Forms 26 or 33 for general educational development contracts. DD Forms 1155 may not be used. Standard Forms 36 shall be used for continuation sheets.

(c) Contracting officers shall designate for each contract the Director of General Educational Development or the Education Advisor as his authorized representative to administer the contract. Designation shall be in accordance with § 591.406-50 of this chapter. Both the contracting officer and his representative shall scrupulously observe the independent status of the contractor.

§ 594.5404 Required clauses for contracts for conducting Army education center classes.

§ 594.5404-1 Statement of work.

Insert the following clause:

STATEMENT OF WORK (NOVEMBER 1969)

(a) The Contractor shall deliver to the Government a complete course of instruction in the subject(s) of [here insert the USAFI Catalog or other course title(s) and description, omitting from the description any reference to correspondence course. Identify the text(s) and any films or other teaching aids, or other facilities to be furnished by the Government and state that the Government will furnish same].

(b) The Contractor shall be responsible for the preparation of lesson plans, class assignments, and instructional aids which in his judgment will promote understanding of an enhanced effective presentation of the course materials. The Contractor shall impart to any student willing and able to learn the course content sufficient knowledge and understanding thereof to enable such student to complete satisfactorily the USAFI-prescribed end-of-course test or other test designated by the Contracting Officer.

(c) The Contractor shall also perform for the Government ancillary services incident to the course(s), including, but not limited to—

(i) Keeping class records and making reports to the Contracting Officer of attendance, absences, and student progress;

(ii) Giving and grading periodic tests designed by the Contractor to measure student progress and to enhance the learning process;

(iii) Receiving, caring, and accounting for, and returning any Government property temporarily made available to the Contractor (e.g., projectors, films, training aid, school supplies). The Contractor shall familiarize himself with the proper care and use of any such Government property, and shall, within the services to be delivered hereunder, operate or make arrangements to operate without cost to the Government over and above the contract price, any necessary training aid devices.

(d) If requested in writing by the Contracting Officer, the Contractor shall, at the end of the course(s), deliver to the Contracting Officer a written critique which shall include recommendations for improvement of the course(s) and comments concerning students who have failed to complete the course(s) satisfactorily as well as those who have made outstanding progress.

(e) The Contractor shall familiarize himself with the rules, regulations, and standards of conduct of the military installation to the extent that they pertain to independent contractors performing services on the military installation and shall adhere to such rules, regulations, and standards of conduct.

(f) To the extent that the Contractor brings to the military installation any personal property of a type owned and accounted for by the Government at the military installation (e.g., reference books, tools, learning devices, typewriters, exhibits, and the like), he shall register the same with the Contracting Officer and shall remove them from the military installation when requested to do so by the Contracting Officer.

(g) The Contractor shall adhere to standards of performance which are generally acceptable to the teaching profession. For example, the Contractor shall draw upon his background and ingenuity to make the course(s) interesting; prepare himself for each class session; in each class session cover the lesson assigned for that session; encourage the gifted students and counsel, advise, and assist the slower students; promptly detect shortcomings in the recitation or test of any student and correct same; and promptly reward a correct recitation or test of any student by verification to the student of its correctness. The Contractor may use such auxiliary material as will enhance the effectiveness of comprehension by the students, without, however, requiring students to use materials other than those furnished by the Government. The manner of presentation and the individual class

session format shall be within the sole discretion of the Contractor as long as it conforms to acceptable teaching standards and practices and results in maximum comprehension of the students. When the Contractor considers it necessary or desirable, he may, after coordination with the Contracting Officer for availability of the facilities, hold makeup examinations or sessions agreeable to the student(s) concerned. Such makeup periods shall be outside the class schedule and within the contract price.

(h) [Here indicate that the contractor will or will not be required to administer the USAFI end-of-course tests. If the contractor is to administer such test, this clause should provide that the tests will be furnished by the Government and will be administered according to the instructions contained therein and to procedures outlined in AR 621-5 and in official USAFI publications].

§ 594.5404-2 Performance of services.

Insert the following clause:

PERFORMANCE OF SERVICES (NOVEMBER 1969)

(a) The nonpersonal services herein called for shall be performed at [insert name of installation]. Performance shall be in accordance with the class schedule showing the building number, room, dates, and hours of each session, and maximum class size which is hereto attached as Attachment A and made a part hereof. The parties agree to adhere to said schedule as nearly as possible, taking into account the nature and objectives of the General Educational Development Program and the military environment. In recognition of these factors, the parties understand that within the terms of this contract the schedule may be changed (i) by mutual agreement, in which case the change shall be entered in the schedule in writing and initialed and dated by the parties; and (ii) by the Contracting Officer or his representative upon giving reasonable notice to the Contractor if such change is necessitated by factors beyond the control of the Contracting Officer (e.g., to avoid conflict with a military schedule having priority over the group study class). A change unilaterally directed by the Contracting Officer may be made orally, but shall be promptly confirmed in writing to the Contractor with a copy to be attached to this contract. Changes made pursuant to this clause shall not entitle the Contractor to any adjustment in contract price and shall not be considered to fall within the clause entitled "Changes" as long as the total number of classroom sessions is not increased or decreased.

(b) Performance of ancillary services shall be according to the routine procedures established by the Contracting Officer for USAFI group study classes, with which the Contractor hereby acknowledges his familiarity.

(c) Delivery of the critique, if called for by the Contracting Officer, shall be within 10 calendar days after receipt of the written request therefor from the Contracting Officer.

(d) Delivery of complete performance of this contract shall be made on or before [insert date].

§ 594.5404-3 Contract price.

Insert the following clause:

CONTRACT PRICE (NOVEMBER 1969)

As consideration for the satisfactory performance of this contract, the Government shall pay the Contractor the total sum of $-------.

§ 594.5404-4 Subcontracting.

Insert the following clause:

SUBCONTRACTING (NOVEMBER 1969)

(a) The Contractor shall not subcontract the performance of any part of the work calling for instruction at a scheduled classroom session without the prior approval of the Contracting Officer.

(b) With the approval of the Contracting Officer, and in circumstances beyond the reasonable control of the Contractor, the Contractor may provide a qualified substitute to conduct one or more classroom sessions. In such cases the substitute shall have no claim whatever against the Government for services rendered and the price to be paid such substitute shall be a matter entirely between the Contractor and the substitute.

(c) In the event the Contractor fails to provide a satisfactory substitute to conduct any classroom session which the Contractor does not conduct, the Contractor hereby authorizes the Contracting Officer to procure the services of a satisfactory substitute for the account of the Contractor. The amount paid or owed the substitute by the Government for such services shall be deducted from any amount due or to become due the Contractor under this contract. This provision imposes no obligation upon the Contracting Officer to exercise the foregoing authority and shall not be construed to diminish the rights of the Government under the clause entitled "Termination."

§ 594.5404-5 Termination.

Insert the following clause:

TERMINATION (NOVEMBER 1969)

(a) The Contracting Officer may terminate for cause the right of the Contractor to continue performance of work. In the event of such termination, the Contractor shall not be entitled to any payments hereunder other than for work acceptably completed less any applicable deductions or adjustments including the adjustment provided for in the clause entitled "Inspection and Acceptance." Any of the following may, in the discretion of the Contracting Officer, constitute grounds for termination clause—

(i) Failure of the Contractor to comply with the terms of the contract;

(ii) Frequent requests by the Contractor for approval of a substitute to conduct a classroom session which the Contractor fails to conduct; or

(iii) Failure of the Contractor to provide a satisfactory substitute to conduct a classroom session which the Contractor fails to conduct.

(b) The Contracting Officer may terminate this contract in whole or in part when he determines such action to be in the best interest of the Government. In such event an equitable adjustment shall be made in the contract price and any balance due shall be paid to the Contractor.

(c) In the event the Contractor is unwilling to complete this contract for bona fide reasons personal to the Contractor, and no grounds exist for termination for cause, the contract price shall be adjusted to an amount not to exceed that arrived at by the following formula—

Total contract price less 10 percent of such price divided by the number of classroom sessions scheduled times the number of classroom sessions acceptably completed by the Contractor.

Upon presentation of a proper invoice or voucher, the Contractor shall be paid such adjusted price less any amount due and owing the Government.

(d) Termination under this clause shall be accomplished by written notice mailed or otherwise furnished the other party. Such notice shall state the effective date of the termination and the basis therefor.

§ 594.5404-6 Inspection and acceptance.

Insert the following clause:

INSPECTION AND ACCEPTANCE (NOVEMBER 1969)

(a) The Contracting Officer or his representative may conduct such reasonable inspection of the Contractor's performance hereunder as shall be necessary to satisfy the Contracting Officer that the Contractor is adhering to the terms of the contract and is making satisfactory progress to achieve the objectives set forth herein.

(b) Should the Contractor conduct a given class session after inadequate preparation or in a manner which is clearly not according to required standards or otherwise deliver an inadequate performance, there is no way in which the deficiency can be corrected in kind. Accordingly, if the Contractor delivers any part of the services hereunder which are clearly inadequate to fulfill contract requirements, the Contracting Officer may accept such delivery at a reduction in price which is equitable under the circumstances, provided the Contractor is furnished in writing a statement of the inadequacies setting forth the price reduction to be made.

§ 594.5404-7 Inapplicability of employee benefits.

Insert the following clause:

INAPPLICABILITY OF EMPLOYEE BENEFITS (NOVEMBER 1969)

(a) This contract does not create an employer-employee relationship. Accordingly, entitlements and benefits applicable to such relationship do not apply.

(b) Payments under this contract are not subject to Federal income tax withholding.

(c) Payments under this contract are not subject to the Federal Insurance Contributions Act.

(d) The Contractor is not entitled to unemployment compensation benefits under the Social Security Act, as amended, by virtue of performance under this contract.

(e) The entire consideration and benefit to the Contractor for performance of this contract is contained in the clause entitled "Contract Price."

§ 594.5404-8 Changes.

Insert the following clause:

CHANGES (NOVEMBER 1969)

The Contracting Officer may at any time, by a written order, make changes within the general scope of this contract. If any such change causes an increase or decrease in the cost or the time required for performance, or both, an equitable adjustment shall be made in the contract price or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 calendar days from date of receipt by the Contractor of the notification of change. However, if the Contracting Officer decides that the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree upon any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor

from proceeding with the contract as changed: *Provided, however,* That the rights of the Government under this clause in no way diminish the rights of the Contractor under the clause entitled "Termination."

§ 594.5404–9 Definitions.

Insert clause in § 7.103–1 of this title.

§ 594.5404–10 Assignment of claims.

Insert clause in § 7.503–3 of this title.

§ 594.5404–11 Disputes.

Insert clause in § 7.103–12 of this title or § 597.103–12 of this chapter, as appropriate.

§ 594.5404–12 Renegotiation.

Insert clause in § 7.103–13 of this title in accordance with instructions therein.

§ 594.5404–13 Communist areas.

In accordance with § 6.403 of this title insert clause in § 7.103–15 of this title.

§ 594.5404–14 Equal opportunity.

Except as provided in § 12.805 of this title, insert the appropriate clause in § 7.103–18 of this title.

§ 594.5404–15 Officials not to benefit.

Insert clause in § 7.103–19 of this title.

§ 594.5404–16 Covenant against contingent fees.

Insert clause in § 7.103–20 of this title.

§ 594.5404–17 Examination of records.

Insert clause in § 7.104–15 of this title in accordance with instructions therein.

§ 594.5404–18 Gratuities.

Insert clause in § 7.104–16 of this title.

§ 594.5404–19 Government-furnished property.

Insert clause in § 13.710 of this title.

§ 594.5405 Required clauses for contracts for counseling students and administering USAFI tests in Army education centers.

§ 594.5405–1 Statement of work.

Insert the following clause:

STATEMENT OF WORK (NOVEMBER 1969)

(a) The circumstances under which the services called for by this contract shall be performed are:

(i) The Government shall provide facilities, as described in Attachment A hereto, comprised of study areas, books, tests, and other materials to be used in connection with the courses of study and tests at [insert name of installation].[1]

(ii) Counseling and testing periods normally shall be scheduled to begin in the afternoon or after normal duty hours of military personnel (sometimes collectively referred to herein as students) and shall extend for a reasonable time after normal duty hours to permit efficient use of the facilities by students.[2]

(iii) Students enrolled in correspondence courses described in DA Pamphlet 350–1, a copy of which has been furnished the Contractor, and students seeking to prepare for military occupational proficiency tests may use these facilities for studying during their off-duty hours.

(iv) Students may need guidance and help in the studies in which they are engaged or, if not so engaged, may seek information concerning the programs and how they can fit into some part thereof.

(b) The Contractor shall be solely responsible for correctly administering tests, for adhering to procedural standards specified for each test, for taking all prescribed measures, and for augmenting such measures as may be necessary to preserve the integrity of each test administered and the testing system of which it is a part.

(c) The Contractor shall also be responsible for:

(i) Arranging in advance for the testing room(s) and facilities to correspond with the scheduled requirements;

(ii) Arranging in advance for all necessary supplies and materials to be made available by the Contracting Officer or his representative;

(iii) Making and preserving such administrative records pertaining to the tests as are reasonably necessary, including the grading of certain tests according to Government-provided standards and recording and reporting the results thereof;

(iv) Preserving order and decorum among the personnel being tested;

(v) Insuring that tests are administered efficiently and fairly to all participants;

(vi) Adhering to test schedules; and

(vii) Completing all required certifications, forms, and records necessary to deliver the complete, reliably administered test package to the Contracting Officer or his representatives.

(d) The Contractor shall familiarize himself with general testing requirements in effect at the military installation and with the specific requirements of each test to be administered in order to be able to furnish, as and when required by the participants, legitimate and permissible information necessary to ensure understanding and comprehension by the participant without in any way misleading the participant or others or compromising the test results.

(e) The facilities referred to in (a) above shall be made available to the Contractor during the counseling and testing periods specified in Attachment A. During such periods, the Contractor shall be responsible for individual or group counseling and testing of students who come there to study, to seek information, or to take tests. The Contractor shall so monitor and conduct the activities of the students present and their use of Government facilities as to afford an atmosphere conducive to effective learning. The Contractor shall exclude unauthorized persons from the test area, shall maintain ccontinuous visual supervision of test participants who have test materials in their possession, shall collect test materials from students leaving the test area, and shall be alert to individual student needs for guidance and counseling in order to provide maximum motivation for achievement of educational objectives established by each student. Counseling shall be responsive to the needs of the students.

(f) The end result of the services to be performed under this contract are the timely delivery of reliable test results and the creation and maintenance of an environment, within the limitations of the facilities provided by the Government, conducive to rapid and effective learning by students who need or desire assistance in achieving their educational objectives. The Contractor shall be responsible for making any additional advance preparation necessary to ensure maximum effectiveness of counsel and guidance sought and maximum reliability of test results, including reasonable advance preparation required to permit counseling or testing in a field in which such preparation is necessary to meet the individual needs of students. Within the means available, the Contractor shall establish routines and systems for the operation of the facilities provided.

(g) If requested in writing by the Contracting Officer, the Contractor shall, from time to time, but not more often than once a month, deliver to the Contracting Officer a written critique of the counseling and testing services rendered, which shall include germane statistics on the number of students using the facilities, pertinent comments on the services rendered, and recommendations for increasing the effectiveness of the facilities and services.

(h) The Contractor shall, in the performance of this contract, familiarize himself with the rules, regulations, and standards of conduct of the military installation to the extent that they pertain to independent contractors performing services on the installation and shall adhere to such rules, regulations, and standards of conduct.

(i) To the extent that the Contractor brings to the military installation any personal property of a type owned and accounted for by the Government at the installation (e.g., reference books, tools, learning devices, typewriters, exhibits, and the like), he shall register the same with the Contracting Officer and shall remove same from the installation when requested to do so by the Contracting Officer.

(j) The Contractor shall also perform such ancillary services incident to counseling and testing as are reasonably necessary, including but not limited to:

(i) Keeping records of use made of the facilities;

(ii) Receiving, caring, and accounting for Government property temporarily placed in his custody, e.g., books, tests, reference materials, training aids, school supplies;

(iii) Making prompt reports to the Contracting Officer or his representative of requests for types of assistance not falling within the terms of the contract or of situations arising which call for action in areas of the General Educational Development Program or the Military Occupational Proficiency Program which are outside the scope of this contract.

(k) The Contractor shall familiarize himself with the proper care and methods of safeguarding and use of Government property of the kinds placed in his custody and shall adhere to and cause students to adhere to such standards in its care, safeguarding, and use.

§ 594.5405–2 Performance of services.

Insert the following clause:

PERFORMANCE OF SERVICES (NOVEMBER 1969)

(a) The nonpersonal services called for herein shall be performed at [enter name of installation]. Performance shall be in accordance with the schedule contained in Attachment A. Notwithstanding that Attachment

[1] Attachment A will indicate the facilities (including building, rooms, books, tests, educational aids, and equipment) to be made available, and in addition will list the dates and hours of each counseling and testing period during which the contractor will be required to counsel and/or test students and perform ancilliary services.

[2] Attachment A will indicate that the unit of measure for the services is the counseling and testing period whether it is devoted soley to counseling, monitoring, or testing, or a combination thereof.

A specifies the dates and hours of the counseling and testing periods during which the facilities listed therein shall be operated by the Contractor, the parties understand that, without increasing or decreasing the total quantities, the dates and hours for performance of services may be changed from time to time during the contract period by:

(i) Mutual agreement, in which case the change will be entered in the schedule in writing and initialed by the parties, or

(ii) The Contracting Officer or his representative upon giving reasonable notice to the Contractor if such change is necessitated by factors beyond the control of the Contracting Officer, e.g., to avoid conflict with military schedule having priority over the counseling or testing period. A change unilaterally directed by the Contracting Officer may be made orally, but shall be promptly confirmed in writing to the Contractor with a copy to be attached to this contract. Changes pursuant to this clause shall not entitle the Contractor to any adjustment in contract price and are not considered to fall within the cause entitled "Changes."

(b) Delivery of completed tests shall be as soon as possible after testing is completed and in no instance later than the first military duty day after testing is completed. The completed test package shall include any answer sheets, grading templates, and test materials and supplies pertaining to the test. Delivery shall be made to the Contracting Officer or his representative; except that, if a "controlled item" is involved, the completed test shall be delivered to the designated Test Control Officer if such officer is not the same person as the Contracting Officer's representative.

(c) Delivery of ancillary services shall generally be simultaneous with performance of the service to which the ancillary service pertains. When the Contractor receives requests for information or assistance related to the General Educational Development or Military Occupational Proficiency Programs outside the scope of this contract, the Contractor shall report the information at once to the Contracting Officer's representative, if during duty hours, but in no event later than the next workday.

(d) The critique, if requested by the Contracting Officer, shall cover the period specified in the request and shall be delivered within 10 calendar days after receipt of the written request therefor.

(e) Delivery of complete performance of this contract shall be made on or before [enter date].

§ 594.5405–3 Contract price.

Insert the following clause:

CONTRACT PRICE (NOVEMBER 1969)

As consideration for the satisfactory performance of this contract, the Government shall pay the Contractor the total sum of $_____.

§ 594.5405–4 Subcontracting.

Insert the following clause:

SUBCONTRACTING (NOVEMBER 1969)

(a) The Contractor shall not subcontract the performance of any part of the work under this contract without the prior approval of the Contracting Officer.

(b) With the approval of the Contracting Officer and in circumstances beyond the reasonable control of the Contractor, the Contractor may provide a qualified substitute to conduct one or more counseling or testing periods. However, in such case the substitute shall have no claim whatever against the Government for services rendered and the price to be paid such substitute shall be a matter entirely between the Contractor and the substitute. If testing is involved, the substitute must be approved for handling pertinent test materials in accordance with current Army regulations.

(c) In the event the Contractor fails to provide a satisfactory substitute to conduct any counseling or testing period which the Contractor does not conduct, the Contractor hereby authorizes the Contracting Officer to procure the services of a satisfactory substitute for the account of the Contractor. The amount paid or owed the substitute by the Government for such services shall be deducted from any amount due or to become due the Contractor under this contract. This provision imposes no obligation on the Contracting Officer to exercise the foregoing authority and shall not be construed to diminish the rights of the Government under the clause entitled "Termination."

§ 594.5405–5 Termination.

Insert the following clause:

TERMINATION (NOVEMBER 1969)

(a) The Contracting Officer may terminate for cause the right of the Contractor to continue performance of work. In the event of such termination the Contractor shall not be entitled to any payments hereunder other than for work acceptably completed less any applicable deductions or adjustments, including the adjustment provided for in the clause entitled "Inspection and Acceptance." Any of the following may, in the discretion of the Contracting Officer, constitute grounds for termination for cause:

(i) Failure of the Contractor to comply with the terms of the contract;

(ii) Frequent requests by the Contractor for approval of a substitute to conduct counseling and testing periods; or

(iii) Failure of the Contractor to provide a satisfactory substitute to conduct a counseling or testing period which the Contractor fails to conduct.

(b) The Contracting Officer may terminate this contract in whole or in part when he determines such action to be in the best interest of the Government. In such event an equitable adjustment shall be made in the contract price and any balance shall be paid to the Contractor.

(c) In the event the Contractor is unwilling to complete performance of this contract for bona fide reasons personal to the Contractor, and no grounds exist for termination for cause, the contract price shall be adjusted to an amount not to exceed that arrived at by the following formula:

Total contract price less 10 percent of such price divided by the number of counseling and testing periods scheduled times the number of counseling and testing periods acceptable completed by the Contractor.

Upon presentation of a proper invoice or voucher, the Contractor shall be paid such adjusted price less any amount due and owing the Government.

(d) Termination under this clause shall be accomplished by written notice mailed or otherwise furnished the other party. Such notice shall state the effective date of the termination and the basis therefor.

§ 594.5405–6 Liquidated damages.

Insert the following clause:

LIQUIDATED DAMAGES (NOVEMBER 1969)

Because actual damages will be difficult or impossible to measure in the event the Contractor deliberately degrades, or negligently permits degradation of the integrity of any test or test results hereunder, if the Contractor does deliberately degrade the integrity of a test or test results or negligently permits such degradation, the Contractor shall forfeit to the Government any amount then due and owing him under this contract.

§ 594.5405–7 Inspection and acceptance.

Insert the following clause:

INSPECTION AND ACCEPTANCE (NOVEMBER 1969)

(a) The Contracting Officer or his representative may conduct such reasonable inspection of the Contractor's performance hereunder as shall be necessary to satisfy the Contracting Officer that the Contractor is complying with the terms of the contract and is making satisfactory progress to achieve the objectives set forth herein.

(b) Should the Contractor conduct a given counseling or testing period after inadequate preparation or in a manner which is clearly not according to required standards or otherwise delivers an inadequate performance, there is no way in which the deficiency can be corrected in kind. Accordingly, if the Contractor delivers any part of the services hereunder which are clearly inadequate to fulfill contract requirements, the Contracting Officer may accept such delivery at a reduction in price which is equitable under the circumstances, provided the Contractor is furnished in writing a statement of the inadequacies setting forth the price reduction to be made.

§ 594.5405–8 Inapplicability of employee benefits.

Insert the clause in § 594.5404–7.

§ 594.5405–9 Changes.

Insert the clause in § 594.5404–8.

§ 594.5405–10 Definitions.

Insert clause in § 7.103–1 of this title.

§ 594.5405–11 Assignment of claims.

Insert clause in § 7.503–3 of this title.

§ 594.5405–12 Disputes.

Insert clause in § 7.103–12 of this title or § 597.103–12 of this chapter, as appropriate.

§ 594.5405–13 Renegotiation.

Insert clause in § 7.103–13 of this title in accordance with instructions therein.

§ 594.5405–14 Communist areas.

In accordance with § 6.403 of this title, insert clause in § 7.103–15 of this title.

§ 594.5405–15 Equal opportunity.

Except as provided in § 12.805 of this title, insert the appropriate clause in § 7.103–18 of this title.

§ 594.5405–16 Officials not to benefit.

Insert clause in § 7.103–19 of this title.

§ 594.5405–17 Covenant against contingent fees.

Insert clause in § 7.103–20 of this title.

§ 594.5405–18 Examination of records.

Insert clause in § 7.104–15 of this title in accordance with instructions therein.

§ 594.5405–19 Gratuities.

Insert clause in § 7.104–16 of this title.

§ 594.5405–20 Government - furnished property.

Insert clause in § 13.710 of this title.

§ 594.5406 Required clauses for contracts for monitoring and instructing in language laboratories.

§ 594.5406–1 Statement of work.

Insert the following clause:

STATEMENT OF WORK (NOVEMBER 1969)

(a) The contractor shall monitor the language laboratory and provide necessary instructional and other services during each of the laboratory periods hereinafter prescribed for any of the languages specified in Attachment A hereto. These services shall include the following generally described duties and responsibilities:

(i) User level maintenance of language laboratory equipment.

(ii) Responsibility for all language laboratory equipment, including tapes, under the control of the Contractor during the prescribed laboratory periods, and responsibility for ensuring that such equipment is used only in the laboratory for legitimate study purposes. Such equipment and accessories shall not be removed from the laboratory except as authorized by the Contracting Officer.

(iii) Supervision of student use of laboratory equipment and supplies, including the removal from and return to proper files or shelves, before and after use.

(iv) Instruction of each student in the operation of the equipment and furnishing assistance during use of equipment.

(v) Monitoring each student for proper pronunciation, inflection, and intonation; aiding the student as required; and correcting any deficiencies noted. Particular attention shall be given to beginning students and students learning new sounds in order to avoid common errors or the fixation of incorrect habits.

(vi) Preserving order and decorum in the laboratory in order to maintain an atmosphere conducive to learning.

(vii) Rendering aid and assistance in the languages in which the Contractor is proficient when requested by the students; encouraging and stimulating language learners; and using the Contractor's best efforts to see that each student satisfactorily completes his language course.

(b) The Contractor shall prepare and maintain the following records and reports:

(i) A "Language Laboratory Record" card for each student listing name, rank, service number, military address, and periods attended. The date, language studied, tape number, time, number of student hours, and any pertinent notation on the student's abilities shall be recorded for each period student attends.

(ii) [Add others as required].

§ 594.5406–2 Performance of services.

Insert the following clause:

PERFORMANCE OF SERVICES (NOVEMBER 1969)

(a) Performance of the nonpersonal services pursuant to this contract shall be in accordance with Attachment B hereto which prescribes the Government installation, building, room, date, and hours for each language laboratory period. In recognition of the nature of the General Educational Development Program, the military environment, and the requirements affecting the military student, the Contractor agrees that within the terms of this contract the schedule may be changed (i) by mutual agreement, in which case the change shall be entered in the schedule in writing and initialed and dated by the parties; and (ii) by the Contracting Officer or his representative upon giving reasonable notice to the Contractor if such change is necessitated by factors beyond the control of the Contracting Officer, e.g., to avoid conflict with a military schedule having priority over student use of the language laboratory facilities. A change unilaterally directed by the Contracting Officer may be made orally, but shall in any event be promptly confirmed in writing to the Contractor with a copy to be attached to this contract. Changes pursuant to this clause shall not entitle the Contractor to any adjustment in contract price and are not considered to fall within the clause entitled "Changes" so long as the total number of language laboratory periods is not increased or decreased.

(b) The Contractor shall deliver the "Language Laboratory Record" to the Contracting Officer upon the occurrence of any one of the following:

(i) When the student has completed 20 hours of laboratory work;

(ii) When the student ends his use of the laboratory;

(iii) When the student interrupts his laboratory work for over 30 calendar days;

(iv) When this contract is completed or terminated.

(c) Delivery of complete performance of this contract shall be made on or before (enter date).

§ 594.5406–3 Contract price.

Insert the following clause:

CONTRACT PRICE (NOVEMBER 1969)

As consideration for the satisfactory performance of this contract, the Contractor shall receive the total sum of $_____.

§ 594.5406–4 Subcontracting.

Insert the following clause:

SUBCONTRACTING (NOVEMBER 1969)

(a) The Contractor shall not subcontract the performance of any work under this contract without the prior approval of the Contracting Officer.

(b) With the approval of the Contracting Officer and in circumstances beyond the reasonable control of the Contractor, the Contractor may provide a qualified substitute to conduct one or more language laboratory periods. However, in such case the substitute shall have no claim whatever against the Government for services rendered and the price to be paid the substitute shall be a matter entirely between the Contractor and the substitute.

(c) In the event the Contractor fails to provide a satisfactory substitute to conduct any language laboratory period which the Contractor does not conduct, the Contractor hereby authorizes the Contracting Officer to procure the services of a satisfactory substitute for the account of the Contractor, and the amount paid or owed the substitute by the Government for such services shall be deducted from any amount due or to become due the Contractor under this contract. This provision imposes no obligation on the Contracting Officer to exercise the foregoing authority and shall not be construed to diminish the rights of the Government under the clause entitled "Termination."

§ 594.5406–5 Termination.

Insert the following clause:

TERMINATION (NOVEMBER 1969)

(a) The Contracting Officer may terminate for cause the right of the Contractor to continue performance of work. In the event of such termination the Contractor shall not be entitled to any payments hereunder other than for work acceptably completed less any applicable deductions or adjustments, including the adjustment provided for in the clause entitled "Inspection and Acceptance." Any of the following may, in the discretion of the Contracting Officer, constitute grounds for termination for cause:

(i) Failure of the Contractor to comply with the terms of the contract.

(ii) Frequent requests by the Contractor for approval of a substitute to conduct language laboratory periods.

(iii) Failure of the Contractor to provide a satisfactory substitute to conduct a language laboratory period which the Contractor fails to conduct.

(b) The Contracting Officer may terminate for the convenience of the Government the right of the Contractor to continue performance of work, in which case an equitable reduction shall be made in the contract price and any balance due shall be paid to the Contractor.

(c) In the event the Contractor is unwilling to complete this contract for bona fide reasons personal to the Contractor, and no grounds exist for termination for cause, the contract price shall be adjusted to an amount not to exceed that arrived at by the following formula:

Total contract price less 10 percent of such price divided by the number of language laboratory periods scheduled times the number of language laboratory periods acceptably completed by the Contractor.

Upon presentation of a proper invoice or voucher, the Contractor shall be paid such adjusted price less any amount due and owing the Government.

(d) Termination under this clause shall be accomplished by written notice mailed or otherwise furnished the other party. Such notice shall state the effective date of the termination and the basis therefor.

§ 594.5406–6 Inspection and acceptance.

Insert the following clause:

INSPECTION AND ACCEPTANCE (NOVEMBER 1969)

(a) The Contracting Officer or his representative may conduct such reasonable inspections of the Contractor's performance hereunder as shall be necessary to satisfy the Contracting Officer that the Contractor is adhering to the terms of the contract and is making satisfactory progress to achieve the objectives set forth herein.

(b) Should the Contractor conduct a given language laboratory period in a manner which is clearly not according to required standards or otherwise deliver an inadequate performance, there is no way in which the deficiency can be corrected in kind. Accordingly, if the Contractor delivers any part of the services hereunder which are inadequate to fulfill contract requirements, the Contracting Officer may accept such delivery at a reduction in price which is equitable under the circumstances, provided the Contractor is furnished in writing a statement of the inadequacies setting forth the price reduction to be made.

§ 594.5406–7 Inapplicability of employee benefits.

Insert the clause in § 594.5404–7.

§ 594.5406–8 Changes.

Insert the clause in § 594.5404–8.

§ 594.5406–9 Definitions.

Insert clause in § 7.103–1 of this title.

§ 594.5406–10 Assignment of claims.

Insert clause in § 7.503–3 of this title.

§ 594.5406–11 Disputes.

Insert clause in § 7.103–12 of this title or § 597.103–12 of this chapter, as appropriate.

§ 594.5406–12 Renegotiation.

Insert clause in § 7.103–13 of this title in accordance with instructions therein.

§ 594.5406–13 Communist areas.

In accordance with § 6.403 of this title insert clause in § 7.103–15 of this title.

§ 594.5406–14 Equal opportunity.

Except as provided in § 12.805 of this title, insert the appropriate clause in § 7.103–18 of this title.

§ 594.5406–15 Officials not to benefit.

Insert clause in § 7.103–19 of this title.

§ 594.5406–16 Covenant against contingent fees.

Insert clause in § 7.103–20 of this title.

§ 594.5406–17 Examination of records.

Insert clause in § 7.104–15 of this title, in accordance with instructions therein.

§ 594.5406–18 Gratuities.

Insert clause in § 7.104–16 of this title.

§ 594.5406–19 Government - furnished property.

Insert clause in § 13.710 of this title.

§ 594.5407 Basic agreements for off-duty academic instruction.

(a) Directors of General Educational Development or Education Advisors in the United States may request appropriate purchasing offices to negotiate basic agreements with accredited civilian educational institutions selected by the Directors of General Education Development or Education Advisors.

(b) Basic agreement shall be for the purpose of providing instruction after normal duty hours in subjects desired by military personnel. DA Forms 588 shall be used for this purpose (see § 606.550 of this chapter).

(c) Directors of General Educational Development or Education Advisors shall furnish the appropriate purchasing office with the names of military personnel who are enrolling in an educational institution with which a basic agreement has been established. The following data shall be furnished the purchasing office for each military student—

(1) Name of applicable educational institution,

(2) Course or courses in which the student is to be enrolled and the period of instruction for each course,

(3) Number of credit hours for each course,

(4) Cost of each course less books and fees, and

(5) Portion of the cost of each course to be paid by the Government.

(d) The purchasing office shall then prepare an order form to enter into a contract, DA Form 589, for each educational institution in which one or more students are to be enrolled and shall send the required number of copies to the appropriate official of each institution together with a request that the DA Form 589 be signed and returned to the purchasing office as soon as possible and prior to commencement of instruction.

(e) In situations where it is not possible to obtain execution and acceptance of DA Forms 589 prior to the time the educational institution is to furnish instruction, DA Form 589 shall be prepared as follows—

(1) Change paragraph 2 to read—

This order consists of two pages and attachments as hereinafter provided for and covers an estimated _____ students and an estimated _____ credit hours. The Government undertakes under this order a maximum total obligation of $_____.

(2) In paragraph 5, reflect the appropriate fiscal information, including the dollar amount to be obligated under the order.

(3) Place the following statement on the back of the order form—

The period of instruction to which this order applies is the _____ Semester, 19__. Each student authorized to be enrolled under this order will be considered to be listed hereon when the student presents to the Contractor within the time permitted for registration for the period of instruction stated above, a written approval signed by _____.[1] Such written approval shall include the number of this order, the name and rank of the student, the name of the course of instruction, the period of instruction (which shall be the same as that designated above), the number of credit hours, the cost of the course less books and fees, and the cost to be paid by the Government. No student shall be permitted to enroll under this order who does not present such written approval, nor shall any student be enrolled under this order at Government expense for other than the course stated thereon. Upon registration of a student under this order, the Contractor shall attach hereto the corresponding written approval, which shall become a part hereof. A specimen form of such written approval, so designated and bearing the signature of the COR named above, is attached hereto and made a part hereof. Within 30 calendar days after regularly established period of student eligibility for refund upon withdrawal, or prior to completion of performance under this order, whichever is the shorter period, the date shown in paragraph 2 hereof pertaining to the number of students, credit hours, and total obligation shall be adjusted and corrected as follows:

(i) The contracting institution will present its voucher, in quintuplicate, cross referenced to this order, listing each student by name and grade, and showing opposite his name the course of instruction and period thereof, the number of credit hours, the cost of the course less books and fees, and the cost to be paid by the Government. The cost shown shall be the amount charged to the Government after taking into consideration reductions due to withdrawals and any other adjustments, each such adjustment to be explained on the voucher. Upon approval of such voucher by the Contracting Officer, a copy of which shall be returned to the Contractor, the contract shall be considered amended in accordance therewith, without preparation of an additional order form as provided in paragraph 1(f) of the Basic Agreement.

(ii) If this order is not amended as provided for in (i) above, the Contractor shall, within the time above provided, prepare a list of students registered under this order; the course or courses for which each is registered; number of credit hours; cost of course or courses, less books and fees; and cost charged to the Government. On receipt of such list, and after verification with the Education Advisor and other appropriate sources of information, the Contracting Officer shall prepare an amendment as provided for in paragraph 1(f) of the Basic Agreement and transmit the amendment to the Contractor for signature.

(f) DA Forms 589, prepared in accordance with paragraph (e) of this section, shall be presented to educational institutions for execution several days prior to registration for the semester or other period of instruction. The contracting officer's representative (see § 594.5403 (b)) shall be furnished the order number and the data contained in paragraph 2 therein (see § 594.5407(e)(1)). Such representative shall be made responsible for the written approvals, directed both to the educational institution and the contracting officer, authorizing registration of eligible military students. One signed copy of the written approvals shall be given to the prospective student for delivery to the educational institution at time of registration and a duplicate copy shall be furnished the contracting officer for attachment to the DA Form 589. The order number of the DA Form 589 shall be placed on each written approval issued under the order. When the cumulative total of the amount to be paid by the Government reaches the maximum amount stated in the order, no further written approvals shall be issued under the order. The contracting officer shall be requested to issue another DA Form 589 within the funds available on the basis of the best estimate of remaining requirements. Written approvals authorizing registration may then be issued against the second order. When a prospective student who has been issued a written approval is to be permitted to register on a basis different from such original written approval, the unused written approval shall be returned to the contracting officer's representative for cancellation and the educational institution and the contracting officer notified of the action.

(g) The written approval authorizing registration may be in the form of a letter or other written instrument, including DA Form 2171. The form of such written approval shall be adequate to insure that proper control is maintained as to course, eligibility of student, and obligation of funds.

(h) The initial DA Form 589 shall cover the initial instruction period (semester or quarter) and a new DA Form 589 shall be executed for each subsequent instruction period.

(i) The funds cited on DA Form 589 shall be those for the fiscal year in which the period of instruction begins.

(j) The distribution of DA Form 589 shall be the same as that for the basic agreement which it cites.

(k) Invoices covering off-duty academic instruction shall be processed for payment without delay. Payment shall not be withheld until the end of the semester or quarter since section 529

[1] Insert name and title of the Education Advisor or other appropriate official who is designated as the contracting officer's representative for such purpose for this order.

of title 31, United States Code, permits payment of tuition charges in advance of receipt of all services covered thereby (see AR 37–107).

Subpart CCC—Training of Military Personnel and ROTC Scholarship Cadets at Civilian Institutions

§ 594.5501 Purpose.

This subpart prescribes policies and procedures establishing educational service agreements in support of training of military personnel and ROTC scholarship cadets at civilian institutions as authorized in AR 145–1, AR 350–200, and AR 350–219.

§ 594.5502 Educational service agreements.

(a) The format prescribed in § 606.501 of this chapter shall be used in accordance with instructions therein for all educational service agreements with civilian educational institutions which contemplate the use of the institution's facilities (see Subpart I, Part 22 of this title).

(b) Pertinent guidance shall be furnished appropriate purchasing offices to establish educational service agreements with civilian educational institutions. This guidance shall be furnished by—

(1) The Surgeon General for enrollment of Army Medical Department personnel;

(2) Professors of Military Science (PMS) for enrollment of ROTC scholarship cadets; and

(3) The Chief of Personnel Operations, Department of the Army, for enrollment of other Army personnel.

(c) Only one educational service agreement shall be established with any one civilian educational institution.

§ 594.5503 Order forms under educational service agreements.

(a) DD Forms 1155 or Standard Forms 26 shall be used as order forms under educational service agreements. Standard Forms 36 shall be used as continuation sheets.

(b) Information necessary for issuance of order forms under educational service agreements shall be furnished appropriate purchasing offices by the individuals listed in § 594.5502(b). This information shall include—

(1) Scope of the instruction;

(2) Estimated cost of training by year, semester, term, or quarter; and

(3) Source of funds, with specific authority to make necessary adjustments in cost figures (this requirement is not applicable to PMS).

(c) An order form shall be issued for each year, semester, term, or quarter and shall obligate funds sufficient to cover the instruction of those individuals identified on the order form for the period specified (but see § 594.5504 (b) and (c)).

(d) An order form may authorize the enrollment of any number of military personnel or ROTC scholarship cadets and shall—

(1) Identify each individual authorized for enrollment by name and rank (for ROTC scholarship cadets, show social security account number in lieu of rank);

(2) Specify whether the individual is an Army Medical Department member or ROTC scholarship cadet, when applicable;

(3) List below the name of each individual, each course of instruction for which the individual is enrolling and its estimated cost (actual cost if known);

(4) State the appropriation chargeable for the instruction of each individual;

(5) Include the statement: "Whenever the actual cost of a course will exceed the estimated cost of the course as shown on this order form by $100 or more, the Contractor shall notify the Contracting Officer in writing of the actual cost of the course and gain his approval to proceed prior to commencing instruction"; and

(6) Include any other information required by the pertinent educational service agreement.

(e) The contracting officer shall immediately notify the appropriate individual listed in § 594.5502(b) of any increased cost in courses of $100 or more (see paragraph (c)(5) of this section) and obtain clearance for the obligation of additional funds to cover the increased cost.

NOTE: This requirement is not applicable to PMS.

Clearance may be obtained by telephone when necessary, provided the matter is promptly confirmed in writing. When clearance is obtained, the contracting officer shall notify the contractor to proceed with instruction.

(f) Civilian educational institutions shall not be required to acknowledge receipt of order forms; however, educational service agreements do require that whenever a civilian educational institution wishes to reject the enrollment of an individual, the institution shall notify the contracting officer in writing on or before the fifth day of the term for which enrollment is denied.

(g) To preclude delays in the initial or continued enrollment of individuals, issuance of an order form for the next fiscal year is authorized prior to the availability of funds, pending Congressional appropriation. In such cases the "Availability of Funds" clause in §1.318 of this title shall be inserted in the order form. When the required funds become available, the contracting officer shall modify the order form, using Standard Form 30, to cite the appropriation chargeable and to delete the "Availability of Funds" clause.

(h) One copy of each order form, and modifications thereto, shall be forwarded by the contracting officer to—

(1) The Surgeon General, Attention: MEDPT–TC, Washington, D.C. 20314, for Army Medical Department personnel;

(2) The appropriate PMS for ROTC scholarship cadets; and

(3) The Chief of Personnel Operations, Attention: OPXC, Department of the Army, Washington, D.C. 20315, for other Army personnel.

§ 594.5504 Payments to civilian educational institutions.

(a) Contracting officers shall process payments to civilian educational institutions promptly upon receipt of invoices prepared in accordance with educational service agreements. Civilian educational institutions are authorized to use Standard Forms 1034 as invoices.

(b) Actual costs of instruction billed are authorized for payment even though there is a variance between the estimated cost shown on the order form and the actual cost billed by the civilian educational institution, provided the cost billed was the cost in the civilian educational institution's published tuition and fee schedule and was in effect at the time services were performed.

(c) No modifications to order forms shall be issued for variances in cost described in paragraph (b) of this section.

(d) One copy of all payment vouchers showing the actual amount paid shall be furnished the appropriate addressee in § 594.5503(h).

§ 594.5505 Contracts with commercial and industrial firms.

(a) Contracts with commercial and industrial firms for the training of military personnel shall conform with ASPR and APP but are not covered by this subpart.

(b) Questions of policy with respect to training of Army Medical Department personnel in commercial and industrial firms shall be referred to The Surgeon General, Attention: MEDPT–TC. Questions of policy with respect to training other Army personnel in commercial and industrial firms shall be referred to the Chief of Personnel Operations, Attention: OPXC, Department of the Army.

§ 594.5506 Gratuitous agreements.

(a) A gratuitous agreement means an agreement with a civilian educational institution or with a commercial or industrial firm for training of military personnel for which no charges are paid by the Government to the institution or firm for the training given by the institution or firm to military personnel.

(b) Guidance for the execution of gratuitous agreements for training of military personnel in civilian educational institutions shall be furnished appropriate purchasing offices by individuals listed in § 594.5502(b).

(c) Guidance for the execution of gratuitious agreements with commercial and industrial firms for the training of military personnel shall be furnished heads of training agencies dealing with commercial and industrial firms in accordance with Department of the Army directives by individuals listed in § 594.5502(b).

(d) Two copies of gratuitous agreements with civilian educational institutions or with commercial and industrial firms shall be furnished the appropriate addressee in § 594.5503(h). In addition one copy of gratuitous agreements with commercial and industrial firms shall be furnished the training agency concerned.

PART 595—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

5. Section 595.1118 is revised, as follows:

§ 595.1118 Procurement agreements.

To the extent that any interservice support agreement involves procurement, it may be executed under authority of, and at the level indicated in, AR 1–35. A copy of all proposed and final procurement agreements with other military departments shall be furnished the Commanding General, U.S. Army Materiel Command, Attention: AMCRP–SP, Washington, D.C. 20315.

PART 596—FOREIGN PURCHASES

6. Sections 596.103–2 (b) and (d) are revised; § 596.805–2 (c) and (d) are revoked; § 596.1106–3(b) is revised, as follows:

§ 596.103–2 Nonavailability in the United States.

* * * * *

(b) Approvals of officials in § 6.103–2 (b) (2) and (3) of this title (approval for procurement of items listed in § 6.105 of this title is required in accordance with § 6.103–2(b) of this title) shall be prepared in the format below and shall be signed by the approving authority:

FOREIGN SOURCE PROCUREMENT DETERMINATION

The requirement of the Buy American Act that domestic source end products be acquired for public use is not applicable to the procurement of the supplies described herein because said procurement is within the nonavailability exception stated in the Act. In accordance with the Balance of Payments Program, it is determined that the requirement cannot be foregone and that there is no United States substitute. Therefore, authority is granted to the contracting officer [insert name of installation/activity] to procure [describe supplies] of foreign origin at an [estimated] [actual] total cost of $_____, including duty and transportation costs to destination.

_____
(Signature)

* * * * *

(d) When approval of the Secretary of the Army is obtained, the contracting officer shall use the Secretarial approval in lieu of the Foreign Source Procurement Determination in paragraph (b) of this section.

* * * * *

§ 596.805–2 Procurement limitations.

* * * * *

(c) [Revoked]

(d) [Revoked]

§ 596.1106–3 Awards requiring approval by higher authority.

* * * * *

(b) The Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics) has been delegated the authority to determine whether a proposed procurement described in § 6.1106–3 of this title shall be made payable in U.S.-owned foreign currency or in U.S. dollars.

PART 597—CONTRACT CLAUSES

7. Section 597.702–25 is revised as follows:

§ 597.702–25 Period of this contract.

Requests for authorization to provide for a period of more than 5 years shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

PART 601—TAXES

8. Section 601.353 is revoked, as follows:

§ 601.353 Nebraska sales and use tax—construction contracts. [Revoked]

PART 602—LABOR

9. Section 602.102–4(f) is revised, as follows:

§ 602.102–4 Approval of overtime premiums in certain cost-reimbursement type contracts.

* * * * *

(f) Such others as may be specifically designated from time to time by the Deputy for Procurement, Office of the Assistant Secretary of the Army (Installations and Logistics).

PART 603—GOVERNMENT PROPERTY

10. Sections 603.301, 603.302(a), 603.307, 603.404, and 603.405 are revised, as follows:

§ 603.301 Providing facilities.

Requests for a Secretarial determination pursuant to § 13.301(a)(3) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 603.302 Securing approval for facilities projects.

(a) Requests for approval of facilities projects involving expenditures of $1 million or more shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

* * * * *

§ 603.307 Providing Government production and research property when disposal is limited.

Requests for Secretarial approval of an alternate provision pursuant to § 13.307(a)(3) of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 603.404 Rental rates and policies applicable to the use of Government production and research property.

Requests for authority to charge rent on other than time available for use basis shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter and shall contain justification therefor.

§ 603.405 Non-Government use of industrial plant equipment (IPE).

Requests for approval for non-Government use of industrial plant equipment exceeding 25 percent shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

PART 606—PROCUREMENT FORMS

11. Sections 606.501, 606.501–50, and 606.550 are revised, as follows:

§ 606.501 Format for educational services agreements.

Instructions relative to use of educational service agreements are contained in § 594.5502 of this chapter. The format in § 16.501 of this title replaced DA Form 357, Basic Agreement for Academic Instruction.

§ 606.501–50 Order form for use with educational service agreements.

DD Forms 1155 or Standard Forms 26 shall be used as order forms in accordance with instructions in § 594.5503 of this chapter.

§ 606.550 Off-duty academic instruction agreements.

(a) DA Form 588, Basic Agreement for Off-Duty Academic Instruction, shall be used for off-duty academic instruction agreements in accordance with instructions in § 594.5407 of this chapter.

(b) DA Form 598, Order Form to Enter Into Contract for Off-Duty Academic Instruction, shall be used for ordering services under Basic Agreements in accordance with instructions in § 594.5407 of this chapter.

PART 608—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

12. Sections 608.150, 608.508–1, 608.508–3, and 608.509–3 are revised, as follows:

§ 608.150 Requests for Secretarial determinations and approvals.

Requests for determinations and approvals of the Assistant Secretary of Defense (Installations and Logistics) pursuant to §§ 18.110(c), 18.111, and 18.112 of this title, and of the Secretary of the Army pursuant to § 18.115 of this title shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 608.508–1 Nonavailability in the United States.

Letter requests for approval at Departmental level shall contain the information required by § 596.103–2(c) or § 596.805–2(a) of this chapter, as applicable and shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 608.508–2 Unreasonable costs or impracticability.

Letter requests for approval at Departmental level shall contain the information required by § 18.509–3 of this title and § 596.805–2(a) of this chapter, as applicable, and shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 608.509–3 Evaluation of bids and proposals.

Proposed awards requiring approval at Departmental level shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

PART 612—SERVICE CONTRACTS

13. In § 612.102–1(c) a new subparagraph (4) is added; §§ 612–205(c), 612.209(a), 612.302–2, and 612.351(a) are revised, as follows:

§ 612.102–1 Policy.

* * * * *

(c) * * *

(4) 10 U.S.C. 828—Civilian Court Reporters for Courts Martial (see AR 37–106).

§ 612.205 Authorization to enter into contracts "determinations and findings."

* * * * *

(c) Proposed contracts submitted to the Assistant Secretary of the Army (Installations and Logistics) shall be forwarded through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter. Those submitted to the Assistant Secretary of the Army (Research and Development) shall be forwarded through the cognizant head of procuring activity to the Office, Chief of Research and Development, Department of the Army, Washington, D.C. 20310.

* * * * *

§ 612.209 Contracts for stenographic reporting services.

(a) Before contracting for stenographic reporting services, a Secretarial determination and findings is required (see § 612.205) except for civilian court reporters for the reporting and transcribing of the proceeds and testimony of certain types of courts-martial when authorized under 10 U.S.C. 828 (see AR 37–106).

* * * * *

§ 612.302–2 Personal services.

Requests for authority for the procurement of contract field services which appear to be personal services shall be forwarded, together with justification which supports the necessity for such procurement, through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

§ 612.351 Contract field services (CFS).

(a) Contract field services (CFS) shall be used only where necessary for accomplishment of a military mission and where satisfactory provision of services by Department of the Army personnel is not practicable. In these cases the use of CFS by Department of the Army components shall be limited to a period not exceeding 12 months after the introduction of new equipment into a major command. Exceptions to the 12-month limitation may be granted only by the Assistant Secretary of the Army (Installations and Logistics). Requests for exceptions shall be forwarded, together with full justification therefor, through the cognizant head of procuring activity to the addressee in § 591.150(b)(6) of this chapter.

* * * * *

[Rev. 3, APP, Apr. 1, 1970] (Secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012)

For the Adjutant General.

HAROLD SHARON,
Legislative and Precedent Officer, Plans Office, TAGO.

[F.R. Doc. 70–6806; Filed, June 2, 1970; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

Laboratory Division

Order. 1. The amendments to Part 0 of the rules and regulations set forth below are editorial in nature, correcting references in § 0.36 to the Technical Division in the Office of Chief Engineer and cross-references to other rule parts appearing in that section.

2. Authority for the amendments is contained in sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d) and 303(r), and § 0.261, Part 0 of the rules and regulations. Because the amendments are editorial in nature, the prior notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

In view of the foregoing: *It is ordered*, Effective June 12, 1970, that Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: May 27, 1970.

Released: May 28, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Part O of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 0.36 is revised to read as follows:

§ 0.36 Laboratory Division.

The Laboratory Division studies new phenomena, proposed new systems, and new equipment looking toward the greater use of radio, the reduction of interference, and the establishment of appropriate rules and regulations; participates in various intergovernmental, national, and international organizations looking toward the standardization of equipment and measuring units and methods as well as the more efficient use of the radio spectrum or the reduction of interference; designs and assembles apparatus for special tests and studies, and performs special tests and studies concerning propagation, equipment or systems, and evaluates the results of such tests or studies with regard to the Commission's problems, often looking toward new or modified rules; makes type approval tests on equipment including those equipments under Parts 15, 18, 73, 81, 83, and 95 of this chapter requiring type approval, and makes recommendations regarding type approval; provides information and comments on test procedures and test results to assist the Technical Division in its evaluation of material supporting certifications and applications for type acceptance; conducts special tests of equipments for the Technical Division in connection with the certification and type acceptance program; studies equipment problems of data procurement and enforcement and develops, designs, and constructs equipment for use in connection with the Commission's Field Engineering Bureau activities as well as other Commission activities; standardizes and calibrates equipment and installation for the Field Engineering Bureau; and makes tests of radio devices for other Government departments.

[F.R. Doc. 70–6829; Filed, June 2, 1970; 8:50 a.m.]

[Docket No. 18762; FCC 70–555]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

Licensing and Operation of Frequency Modulated Radar

In the matter of amendment of Part 83 of the Commission's rules to permit licensing and operation of frequency modulated radar in the 14.0 to 14.05 Gc./s. band, RM 1202.

Report and order. 1. A notice of proposed rule making and notice of inquiry in the above-captioned matter was released on December 5, 1969, and was published in the FEDERAL REGISTER on December 10, 1969 (34 F.R. 19513). The dates for filing comments and the replies thereto have passed.

2. The Commission proposed revision to the rules to permit licensing and operation of frequency modulated radar in the band 14.0 to 14.05 Gc./s. In addition the Commission solicited comments from concerned parties relative to the impact of this equipment on navigation systems, the public desires for a device of this type as a navigational instrument and the estimated market potential.

3. Comments were filed by Microwave Associates, Inc.; Mr. Roger Merril; Mr. Richard Preston and Capt. A. E. Ritchie, USNR(Ret.). All of the above have used the frequency modulated radar and

found it to be of great assistance in locating buoys, landmarks, etc., particularly during periods of poor visibility. These tests were conducted under outstanding developmental radio station license granted for the purpose of testing and developmental operations aboard any U.S. vessel.

4. No other comments were filed in reply to the notice.

5. The Commission believes that an inexpensive, short range navigational aid would contribute to the safety of operation of small craft. Amendment of the rules as proposed would permit authorization of devices which can satisfy these requirements and would, therefore, be in the public interest.

6. In view of the foregoing: *It is ordered*, That, pursuant to the authority contained in sections 4(i) and 303 (b), (c), (e), (g), and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended, effective July 15, 1970, as set forth below.

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

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: May 27, 1970.

Released: May 28, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

1. Section 83.131(e) is amended as follows:

§ 83.131 Authorized frequency tolerance.

* * * * *

(e) The frequency tolerance authorized for ship radar stations is prescribed as follows: For pulse emissions, the frequency at which maximum emission occurs shall be within the authorized band and shall not be closer than 1.5/T megacycles per second to the upper and lower limits of the authorized frequency band where "T" is the pulse duration in microseconds; for F9 emission, the center frequency shall not vary more than ±10 Mc./s. from the center of the frequency band 14.0–14.05 Gc./s.

2. Section 83.132(a)(3) is amended as follows:

§ 83.132 Authorized classes of emission.

(a) * * *

(3) Ship radar stations:

2400–9500 Mc./s	P0
14.0–14.05 Gc./s	F9

* * * * *

3. Section 83.133(a) is amended to read as follows:

§ 83.133 Authorized bandwidth.

(a) Unless otherwise specified in the station license, ship stations shall use bandwidths not exceeding those set forth in this paragraph for the respective classes of emission authorized in § 83.132.

Class of emission	Emission designator	Authorized bandwidth (kc/s)	
A1	0.16A1	0.3	
A2	2.66A2	2.8	
A3	6A3	8.0	
F1	[1] 0.3F1	[1] 0.5	
F3	[2] 16F3	[2] 20.0	
F3	[3] 36F3	[3] 40.0	
F9	20000F9	20,000	
P0	Variable	Variable	
		1.6–4.0 Mc/s	4.0–23 Mc/s
A3A	2.8A3A	3.5	[4] 3.0
A3H	2.8A3H	3.5	[4] 3.0
A3J	2.8A3J	3.5	[4] 3.0
A3B	5.6A3B	7.0	7.0

[1] Narrow-band direct-printing telegraph and data transmission systems.

[2] Applicable when maximum authorized frequency deviation is 5 kc/s. See paragraph (c) of this section.

[3] Applicable when maximum authorized frequency deviation is 15 kc/s. See paragraph (c) of this section.

[4] Transmitters type accepted for operation in the 4–23 Mc/s band prior to Dec. 31, 1969, for emissions A3A, A3H, and A3J and an authorized bandwidth of 3.5 kc/s may continue to be operated.

* * * * *

4. In § 83.134, a new paragraph (g) is added to read as follows:

§ 83.134 Transmitter power.

* * * * *

(g) Ship radar stations using F9 emission shall not exceed 200 milliwatts mean power (see § 83.7).

5. Section 83.164(a)(1)(i) is amended to read as follows:

§ 83.164 Waivers of operator requirement.

(a)(1) * * *

(i) The radar equipment shall employ as its frequency determining element a nontunable, pulse type magnetron except that other fixed tuned devices shall be used in the band 14.0 to 14.05 Gc./s.

* * * * *

6. Section 83.404(a) is amended to read as follows:

§ 83.404 Assignable frequencies above 2400 Mc./s.

(a) The following frequency bands, when designated in the station license, are authorized for use by ship radionavigation stations (including ship radar stations):

2900–3100 Mc./s.
5460–5650 Mc./s.
9300–9500 Mc./s.
14.0–14.05 Gc./s.

The use of the band 5460 to 5650 Mc./s. is limited to shipborne radar. Transmitters in ship radio-navigation stations (including developmental stations) which are authorized for operation in the 3000 to 3246 Mc./s. band as of April 16, 1958, and which operate on frequencies between 3100 and 3246 Mc./s. may continue to be authorized for operation on the same vessel provided that any renewal of the authorization shall be subject to the condition that no protection shall be given from any interference caused by Government stations operating in the 3100 to 3246 Mc./s. band.

* * * * *

[F.R. Doc. 70-6830; Filed, June 2, 1970; 8:50 a.m.]

[1] Commissioners Burch, Chairman, and Johnson absent.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Activities of Fraternal Beneficiary Societies

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

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

In order to revise the rules under the Income Tax Regulations (26 CFR Part 1) under section 501 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.501(c)(8)-1 is amended by revoking paragraph (b).

[F.R. Doc. 70-6868; Filed, June 2, 1970; 8:52 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Permissable Electric Face Equipment

Section 305(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173) provides in part:

Effective 1 year after the operative date of this title—

* * * * *

(B) all handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate within 2 months after the operative date of this title which are taken into or used inby the last open crosscut of any coal mine shall be permissible * * *

Notice is given that pursuant to the authority vested in the Secretary of the Interior under sections 305(a)(1)(B) and 301(d) of the Federal Coal Mine Health and Safety Act of 1969, that all electric equipment, except low horsepower rock dusting equipment, which employs an electric current and consumes not more than 2,250 watts of electricity is hereby designated as "other low horsepower electric face equipment" within the meaning of section 305(a)(1)(B) of the Act.

Notice is also given that pursuant to the authority vested in the Secretary of the Interior under section 101 of the Act, it is proposed to amend § 75.501-2(a)(2) of Part 75, Subchapter O, Chapter I of Title 30, Code of Federal Regulations as published in the FEDERAL REGISTER on March 28, 1970 (35 F.R. 5237), as set forth below, which incorporates the designation of all "other low horsepower electric face equipment" required to be permissible on and after March 30, 1971, when taken into or used in by the last open crosscut of any underground coal mine.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to this proposed amendment to Part 75 to the Director, Bureau of Mines, Washington, D.C. 20240, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

MAY 28, 1970.

Section 75.501-2(a)(2) would be amended to read as follows:

§ 75.501-2 Permissible electric face equipment.

(a) * * *

(2) All handheld electric drills, blower and exhaust fans, electric pumps, and all other electric driven mine equipment, except low horsepower rock dusting equipment, that employs an electric current supplied by either a power conductor or battery and consumes not more than 2,250 watts of electricity which is taken into or used inby the last open crosscut shall be permissible.

* * * * * *

[F.R. Doc. 70-6899; Filed, June 1, 1970; 2:25 p.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 714]

MARKETING QUOTAS

Refunds of Penalties Erroneously, Illegally, or Wrongfully Collected

Notice is hereby given that pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1372, 1375), the Department proposes to reissue the regulations prescribing the provisions governing refunds of marketing quota penalties erroneously, illegally, or wrongfully collected.

The purpose of this reissuance is to make this part applicable to all commodities subject to marketing quotas under the Act. As currently in effect, this part is applicable only to cotton and tobacco.

Prior to the reissuance of the regulations referred to herein, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection as such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that the regulations in this part be revised to read as follows:

Sec.
714.35 Basis, purpose, and applicability.
714.36 Definitions.
714.37 Instructions and forms.
714.38 Who may claim refund.
714.39 Manner of filing.
714.40 Time of filing.
714.41 Statement of claim.
714.42 Designation of trustee.
714.43 Recommendation by county committee.
714.44 Recommendation by State committee.
714.45 Approval by Deputy Administrator.
714.46 Certification for payment.

AUTHORITY: The provisions of this Part 714 issued under secs. 372, 375, 52 Stat. 65, as amended, 66, as amended; 7 U.S.C. 1372, 1375.

§ 714.35 Basis, purpose, and applicability.

(a) *Basis and purpose.* The regulations set forth in this part are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, for the purpose of prescribing the provisions governing

refunds of marketing quota penalties erroneously, illegally, or wrongfully collected with respect to all commodities subject to marketing quotas under the Act.

(b) *Applicability.* This part shall apply to claims submitted for refunds of marketing quota penalties erroneously, illegally, or wrongfully collected on all commodities subject to marketing quotas under the Act. It shall not apply to the refund of penalties which are deposited in a special deposit account pursuant to sections 314(b), 346(b), 356(b), or 359 of the Agricultural Adjustment Act of 1938, as amended, or paragraph (3) of Public Law 74, 77th Congress, available for the refund of penalties initially collected which are subsequently adjusted downward by action of the county committee, review committee, or appropriate court, until such penalties have been deposited in the general fund of the Treasury of the United States after determination that no downward adjustment in the amount of penalty is warranted. All prior regulations dealing with refunds of penalties which were contained in this part are superseded upon the effective date of the regulations in this part.

§ 714.36 Definitions.

(a) *General terms.* In determining the meaning of the provisions of this part, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The definitions in Part 719 of this chapter shall apply to this part. The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this part.

(b) *Other terms applicable to this part.* The following terms shall have the following meanings:

(1) "Act" means the Agricultural Adjustment Act of 1938, and any amendments or supplements thereto.

(2) "Claim" means a written request for refund of penalty.

(3) "Claimant" means a person who makes a claim for refund of penalty as provided in this part.

(4) "County Office" means the office of the Agricultural Stabilization and Conservation County Committee.

(5) "Penalty" means an amount of money collected, including setoff, from or on account of any person with respect to any commodity to which this part is applicable, which has been covered into the general fund of the Treasury of the United States, as provided in section 372(b) of the Act.

(6) "State office" means the office of the Agricultural Stabilization and Conservation State Committee.

§ 714.37 Instructions and forms.

The Deputy Administrator shall cause to be prepared and issued such instructions and forms as are necessary for carrying out the regulations in the part.

§ 714.38 Who may claim refund.

Claim for refund may be made by:

(a) Any person who was entitled to share in the price or consideration received by the producer with respect to the marketing of a commodity from which a deduction was made for the penalty and bore the burden of such deduction in whole or in part.

(b) Any person who was entitled to share in the commodity or the proceeds thereof, paid the penalty thereon in whole or in part and has not been reimbursed therefor.

(c) Any person who was entitled to share in the commodity or the proceeds thereof and bore the burden of the penalty because he has reimbursed the person who paid such penalty.

(d) Any person who, as buyer, paid the penalty in whole or in part in connection with the purchase of a commodity, was not required to collect or pay such penalty, did not deduct the amount of such penalty from the price paid the producer, and has not been reimbursed therefor.

(e) Any person who paid the penalty in whole or in part as a surety on a bond given to secure the payment of penalties and has not been reimbursed therefor.

(f) Any person who paid the whole or any part of the sum paid as a penalty with respect to a commodity included in a transaction which in fact was not a marketing of such commodity and has not been reimbursed therefor.

§ 714.39 Manner of filing.

Claim for refund shall be filed in the county office on a form prescribed by the Deputy Administrator. If more than one person is entitled to file a claim, a joint claim may be filed by all such persons. If a separate claim is filed by a person who is a party to a joint claim, such separate claim shall not be approved until the interest of each person involved in the joint claim has been determined.

§ 714.40 Time of filing.

Claim shall be filed within 2 years after the date payment was made to the Secretary. The date payment was made shall be deemed to be the date such payment was deposited in the general fund of the Treasury as shown on the certificate of deposit on which such payment was scheduled.

§ 714.41 Statement of claim.

The claim shall show fully the facts constituting the basis of the claim; the name and address of and the amount claimed by every person who bore or bears any part or all of the burden of such penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. It shall be the responsibility of the county committee to determine that any person who executes a claim as agent or fiduciary is properly authorized to act in such capacity. There should be attached to the claim all pertinent documents with respect to the claim or duly authenticated copies thereof.

§ 714.42 Designation of trustee.

Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, they shall be permitted to appoint a trustee. The person designated as trustee shall execute the declaration of trust.

§ 714.43 Recommendation by county committee.

Immediately upon receipt of a claim, the date of receipt shall be recorded on the face thereof. The county committee shall determine, on the basis of all available information, if the data and representations on the claim are correct. The county committee shall recommend approval or disapproval of the claim, and attach a statement to the claim, signed by a member of the committee, giving the reasons for their action. After the recommendation of approval or disapproval is made by the county committee, the claim shall be promptly sent to the State committee.

§ 714.44 Recommendation by State committee.

A representative of the State committee shall review each claim referred by the county committee. If a claim is sent initially to the State committee, it shall be referred to the appropriate county committee for recommendation as provided in § 714.43 prior to action being taken by the State committee. Any necessary investigation shall be made. The State committee shall recommend approval or disapproval of the claim, attaching a statement giving the reasons for their action, which shall be signed by a representative of the State committee. After recommending approval or disapproval, the claim shall be promptly sent to the Deputy Administrator.

§ 714.45 Approval by Deputy Administrator.

The Deputy Administrator shall review each claim forwarded to him by the State committee to determine whether, (a) the penalty was erroneously, illegally, or wrongfully collected, (b) the claimant bore the burden of the payment of the penalty, (c) the claim was timely filed, and (d) under the applicable law and regulations the claimant is entitled to a refund. If a claim is filed initially with the Deputy Administrator, he shall obtain the recommendations of the county committee and the State committee if he deems such action necessary in arriving at a proper determination of the claim. The claimant shall be advised in writing of the action taken by the Deputy Administrator. If disapproved, the claimant shall be notified with an explanation of the reasons for such disapproval.

§ 714.46 Certification for payment.

An officer or employee of the Department of Agriculture authorized to certify public vouchers for payment shall, for and on behalf of the Secretary of Agriculture, certify to the Secretary of the

Treasury of the United States for payment all claims for refund which have been approved.

Signed at Washington, D.C., on May 26, 1970.

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

[F.R. Doc. 70-6864; Filed, June 2, 1970; 8:52 a.m.]

Agricultural Research Service

[9 CFR Part 76]

HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114a, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), the Department of Agriculture is considering amending § 76.16(b) of the regulations relating to hog cholera and other communicable swine diseases (9 CFR Part 76.16(b)) to read as follows:

§ 76.16 Approval of stockyards and livestock markets; approval of modified live virus vaccines.

* * * * *

(b) The Director of Division is authorized to approve any stockyard or livestock market for the purposes of the regulations in this part and efforts in cooperation with the States for the control and eradication of hog cholera, when he determines that the operator of such stockyard or livestock market has executed an appropriate agreement as set forth in subparagraph (1) or (2) of this paragraph and that the stockyard or livestock market meets the standards specified in the applicable subparagraph. Request for such approval may be made to the Veterinarian-in-Charge, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture in the State in which the stockyard or livestock market is located, and the executed agreement shall be filed with said Veterinarian-in-Charge. The director is authorized to promulgate notices listing approved stockyards and livestock markets in accordance with paragraph (a) of this section. The director may withdraw approval and remove any stockyard or livestock market from such list when he determines that such stockyard or market no longer meets the standards as specified in subparagraph (1) or (2) of this paragraph that are applicable to its operations, or that the operator has terminated his agreement.

(1) AGREEMENT FOR APPROVAL OF STOCKYARD OR LIVESTOCK MARKET TO HANDLE INTERSTATE SHIPMENTS OF ANY CLASSES OF SWINE

To: Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture:

The undersigned operator of the (stockyard) (livestock market) [1] known as _____, located at _____, hereby requests approval to handle interstate shipments of feeder or breeder and/or slaughter swine in accordance with the regulations in 9 CFR Part 76. Said operator agrees to:

(Name) (Address)

1. Provide said Division with a schedule of sale days and cooperate with the Division in obtaining compliance by livestock shippers with applicable State and Federal regulations.

2. Provide well constructed and well lighted imperviously-surfaced pens, alleys, docks, scales, and sales rings for holding, inspecting and otherwise handling swine.

3. Require all swine received at the (stockyard) (livestock market) [1] to be given a health inspection by a Division inspector or an accredited veterinarian, or a State employed veterinarian, and refuse to sell any swine that show any signs of any infectious, contagious, or communicable disease upon such inspection except as authorized by a Division inspector, accredited veterinarian, or State employed veterinarian.

4. Separate, from other swine, all swine found upon inspection to be, or suspected of being, affected with any contagious, infectious, or communicable disease and immediately notify a Division inspector, accredited veterinarian, or State employed veterinarian of the presence of such swine at the (stockyard) (livestock market).[1]

5. Maintain feeder and breeder swine separately from slaughter swine; and if these two classes of swine are yarded in adjoining pens, separate the classes by solid partitions with no drainage from the slaughter swine pens into the feeder and breeder swine pens.

6. Sell feeder and breeder swine before the sales ring is used for slaughter swine if the sales ring is used for both these purposes on the same day.

7. Permit no feeder or breeder swine to remain in the (stockyard) (livestock market) [1] for more than 72 hours, under normal operating conditions.

8. Issue no releases for removal of feeder or breeder swine from the (stockyard) (livestock market) [1] until the swine are identified in accordance with any applicable requirements of the Federal or State regulations and have been inspected by a Division inspector, or an accredited veterinarian, or a State employed veterinarian, and certified in accordance with applicable Federal or State regulations.

9. Issue no releases for removal of slaughter swine from the (stockyard) (livestock market) [1] unless consigned for immediate slaughter; and identify the consignee on the (stockyard's) (market's) [1] release document.

10. Clean pens, alleys, sales rings, docks and scales before each day's sale of feeder or breeder swine and disinfect such facilities when required under § 71.4 or 76.32, with a disinfectant specified in § 76.33 of the regulations.

11. Provide facilities and service for cleaning and disinfecting cars, truck, and other vehicles as prescribed in §§ 76.9, 76.30 and 76.31.

12. Permit no swine to be inoculated at the (stockyard) (livestock market) [1] with any modified live virus hog cholera vaccine or any virulent hog cholera virus.

13. Maintain for 1 year after the transaction involved, a record of the origin, destination, and identification of all swine handled through the (stockyard) (livestock market) [1] and afford Federal and State inspectors access to such records.

_____
Name of Operator of (Stockyard) (Livestock market) [1]

_____
(Address)

_____
(Signature and title)

_____
(Date)

The Director, Animal Health Division, ARS, has approved this application effective _____
(Date)

_____
(Veterinarian-in-Charge)

_____
(Address)

_____
(Date)

[1] Delete inapplicable term.

(2) AGREEMENT FOR APPROVAL OF STOCKYARD OR LIVESTOCK MARKET TO HANDLE INTERSTATE SHIPMENTS OF SLAUGHTER SWINE ONLY

To: Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture:

The undersigned operator of the (stockyard) (livestock market) [1] known as _____ located at _____ hereby requests approval to handle interstate shipments of slaughter swine only, in accordance with the regulations in 9 CFR Part 76. Said operator agress to:

(Name) (Address)

1. Provide said Division with a schedule of sale days and cooperate with the Division in obtaining compliance by livestock shippers with applicable State and Federal regulations.

2. Separate from other swine, all swine suspected of being affected with any contagious, infectious, or communicable disease and immediately notify a Division inspector, an accredited veterinarian, or a State employed veterinarian of the presence of such swine at the (stockyard) (livestock market).[1]

3. Issue no releases for removal of any swine from the (stockyard) livestock market) [1] unless consigned for immediate slaughter; and identify the consignee on the (stockyard's) (livestock market's) [1] release document.

4. Permit no swine to be inoculated at the (stockyard) (livestock market) [1] with any modified live virus hog cholera vaccine or any virulent hog cholera virus.

5. Maintain for 1 year after the transaction involved, a record of the origin, destination, and identification of all swine handled through the (stockyard) (livestock market) [1] and afford Federal and State inspectors access to such records.

_____
Name of Operator of (Stockyard) (Livestock market) [1]

_____
(Address)

_____
(Signature and title)

_____
(Date)

[1] Delete inapplicable term.

The Director, Animal Health Division, ARS, has approved this application effective

(Date)

(Veterinarian-in-Charge)

(Address)

(Date)

The Federal-State cooperative program for the eradication of hog cholera has progressed to its final stages. However, isolated foci of infection remain a hazard to the successful completion of the program. The movement of exposed swine through market channels is known to be the principal method by which hog cholera is being spread. Seventy-five percent of the known incidence of the disease is currently related to such movement. Therefore, the purpose of this proposal is to set forth in the regulations amended standards for facilities and operations of approved swine markets so as to reduce the probability of exposure to hog cholera while swine are in market channels. If this proposal is adopted, all previously approved stockyards and livestock markets would have to obtain approval in accordance with the new provisions in order to maintain their status as approved facilities.

All interested persons who wish to submit data, views, or arguments concerning the proposed amendment shall file them in writing, in duplicate, with the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, within 15 days after the date of publication hereof. All such comments will be available for public inspection in the office of said Director between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. (7 CFR 1.27(b).)

Done at Washington, D.C. this 28th day of May 1970.

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

[F.R. Doc. 70-6870; Filed, June 2, 1970; 8:53 a.m.]

Consumer and Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Approval of Expenses and Fixing of Rates of Assessment for 1970–71 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

(a) That expenses that are reasonable and likely to be incurred during the fiscal period from March 1, 1970, through February 28, 1971, will amount to $298,440.

(b) That the rates of assessment for such fiscal period payable by each handler in accordance with § 917.37 be fixed at:

(1) Eight-tenths of a cent ($0.008) per standard western pear box of pears, or its equivalent in other containers or in bulk;

(2) Three and one-half cents ($0.035) per standard four-basket crate of plums, or its equivalent in other containers or in bulk; and

(3) One-half cent ($0.005) per California fruit box of peaches, or its equivalent in other containers or in bulk.

(c) That unexpended assessment funds in excess of expenses incurred during the fiscal period ending February 28, 1970, be carried over in accordance with § 917.38 of said marketing agreement and order.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk, during regular business hours (7 CFR 1.27(b)).

Dated: May 28, 1970.

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

[F.R. Doc. 70-6860; Filed, June 2, 1970; 8:52 a.m.]

[7 CFR Part 1136]

[Docket No. AO-309-A15]

MILK IN GREAT BASIN MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Great Basin marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Salt Lake City, Utah, November 19–21, 1969, pursuant to notice thereof which was issued October 22, 1969 (34 F.R. 17335).

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

1. The marketing area.
2. Application of order to producer-handler operations.
3. Modification of approved plant definition.
4. Exempting some distributing plants from regulation.
5. Diversion of producer milk.
6. Classification changes.
7. The Class I butterfat differential.
8. Location differentials.
9. Computation of net pool obligation.
10. Payments out of the producer-settlement fund.
11. Interest payments on overdue accounts.
12. Application of order to cooperative associations.
13. Administrative and conforming changes.

FINDINGS AND CONCLUSIONS

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

1. *Marketing area.* Preston and Malad City, Idaho, and the Utah counties of Rich and Cache (except the city of Logan) should be deleted from the marketing area.

The marketing area presently includes the 21 northernmost Utah counties, Elko and White Pine Counties in Nevada, two Idaho cities (Preston and Malad City) and the town of Evanston in Wyoming. The 1960 census population of the marketing area was 879,000.

The several proposals at the hearing would remove from the marketing area Preston and Malad City, Idaho, and the Utah counties of Cache and Rich and add to it eight counties in southern Utah. No testimony was presented at the hearing on the latter proposal. Hence, no action is taken on it in this decision.

Except for the city of Logan in Cache County, the territory proposed to be deleted from the marketing area is basically rural. Of the 39.8 thousand

population in Cache County in 1960, 18.7 thousand were in Logan. In Rich County, the 1960 census population was 1.7 thousand. The 1960 census populations for Preston and Malad City were 3.6 and 2.3 thousand, respectively.

The proposal to remove Preston and Malad City from the marketing area was made by two Idaho distributors who rely primarily on their own production for their needs. The Class I distribution by these handlers is within a limited geographical area and a substantial portion of the total Class I sales in Preston and Malad City is from their plants. The remaining Class I distribution in these cities is from the plants of the two principal cooperatives under the order.

The proposal to remove Cache and Rich Counties from the marketing area was made by a group of handlers whose distribution is within these counties and who rely basically on their own-herd production as a source of supply. The proposal to drop these two counties and the two Idaho cities from the marketing area was opposed by the two major cooperatives in the market. Although the cooperatives have some distribution in all the territory herein proposed to be deleted from the marketing area, their sales in these places, except for the city of Logan, are relatively insignificant compared to their overall sales throughout the marketing area.

Cache and Rich Counties and Preston and Malad City were added to the marketing area effective January 1, 1966. That action resulted from testimony presented at a hearing by the two major cooperatives under the order in support of the proposal submitted by them. The testimony at that hearing indicated that the cooperatives were, by a wide margin, the major distributors in each of these four geographical areas then proposed to be included in the marketing area. The handlers who now propose the exclusion of these areas from the marketing area claim that the cooperatives do not now have as high a proportion of the sales in these areas as indicated at the earlier hearing.

The handlers requesting the removal of proposed territory from the marketing area have relatively small operations. They rely basically on their own-herd production as a source of supply. The nature of their operations in the relatively sparsely populated areas wherein they operate is substantially different from that of the great majority of regulated handlers. The latter usually have their plants in the major cities in the marketing area or they distribute over a wider area.

Proponents claim that the order has worked a hardship on them because the procurement and marketing conditions under which the relatively small distributors in the area operate are significantly different from those that prevail in the remainder of the present marketing area. an order is not necessary to maintain orderly marketing in this basically rural area.

Those who would be directly affected by the marketing area revision are those distributors who rely primarily on their own farm production for their needs. With the removal of the territory herein proposed from the marketing area they would have greater flexibility in their operations, which are principally local.

The testimony for removing Cache County from the marketing area was directed primarily to the more rural parts of the county wherein the proponents operate. Unlike the remaining portion of Cache County, the city of Logan is served primarily by regulated handlers who are among the principal distributors in the remainder of the marketing area. No testimony was presented on the record to show that marketing conditions in Logan are in any way different from those in the remainder of the marketing area, which is served by the same handlers who are the principal distributors in Logan. Accordingly, there is no basis in this record to take Logan out of the marketing area.

2. *Producer-handler.* The quantities of fluid milk products that a producer-handler may receive from pool plants should not be changed. He may now receive from such plants the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month.

The producer-handler definition should, however, be rewritten to insure that producer-handler status is accorded only to a person who operates the farm(s) on which his "own-herd production" is produced at his sole risk and under his complete and exclusive management and control, who operates a plant at which the milk produced on his farm(s) is processed and packaged, and whose disposition of fluid milk products on his routes and at his stores includes only the milk produced on his farm(s) and allowable purchases from pool plants.

To effectuate the above, a producer-handler should be defined as follows:

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under this complete and exclusive management and control; and

(3) Each individual (except, in the case of a sole proprietorship or partnership operation, an individual who is a member of his immediate family) working on such farm(s) is his employee, and such individual does not own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes: *Provided*, That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of on routes (including the total Class I disposition of a vendor who receives any fluid milk products from him during the month) or at stores operated by him, by an affiliate, or by any person who controls or is controlled by him (e.g., as interlocking stockholder) shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

There were a number of proposals considered at the hearing to change the producer-handler definition; no testimony was presented for retaining the present definition. The extensive record testimony was concerned basically with incorporating in the order a producer-handler definition that would be suitable under current conditions in the Great Basin market. It was particularly emphasized that such definition should be spelled out with greater specificity than the present definition.

The proposal of an association of about 40 producer-handlers would amend the present producer-handler definition to require that the milk produced by him as a dairy farmer is produced at a facility owned by him. The purpose of this proposal is to provide explicit language in the order to exclude the leasing of cows and other facilities for milk production as they relate to qualifying a distributor for producer-handler status.

A handler with own-farm production proposed that a producer-handler be permitted to buy fluid milk products from pool plants without limit. Proponent claimed that this would provide a producer-handler more flexibility in his processing operation and enable him to avoid the considerable cost of expanding his production facilities. A cooperative opposing this proposal contended that once a producer-handler develops "new" sales outlets with fluid milk products purchased from pool plants he would expand his own-herd production. As a consequence, the cooperative claimed, the Class I sales thereby gained by a producer-handler would be lost to the pool.

Another handler with own-farm production proposed that a producer-handler's source of supply be limited to his own-farm production, and that his distribution be limited to retail sales at the farm.

He contended that the present producer-handler definition, by unwarrantedly enabling some distributors with own-farm production to qualify as producer-handlers, has provided such distributors an advantage, in both procurement and sales, over regulated handlers.

A cooperative proposed that a producer-handler be limited in his purchases from pool plants to the lesser of 3,000 pounds, or 5 percent, of his monthly Class I sales. This would require a producer-handler to rely more than at present on his own resources to balance his production and Class I sales.

The spokesman for another cooperative proposed that producer-handler status be accorded only those who rely exclusively on own-farm production for their Class I needs. He also proposed that the producer-handler definition be limited to a "family operation." No proposed definition of a family operation was put forward at the hearing, however, and there is no basis in the record on which to define such term precisely.

The approximately 60 producer-handlers under the Great Basin order currently sell about 12 percent of the total Class I sales in the market, the same proportion that their sales have been of the total Class I sales in the market over the past several years.

The present order provisions make possible ready claims of producer-handler status by persons who may, or may not, meet the basic requirements for exempt status as such. Clarification of the order's producer-handler provisions was supported by both producers and handlers as a necessary step to remove any uncertainty as to the conditions which must be met by a handler to qualify as a producer-handler.

One problem arising from the present producer-handler definition concerns those handlers who have leased cows and other facilities for milk production. Another problem relates to receipts of fluid milk products from pool plants at locations other than the producer-handler's plant. Some handlers who had lost their exempt status as producer-handlers contend that the order is not clear about leasing arrangements and what are considered the receipts and dispositions of a handler to be used in determining his producer-handler status.

The present order provides, and should continue to provide, that the operation of a producer-handler's entire facilities for milk production, processing, and distribution shall be under his complete and exclusive control and at his sole risk. Experience in this market is that handlers have purchased milk from dairy farmers through the device of leasing arrangements on cows as a means of circumventing the order to obtain exempt status as producer-handlers. In such cases, it cannot be said that a "producer-handler" operates at his sole risk and under his complete and exclusive management and control his production facilities. Neither can it be said that the fluid milk products sold on his routes (including the total Class I disposition of a vendor who receives fluid milk products from him during the month) and at his stores include only the milk produced on his farm(s) and allowable purchases from pool plants if such sales fail to include any additional disposition on his routes or at his stores of fluid milk products received from pool plants at his stores or at any other location. Providing the standards adopted herein will contribute substantially to orderly marketing in the Great Basin area by giving the order language more specific meaning to the producer-handler definition in this regard.

Thus, a producer-handler is required to furnish proof satisfactory to the market administrator that the full maintenance of milk-producing cows on his farm is his sole risk and under his complete and exclusive management and control. Further, each farm where his milk cows are maintained must be owned or operated by him, at his sole risk, and under his complete and exclusive management and control.

As a further safeguard, the definition should specify that (except for an individual who is a member of the producer-handler's immediate family) each individual working on a farm of a producer-handler (who is an individual or partnership) is his employee and does not own fully or partially either the cows producing the milk on the farm or the farm on which it is produced.

In conjunction with the changes herein proposed, the present limit on the quantity of fluid milk products (the larger of 3,000 pounds or 5 percent of his Class I sales) the producer-handler may receive from pool plants would be retained. This limit is reasonable under current conditions in the Great Basin market. There was no significant opposition to permitting a producer-handler to purchase some fluid milk products from pool plants.

Continuing to allow a producer-handler to receive from pool plants up to 3,000 pounds or 5 percent of his monthly Class I sales will enable the relatively small distributors, who have historically operated as producer-handlers, to retain producer-handler status. Although such distributors rely primarily on own-farm production for their needs and handle their reserve supplies, some depend on pool plants as a regular source of various fluid milk products (e.g., buttermilk, cream) that are not processed or packaged in their own plants. Also, these operations must occasionally, particularly in emergency situations, depend on pool plants for supplemental supplies. The record does not show that enabling such handlers with own-herd production to obtain limited quantities of fluid milk products from pool plants, as herein proposed, has adversely affected the competitive position of regulated handlers or producers.

Some handlers with own-herd production have engaged in procurement and distribution practices that enable them to obtain from pool plants more than the maximum quantities of fluid milk products (the larger of 3,000 pounds or 5 percent of his Class I sales) permitted a producer-handler in order to obtain exemption as a producer-handler.

The only sales outlet from the plant of at least one handler with own-herd production is a single vendor, who also receives packaged fluid milk products on a regular basis from a pool plant. Another handler distributes on routes not only the fluid milk products obtained from his own-herd production and processed at his plant, but also the packaged fluid milk products from pool plants that he receives at another location. The above are some representative practices which have been used by handlers to circumvent the order's provisions in attempting to achieve producer-handler status.

The various means whereby a handler with own-herd production may obtain exemption as a producer-handler by an arrangement with a vendor, and whereby a producer-handler may evade the intent of the regulation by receiving fluid milk products from pool plants at locations other than the pool plant and his own plant, tend to defeat the purpose for which the producer-handler provision is included in the order.

In determining whether a person qualifies as a producer-handler, all fluid milk products disposed of on routes (including the total Class I disposition of a vendor who receives any fluid milk products from him during the month) or at stores operated by him, by an affiliate, or by any person who controls or is controlled by him (e.g., as interlocking stockholder) would be considered as having been received at his plant, and the utilization for such plant would include all such route and store dispositions. This will insure that the total operation of a handler is taken into consideration in determining whether he qualifies for exemption from the order as a producer-handler. Without such a provision, the meaningfulness of the basic standards herein provided, and deemed appropriate, to qualify a person for producer-handler status in the Great Basin market would be seriously diminished.

A hearing completed at Memphis, Tenn., on May 24, 1968, considered whether a producer-handler handling reconstituted skim milk should lose his exempt status. Amendments were made in 62 orders, including the Great Basin order, effective January 1, 1970, on the basis of that record.

The findings in the October 13, 1969, decision (34 F.R. 16881) resulting from that hearing provide that the producer-handler definition of each order should preclude the use of reconstituted skim milk or unregulated milk in fluid milk products. The decision also finds that, since he is not subject to the pricing and pooling provisions of an order, a producer-handler using reconstituted skim milk or unregulated milk in any fluid milk product disposition thereby would disqualify himself from his exempt status as a producer-handler.

The findings in the aforesaid decision relative to precluding a producer-handler's using reconstituted skim milk in any fluid milk product are appropriate under current conditions in the Great Basin market and are reaffirmed and adopted in this decision.

As now provided in the order, a producer-handler may use limited quantities of nonfat milk solids to fortify, or to reconstitute into, fluid milk products. The addition of nonfat dry milk and similar products in fortified fluid milk products is a common practice among handlers. No purpose would be served by restricting producer-handlers in this regard, and they should be permitted to use

nonfat milk solids in the fortification of fluid milk products without limit.

3. *Approved plant.* The more descriptive term "fluid milk plant" should replace "approved plant" in the order and should be defined to include any plant from which fluid milk products are disposed of on routes in the marketing area and any milk receiving or processing plant from which milk or skim milk is shipped to a plant with route disposition in the marketing area. The present requirement that a plant must either receive milk from dairy farmers or possess the approval of a duly constituted health authority for the processing or packaging of Grade A fluid milk products to qualify as an approved plant should be deleted from the order.

A cooperative proposed the fluid milk plant definition herein provided in order that any plant (including a manufacturing milk plant) from which fluid milk products are disposed of on routes in the marketing area would be required, as a handler, to report to the market administrator. The basis for the proposal was that some such plants could, without the knowledge of the market administrator, distribute fluid milk products obtained from unregulated sources outside the marketing area into the marketing area.

To insure the integrity of the regulation, it is essential not only that all plants from which fluid milk products are distributed in the marketing area report to the market administrator, but also that the market administrator be authorized to receive reports from a person with such disposition who does not operate a plant. At least one plant with Class I sales on routes in the marketing area is not, under the present provisions of the order, required to report to the market administrator.

Some persons who do not operate plants purchase packaged fluid milk products on a regular basis from producer-handlers or pool plants and, as vendors, resell them via their own delivery vehicles to retail and wholesale customers. The fluid milk products distributed by a vendor are considered as a route sale from the plant at which they were processed and packaged.

Including in the fluid milk plant category all plants from which any fluid milk products are distributed in the marketing area, as herein provided, would require them to report their receipts and utilization to the market administrator each month. Also, designating as a handler any person who does not operate a plant, but who distributes to retail or wholesale outlets packaged fluid milk products received from a fluid milk plant (as herein defined), would enable the market administrator to obtain reports from such person. Such changes are necessary in order that the market administrator can determine that all fluid milk products distributed in the marketing area from all plants and by distributors who do not operate plants during the month are accounted for and to carry out the other terms of the order.

In conjunction with his proposal to revise the approved plant definition, a spokesman for the cooperative emphasized the need of having the pooling requirements apply equally to all plants from which a significant amount of fluid milk products is distributed in the marketing area. This can best be accomplished by specifying in the pool plant definition that a fluid milk plant will qualify as a pool plant when not less than 50 percent of the fluid milk products (except filled milk) approved by a duly constituted health authority for fluid consumption that are physically received at such plant, or diverted as producer milk to a nonpool plant, is disposed of on routes.

As now provided in the order, there must be disposed of on routes not less than 50 percent of the receipts of producer milk (including that diverted to nonpool plants) and receipts of fluid milk products from pool supply plants. The requirement that at least 15 percent of such plant's total fluid milk products disposition must be on routes in the marketing area would not be changed. The change herein provided will insure that any plant from which a significant quantity of fluid milk products is distributed in the marketing area on routes would be subject to the order in the same manner as any other handler irrespective of the source from which the fluid milk products handled at his plant were received.

4. *Exempt distributing plant.* A proposal to provide exemption for a plant that distributes not more than an average of 100 pounds of Class I milk per day in the marketing area for the month should not be adopted. The proposal was made primarily to allow (free from regulation) the distribution of some yogurt in the marketing area if the product were classified as Class I under another proposal made by proponent. Since no action is taken in this decision on that proposal, the corollary proposal to exempt certain plants from regulation is denied.

5. *Diversion of producer milk.* A cooperative should be permitted to divert monthly to nonpool plants up to 25 percent of its producer members' deliveries to all pool plants in March through August and up to 20 percent in September through February. Similarly, a pool plant operator should be permitted to divert monthly to nonpool plants up to 25 percent of producer milk (exclusive of that received from producer members of a cooperative) physically received at his plant in March–August and 20 percent in September–February.

A cooperative may now divert up to 25 percent of its producer members' deliveries to all pool plants in any month. The operator of a pool plant may divert up to 25 percent of producer milk received from producers who are not members of a cooperative. In practice, however, the pool plant operator has been permitted to divert up to 33⅓ percent of the milk physically received at his plant. This resulted because the 25 percent diversion allowance is now applied against a total of the producer milk physically received at a pool plant plus that diverted to nonpool plants during the month.

Producers proposed a change in the base amounts to which the percentage of producer milk that may be diverted by cooperatives for their members and by pool plant operators for nonmembers would be applied. They also proposed a revision in monthly percentages of producer milk physically received at a pool plant that may be diverted each month.

In the Great Basin market, the cooperatives representing a major portion of the producers on the market exercise responsibility for diverting their members' milk to nonpool plants. Milk not needed by handlers can, of course, be most economically handled by moving it directly from the farm to nearby manufacturing plants. The greatest efficiency in this regard is achieved by diverting the milk from the farms of producers nearest the manufacturing plants. This can be accomplished most practicably in this market if the diversion is in terms of a reasonable percentage of the aggregate quantity of milk delivered to pool plants by the cooperative, as herein provided.

A pool plant operator whose sale source of supply is principally from nonmember producers has no less need for diversion than a cooperative whose members supply other pool plants. It is appropriate, therefore, that such a handler be permitted to divert nonmember supplies on the same percentage basis as that allowed a cooperative.

The quantities of producer milk diverted to nonpool plants vary seasonally. They are usually greater in March through August, when production for the market relative to its Class I needs is significantly greater than in the remaining 6 months of the year, September through February. In the 12 months through September 1969, producer milk pooled averaged 37.2 million pounds monthly. Of that amount, 33 million pounds were delivered directly to pool plants; the remainder, 4.2 million pounds (13 percent of the milk delivered to pool plants) was diverted to nonpool plants. The amounts diverted in the 12-month period ranged from a high of 6.7 million pounds in July 1969 (20 percent of producer deliveries to pool plants) to a low of 2.3 million pounds in November 1968 (7 percent of producer deliveries to pool plants).

The major cooperatives in the market contend that the present diversion provisions are inappropriate under current conditions. These provisions, they claim, have encouraged the association of milk with the market solely for manufacturing purposes at the expense of producers who regularly supply the market and on whom the market depends for its Class I needs.

The two major cooperatives in the market maintain their own Class I operations and are the principal suppliers of handlers in the market, both by direct delivery from the farms of producer members and by transfer from the cooperatives' plants. Member milk not needed for Class I purposes is utilized by the cooperative for manufacturing purposes.

A substantial amount of the manufacturing of reserve supplies of milk by these cooperatives is at pool plants. Some

is by transfer from pool plants to nonpool manufacturing plants. One cooperative indicated that its monthly diversions of producer milk to nonpool plants are about 4 percent of its member milk received at pool plants. No testimony was presented by the second cooperative regarding the quantity of producer milk it diverts to nonpool plants.

A handler who receives milk from nonmember producers opposed any change in the order that would reduce or limit the quantity of milk that may be diverted from pool plants. The handler operates a plant that is basically a Class I operation. He has associated with his plant substantial quantities of milk that are diverted directly from producers' farms to a manufacturing plant. The quantities of milk transferred or diverted from this plant to the manufacturing plant are between 45 and 50 percent of the producer milk pooled by the handler.

Permitting monthly diversions to nonpool plants of 25 percent in March–August, and 20 percent in September–February, of the milk physically received at pool plants will be fully adequate in insuring the maintenance of a reserve supply for the market. Also, it will tend to safeguard the pool from exploitation by handlers utilizing substantial quantities of milk only for manufacturing purposes, which supplies are not needed or intended for the Class I market and therefore are not part of the necessary reserve to meet fluctuating Class I requirements.

Unless it must be diverted for manufacturing purposes, producer milk should not include any milk moved from a farm directly to an other order plant. Such milk's eligibility to be included under a Federal order would more appropriately be determined at the other order plant where received. In fact, diversion to such plant, if permitted unconditionally, could result in the pricing and pooling of the same milk under two orders.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes will contribute to orderly marketing. In some instances, a pool plant operator may find that his most desirable outlet for this purpose is an other order plant. Specifying under the order that such milk may be diverted if a Class III classification (or comparable utilization under the other order) is designated for such milk pursuant to the other order will tend to insure the integrity of both orders.

Only that milk from dairy farmers genuinely associated with the market by being received and utilized at a pool plant should be eligible for diversion to nonpool plants. Otherwise, it cannot be said that such dairy farmers are supplying the Class I needs of the market. Therefore, it is provided that at least 6 days' production of a producer must be received at a pool plant during the month to qualify any of his production in the same month for diversion within the limits described above. A producer shipping on an every-other-day basis would under this standard be required, in effect, to ship only 3 days. The requirement herein adopted is sufficient to establish a producer's continuing association with the fluid market and still permit the necessary flexibility in diverting milk not needed for fluid use.

At least three deliveries of a producer must now be received at a pool plant during the month to qualify any of his production for diversion in the same month. Since shipments from producers' farms to pool plants are usually on an every-other-day basis, deliveries on 3 days usually include the production for 6 days. It is more appropriate, therefore, to specify that not less than 6 days' production (instead of three deliveries) of a producer must be received at the pool plant to qualify his milk for diversion on other days of the month. Otherwise, the producer who ships on a daily basis would have an unwarranted advantage over the great majority of producers shipping on an every-other-day basis.

As proposed by cooperatives representing a major portion of producers in the market, that producer milk diverted to nonpool plants should be priced at the location of the plant to which diverted instead of at the location of the pool plant to which it is customarily delivered. Pricing milk at the pool plant from which diverted could, in effect, subsidize at the expense of producers generally the more distant producers when the latter's milk is diverted to distant manufacturing plants rather than delivered to the market center. This is because the distant producers would receive the f.o.b. (zero zone) market uniform price on milk which is not moved to the market and on which the full cost charge for the farm to market haul has not been incurred.

It would not be practicable to allow the diversion of milk to producer-handler plants or to exempt distributing plants. To do so would be inconsistent with the basis for exempting the operators of such plants from the provisions of the order.

A producer-handler depends primarily on his own-farm production and supplementary supplies from pool plants for his needs. A person with own-herd production who relies also on milk moved directly from the farm of a producer cannot be distinguished in his operations from other handlers who are fully regulated because they receive milk from producers.

Exempt distributing plants are not subject to any of the provisions of the order with respect to their sources of supply. Hence, milk moved from any farm directly to an exempt distributing plant would not be subject to the pricing and pooling provisions of the order.

As now provided in the order, any fluid milk products transferred from a pool plant to a producer-handler plant or an exempt distributing plant is classified as Class I. This provision, the basis for which was established at previous hearings, is continued in the order.

In addition to providing for diversion to a nonpool plant, the order now provides that producer milk may be diverted "to a receiving facility not approved for handling milk for fluid consumption located at another pool plant." A cooperative's spokesman testified that since there are at present no such facilities in the market, this provision serves no purpose. Moreover, it is unlikely that the provision will prospectively serve any useful or desirable purpose in the order. It therefore is deleted from the producer milk definition.

6. *Classification changes.* (a) Month-end inventories of packaged fluid milk products (now in Class III) should be classified in Class I. The proposed classification, which usually conforms with the ultimate utilization of packaged fluid milk products in inventory, will result in fewer audit adjustments in classification and handler obligations than if classified in Class III, as now provided in the order. It will not result, however, in an increase in handlers' costs.

A handler who operates a plant that varies between nonpool and pool status from month-to-month will be required to allocate first to a lower-priced class the fluid milk products in inventory at the beginning of each month as they change from nonpool to pool status. This requirement and the classification of month-end inventories of packaged fluid milk products in Class I will provide sufficient safeguards to prevent the exploitation of the pool (by varying his month-end inventories) by the operator of the plant that may be a pool plant and a nonpool plant in successive months.

Month-end inventories of bulk fluid milk products should continue to be classified in Class III. In the following month, they would be subtracted under the allocation procedures from any available Class III milk. A higher use value of such fluid milk products allocated to Class I would be reflected in returns to producers in the following month.

Although packaged fluid milk products in inventory are items which have been prepared specifically for Class I disposition, the ultimate utilization of bulk fluid milk products in inventory may differ substantially between plants and even from month-to-month at the same plant. Under these circumstances, continuing to classify and price month-end inventories of bulk fluid milk products in Class III, as now provided in the order, will facilitate the accounting procedures in the handling of such month-end inventories.

The order should specify that all fluid milk products on hand at the beginning of the month at a plant which was a nonpool plant in the preceding month should be allocated to any available Class III utilization of the plant during the month. This precedure will preserve the priority of assignment to current receipts of producer milk to the current Class I utilization at the plant.

For the first month that the change herein proposed would be effective, packaged fluid milk products on hand at the beginning of the month at a plant that was a pool plant in the preceding month would be allocated to Class I, and bulk fluid milk products would be allocated to Class III. Since the order would have priced the packaged fluid milk products in Class III in the preceding month (as closing inventory), the order should provide that a handler's net pool obligation

be increased in the amount by which the value at the Class I price for the current month of the fluid milk products in beginning inventory allocated to Class I exceeds the value of such products at the Class III price in the preceding month. The above adjustment will insure that all fluid milk products disposed of by a handler during the month will be priced at the Class I price applicable for the month, whether such fluid milk products originated as closing inventory in the preceding month or as a receipt at the handler's plant in the current month.

(b) No change should be made in the order provisions applicable to the classification of shrinkage at a pool plant.

The order now provides for classifying in Class III up to 2 percent of the skim milk and butterfat in fluid milk products received during the month from producers and from other plants. Shrinkage at a plant beyond the maximum allowed in Class III is Class I.

A cooperative which operates several pool plants proposed that shrinkage percentage be based on the total utilization at all pool plants of a handler instead of on a plant basis as now provided in the order. Proponent requested the proposed change because the manner in which the cooperative's records of interplant shipments are maintained may result in an overage at one plant and a shortage at another during the same month.

The shrinkage provisions in the order were established on the basis that a plant which is operated in a reasonably efficient manner and for which acceptable records of receipts and utilization are maintained should not have plant losses in excess of the maximum provided for classification in Class III. The allocation of shrinkage on a plant basis, which is commonly provided in Federal orders, is designed to strengthen the classified pricing scheme and encourages the maintenance of adequate records and the efficient handling of milk.

To allow the combining of plants for the computation of shrinkage would provide an unwarranted advantage to the multiple plant operator over the single plant operator. A handler operating several plants could avoid a Class I classification on excess shrinkage in one plant at which his utilization was not fully accounted for by offsetting the excess shrinkage against an overage at another plant, even though the respective condition at each plant resulted from unrelated actions.

Each handler, whether operating one or more plants, is required by the order to maintain complete and accurate records of the movements of fluid milk products between his plant(s) and other plants. Because two plants are owned by the same handler does not justify the maintenance of records that are less complete than those required of a single plant operator.

(c) Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of bakery products, candy, or packaged food products (other than milk products) exclusively for consumption off the premises should be Class III.

The order now provides a Class III classification for skim milk and butterfat (1) disposed of in bulk to a commercial candy manufacturer who does not dispose of fluid milk products for consumption either on or off the premises, and (2) disposed of to a commercial bakery (solely for the purpose of processing into bakery products) in the form of a flavored cream-sugar product containing at least 8 percent by weight of sugar. The containers used in this latter disposition must bear the label "bakery cream."

A handler proposed allowing a Class III classification for "bakery cream" on such cream disposed of to any bakery instead of only to a "commercial bakery", as now provided in the order. The present provision, it was claimed, in effect gives special consideration to one outlet in the market and, as such is unwarranted.

As proposed by the handler, a Class III classification for bakery cream would be permitted on sales of such cream to any bakery whether it was operated separately or in connection with a commissary or restaurant. If the bakery were operated in connection with a commissary or restaurant, the handler's proposal would have the "bakery cream" delivered to the restaurant classified in Class III and other fluid milk products delivered there classified in Class I.

The commercial food establishments included in this category can substitute concentrated milk products (e.g., condensed milk, butter, nonfat dry milk) in place of fluid milk products in their food operations. A Class III classification for fluid milk products delivered in bulk form to and used at commercial food processing establishments, as herein adopted, is basically the same as that provided for similar circumstances in a number of other Federal orders.

(d) The skim milk and butterfat used by a handler to produce frozen dessert mixes should be specifically designated as Class III milk.

Ice cream and ice cream mixes are among the named products now in the Class III category. Mixes used to produce frozen desserts such as ice milk and sherbets, although technically not ice cream mix, are usually characterized as such. The sales outlets for these frozen desserts are the same as for ice cream mixes, and they are customarily included in the same classification as ice cream mixes in the orders when utilized for commercial freezing.

A producer witness suggested designating explicitly a Class III classification in the Great Basin order for the skim milk and butterfat used to produce all frozen dessert mixes. Such a provision, as herein provided, will remove any uncertainty that may arise regarding the classification of frozen dessert mixes under the Great Basin order.

(e) The skim milk in cottage cheese dumped or disposed of for livestock feed should be Class III. All skim milk used to produce cottage cheese is now Class II.

Not all cottage cheese produced by a handler is sold. Some skim milk used to produce cottage cheese ends up in "spoiled batches" and as "route returns." Dumping such products or selling them for livestock feed usually represents the only means of disposing of such skim milk.

The skim milk in all fluid milk products dumped or disposed of for livestock feed is Class III, which classification is equally appropriate for the skim milk in cottage cheese so disposed of.

(f) No action should be taken at this time on the producers' classification proposals relating to yogurt and "sterilized products in hermetically sealed containers."

As proposed by producers, the term "sterilized products in hermetically sealed containers", as used in the order to exclude products so designated from the Class I classification, would be changed to "sterile products in hermetically sealed containers." The purpose of the proposal is to clarify the present terminology so that only fluid milk products in containers that can assure sterility could be classified other than as Class I.

Skim milk and butterfat used to produce yogurt is now classified as Class III under the Great Basin order. Producers argued that yogurt should be Class I because it is Class I in some Federal orders.

Producers indicated that they expect to request a hearing on a national or regional basis to consider a uniform classification plan for all orders on all dispositions of skim milk and butterfat. Moreover, producers stated that their contemplated hearing for all orders would provide a more appropriate record as a basis for considering yogurt and sterilized products in hermetically sealed containers than the limited testimony presented on the record of the Great Basin hearing.

(g) A handler's proposal to classify cream in Class II (instead of Class I) should be denied. The change was requested primarily to improve the handler's position in selling cream in competition with cream substitutes.

Elsewhere in this decision, provision is made for lowering the Class I butterfat differential from 13.5 to 12 percent of the butter price. This will result in a substantial reduction in the cost to handlers of cream sold for fluid use. Any reclassification of milk for fresh cream would more appropriately be considered at a general hearing on the classification of cream and related products in all their forms.

(h) The mileage limitation on the transfer of fluid milk products to nonpool plants should be deleted from the order. A Class I classification is now applicable on such transfers to nonpool plants that are more than 525 miles from Salt Lake City. The cooperative proposing the change contended that although the provision may have once served a purpose, it is neither a useful nor desirable provision under current market conditions.

In the past, the provision was a means of insuring the classification of fluid milk products transferred to plants without requiring the market administrator to travel long distances to verify their

use. Currently, it is not unusual to ship fluid milk products for manufacturing purposes to nonpool plants at distant locations from the market. With better roads and improved facilities for moving large quantities of milk in bulk, plants at distant locations from the market are, at times, the most practicable and economically feasible outlets for fluid milk products that are not needed in the market for Class I purposes. Moreover, there are now other Federal order markets within which, or close to which, any nonpool plant to which a shipment might be made from the Great Basin market would be located. In such case, verification of the utilization could be made in cooperation with the market administrator of the nearest order.

Removing the mileage limitation provision as it applies to the classification of milk moved from pool plants to nonpool plants, as herein proposed, will facilitate the marketing of milk that is not needed for fluid purposes, thereby contributing to orderly marketing.

7. *Class I butterfat differential.* The butterfat differential applicable to Class I milk should be 12 percent of the butter price for the preceding month (instead of 13.5 percent as now provided).

In proposing a lower Class I butterfat differential, producers contended that the values now assigned to butterfat and skim milk in Class I products were instituted in the order a number of years ago and do not currently reflect the values of these components of milk.

In recent years the proportion of solids not fat in the fluid milk products in Class I has increased, and the proportion of butterfat has decreased. This has been evidenced by the increasing sales of skim milk items (plain, fortified, and flavored skim and part skim milk, buttermilk, etc.) while sales of whole milk and cream have been declining. The change in butterfat differential gives recognition to the changing value of butterfat in fluid milk products in Class I.

In the 12 months through September 1969 the proposed differential would have averaged 8.1 cents. The actual average butterfat differential for the same period was 9.1 cents. In the 12 months through September 1969, when the Class I price averaged $6.58, the value of 3.5 pounds of butterfat in a hundred pounds of milk was $3.185 (35 times 9.1 cents). The skim milk portion of such hundred pounds of milk was valued at $3.395.

The proposed butterfat differential of 12 percent of the butter price would have valued the butterfat in a hundred pounds of milk in the 12 months through September 1969 at $2.835 (35 times 8.1 cents). This is 35 cents less than the value of 3.5 pounds of butterfat in a hundred pounds of milk under the Great Basin order in the same period. Had such a differential been in effect, the value of the skim milk portion of the milk would have been increased by 35 cents.

As a corollary change to the reduction in Class I butterfat differential adopted herein, the Class I differential should be reduced 3 cents. This will maintain the price of Class I milk, at its average butterfat test, at its present level.

While the butterfat content in producer milk is relatively close to the average butterfat content of whole milk sold as Class I, it is substantially above the average test of all Class I milk. This is because fluid skim milk and low fat milk items are an increasing proportion of Class I sales at the expense of whole milk and cream.

In the 12 months through September 1969 producer milk deliveries averaged 3.65 percent butterfat. In the same period the butterfat in producer milk classified in Class I averaged 3.2 percent.

The order price for the Class I milk of 3.2 percent butterfat sold by handlers in the 12 months through September 1969 averaged $6.307. This is computed by subtracting from the average $6.58 Class I price for 3.5 percent milk, 3 points of butterfat at 9.1 cents per point. At the lower butterfat differential adopted in this decision, the adjustment for butterfat would have been 8.1 cents per point for such period. The reduction of 3 cents in the Class I differential offsets the change in butterfat adjustment, keeping the Class I price at the same level.

The handler who proposed that the Class I price differential be adjusted to give consideration to the change in the Class I butterfat differential also proposed that the Class I pricing formula of the order be changed so that the Class I price would be moved upward or downward only in brackets of stated amounts, such as 15 or 20 cents. This proposal was not opposed by producers. However, both proponent and producers indicated that since a national hearing is considering such a bracketing system for all orders, no action should be taken on the proposal at this time.

8. *Location differentials.* The plant location differential provisions should be changed to establish Ogden and Provo, Utah, as the basing points for computing the differentials. Under the proposed change, Elko, Nev., and Price, Vernal and Richfield, Utah, would be discontinued as basing points.

The order now provides for reducing the Class I and uniform prices at plants 100 or more miles from the nearest of the city halls in Ogden, Price, Richfield, and Vernal, Utah, and Elko, Nev., at the rate of 15 cents at plants within 100–110 miles, plus an additional 1.5 cents for each additional 10 miles. The present basing points for computing location differentials are established on each of the four sides of the marketing area near the perimeter, that is, at Price and Vernal on the eastern side; at Ogden on the northern side; at Elko, Nev., on the western side; and at Richfield, Utah, on the southern side.

A cooperative proposed to remove Elko, Nev., and Price and Vernal, Utah, as basing points for computing location adjustments, and further proposed that Roosevelt, Utah, be added as a basing point along with Ogden and Richfield, Utah. Roosevelt is about 30 miles west of Vernal. Such proposal would provide also for no adjustment within 200 miles of a basing point, a minus adjustment of 30 cents per hundredweight for plants located 200–210 miles distant, plus 1.5 cents for each additonal 10 miles. Under a corollary proposal considered at the hearing, any diverted producer milk would be priced at the location of the plant to which diverted.

In proposing that Elko, Nev., be removed as a basing point for computing location differentials, proponent contended that it is too far away from the center of the market to function effectively as a basing point. The reason given for deleting Price and Vernal as basing points was that no pool plants are located there.

The problem of location pricing at hand is essentially one of recognizing the need for basing points that will assist in pricing milk to meet the need for supplies at main centers of the market where the great bulk of the supply is processed for Class I distribution.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when they are moved a considerable distance. The location differential provisions should facilitate economic movement when milk is received for Class I purposes from plants located a distance from the center of the market where the milk is processed. The rates applicable to such movement should be applied from appropriate basing points to accomplish this objective, and to assist in bringing about uniformity in prices to all handlers. Such adjustment to prices reflect the lesser value (place utility) of milk when such milk is moved a considerable distance to the market from an outlying plant, or when it is diverted to an outlying location as producer milk in lieu of being brought to the market center.

Since location differentials, sometimes called "zone differentials," apply only to plant locations, no differential is applicable when the milk is received directly from the farm at the processing plant in the market center. The transportation or hauling cost on the latter milk is paid for by the individual producer through negotiation with haulers. The hauling rate is not fixed by the order.

As previously stated, when milk is received at a plant located a considerable distance from the market, the handler rather than the producer incurs the additional cost of moving that milk from the outlying plant to the central market for processing. Under these conditions, and in the absence of an opportunity cost created elsewhere for the milk, the value of producer milk delivered to a plant located at a distance from the market is reduced in proportion to the distance, and the cost of transporting such milk, from the plant of first receipt to the plant at the market center.

An important aspect of establishing basing points for computing location differentials is to identify the major consumption centers in the marketing area. Population for the Great Basin marketing area is centered on a north-south axis primarily between Ogden and Provo, Utah. The 1960 population for the Utah portion of the marketing area (the major

component) was about 837,000.[1] The north-south axis from Cache County south through Sevier County accounted for about 652,000, or 78 percent of the total. More significantly, about 76 percent of the population for the marketing area is concentrated in the Ogden, Salt Lake City, and Provo, Utah, area which comprises Weber, Davis, Salt Lake City, and Utah Counties. Salt Lake City is the principal population center of the marketing area.

The cities of Ogden, Salt Lake City, and Provo, Utah, are the principal centers from which fluid milk products are regularly distributed by handlers within a radius of 150 miles in various directions. Ogden is about 35 miles north of Salt Lake City and Provo is 43 miles south of Salt Lake City. They represent the north-south extremities, respectively, of the heaviest population area within which the bulk of the market's fluid milk sales are made to consumers. For this reason, these cities should be established as basing points in place of those now provided in the order. No adjustment would apply at any outlying plant within 150 miles of these cities because this is an area within which it is more feasible to receive direct-ship milk for Class I use rather than to receive it first at a supply plant or receiving station. Virtually all milk regularly received at Class I processing plants in this market is received as direct-ship milk.

At one time there was a pool distributing plant at Winnemucca, Nev., in the extreme western part of the marketing area, about 327 miles from Ogden. Official notice is taken of the market administrator's monthly uniform price announcements since April 1969, which make clear that the Winnemucca plant discontinued its pool plant status some months ago. No other Nevada plants are pool plants under this order. There being no regulated disposition into the marketing area from the Winnemucca area, and such area being essentially rural, the basing point at Elko, Nev., does not serve the basic purpose indicated and should be discontinued. Its continued use as a basing point would distort the place value of producer milk at outlying points in relation to the price level at the centers of consumption.

For milk received at a plant located 150–160 miles from the nearer of the city halls of Ogden or Provo, Utah, the Class I and uniform prices should be reduced 22 cents per hundredweight. The present rate of 1.5 cents for each 10 miles or fraction thereof, beyond the 160 miles herein provided, should be retained. This rate reasonably represents the cost of transporting milk over long distances in substantial amounts. Location adjustments (or zone differentials) should assure that needed milk will move to bottling plants but at the same time not encourage uneconomic handling of milk at the expense of the pool.

During the past year, a regulated handler operating a pool plant at Salt Lake City has bought milk from Idaho producers associated with a cooperative association at Meridian, Idaho. Such milk sometimes is received at a distant plant by diversion from the Salt Lake City plant when not needed there. When diverted the milk continues to be included in the Great Basin pool as producer milk. On diversion, the milk is received either at the Boise plant or Caldwell plant which are about 236 miles and 262 miles respectively from Elko, Nev., in Idaho. Under proponent's proposal to remove Elko, Nev., as a basing point, any location differential applicable to milk diverted to plants at Boise and Caldwell would be computed from Ogden, Utah, which is about 327 miles from Boise, Idaho.

Because this diverted milk would be priced at the location of the plant to which diverted and the adjustment would be computed from the Ogden basing point, the effect of the revised provisions would be to apply to the minimum uniform price applicable to milk diverted to the Boise location an adjustment of about 47 cents. Such distant supplies of milk when diverted to a plant close to the source of production do not incur transportation cost to market and therefore should not receive a price as if delivered to the market center.

In view of the change provided herein for the "no differential" zone, it is not necessary to establish Roosevelt, Utah, as a basing zone for computing location differentials.

9. *Computation of net pool obligation.* The net pool obligation computation applicable to receipts from unregulated supply plants should be modified.

A pool plant operator's obligation to the producer-settlement fund includes a payment on fluid milk products received from unregulated supply plants that are allocated to Class I. The handler's payment is determined by charging him at the Class I price and crediting him at the uniform price. The prices used are those applicable at the location of the unregulated supply plant, except that an adjustment to the uniform price is limited so that it may be not less than the Class III price. No such limitation applies in adjusting the Class I price by the location adjustment applicable at the location of the unregulated supply plant.

A cooperative proposed that the adjustment to the Class I price be limited in the same way as is the adjustment to the uniform price.

Under certain conditions (e.g., when the unregulated supply plant is at a great distance from the marketing area), the unlimited Class I price adjustment could result in the pool plant operator receiving a payment from the producer-settlement fund on Class I milk obtained from the unregulated supply plant. This would occur when the location adjustment applicable at a distant supply plant was greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order would be paying from the pool, an unwarranted subsidy to the pool plant operator for importing milk from a distant plant. A payment out of the pool on such milk would be contrary to the intent of the compensatory payment on unregulated milk for the purpose of protecting the classified pricing plan by maintaining reasonable price parity between fully regulated milk and milk not so regulated.

The same limitation should apply to the uniform price when adjusted for the location of the unregulated supply plants from which fluid milk products are received at a pool plant. This would be accomplished by providing that, for the purpose of computing a pool plant operator's obligation on receipts from unregulated supply plants, the location adjustments to both the Class I and uniform prices shall be limited so that they may be not less than the Class III price.

No net pool obligation charge should be made on fluid milk products received at a pool plant from an unregulated supply plant when such fluid milk products have been priced as Class I under this or any other Federal order. When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met; and there is no justification for an additional charge. On any unpriced milk received from an unregulated supply plant, the Great Basin order will continue to provide for payment to the producer-settlement fund at the difference between the Class I and uniform prices.

10. *Payments out of the producer-settlement fund.* The order provisions applicable to payments from the producer-settlement fund should not be changed.

A cooperative proposed that any handler who receives payment from the fund, and in turn fails to pay his producers the full uniform price value for their milk, should receive no further payments from the fund in the event he does not complete his payments to producers in a prior month for which he received payment from the producer-settlement fund.

The basic purposes of the order are to fix minimum prices that all handlers must pay for producer milk in accordance with the manner in which it is used and to return to producers the uniform price based on the utilization of all producer milk in the market.

Money is paid into the producer-settlement fund by those handlers whose obligation for producer milk received during the month is more than the amount they are required to pay producers for such milk at the uniform price. A handler whose utilization is below the average for the market, and whose obligation for producer milk received during the month is therefore less than the uniform price value, receives payment of the difference from the producer-settlement fund. This equalization process enables all handlers to pay their producers the uniform price for milk delivered.

No testimony was presented to show that any handler who received payment from the producer-settlement fund had failed to pay his producers the full uniform price value for their milk. If a handler fails to pay his producers the full uniform price value for their milk by

[1] Official notice is taken of the U.S. Census of Population, 1960 for Utah, issued by the Bureau of the Census, U.S. Department of Commerce.

the dates specified in the order, he is in violation of the order. Should this occur, whether he receives payment from, or makes payment to, the producer-settlement fund, he is subject to customary legal procedures to obtain compliance.

While ostensibly the proposed change might serve an enforcement function under certain conditions, it is difficult to conclude that the withholding by the market administrator of monies due producers (through a handler) in the current month necessarily would aid producers. The proposal also involves points of enforcement procedure which were not explored on the record. In matters of enforcement, the facts of each case bear on the nature of the violation, the extent of the violation, and the appropriate means of correcting it. The proposal therefore is denied.

11. *Interest payments on overdue accounts.* The unpaid obligation of a handler to the market administrator should be increased one percent for each month or portion thereof beginning with the third day following the date by which such obligation is payable.

A handler proposed that handlers be required to pay interest on overdue accounts whether owed to the producer-settlement fund, the marketing services fund or for the expense of administration.

Prompt payment of monies due the market administrator, whether to the producer-settlement fund, for expense of administration or for marketing services, is essential to the operation of the order.

As herein provided, interest on unpaid obligations would be charged at the rate of 1 percent for each month or portion thereof beginning with the third day following the due date of an obligation and would be applied until the obligation is paid. The 3-day interval between the due date of an obligation and the time from which interest would be computed is a reasonable period of time to use as a basis for the payment of interest on overdue accounts.

The current scarcity of money and the relatively high rates of interest on commercial loans could provide an incentive for handlers to delay payments to the market administrator in lieu of borrowing needed money from other sources unless the current rate is increased. Commercial loans in the area are available only at about 12 percent per annum on a secured loan. The rate adopted is reasonable in consideration of today's financial markets.

The interest payable on overdue accounts should be computed monthly on the unpaid balance, including any accrued interest. A handler who has not made payment when due to the market administrator has use of such money for the time beyond which it was due.

Some handlers may have unpaid obligations due the market administrator when the provision herein proposed would become effective. In consideration of the main purpose of the interest provision, i.e., to obtain prompt payments for producers, there is no basis for differentiating between unpaid obligations resulting from milk handled in preceding months or in a future month. It is intended that the unpaid obligation of a handler at the time the interest payment provision herein proposed would become effective will be treated in the same manner as any unpaid obligation subsequently incurred by the handler.

If a handler refuses or fails to file a report from which his obligation is computed, interest should be charged on any payments due the market administrator as though the report was filed when due. Otherwise, handlers would be provided an incentive to be delinquent in filing their reports.

A handler suggested that the market administrator be required to pay interest on any unpaid obligation to a handler. The order sets forth clearly the dates by which the market administrator must pay handlers any amount due them from the producer-settlement fund. He has no authority to delay such payments, the due dates of which are set forth in the order. There is no indication that the market administrator has at any time failed to make payments as required pursuant to the order and there would be no reason for him to make late payments if all handlers comply with order terms. Moreover, any such interest payments could come only from monies paid by other handlers for administrative purposes. The proposal is denied.

12. *Application of order to cooperative associations.* The order's provisions as they apply to cooperative associations should not be changed.

A handler proposed that the order be revised so that the order would not differentiate between a cooperative association marketing the milk of its members and a proprietary handler in the representation of producers. A principal purpose of the proposal is to enable a handler to act on behalf of his producers in the same manner as if the handler was a cooperative association acting on behalf of its members.

The provisions in the Great Basin order applicable to cooperative associations were established on the basis of testimony substantiating the inclusion of these provisions in the order. Although the proponent proposed removing the various references to "cooperative association" from the order, he provided no basis for changing any specific provisions now applicable to a cooperative association.

The handler stated that the order provisions relative to cooperative associations in the order are not in accordance with law. Section 608c(15)(A) of the Act provides specific procedures that must be followed by a handler in challenging the legality of an order provision. Proponent's contention, that the provisions of the order as they refer to cooperative associations are illegal, is appropriately resolved in accordance with such section of the Act rather than through public hearing procedure.

13. *Miscellaneous and conforming changes.* In §§ 1136.31 and 1136.32 reference is made to "the second proviso of § 1136.11(a)." The latter provision is no longer in the order, and the reference to it in the aforesaid sections should be deleted.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

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

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

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Great Basin marketing area, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1136.6 is revised as follows:

§ 1136.6 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all Government reservations and installa-

tions and all municipalities, within the places listed below:

UTAH COUNTIES

Box Elder.	Morgan.
Cache (city of Logan only).	Salt Lake.
Carbon.	Sanpete.
Daggett.	Sevier.
Davis.	Summit.
Duchesne.	Tooele.
Emery.	Uintah.
Grand.	Utah.
Juab.	Wasatch.
Millard.	Weber.

NEVADA COUNTIES

Elko.	White Pine.

WYOMING COUNTY

Uinta (town of Evanston only).

2. Section 1136.8 is revised as follows:

§ 1136.8 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Each individual (except, in the case of a sole proprietorship or partnership operation, an individual who is a member of his immediate family) working on the farm is his employee, and such individual does not own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes: *Provided*, That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of on routes (including the total Class I disposition of a vendor who receives any fluid milk products from him during the month) or at stores operated by him, by an affiliate, or by any person who controls or is controlled by him (e.g., as interlocking stockholder) shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

3. Section 1136.9 is revised as follows:

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more (1) pool plants, (2) partially regulated distributing plants, or (3) other fluid milk plants described in § 1136.10(a);

(b) Any cooperative association with respect to milk diverted for its account as described in § 1136.13;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association; and

(d) Any person who does not operate a plant but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets packaged fluid milk products received from any plant described in paragraph (a) of this section.

4. Section 1136.10 is revised as follows:

§ 1136.10 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which any fluid milk product is disposed of during the month on routes in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§§ 1136.11, 1136.12, 1136.16 [Amended]

4a. In §§1136.11, 1136.12, and 1136.16, "approved plant" is changed to "fluid milk plant" in each place it appears in such sections.

5. In § 1136.11(a), "equal to not less than 50 percent of the receipts during the month at such plant of producer milk, producer milk diverted therefrom by the plant operator and receipts at the plant of fluid milk products, except filled milk, from plants described pursuant to paragraph (b) of this section," is changed to "of not less than 50 percent of the fluid milk products approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13."

6. Section 1136.13 is revised as follows:

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk of producers for which another person is the handler pursuant to § 1136.9(c): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act shall not be producer milk;

(b) Received by a cooperative association which is defined as a handler pursuant to § 1136.9(c);

(c) Diverted from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt distributing plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (4) and (5) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk;

(7) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a

request in writing with the market administrator on or before the 1st day of the month the agreement is effective. This request shall specify the basis for assigning overdiverted milk to the producer members of each cooperative association according to a method approved by the market administrator; or

(d) Diverted from a pool plant to an other order plant if a Class III classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order. The conditions described in subparagraphs (1) through (7) of paragraph (c) of this section shall apply to this paragraph as if set forth in full herein.

7. Section 1136.15 is revised as follows:

§ 1136.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, filled milk, cream (sweet or sour) except frozen cream, concentrated milk (fresh or frozen), fortified milk or skim milk, reconstituted milk or skim milk or any mixture in fluid form of milk, skim milk and cream (except ice cream, ice cream and other frozen dessert mixes, eggnog, a product which contains six percent or more nonmilk fat (or oil), aerated cream, evaporated or condensed milk (plain or sweetened, and sterilized products in hermetically sealed containers).

§ 1136.22 [Amended]

8. In § 1136.22(1), the reference to "§ 1136.44(a)(8)" is changed to "§ 1136.44(a)(10)."

9. Section 1136.31 is revised as follows:

§ 1136.31 Other reports.

(a) Each producer-handler and each handler pursuant to § 1136.9(d) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who operates another order plant with disposition of fluid milk products on routes in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

* * * * *

10. In § 1136.32, the introductory text is revised as follows:

§ 1136.32 Payroll reports.

Each handler, except one exempt pursuant to § 1136.61 or one making payment pursuant to § 1136.62(b), shall report to the market administrator as follows:

* * * * *

11. Section 1136.41 is revised as follows:

§ 1136.41 Classes of utilization.

Subject to the conditions set forth in §§ 1136.42 through 1136.45, 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 from a plant in the form of a fluid milk product except:

(i) Those classified pursuant to paragraph (c) (3), (4), and (7) of this section; and

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

(2) In packaged fluid milk products in inventory on hand at the end of the month; and

(3) Not otherwise specifically accounted for as Class II or Class III utilization.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (except that classified pursuant to paragraph (c) (3) and (4) of this section) used to produce cottage cheese.

(c) *Class III milk.* Class III milk shall be all skim and butterfat:

(1) Used to produce any product other than a fluid milk product or a Class II product;

(2) Contained in inventory of bulk fluid milk products on hand at the end of the month;

(3) Contained in the skim milk portion only of fluid milk products and cottage cheese disposed of for livestock feed;

(4) Contained in the skim milk portion only of fluid milk products and cottage cheese dumped after prior notification to and opportunity for verification by the market administrator;

(5) In shrinkage of skim milk and butterfat, respectively, at each pool plant, or a handler pursuant to § 1136.9 (c), assigned pursuant to § 1136.45(b) (1), but not to exceed the following:

(i) Two percent of producer milk (except diverted milk); plus

(ii) One and one-half percent of milk received in bulk tank lots from other pool plants; plus

(iii) One and one-half percent of milk received from a handler pursuant to § 1136.9(c) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk tank lots to other pool plants (except when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be 2 percent);

(6) In shrinkage assigned pursuant to § 1136.45(b)(2);

(7) In fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of bakery products, candy, or packaged food products (other than milk products) exclusively for consumption off the premises; and

(8) Contained in any fortified fluid milk product in excess of the pounds classified as Class I milk pursuant to paragraph (a)(1)(ii) of this section.

§ 1136.42 [Amended]

12. In § 1136.42(a), the references to "§ 1136.44(a)(8)," "§ 1136.44(a)(3)," and "§ 1136.44(a)(7)" are changed to "§ 1136.44(a)(10)," "§ 1136.44(a)(5)," and "§ 1136.44(a)(9)," respectively.

13. In § 1136.42(c), subparagraph (1) is deleted; subparagraphs (2), (3), and (4) are renumbered subparagraphs (1), (2), and (3), respectively; and the reference to "subparagraph (4)" is changed to "subparagraph (3)" in the two places it appears in such paragraph.

§ 1136.43 [Amended]

14. In § 1136.43(a), the reference to "§ 1136.44(a)(7)" is changed to "§ 1136.44(a)(9)."

15. Section 1136.44 is revised as follows:

§ 1136.44 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1136.43, the market administrator shall determine each month the classification of milk received from producers by each cooperative association handler pursuant to § 1136.9 (b) and (c) which was not received at a pool plant and the classification of milk received from producers and from cooperative association handlers pursuant to § 1136.9 (c) by each handler (or pool plant, if applicable) as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1136.41(c)(5);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in fluid milk products received in packaged form from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (5)(iv) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1136.41 (c)(8) plus 2 percent of such receipts (weight of an equal volume of a like unmodified product of the same butterfat content);

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

(iii) In the event that packaged other order milk receipts (including filled milk) are in excess of the total amount subtracted pursuant to subdivisions (i) and (ii) of this subparagraph the remaining quantity shall be subtracted from the utilization remaining in Class III and then Class II;

(4) Except for the first month that this subparagraph is effective, subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

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

(ii) Receipts of fluid milk products (except filled milk) not qualified for fluid consumption and receipts of fluid milk products from unidentified sources;

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

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(5a) Subtract from the pounds of skim milk remaining in Class II and Class III, beginning with Class II, receipts from pool plants of other handlers (or other pool plants if applicable) in the form of cottage cheese;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Classes II and III (beginning with Class III) but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraphs (2) and (5)(iv) of this graph, for which the handler requests Class III utilization;

(ii) Receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraphs (2) and (15)(iv) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts from pool plants of other handlers, and in receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (5)(v) of this paragraph;

(iii) Receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (5)(v) of this paragraph, in excess of similar transfers to such plant, if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the other order;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated plants which were not subtracted pursuant to subparagraph (2), (5)(iv), or (6) (i) or (ii) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order (plant), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5)(v) or (6)(iii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1136.22(d) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk at the pool plant of the handler; and

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

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1136.42(a);

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

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

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

16. Section 1136.50(a) is revised as follows:

§ 1136.50 Class prices.

* * * * *

(a) *Class I milk price.* The price for Class I milk shall be the basic formula price for the preceding month plus $2.02 and plus 20 cents.

* * * * *

17. Section 1136.52(a) is revised as follows:

§ 1136.52 Butterfat differentials to handlers.

* * * * *

(a) *Class I milk.* Multiply the butter price for the preceding month by 1.20, divide the result by 10, and round to the nearest one-tenth cent.

* * * * *

18. Section 1136.53(a) is revised as follows:

§ 1136.53 Location differentials to handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a cooperative association pursuant to § 1136.9(c) to a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

	Rate per hundredweight
Distance (miles):	
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be measured from the plant to the nearer of the city halls in Ogden or Provo, Utah;

* * * * *

§ 1136.61 [Amended]

19. In § 1136.61(d)(2), add immediately following "other order plant" the following: "(but the adjusted price not to be less than the Class III price)".

20. Section 1136.62(b)(2) is revised as follows:

§ 1136.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

* * * * *

21. In § 1136.62(b)(5), add immediately following the second reference therein to "Class I price applicable at the location of the nonpool plant" the following: "(but the adjusted price not to be less than the Class III price)".

22. Section 1136.70 is revised as follows:

§ 1136.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (at each pool plant, if applicable) and of each cooperative association handler pursuant to § 1136.9 (b) and (c) shall be a sum of money computed each month by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1136.44(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44 (b) by the applicable class price;

(c) Add the amount obtained from multiplying the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.45 (a)(7) and the corresponding step of § 1136.44(b) for the current month;

(d) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(5) and the corresponding step of § 1136.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1136.44(a)(5) (iv) and (v) and the corresponding step of § 1136.44(b) the Class I price shall be adjusted to the location of the transferor plant (but the adjusted price not to be less than the Class III price); and

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but the adjusted price not to be less than the Class III price) of the skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

23. Section 1136.86 is revised as follows:

§ 1136.86 Expense of administration.

* * * * *

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (5) and (9) and the corresponding steps of § 1136.44(b), except such other source milk on which no handler obligation applies pursuant to § 1136.70(e); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1136.62(b)(2)(ii).

24. A new § 1136.88 is added as follows:

§ 1136.88 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1136.82, 1136.84, 1136.86, and 1136.87 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Signed at Washington, D.C., on May 27, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-6811; Filed, June 2, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 18]

IMITATION MILKS; STANDARDS OF IDENTITY AND QUALITY

Notice of Withdrawal of Proposal

In the matter of establishing a definition and standard of identity and a standard of quality for imitation milks:

Thirty-five comments were received in response to the proposal in the above-identified matter published on the initiative of the Commissioner of Food and Drugs in the FEDERAL REGISTER of October 9, 1969 (34 F.R. 15657). None of those commenting favored adoption of the proposal as published. Inasmuch as the production of the foods to which the proposed standards would apply has steadily declined and is now negligible, the Commissioner concludes that such standards should not be established at this time. If substantial amounts of imitation milks again appear in the marketplace, the Commissioner will reconsider promulgation of standards for these foods.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120), the subject proposal of October 9, 1969 (34 F.R. 15657), is hereby withdrawn and rulemaking proceedings in this matter are terminated.

Dated: May 25, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-6801; Filed, June 2, 1970; 8:47 a.m.]

Public Health Service

[42 CFR Part 37]

ROENTGENOGRAPHIC EXAMINATIONS OF COAL MINERS

Proposed Specifications

Notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend Title 42, Code of Federal Regulations by adding a new Part 37 which sets forth the specifications for giving, reading, classifying and submitting the chest roentgenograms required to be given to underground coal miners by section 203 of the Federal Coal Mine Health and Safety Act (Public Law 91-173).

The Act directs that every miner be given an opportunity to have an initial chest X-ray by June 30, 1971, and that mine operators provide the roentgenograms in accordance with specifications prescribed by the Secretary. The regulations would require operators to provide the roentgenograms in accordance with a plan which meets the specifications and which has been approved by the Secretary. The regulations also would require the physician who will read and classify the roentgenograms to have demonstrated proficiency in the use of the ILO or UICC/Cincinnati Classifications of the Pneumoconioses, by either submitting sample chest roentgenograms that have been classified properly under section 37.31 or by successfully completing a course in one of the classification systems which is approved by the Bureau of Occupational Safety and Health. A classification course by the American College of Radiology has been approved and scheduled for June 13-14, 1970, in Washington, D.C. Any plans in which a physician signifies an intent to take an approved course may be approved conditionally as provided in section 37.5.

It is propsed to make the regulations effective on the date of their republication in the FEDERAL REGISTER.

Inquiries may be addressed, and data, views, and argument concerning the proposed regulations may be submitted, to the Bureau of Occupational Safety and Health, Environmental Health Service, 5600 Fishers Lane, Rockville, Md. 20852.

Since failure promptly to adopt the regulations would work to the detriment of those coal mine operators affected and of those miners working in such mines,

the Department finds that it is in the public interest to limit the time for submitting comments to 20 days following the publication of these proposed regulations in the FEDERAL REGISTER.

Part 37 would provide as follows:

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

Sec.
37.1 Scope.
37.2 Definitions.
37.3 Chest roentgenograms required for miners and new miners.
37.4 Plans for chest roentgenographic examinations.
37.5 Approval of plans.
37.6 Roentgenographic examinations conducted by the Secretary.
37.7 Transfer of affected miner to less dusty area.

SPECIFICATIONS FOR GIVING CHEST ROENTGENOGRAMS

37.20 General Provisions.
37.21 Ability to take high quality chest roentgenograms.
37.22 Protection against radiation emitted by roentgenographic equipment.

SPECIFICATIONS FOR READING, CLASSIFYING, AND SUBMITTING FILMS

37.30 Reading and classifying chest roentgenograms.
37.31 Proficiency in the use of the ILO or UICC/Cincinnati Classifications.
37.32 Submitting required chest roentgenograms.
37.33 Notification to miners or abnormal findings.

AUTHORITY: The provisions of this Part 37 issued under the authority of sec. 203, 83 Stat. 763; Public Law 91–173.

§ 37.1 Scope.

The provisions of this part set forth the specifications for giving, reading, classifying, and submitting chest roentgenograms required by section 203 of the Act to be given to underground coal miners and new miners.

§ 37.2 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act.

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173).

(b) "Secretary" means the Secretary of Health, Education, and Welfare.

(c) "Bureau" means the Bureau of Occupational Safety and Health, Environmental Health Service, 1014 Broadway, Cincinnati, Ohio 45202.

(d) "Panel of Radiologists" means the U.S. Public Health Service Consultant Panel of Radiologists, 1014 Broadway, Cincinnati, Ohio 45202.

(e) "ALFORD" means the Appalachian Laboratory for Occupational Respiratory Diseases, Environmental Health Service, Box 4258, Morgantown, W. Va. 26505.

(f) "Chest roentgenogram" means an X-ray view of the chest.

(g) "Miner" means any individual who is working in or at any underground coal mine and who has been employed to work in or at any underground coal mine on or before December 30, 1969, but does not include any surface worker who does not have direct contact with underground coal mining or with coal processing operations.

(h) "New miner" means any individual who began working in or at an underground coal mine for the first time subsequent to December 30, 1969, but does not include any surface worker who does not have direct contact with underground coal mining or with coal processing operations.

(i) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground coal mine.

(j) "ILO Classification" means the extended form of the 1968 revision of the International Labour Office's scheme for classifying the pneumoconioses.

(k) "UICC/Cincinnati Classification" means the classification of the pneumoconioses devised in 1968 by a Working Committee of the International Union Against Cancer.

§ 37.3 Chest roentgenograms required for miners and new miners.

(a) Every operator shall provide to each miner presently working in or at any of its underground coal mines an opportunity for:

(1) An initial chest roentgenogram by June 30, 1971, provided that this requirement will be considered as having been fulfilled with respect to any miner for whom is submitted a chest roentgenogram which meets the requirements of 37.20(d) and which was taken on or after June 30, 1969;

(2) A second chest roentgenogram by June 30, 1974; and

(3) Such subsequent chest roentgenograms as the Secretary prescribes in this subsection.

(b) Every operator shall provide to each new miner presently working in or at any of its underground coal mines:

(1) An initial chest roentgenogram as soon as possible but in no event later than six months after commencement of his employment;

(2) A second chest roentgenogram 3 years following the initial roentgenogram if the miner is still engaged in underground coal mining; and

(3) A third chest roentgenogram 2 years following the second chest roentgenogram if the miner is still engaged in underground coal mining and if the second chest roentgenogram shows any evidence of dust retention;

(4) Such subsequent chest roentgenograms as the Secretary prescribes in this subsection.

(c) The operator shall provide the chest roentgenograms in accordance with a plan which meets the specifications of this part and which is approved by the Secretary pursuant to 37.5.

§ 37.4 Plans for chest roentgenographic examinations.

(a) Every plan for chest roentgenographic examination of underground coal miners and new miners shall be submitted in writing to the Bureau by June 15, 1970, and shall include:

(1) The name(s) and address(es) of the operator or group of operators participating in the plan;

(2) A time schedule for the required roentgenograms which includes the number of miners to be given or offered roentgenograms under the plan;

(3) A description of the location or locations at which roentgenograms will be given and a showing of convenience of such location(s) to the miners covered by the plan;

(4) Names and qualifications, including specialty training and experience, of the individual(s) who will give, read and classify the chest roentgenograms, the office address(es), State license number(s), and date of last State, county, or city inspection certificate of the roentgenographic equipment to be used;

(5) A statement of the steps that have been taken to assure confidentiality of medical records and roentgenographic findings.

(b) The operator shall advise the Bureau of any change in its plan.

(c) Where the Secretary has reason to believe that he will deny approval of a plan he will, prior to the denial, give reasonable notice in writing to the operator(s) and opportunity to amend the plan. The notice shall specify the ground upon which approval is proposed to be denied.

(d) Every approved plan for chest roentgenographic examination shall be resubmitted for approval every 3 years or at such intervals as the Secretary may prescribe.

§ 37.5 Approval of plans.

(a) If, after review of any plan submitted pursuant to this part, the Secretary determines that the action to be taken by the operator or group of operators meets the specifications of this part and will effectively achieve its purpose, the Secretary will forward written notice of his approval of such plan to the operator(s) submitting the plan. Such approval may be conditioned upon such terms as the Secretary deems necessary to carry out the purposes of section 203 of the Act.

(b) If a plan is denied approval, the Secretary shall advise the operator(s) in writing of the reasons therefor.

§ 37.6 Roentgenographic examinations conducted by the Secretary.

(a) The Secretary will give chest roentgenograms or make arrangements with an appropriate person, agency or institution to give the chest roentgenograms required by this part in the locality where the miner resides, at the mine, or at a medical facility in a town easily accessible to a mining community or mining communities, under the following circumstances:

(1) Where, due to the lack of adequate medical or other necessary facilities or personnel at the mine or in the locality where the miner resides, the required roentgenographic examination cannot be given.

(2) Where the operator has not submitted an approvable plan.

(3) Where, after commencement of an operator's program pursuant to an approved plan, the Secretary, after notice to the operator of his failure to

follow the approved plan and, after allowing 30 days to bring the program into compliance, the Secretary determines and notifies the operator that the operator's program still fails to comply with the approved plan.

(b) The operator of the mine shall reimburse the Secretary or such other person, agency, institution, as the case may be, for the actual cost of conducting each examination made in accordance with this section.

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon reading of a chest roentgenogram or the result of other medical examinations shows category 2(2/1) pneumoconiosis or development of category 1(1/0) pneumoconiosis in less than 10 years (ILO or UICC/Cincinnati Classification) shall be afforded the option of transferring from his position to any position in any area of the mine where the concentration of respirable dust in the mine atmosphere is not more than 2.0 mg./m.^{3} of air.

(b) Effective December 31, 1972, the option of transferring shall be to any area in the mine where the concentration of respirable in the mine atmosphere is not more than 1.0 mg./m.^{3} of air, or, if such level is not attainable in such mine, to a position in the mine where the concentration is the lowest attainable below 2.0 mg./m.^{3} of air.

(c) Any transfer under this section shall be for such period or periods as may be necessary to prevent further development of pneumoconiosis, and during such period or periods, the miner shall receive compensation for his work at not less than the regular rate of pay received by him immediately prior to his transfer.

SPECIFICATIONS FOR GIVING CHEST ROENTGENOGRAMS

§ 37.20 General provisions.

(a) The chest roentgenographic examination shall be given in the locality in which the miner resides or in a location that is equivalent with respect to convenience of time and place. Examinations at the mine during, immediately preceding, or immediately following work and a "no-appointment" examination at a medical facility in a town easily accessible to a mining community or mining communities shall be considered of equivalent convenience for purposes of this section.

(b) The initial chest roentgenographic examination shall be supplemented by a completed work history and miner's consent and release form furnished by the U.S. Public Health Service.

(c) A roentgenographic examination shall be given by or under the supervision of a physician who regularly takes chest roentgenograms and who has demonstrated his ability to take high quality chest roentgenograms in accordance with section 37.21.

(d) Every chest roentgenogram shall be a posteroanterior view on a 14" x 17" film, contain the date of exposure and the social security number of the miner, have a broad range of contrast, i.e. a long gray scale, and shall permit the study of pulmonary detail as well as an adequate viewing of the mediastinum.

(e) Upon notification by the Secretary that a film or group of films is not adequate for the purpose for which they were intended, the mine operator shall make provision for additional films to be taken and submitted.

(f) No payment may be required of any miner in connection with any examination or test given to him under the Act.

§ 37.21 Ability to take high quality chest roentgenograms.

Ability to take high quality chest roentgenograms shall be demonstrated by submitting from the physician's files to the Panel of Radiologists six sample chest roentgenograms which are of acceptable quality to the Panel. These may be the same roentgenograms submitted pursuant to section 37.31(a) and will be returned to the physician.

§ 37.22 Protection against radiation emitted by roentgenographic equipment.[4]

Fixed roentgenographic equipment, its use and the facilities in which such equipment is used, shall conform to the recommendations of the National Council on Radiation Protection and Measurements in NCRP Report No. 33 "Medical X-Ray and Gamma-Ray Protection for Energies up to 10 MeV—Equipment Design and Use" (Issued February 1, 1968) which document is hereby incorporated by reference and made a part hereof. This document is available for examination at the Bureau, ALFORD, the Bureau of Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md., and at the Public Health Service Information Center or Regional Office Information Centers as listed in 45 CFR 5.31. Copies of the document may be purchased for $0.75 each from NCRP Publications, Post Office Box 4867, Washington, D.C. 20008.

SPECIFICATIONS FOR READING, CLASSIFYING, AND SUBMITTING FILMS

§ 37.30 Reading and classifying chest roentgenograms.

(a) Chest roentgenograms shall be classified according to the ILO or UICC/Cincinnati Classification only.

(b) Reading and classification shall be only by a physician who regularly reads chest roentgenograms and who has demonstrated proficiency in the use of the ILO or UICC/Cincinnati Classification Systems in accordance with section 37.31.

§ 37.31 Proficiency in the use of the ILO or UICC/Cincinnati Classifications.

Proficiency in the use of the ILO or UICC/Cincinnati shall be demonstrated by either:

(a) Submitting from the physician's files six sample chest roentgenograms to the Panel of Radiologists which are considered properly classified by the Panel. The submission shall consist of two without pneumoconiosis, two with simple pneumoconiosis, and two with complicated pneumoconiosis and will be returned to the physician. (These may be the same roentgenograms submitted pursuant to section 37.21) or;

(b) Successful completion of a course approved by the Bureau in the ILO or UICC/Cincinnati Classification Systems.

§ 37.32 Submitting required chest roentgenograms.

All chest roentgenograms required to be taken under this part, together with their interpretations, the work histories, and the consent-release forms shall be submitted to ALFORD and become the property of the U.S. Public Health Service.

§ 37.33 Notification to miners of abnormal findings.

Findings or suspected findings of enlarged heart, tuberculosis, lung cancer, or any other significant abnormal findings other than pneumoconiosis shall be communicated by the physician reading and classifying the roentgenogram to the miner or new miner or to his designated physician, as indicated on the consent form, and a copy of the communication shall be submitted to ALFORD.

NOTE: Guidelines for the selection of equipment and recommendations for the technique for obtaining high quality roentgenograms are available to any interested person. Requests should be directed to the Bureau of Occupational Safety and Health, 1014 Broadway, Cincinnati, Ohio 45202.

Dated: May 26, 1970.

/s/ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-6768; Filed, June 2, 1970; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 41]

RELOCATION PAYMENTS

Notice of Proposed Rule Making

Pursuant to the authority contained in section 114 of the Housing Act of 1949 (42 U.S.C. 1465); section 311(a) of the Housing and Urban Development Act of 1965 (42 U.S.C. 1468); section 514 of the Housing and Urban Development Act of 1968 (42 U.S.C. 1468a); section 516 of the Housing and Urban Development Act of 1968 (42 U.S.C. 1465(c)); section 404 (a) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074); section 107 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307); section 15(8) of the United States Housing Act of 1937 (42 U.S.C. 1415(8)); and 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); it is proposed to issue regulations governing the making of relocation payments in connection with projects and programs assisted by the Department of Housing and Urban Development. These regulations would supersede those currently appearing at 24 CFR Parts 3, 4, and 6, Subpart B, and 44 CFR Part 710 (and would also supersede such portions of the Low-Rent

Housing Relocation Handbook, RHA 7412.1, chapters 2–7, and CDA letter No. 5, MCGR 3100.5, chapters 5 and 6, as are duplicated by or are inconsistent with the provisions of this part).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Relocation and Special Services Division, Office of the Assistant Secretary for Renewal and Housing Management, Washington, D.C. 20410, within 30 days of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are as follows:

PART 41—RELOCATION PAYMENTS

Subpart A—General

Sec.

Subpart B—Requirements Relating to Specific Programs

AUTHORITY: The provisions of this Part 41 issued under section 114 of Housing Act of 1949 (42 U.S.C. 1465); sec. 404(a) of Housing and Urban Development Act of 1965 (42 U.S.C. 3074); sec. 107 of Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307); sec. 15(8) of United States Housing Act of 1937 (42 U.S.C. 1415(8)); sec. 7(d) of Department of HUD Act (42 U.S.C. 3535(d)); Secretary's delegations of authority to Assistant Secretary for Renewal and Housing Management, 35 F.R. 2746 (sec. A, 6), 2747 (Low-Rent Public Housing Program), and 2748 (Renewal Assistance Program et al.), Feb. 7, 1970; and designation of Acting Assistant Secretary, 35 F.R. 4769, Mar. 19, 1970.

Subpart A—General

§ 41.1 Statement of applicable law.

(a) Section 305 of the Housing Act of 1956 (70 Stat. 1100, 42 U.S.C. 1456) amended title I of the Housing Act of 1949, by adding a new section 106(f), which provided that title I urban renewal projects may include the making of relocation payments subject to rules and regulations prescribed by the Housing and Home Finance Administrator. Section 106(f) was amended by section 304 of the Housing Act of 1957 (71 Stat. 300), section 409 of the Housing Act of 1959 (73 Stat. 673), and section 304 of the Housing Act of 1961 (75 Stat. 167). Section 310 of the Housing Act of 1964 amended title I by adding a new section 114 (78 Stat. 788, 42 U.S.C. 1465) and incorporated therein, with additional provisions, the former section 106(f) of title I, which was repealed (42 U.S.C. 1456(f)). Section 311(a) of the Housing and Urban Development Act of 1965 amended title I by adding a new section 117 (79 Stat. 478, 42 U.S.C. 1468), providing for grants for programs of code enforcement and providing that the provisions of section 114 shall be applicable to such programs. Section 514 of the Housing and Urban Development Act of 1968 (82 Stat. 525, 42 U.S.C. 1468a) amended title I by adding a new section 118, providing for grants for programs of interim assistance for slums and blighted areas and providing that the provisions of section 114 of title I shall be applicable to all activities assisted pursuant to section 118 to the same extent as if such activities were being carried out as part of an urban renewal project. Section 516 of the Housing and Urban Development Act of 1968 (82 Stat. 526, 42 U.S.C. 1465(c)) amended section 114(c) by expanding the relocation payments provisions applicable to the programs of the Department of Housing and Urban Development.

(b) Section 404(a) of the Housing and Urban Development Act of 1965 (79 Stat. 486, 42 U.S.C. 3074) provides that the provisions of section 114 (b), (c), and (d) of title I of the Housing Act of 1949 shall be applicable, to the extent not otherwise authorized by any other Federal law, to any federally assisted development program. Section 401 of the Housing and Urban Development Act of 1965 (79 Stat. 485, 42 U.S.C. 3071) defines development program to include any program established by or conducted under title II of the Housing Amendments of 1955 (69 Stat. 642, 42 U.S.C. 1491) (public facility loans); title VII of the Housing Act of 1961 (75 Stat. 183, 42 U.S.C. 1500) (open-space land, urban beautification, and historic preservation); and title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489, 42 U.S.C. 3101) (grants for basic water and sewer facilities; grants for advance acquisition of land; and neighborhood facilities grants).

(c) Section 107 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 42 U.S.C. 3301) provides that relocation payments in the model cities program shall be made subject to the terms, conditions, and limitations of section 114 (b), (c), (d), and (e) of title I of the Housing Act of 1949.

(d) Section 15(8) of the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. 1415(8)) provides that the terms, conditions, and limitations of section 114 (b), (c), and (d) of title I of the Housing Act of 1949 shall be applicable to relocation payments made in connection with low-rent public housing projects assisted by the Department of Housing and Urban Development.

§ 41.2 Definitions.

For the purpose of the regulations in this part, the following terms shall mean:

(a) *Actual direct loss of property.* Actual loss in the value of property (exclusive of goods or other inventory kept for sale) sustained by the site occupant by reason of the disposition or abandonment of the property resulting from the site occupant's displacement. A loss resulting from damage to the property while being moved is not included.

(b) *Agency.* (1) In an urban renewal area, the local public agency (LPA) authorized to undertake an urban renewal project being assisted under title I of the Housing Act of 1949 (42 U.S.C. 1450);

(2) In a code enforcement area or demolition grant area, the code agency;

(3) In an area receiving interim assistance, the city, other municipality, or county;

(4) In an area receiving assistance in the development, acquisition, or administration of low-rent housing or slum clearance projects by a local housing authority, the local housing authority (LHA);

(5) In an open-space area or an area receiving assistance pursuant to the historic preservation or urban beautification programs, a public body authorized to acquire real property in the locality to carry out these programs;

(6) In a neighborhood facilities grant area, a governmental entity authorized to carry out a project and to provide continuing control over the use of the project facilities;

(7) In an area receiving assistance for activities pursuant to the Public Facilities Loans Program, the Water and Sewer Facilities Grant Program, or the Advance Acquisition of Land Program, any public body or private nonprofit corporation authorized to acquire or utilize real property in the course of such programs; and

(8) In a model cities area, the municipality, county, or any local public body having general governmental powers.

(c) *Business concern.* A corporation, partnership, individual, or other private entity, including a nonprofit organization, engaged in some type of business, professional, or institutional activity necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession, or institution.

(d) *City.* Any municipality (or two or more municipalities acting jointly) or any county or other public body (or two or more acting jointly) having general governmental powers.

(e) *Code agency.* A city, other municipality, or county authorized to engage in code enforcement activities consisting of structural or other substantial repairs to, or alterations of, any building or other

improvement on land, the demolition of any building or improvement, or a reduction in number of occupants of, or any other change in the use of, any parcel of real property, pursuant to the requirements of, or to comply with notice by a municipality of enforcement of, a zoning, building, or other municipal code or ordinance.

(f) *Family.* Two or more persons related by blood, marriage, or adoption, who are living together in a single dwelling unit.

(g) *Federal financial assistance contract.* (1) A contract for a loan, a grant, or a loan and grant, between the Federal Government and the LPA for an urban renewal project;

(2) A contract for a grant for concentrated code enforcement and public improvements between the Federal Government and a code agency;

(3) A contract for a grant for the demolition of unsafe structures between the Federal Government and the code agency;

(4) A contract for a grant for interim assistance to slums or blighted areas between the Federal Government and the city, other municipality, or county;

(5) An Annual Contributions Contract between the Federal Government and an LHA;

(6) A contract between the Federal Government and the public body authorized to acquire land for open-space use or for a historic preservation or urban beautification program under title VII of the Housing Act of 1961 (42 U.S.C. 1500);

(7) A contract between the Federal Government and a public body for a neighborhood facilities program grant under section 703 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3103);

(8) A contract between the Federal Government and the public body for a public facility loan under title II of the Housing Amendments of 1955 (42 U.S.C. 1491–1497); a water and sewer facilities grant under title VII of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101–3108); and advance acquisition of land under title VII of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101–3108);

(9) A contract between the Federal Government and the city for the purpose of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301).

(h) *HUD.* (1) Prior to November 9, 1965, the Housing and Home Finance Administrator; or

(2) On and after November 9, 1965, the Housing and Home Finance Administrator in the Department of Housing and Urban Development pending appointment of the Secretary of Housing and Urban Development, and thereafter the Secretary of Housing and Urban Development; or

(3) An employee duly authorized to perform the functions of such administrator or secretary.

(i) *Individual.* A person who is not a member of a family. An elderly individual is an individual 62 years of age or over at the time of displacement. A handicapped individual is an individual who has a physical impairment which is expected to be of long-continued and indefinite duration and which substantially impedes his ability to live independently.

(j) *LHA.* A local housing authority authorized to undertake a low-rent housing project assisted under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.).

(k) *LPA.* A local public agency authorized to undertake an urban renewal project being assisted under title I of the Housing Act of 1949 (42 U.S.C. 1450 et seq.).

(l) *Moving expenses*—(1) *Individual and families.* Costs of packing, storing (for a period of 1 year or less), carting, and insuring of property and incidental costs of disconnecting and reconnecting household appliances.

(2) *Business concerns.* Costs of dismantling, crating, storing (for a period of 1 year or less), transporting, insuring, reassembling, reconnecting, and reinstalling of property (including goods or other inventory kept for sale): *Provided,* That the cost of any additions, improvements, alterations, or other physical changes in or to any structure in connection with effecting such reassembly, reconnection, or reinstallation shall not be included unless the agency determines, with HUD concurrence, that such additions, improvements, alterations, or other physical changes are required by law or are otherwise necessary to the continued operation of the business.

(m) *Plan.* A duly approved plan, as it exists from time to time, for any program or project as defined in this part.

(n) *Project area.* An area which HUD has approved for a project or program in connection with (1) urban renewal; (2) concentrated code enforcement; (3) demolition; (4) interim assistance; (5) low-rent public housing or slum clearance; (6) open-space land; (7) historic preservation; (8) urban beautification; (9) neighborhood facilities development; (10) public facilities loans; (11) water and sewer facilities grants; (12) advance acquisition of land; (13) the area in which model cities activities are carried out; whichever is pertinent in the context.

(o) *Property.* Tangible personal property, excluding fixtures, equipment, and other property which under State or local law are considered real property, but including such items of real property as the site occupant may lawfully remove.

(p) *Public body.* A State, county, municipality, or other political subdivision, or an authority or agency which is a public legal entity.

(q) *Relocation payment.* A payment by an agency:

(1) To an individual or family, for reasonable and necessary moving expenses and any actual direct loss of property (for which reimbursement or compensation is not otherwise made);

(2) To a business concern, for its reasonable and necessary moving expenses and any actual direct loss of property (for which reimbursement or compensation is not otherwise made);

(3) To a small business concern, for its displacement (small business displacement payment);

(4) To or on behalf of a family or elderly individual for relocation adjustment prior to August 1, 1968 (relocation adjustment payment); or to or on behalf of a family or elderly or handicapped individual on or after August 1, 1968 (additional relocation payment);

(5) To an individual, family, or business concern for settlement costs (for which reimbursement or compensation is not otherwise made);

(6) To a family or individual to assist an owner-occupant of a one- or two-family dwelling to purchase and occupy a replacement dwelling (replacement housing payment).

(r) *Settlement costs.* (1) Recording fees, transfer taxes, and similar expenses incidental to conveying real property to the agency;

(2) Penalty costs for prepayment of any mortgage encumbering such real property; and

(3) The pro rata portion of real property taxes allocable to a period subsequent to the date of vesting of title, or the effective date of the acquisition of such real property by the agency, whichever is earlier.

(s) *Small business concern.* A business concern (other than a nonprofit organization) which during the base period had:

(1) Average annual net earnings before income taxes of less than $10,000; and

(2) In the case of displacements prior to June 15, 1966, average annual gross receipts or sales in excess of $1,500; or in the case of displacements on and after June 15, 1966, average annual gross receipts or sales in excess of $1,500 together with average annual net earnings before income taxes in excess of $500, or average annual gross receipts or sales in excess of $2,500.

Earnings for the purpose of this paragraph(s) include salaries, wages, or other compensation received by an owner of the concern or any member of his household related to him. The term "owner" as used in the previous sentence includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by HUD. For purposes of this paragraph(s), the base period shall be the 2 tax years immediately preceding displacement (or, if the business concern is not in business that long, such other period as may be approved by HUD): *Provided,* That, if a business concern does not qualify as a small business concern under subparagraph (2) of this paragraph based upon the 2 tax years immediately preceding displacement and the agency finds that its business activity during such period was not representative, the base period shall be the 3d and 4th tax years immediately preceding displacement.

(t) *Voluntary rehabilitation.* Structural or other substantial repairs to, or alterations to, or demolition of, any building or other improvement on land within a project area, undertaken by an owner in order to conform to the property rehabilitation standards set forth in the applicable plan.

§ 41.3 Relocation payments by the Agency.

(a) The Agency shall make relocation payments to or on behalf of eligible site occupants in accordance with and to the full extent permitted by the regulations in this part: *Provided,* That for each Federal financial assistance contract the agency may elect whether to make payments for moving expenses in excess of $25,000 in accordance with § 41.13(a)(2).

§ 41.4 Relocation adjustment payment; additional relocation payment; replacement housing payment.

(a) *Relocation adjustment payment.* A family or elderly individual who satisfies the pertinent eligibility conditions set forth in §§ 41.22, 41.23, 41.24, 41.25, 41.26, 41.27, 41.28, or 41.29 prior to August 1, 1968, is eligible for a relocation adjustment payment if the site occupant:

(1) Is unable to secure a suitable dwelling unit in (i) a low-rent housing project assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.) or a State or local program found by HUD to have the same general purposes or (ii) a dwelling unit assisted under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(a)); and

(2) Has moved to a decent, safe, and sanitary dwelling.

(b) *Additional relocation payment.* A family or elderly or handicapped individual who satisfies the pertinent eligibility conditions of §§ 41.22, 41.23, 41.24, 41.25, 41.26, 41.27, 41.28, or 41.29, on or after August 1, 1968, is eligible for an additional relocation payment if the site occupant:

(1) Is unable to secure a suitable dwelling in (i) a low-rent housing project assisted under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.) or a State or local program found by HUD to have the same general purposes or (ii) a dwelling unit assisted under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(a)); and

(2) Has moved to a decent, safe, and sanitary dwelling.

An additional relocation payment not to exceed $500 in the first 12 months and $500 in the second 12 months may be made on a monthly basis, or on a lump-sum basis, or otherwise on other than a monthly basis in cases in which other than monthly payments are determined warranted by HUD.

(c) *Replacement housing payment.* A family or individual who satisfies the pertinent eligibility conditions of §§ 41.22, 41.23, 41.24, 41.25, 41.26, 41.27, 41.28, or 41.29, on or after August 1, 1968, is eligible for a replacement housing payment if the site occupant:

(1) Is the owner of real property acquired for a project on or after August 1, 1968;

(2) Has occupied a single- or two-family dwelling located on the real property for a period of not less than 1 year, prior to the initiation of negotiations for the acquisition of the real property;

(3) Does not receive the additional relocation payment provided for by § 41.4(b);

(4) Purchases and occupies a replacement dwelling within 1 year subsequent to the date on which he is required to move from the dwelling acquired for the project; and

(5) Does not receive a payment pursuant to the State law of eminent domain determined by HUD to have substantially the same purpose and effect as would a replacement housing payment, and to be a part of the cost of the project for which Federal financial assistance is available.

§ 41.5 Small business displacement payment.

A small business concern which satisfies the pertinent eligibility conditions of §§ 41.22, 41.23, 41.24, 41.25, 41.26, 41.27, 41.28, or 41.29 is eligible for a small business displacement payment if the concern:

(a) Is not part of an enterprise having two or more establishments outside the project area;

(b) Has filed with the Internal Revenue Service income tax returns for the base period, or has furnished such other evidence of earnings as may be approved by HUD; and

(c) Was doing business in the project area on the date of approval by the local governing body of the plan for the project area in which the small business concern is located, or on the date of the approval by the agency of an application for a Federal financial assistance contract for the project area, whichever is pertinent in the context.

§ 41.6 Notice of intention to move.

Except as provided in this § 41.6, no relocation payment for moving expenses or actual direct loss of property and no small business displacement payment shall be made to a business concern unless:

(a) The agency has received, at least 30 days but not earlier than 90 days prior to the moving date, written notice from the business concern of its intention to move or dispose of the property, which shall be described generally in the notice, and the date of such intended move or disposition; and

(b) The business concern has permitted, at all reasonable times, the inspection by or on behalf of the agency of such property at the site from which the business concern is displaced. For the purpose of this § 41.6, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the agency has determined that there was reasonable cause for the failure of the business concern to give such notice, and the agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

§ 41.7 Determining moving expenses of business concerns.

(a) *Submission of bids prior to moving date.* No claim for a relocation payment for moving expenses in excess of $500 shall be allowed for the costs incurred by a business concern unless the concern has submitted to the agency, at least 15 days prior to the commencement of the move, a bid from three reputable firms covering the moving costs involved. Whenever it is not feasible to obtain three bids for any category of work, a lesser number of bids shall be submitted, together with a written justification by the concern; and no relocation payment shall be allowed in such cases unless the agency has approved the justification. The agency, with HUD concurrence, may waive any requirement of this paragraph (a) for good cause.

(b) *Payment not to exceed low bid.* Payment to a business concern for moving expenses shall not exceed the amount of the low bid submitted in accordance with paragraph (a) of this section unless the bid requirement has been waived in accordance with paragraph (a) of this section.

§ 41.8 Determining actual direct loss of property.

(a) The amount of actual direct loss of any item of property claimed shall be determined as follows:

(1) The fair market value of the property for continued use at its location prior to the displacement shall be ascertained by an appraisal satisfactory to the agency, except as provided in subparagraph (2) of this paragraph.

(2) If the value of the property for which actual direct loss is claimed does not warrant the expenses of an appraisal, then its fair market value for such continued use shall be computed as follows: The original cost of the item to the claimant (exclusive of installation) multiplied by the figure obtained by dividing the period of the remaining useful life of the property at the date of removal by the period of the normal useful life of the property at the date of its acquisition by the claimant.

(3) The property shall be disposed of by a bona fide sale (as determined by the agency) at the highest price offered after reasonable efforts have been made over a reasonable period of time to interest prospective purchasers. A trade-in of the property may be considered a bona fide sale, and the trade-in allowance, exclusive of any amount of discount that would be allowed on the price of the property being acquired in the absence of the trade-in, shall be the amount realized upon the sale of the property.

(4) If the amount realized from the sale, after deducting ordinary and reasonable expenses of the sale, is less than the fair market value for such continued use, the difference between the net amount realized and the fair market value is the amount of actual direct loss of the property.

(b) If a bona fide sale is not effected because no offer is received for the property, after reasonable efforts have been made over a reasonable period of time to sell it, then its fair market value for continued use, ascertained as provided in this section, is the amount of actual direct loss of the property.

(c) No relocation payment shall be made for the cost of an appraisal secured by the agency to determine the amount of any actual direct loss of property, which cost shall be borne by the agency.

(d) No relocation payment shall be made for the cost of any appraisal made by or on behalf of a claimant subsequent to the appraisal required by § 41.8(c).

§ 41.9 Outdoor advertising display.

A business concern which is not displaced from a project area shall be eligible for a relocation payment for moving expenses with respect to its outdoor advertising displays required, in the determination of the agency, to be removed from the project area.

§ 41.10 Fixed relocation payments to individuals and families.

(a) *Schedule of fixed payments.* An agency may pay, to eligible individuals and families who elect to receive them, fixed amounts in lieu of payments for reasonable and necessary moving expenses and actual direct losses of property. Each agency intending to make fixed payments for moving expenses shall prepare a schedule (Form HUD–6142) of the fixed amounts which it proposes to pay. The schedule shall contain a statement indicating that the agency will permit eligible individuals and families so choosing to claim reimbursement for their actual moving expenses and actual direct loss of property.

(b) *Schedule provision.* (1) A proposed schedule of fixed payments to eligible individuals and families owning furniture shall provide for a graduated scale of payments related to the number of all rooms occupied or utilized by the claimant, except bathrooms, hallways, and closets, which payments shall not exceed the result obtained by multiplying a reasonable local average hourly moving rate (as determined by the agency, with HUD concurrence) by the number of hours allotted to moving personal effects.

(2) Fixed payments to eligible individuals and families not owning furniture, but owning furnishings, shall be the average hourly rate or $25, whichever is the lesser, calculated in accordance with the method prescribed in § 41.10 (b)(1): *Provided*, That fixed payments to eligible individuals or families not owning furniture or furnishings shall not exceed: (i) $5 for any individual, (ii) $10 for any family.

(c) *Administration of fixed payments.* Eligible individuals or families may be paid the amount provided in the schedule of fixed payments approved by HUD upon receipt of a properly completed claim. A fixed payment shall be in full settlement for the claimant's moving expense and any actual direct loss of property. If the joint occupants of a single dwelling unit in the project area move to two or more locations and consequently submit more than one claim, an eligible claimant for a fixed payment may be paid only his reasonable prorated share (as determined by the agency) of the total fixed payment applicable to such dwelling unit, and the total of fixed payments made to all such claimants moving from such dwelling unit shall not exceed the total fixed payment applicable to such dwelling unit.

§ 41.11 Administration of relocation payments.

(a) *Conditions for relocation payment.* The agency (or, if the agency is the municipality, the board or commission responsible for carrying out the federally assisted activities or, if there is no such board or commission, the principal executive officer of the municipality) shall approve a schedule (Form HUD–6148) of average annual gross rentals for standard housing in the locality for determining the amount of relocation adjustment payments and additional relocation payments in accordance with § 41.4 (a) and (b), and a separate schedule (Form HUD–6155) for determining the average price of standard sales housing in a locality, and any other conditions under which the agency will make relocation payments. The schedules and conditions shall be consistent with the regulations in this part and shall be available in written form to site occupants in the office of the agency.

(b) *Notice to site occupants.* The agency shall furnish, to all site occupants who occupy property within a project area (or the area of the federally assisted activities) and who are anticipated to be displaced, a notice or information statement advising the site occupant of (1) the availability of relocation payments to eligible site occupants, and (2) the office where the conditions under which relocation payments will be made are available for inspection.

(c) *Action on claim—finality.* The agency is initially responsible for determining the eligibility of a claim for, and the amount of, a relocation payment and shall maintain in its files complete and proper documentation supporting the determination. The determination on each claim shall be made or approved either by the governing body of the agency or by the principal executive officer of the agency or his duly authorized designee. The determination by the agency or any redetermination by HUD shall be final and conclusive with respect to the rights of any site occupant, and not subject to redetermination by any court or any other officer. Subject to the requirements of this paragraph (c), the agency may permit a third-party contractor responsible for relocation activities to examine and recommend action on a claim and to disburse funds in payment of a claim which has been approved by the agency.

(d) *Prompt payment.* A relocation payment shall be made by the agency as promptly as possible after a site occupant's eligibility has been determined in accordance with the regulations in this part.

(e) *Agency setoff against claim.* The agency may set off against the claim of an otherwise eligible site occupant any financial claim the agency may have against the site occupant arising out of the use of the real property.

(f) *Approval by HUD—business concerns.* No claim for a relocation payment for moving expenses or settlement costs, or both, shall be paid without the concurrence of HUD if the claim exceeds $10,000. No claim for a relocation payment for moving expenses which involves additions, improvements, alterations, or other physical changes, described in § 41.2(d)(2), shall be paid without the concurrence of HUD.

(g) *Temporary moves.* No relocation payment shall be made to a site occupant for a temporary move.

(h) *Reimbursement of relocation payments.* Relocation payments made in accordance with the regulations in this part and pursuant to a Federal financial assistance contract are reimbursable in full to the agency as a Federal grant.

(i) *Accounts and records.* Accounts and records shall be subject to inspection or audit at all reasonable times by HUD. Records pertaining to eligibility for relocation payments, including all claims, receipted bills, or other documentation in support of a claim, and records pertaining to action on a claim, shall be retained by the agency for not less than 3 years after the completion of the federally assisted activities.

§ 41.12 Filing of claims.

(a) *Form of claim.* To obtain a relocation payment, site occupants shall file written claims with the agency on the appropriate HUD forms.

(b) *Documentation in support of a claim.* A claim shall be supported by the following:

(1) If for moving expenses, except in the case of a fixed payment, a receipted bill or other evidence of such expenses. By prearrangement between the agency, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the agency, and the agency may pay the mover directly.

(2) If for actual direct loss of property, written evidence thereof, which may include appraisals, certified prices, copies of bills of sale, receipts, canceled checks, copies of advertisements, offers to sell, auction records, and such other records as may be appropriate to support the claim.

(3) In any other case, such documentation as may be required by the agency, which may include income tax returns, withholding or information statements, and proof of age.

(c) *Time for filing claims.* A claim for moving expenses, actual direct loss of property, or a small business displacement payment shall be submitted to the agency within a period of 6 months after the displacement of the site occupant. A claim for a relocation adjustment payment or for an additional relocation payment shall be submitted within a period

of 6 months after the displacement of the site occupant. A claim for a replacement housing payment shall be submitted within 18 months after the displacement of the claimant. The time limitations in this paragraph (c) may be waived by the agency for good cause with HUD concurrence.

§ 41.13 Limitations on amount of relocation payments.

(a) *Moving expenses and loss of property.*—(1) *Maximum amount—individuals and families.* The maximum relocation payment that may be made or recognized for moving expenses and actual direct loss of property, for which reimbursement or compensation is not otherwise made, shall not exceed $200 in the case of individuals, families, or two or more unrelated individuals occupying the same dwelling unit.

(2) *Maximum amount—business concerns.* The maximum relocation payment that may be made or recognized in the case of a business concern for moving expenses and actual direct loss of property, for which reimbursement or compensation is not otherwise made, shall not exceed $3,000. If the total of the actual certified moving expenses incurred is greater than $3,000, and there is no claim for actual direct loss of property, the maximum relocation payment that may be made shall be:

(i) The total actual moving expenses or $25,000, whichever is less; or

(ii) At the sole option of the agency, $25,000 together with a portion of the actual moving expenses in excess of $25,000 representing the same percentage of the excess as the percentage of the cost of the project paid for by the Federal grant under the terms of the pertinent Federal financial assistance contract. The agency electing to pay on this basis must make a cash payment to the displaced business, equal to the remainder of its actual moving expenses in excess of $25,000, out of local funds not to be made up of amounts consisting of any portion of the local share of the project cost: *Provided*, That, in any locality in which an LPA elects to share in the actual moving expenses in excess of $25,000 in connection with an urban renewal project, the City conducting a model cities project shall be required to share in actual moving expenses in excess of $25,000 on the same percentage basis as actual moving expenses in excess of $25,000 are borne by the LPA carrying out such urban renewal project: *And provided further*, That an LHA may elect to pay actual moving expenses in excess of $25,000 by:

(a) Charging two-thirds of the amount in excess of $25,000 to project development funds, and one-third of such expenses to local funds; or

(b) Charging three-fourths of the amount in excess of $25,000 to project development funds, and the remaining one-fourth to local funds in a locality eligible for a three-fourths grant for an urban renewal project under section 103(a)(2)(B) of the Housing Act of 1949 (42 U.S.C. 1453(a)(2)(B)).

(3) *Maximum moving distance.* If a business concern moves beyond 100 miles from the boundary of the county, city, town, or village, as the case may be, in which the federally assisted activities are carried out, a relocation payment for its moving expenses may not be made in excess of the reasonable and necessary expenses for moving such distance of 100 miles.

(b) *Maximum amounts—small business displacement payment, relocation adjustment payment, additional relocation payment, and replacement housing payment*—(1) *Fixed amount—small business displacement payment.* A small business displacement payment shall be $2,500 for business concerns displaced on or after August 10, 1965.

(2) *Maximum amount—relocation adjustment payment.* The total relocation adjustment payment that may be made for a family or elderly individual shall be an amount not to exceed $500 which, when added to 20 percent of the annual income of the family or individual at the time of displacement, equals the average annual gross rental required for a decent, safe, and sanitary dwelling of modest standards adequate in size to accommodate the family or individual as determined by the agency.

(3) *Maximum amount—additional relocation payment.* The total additional relocation payment that may be made to a family or elderly or handicapped individual shall consist of monthly payments over a period not to exceed 24 months and shall be paid in an amount not to exceed $500 in the first 12 months and not to exceed $500 in the second 12 months (except as provided in § 41.4(b) of the regulations in this part) which, when added to 20 percent of the annual income of the family or individual at the time of displacement, shall be equal to the average annual gross rental required at such time to secure a decent, safe, and sanitary dwelling of modest standards adequate in size to accommodate the family or individual as determined by the agency.

(4) *Maximum amount—replacement housing payment.* The total replacement housing payment that may be made for a family or individual eligible for a replacement housing payment under § 41.4(c) of the regulations of this part shall not exceed the lesser of (i) $5,000, or (ii) an amount which, when added to the acquisition payment, shall be equal to the average price required for a purchase of a decent, safe, and sanitary dwelling of modest standards which is adequate in size to accommodate the displaced owner, reasonably accessible to public services and places of employment, and available on the private market.

§ 41.14 Condemnation proceedings and negotiated purchases.

Notwithstanding any other provision of the regulations in this part, in any State in which applicable law requires the inclusion in an award in eminent domain or in the purchase price paid for any property acquired by negotiation of an allowance for any of the expenses included within the definition of relocation payment in § 41.2(q), the portion of any judgment or any purchase price representing compensation for such expenses, if separately stated, shall be entitled to recognition as a relocation payment in an amount not to exceed the applicable dollar limitations in § 41.13: *Provided*, That the allowance for actual direct loss of property makes no compensation for loss of goodwill or profit.

§ 41.15 Waiver.

No section of the regulations in this part which does not otherwise provide for waiver shall be waived unless the Secretary, after reviewing any claim for payment, authorizes waiver of the pertinent section(s) of the regulations in this part with regard to such claim.

Subpart B—Requirements Relating to Specific Programs

§ 41.21 Statement of applicability.

The regulations in this subpart shall govern basic conditions of eligibility for a relocation payment for reasonable and necessary moving expenses and actual direct loss of property (and shall form the initial basis of eligibility for the relocation payments described in Subpart A of this part) as these pertain to the programs named in this subpart.

§ 41.22 Urban renewal and neighborhood development programs.

(a) *Displacement.* A site occupant is eligible for a relocation payment if the displacement of the site occupant is:

(1) From real property within the urban renewal area, on or after the date of execution of the pertinent Federal financial assistance contract, or the date of HUD approval of a budget for project execution activities resulting in the displacement (provided that in the latter case a Federal financial assistance contract for such contemplated project is thereafter executed); and

(2) Made necessary by (i) the acquisition of such real property by the LPA or any other public body, or (ii) code enforcement activities undertaken in connection with the urban renewal area, or (iii) a program of voluntary rehabilitation of buildings or other improvements in accordance with the Urban Renewal Plan, as further described in paragraphs (b) and (c) of this section.

(b) *Displacement made necessary by acquisition.* A site occupant on the date of execution of a Federal financial assistance contract (or HUD concurrence, prior to its approval of an application for loan and grant, in the commencement of a project execution activity) which contemplates acquisition of the property, regardless of when or if such acquisition takes place, and a site occupant of the property at the time of its acquisition may be deemed displaced by the acquisition upon vacating the property. For this purpose, acquisition means the obtaining by the LPA or other public body of title to, or the right to possession of, the real property. No claim based upon acquisition of real property by a public body other than the LPA shall be approved unless the LPA shall have determined that the site occupant was displaced by acquisition or in contemplation thereof. The determination shall be supported by a signed statement from

the public body indicating (1) when it acquired or proposes to acquire the property occupied by the site occupant, and (2) whether it compensated or has agreed to compensate the claimant for moving expenses, actual direct loss of property, or settlement costs resulting from the displacement.

(c) *Displacement made necessary by code enforcement or voluntary rehabilitation.* The vacating by the site occupant of the real property after the happening of any of the following events shall be deemed to be a displacement from the urban renewal project area made necessary by code enforcement or voluntary rehabilitation, as the case may be.

(1) In the case of code enforcement, the commencement of, or notice by the code agency of, code enforcement with respect to the real property, or the part thereof occupied by the site occupant which makes it necessary (as determined by the LPA) for the site occupant to vacate the real property.

(2) In the case of voluntary rehabilitation, the commencement of, or notice by the owner of the real property of the commencement of, voluntary rehabilitation of the building or other improvement, or the part thereof occupied by the site occupant which makes it necessary (as determined by the LPA) for the site occupant to vacate the real property.

(3) In the case of either code enforcement or voluntary rehabilitation, an increase or a notice of increase in rent for the rent period involved amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the LPA for the displacees' ability to pay.

§ 41.23 Code enforcement or demolition grants.

(a) *General.* A site occupant is eligible for a relocation payment if the displacement is:

(1) From real property within the code enforcement or demolition grant project area on or after (i) the date of execution of a Federal financial assistance contract, or (ii) the date of HUD approval of a budget for a program of concentrated code enforcement, or (iii) the date of HUD approval of an application for a demolition grant: *Provided*, That in the case of approval of such budget or application a Federal financial assistance contract is thereafter executed for the area; and

(2) Made necessary by (i) code enforcement activities as further defined in paragraph (b) of this section, (ii) a program of voluntary rehabilitation of buildings or other improvements in accordance with the program of concentrated code enforcement and public improvement, as further defined in paragraph (c) of this section, (iii) acquisition of real property by the code agency or any other public body in connection with a federally assisted program of concentrated code enforcement and public improvement as further defined in paragraph (d) of this section, or (iv) demolition activities as further defined in paragraph (e) of this section.

(b) *Displacement made necessary by code enforcement.* The displacement of a site occupant from a code enforcement area is deemed made necessary by code enforcement if the vacation of the real property occurs on or after the commencement of code enforcement, or the receipt of notice by the site occupant that code enforcement will be required, with respect to the real property occupied by the site occupant under either of the following circumstances:

(1) The code enforcement cannot reasonably be undertaken without the vacation of the real property by the site occupant and the code agency so determines; or

(2) In the case of a tenant, the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the code agency for displacees' ability to pay.

No claim based upon code enforcement shall be approved unless the code agency shall have determined that the site occupant was displaced by such activities.

(c) *Displacement made necessary by voluntary rehabilitation.* The displacement of a site occupant from a code enforcement area is deemed made necessary by voluntary rehabilitation:

(1) Upon the commencement of such rehabilitation of the building or other improvement, or the part thereof occupied by the site occupant which makes it necessary (as determined by the code agency) for the site occupant to vacate the real property; or

(2) In the case of a tenant, an increase or a notification of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also exceed the standards established by the code agency for displacees' ability to pay.

(d) *Displacement made necessary by acquisition.* The displacement of a site occupant from a code enforcement project area is deemed made necessary by acquisition if the vacation of the real property occurs after the code agency or other public body acquiring the legal or equitable title or the right to possession has ordered the site occupant to vacate the real property. No claim based upon acquisition of real property by a public body other than the code agency shall be approved unless the code agency has determined that the site occupant was displaced by the acquisition or in contemplation thereof. The determination shall be supported by a signed statement from the public body indicating (1) when it acquired or proposes to acquire the property occupied by the site occupant, and (2) whether it compensated or has agreed to compensate the site occupant for moving expenses, actual direct loss of property, or settlement costs resulting from the displacement.

(e) *Displacement made necessary by demolition.* The displacement of a site occupant from a demolition grant project area is deemed made necessary by demolition if the vacation of the real property occurs after the code agency has ordered the real property to be vacated and demolished.

§ 41.24 Interim assistance areas.

(a) *Displacement.* A site occupant is eligible for a relocation payment if the displacement is:

(1) From private real property within the interim assistance project area on or after the date of execution of a Federal financial assistance contract or the date of HUD approval of a budget for a program of interim assistance: *Provided*, That in the latter case a Federal financial assistance contract is thereafter executed for the area; and

(2) Made necessary by (i) activities designed to improve private properties to the extent needed to eliminate the most immediate dangers to the public health and safety, as further defined in paragraph (b) of this section, (ii) acquisition of real property by the agency in connection with a federally assisted program of improvement of private properties, as further defined in paragraph (c) of this section, or (iii) demolition of structures determined to be structurally unsound or unfit for human habitation, and which constitute a public nuisance and serious hazard to the public health and safety, as further defined in paragraph (d) of this section.

(b) *Displacement made necessary by improvement of private properties.* The displacement of a site occupant from an interim assistance project area is deemed made necessary by improvement of private properties if the vacation of the private real property occurs on or after the commencement of improvement activities, or the receipt of notice by the site occupant that improvements will be required with respect to private real property occupied by the site occupant, and if:

(1) The improvement is necessary to eliminate the most immediate dangers to public health and safety, and the agency so determines, and the improvement cannot reasonably by undertaken without the vacation of the real property by the site occupant and the agency so determines. No claim based upon interim assistance involving improvement of private properties shall be approved unless the agency shall have determined that the claimant was displaced by such activities. The determination shall be supported by a statement by the agency giving the factual basis on which the determination was made; or

(2) In the case of a tenant, the owner has increased the rent, or has notified the tenant of an increase in rent, amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in

the case of an individual or family the increase shall also result in a rent exceeding the standards established by the agency for displacees' ability to pay.

(c) *Displacement made necessary by acquisition.* The displacement of a site occupant from an interim assistance project area is deemed made necessary by acquisition if the vacation of the real property occurs after the agency has acquired legal or equitable title or the right to possession and has ordered the site occupant to vacate the real property.

(d) *Displacement made necessary by demolition of unfit structures.* The displacement of a site occupant from an interim assistance project area is deemed made necessary by demolition of unfit structures if the vacation of the real property occurs under the following circumstances:

(1) The structures occupying the real property are structually unsound or unfit for human habitation and constitute a public nuisance and serious hazard to the public health and safety, and the agency has so determined; and

(2) The vacation of the real property occurs after the agency has ordered the real property to be vacated and demolished.

§ 41.25 Low-rent public housing.

(a) *Displacement.* A site occupant is eligible for a relocation payment if the displacement of the site occupant is:

(1) From real property within the low-rent public housing project area on or after the date of execution of the pertinent annual contributions contract (or the date of tentative site approval by HUD, whichever date is later); and

(2) Made necessary by the acquisition of the real property by the LHA.

(b) *Displacement made necessary by acquisition.* A site occupant of real property within the low-rent public housing area on the date of execution of the applicable annual contributions contract (or the date of tentative site approval by HUD, whichever date is later), which contemplates acquisition of the property, regardless of when or if such acquisition takes place, and a site occupant of the property at the time of its acquisition may be deemed displaced by the acquisition upon vacating the property. For this purpose, acquisition means the obtaining by the LHA of title to, or the right to possession of, the real property.

§ 41.26 Open-space land, urban beautification, and historic preservation.

(a) *Moving expenses and actual direct loss of property.* A site occupant is deemed displaced by the acquisition of real property for open-space use, urban beautification, or historic preservation and is eligible for a relocation payment for moving expenses and actual direct loss of property if:

(1) The acquisition of real property necessitates its vacation; and

(2) The site occupant is (i) an occupant of the real property on the date of execution of a Federal grant contract authorizing the acquisition of the real property (or, if HUD concurrence is given for the acquisition of the real property prior to its approval of a Federal grant contract, the date of such HUD concurrence, provided that in the latter case a Federal grant contract for the project is thereafter executed) regardless of when or if such acquisition takes place, or (ii) the site occupant is an occupant of the real property at the time of its acquisition.

(b) *Settlement costs.* A site occupant is deemed eligible for a relocation payment for settlement costs if:

(1) He is the owner of the real property at the time of transfer of title to the agency; and

(2) If the transfer of title to the real property occurs on or after the date of execution of a Federal grant contract authorizing the acquisition of the real property (or, if HUD concurrence is given for the acquisition of the real property prior to its approval of a Federal grant contract, on or after the date of such HUD concurrence, provided that a Federal grant contract for the project is thereafter executed).

§ 41.27 Neighborhood facilities projects.

(a) *Moving expenses and actual direct loss of property.* A site occupant is deemed displaced by the project and is eligible for a relocation payment for moving expenses and actual direct loss of property if:

(1) The project necessitates vacation of real property by the claimant; and

(2) The site occupant is (i) an occupant of the real property on the date of execution of a Federal grant contract authorizing the project (or, if HUD concurrence is given for the commencement of project activities causing the displacement prior to HUD approval of a Federal grant contract, the date of such concurrence, provided that in the latter case a Federal grant contract for the project is thereafter executed), or (ii) the site occupant is the occupant of the real property on the date of its acquisition.

(b) *Settlement costs.* A claimant for settlement costs is eligible for a relocation payment if:

(1) He is the owner of the real property at the time of transfer to the agency or to a nonprofit agency under its control which is engaged in the carrying out of the project; and

(2) The transfer of title to the real property occurs on or after the date of execution of a Federal grant contract authorizing the acquisition of the real property (or, if HUD concurrence is given for the acquisition of the real property prior to its approval of a Federal grant contract, on or after the date of such HUD concurrence, provided that a Federal grant contract for the project is thereafter executed).

§ 41.28 Public facility loans; grants for basic water and sewer facilities; and grants for advance acquisition of land.

(a) *Displacement.* A site occupant is eligible for a relocation payment if:

(1) The site occupant is displaced from the real property within the project area on or after the date of the filing of an application for Federal financial assistance; and

(2) A Federal financial assistance contract is executed under title II of the Housing Amendments of 1955 (42 U.S.C. 1491–1497) or section 702 or 704 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102 or 3104); and

(3) The acquisition or use of such real property is determined by HUD to be necessary in connection with a project under the program; and

(4) The site occupant vacates after (i) the Agency acquires title to or use of the property in connection with the program; or (ii) the agency becomes entitled to possession of the real property pursuant to a proceeding in condemnation; or (iii) a binding contract for the purchase of the real property is entered into by the Agency and the owner of such real property if, in fact, the real property is not occupied by another occupant prior to acquisition of title to, or the right of possession of, the real property by the agency.

(b) *Settlement costs.* A claimant is eligible for a relocation payment for settlement costs if he is the owner of the real property at the time of the transfer of such real property to the agency.

§ 41.29 Model Cities.

A site occupant is eligible for relocation payment if the displacement of the site occupant is:

(a) From real property, on or after (1) the date of HUD approval of a comprehensive city demonstration program (or an amendment thereof) that identifies the undertaking resulting in the displacement as being carried out in connection with the program, or (2) such earlier date as may be approved by HUD for a specific undertaking upon the request of a city (provided that in both cases a Federal financial assistance contract is thereafter, or has been, executed and that in the latter case HUD subsequently aproves a comprehensive city demonstration program, or an amendment thereof, that identifies the undertaking as one being carried out in connection with the program); and

(b) On or after (1) receipt of a notice to vacate from the owner of the property (or of a notice of increase in rent for the rent period involved amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family if in the latter case the increase results in a rent exceeding the standards established by the city for the displacees' ability to pay) or, in the case of an owner-occupant, the commencement of activities which make it necessary (as determined by the city) to vacate the property; or (2) such earlier date fixed by HUD on the basis of a determination that the move was reasonably in contemplation of a notice to vacate or an increase in rent as defined herein.

NORMAN V. WATSON,
Acting Assistant Secretary for Renewal and Housing Management.

[F.R. Doc. 70-6837; Filed, June 2, 1970; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-30]

CINCINNATI, OHIO, COMMERCIAL ZONE

Redefinition of Limits

MAY 28, 1970.

Redefinition of the limits of the Cincinnati, Ohio, commercial zone heretofore defined in Ex Parte No. MC-30, Cincinnati, Ohio, commercial zone, 106 M.C.C. 267.

Petitioner: Greater Cincinnati Chamber of Commerce.

Petitioner's representative: Norbert B. Flick, Executive Building, Cincinnati, Ohio 45202.

By petition filed April 5, 1970, the above-named petitioner requests the Commission to reopen the above proceeding for the purpose of redefining the limits of the Cincinnati, Ohio, commercial zone, which were most recently defined on December 27, 1967, in Cincinnati, Ohio, commercial zone, 106 M.C.C. 267, at pages 270-272 (49 CFR 1048.7), so as to include therein an area described below.

Petitioner requests the Commission to redefine the zone limits so as to include within the zone an area bounded by a line as follows: Beginning at the Ohio River at the Ohio-Indiana border, thence northerly along said border to its intersection with U.S. Highway 50, thence northeasterly along U.S. Highway 50 to Kilby Road, thence northerly along Kilby Road to U.S. Highway 52, thence southeasterly along U.S. Highway 52 to Dry Fork Road, thence northerly along Dry Fork Road to its junction with Edgewater Road, thence north along Edgewater Road to its intersection with the Butler-Hamilton County boundary, thence easterly along said boundary to the western boundary of the Fernald Atomic Energy Plant (U.S. Reservation Territory), thence along the western, northern, and eastern boundaries of said plant to the Butler-Hamilton County boundary, thence easterly along said county boundary to its intersection with Jackson Road at U.S. Highway 127, a point within the present zone, thence easterly along the present zone limits to its intersection with Ohio Highway 4, thence northwesterly along Ohio Highway 4 to Seward Road, thence northerly along Seward Road to its junction with Port Union Road, thence easterly along Port Union Road to its intersection with the Fairchild Township line, thence northerly along said line to Hamilton-Bethany Road, thence easterly along Hamilton-Bethany Road to Cincinnati-Dayton Road, thence southerly on Cincinnati-Dayton Road to Bethany Road, thence easterly along Bethany Road to its junction with Ohio Highway 741, thence northerly along Ohio Highway 741 to a point opposite the northern boundary of Turtle Creek-Union Township, thence easterly along an imaginary line to the northwest corner of said township, thence along the northern boundary of said township to the county road just east of Ohio Highway 48, thence southerly on said county road to the northern boundary of the city of South Lebanon, thence along the northern, eastern, and southern boundaries of said city to its intersection with the above-mentioned county road, thence southerly along said county road to its junction with Ohio Highway 48, thence along Ohio Highway 48 to its intersection with the northern boundary of Loveland, thence along the northern, eastern, and southern boundaries of Loveland to the east bank of the Little Miami River, thence southerly along the east bank of the Little Miami River to its intersection with Interstate Highway 275, thence along Interstate Highway 275 to its junction with Ohio Highway 32, thence easterly along Ohio Highway 32 to the western boundary of Batavia, thence along the western, northern, eastern, and southern boundaries of Batavia to their intersection with Ohio Highway 132, thence southerly along Ohio Highway 132 to its junction with Ohio Highway 125, thence westerly along Ohio Highway 125 to its intersection with the eastern boundary of Amelia, thence along the eastern, southern, and western boundaries of Amelia to Ohio Highway 125, thence westerly along Ohio Highway 125 to its junction with Interstate Highway 275, thence westerly along Interstate Highway 275 to the Cincinnati city limits, and thence along the Cincinnati city limits to the Ohio River, thence along the north of the Ohio River to a point near the junction of Kentucky Highway 8 and 12 Mile Road, near Oneonta, Ky., thence across an imaginary line to said junction, thence westerly along 12 Mile Road to Kentucky Highway 10, thence northwesterly along Kentucky Highway 10 to its intersection with the southern boundary of Alexandria, Ky., thence along said boundary to its intersection with Pond Creek Road, thence southwesterly along Pond Creek Road to the Licking River and across said river to Staffordsburg-Visalia Road, thence along Staffordsburg-Visalia Road to its junction with Kentucky Highway 16, thence along Kentucky Highway 16 to the Kenton-Boone County Line, thence along said county line to Walton, Ky., thence along the northern, eastern, southern, and western boundaries of Walton, Ky., to their intersection with Kentucky Highway 1292, thence westerly along Kentucky Highway 1292 to its junction with U.S. Highway 42, thence along U.S. Highway 42 to Union, Ky., thence along the southern, western, and northern borders of Union, Ky., to U.S. Highway 42, thence along U.S. Highway 42 to the southern boundary of Hopeful Heights, Ky., thence along the western and northern boundaries of Hopeful Heights to its intersection with Kentucky Highway 18, thence along Kentucky Highway 18 to its junction with Kentucky Highway 237, thence northerly along Kentucky Highway 237 to its junction with Interstate Highway 275, thence along Interstate Highway 275 to the Ohio River, thence across the Ohio River to the point of beginning.

No oral hearing is contemplated at this time, but any person (including petitioner), wishing to make representations in favor of, or against, the above-proposed revision of the limits of the Cincinnati, Ohio, commercial zone, may do so by submission of written data, views, or arguments. An original and seven copies of such data, views, or arguments shall be filed with the Commission on or before July 13, 1970. Each such statement should include a statement of position with respect to the proposed revision, and a copy thereof should be served upon petitioner's representative.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. D.c. 70-6859; Filed, June 2, 1970; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Notice of Proposed Rule Making

On April 2, 1970, amendments to the Atomic Energy Commission's regulations in 10 CFR Parts 2 and 50, implementing the National Environmental Policy Act of 1969, Public Law 91-190, were published in the FEDERAL REGISTER (35 F.R. 5463). The amendments appended a statement of general policy to Part 50 (Appendix D) which indicated how the Commission would exercise its responsibilities under that Act with respect to the licensing of power reactors and fuel reprocessing plants pending (1) the development of more detailed procedures, in consultation with the Council on Environmental Quality established by title II of that Act, (2) the development of arrangements between the Commission and other Federal agencies that may be designated as having jurisdiction by law or special expertise in environmental matters, and (3) the enactment of such legislation as may be proposed by the Commission in compliance with section 103 of the Act. The statement provided that the Commission's Director of Regulation or his designee will prepare the detailed statement on the environmental considerations involved in proposed nuclear power reactors and fuel reprocessing plants, required by the National Environmental Policy Act, after transmittal of applications for licenses to construct and operate such plants to Federal agencies which have legal jurisdiction or special expertise with respect to environmental impact. The statement of general

policy also states that the Commission will incorporate in construction permits and operating licenses for such plants a condition to the effect that the licensee shall observe Federal and State standards and requirements for the protection of the environment, including standards and requirements for the control of thermal effects of the release of heated water from the facility to the environment, which are validly imposed under Federal and State law and are determined by the Commission to be applicable to the facility.

Since the publication of the statement of general policy, the Council on Environmental Quality has issued interim guidelines to Federal agencies for the preparation of the detailed statements on environmental considerations (35 F.R. 7390, May 12, 1970). In addition, on April 3, 1970, the Water Quality Improvement Act of 1970, Public Law 91-224, became effective. That Act, among other things, requires an applicant for a Federal license or permit to conduct an activity, including the construction or operation of a facility such as a nuclear power plant, which may result in any discharge into the navigable waters of the United States, to provide the Federal licensing agency with certification from the State or interstate water pollution control agency, or the Secretary of the Interior, as appropriate, that there is reasonable assurance, as determined by such certifying authority, that the activity will be conducted in a manner which will not violate applicable water quality standards. Federal licensing agencies would generally be prohibited from issuing any such license or permit without having received this certification.

The Commission has under consideration revision of the statement of general policy, Appendix D, to reflect (1) the guidance of the Council on Environmental Quality and (2) the enactment of the Water Quality Improvement Act of 1970. Some of the significant new or amended provisions of proposed revised Appendix D are:

(1) Applicants for construction permits for nuclear power reactors and fuel reprocessing plants would be required to submit with the application a separate report on specified environmental considerations. The Commission intends to provide appropriate guidance as to the scope and content of these reports.

(2) Copies of such reports would then be transmitted by the Commission, with a request for comments, to Federal agencies designated by the Council on Environmental Quality as having "jurisdiction by law or special expertise with respect to any environmental impact involved" or as "authorized to develop and enforce environmental standards" as the Commission determines are appropriate. A summary notice of availability of such a report would be published in the FEDERAL REGISTER, with a request for comment on the proposed action and on the report from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards. The Commission will also, as a matter of practice, routinely send a copy of the report to the Governor of the State(s) or his designee(s).

(3) After receipt of the comments of the Federal, State, and local agencies, the Commission's Director of Regulation or his designee would prepare a detailed statement on the environmental considerations, including, where appropriate, a discussion of problems and objections raised by such agencies and the disposition thereof. In preparing the detailed statement, the Director of Regulation or his designee could rely, in whole or in part, on, and incorporate by reference, the appropriate applicant's environmental report, and the comments thereon submitted by Federal, State, and local agencies, as well as the regulatory staff's radiological safety evaluation.

(4) The applicant's environmental report submitted with an application for an operating license could incorporate by reference information contained in the environmental report submitted with the application for a construction permit. The detailed statement prepared in connection with an application for an operating license would cover only those environmental considerations which differ significantly from those discussed in the detailed statement previously prepared in connection with the application for a construction permit, and information in such previously prepared statement could be incorporated by reference.

(5) Since the requirements of section 21(b) of the Federal Water Pollution Control Act supersede pro tanto the more general environmental requirements of sections 102 and 103 of the National Environmental Policy Act of 1969, both applicants' reports and the detailed statements would be required with respect to water quality aspects of the proposal covered by section 21(b), to include only a reference to the certification issued pursuant to section 21(b) or to the basis on which such certification is not required. License conditions imposed under Appendix D requiring observance of standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved, would not apply to matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act. The Commission plans to issue a separate statement of policy to indicate in greater detail how the Commission intends to exercise its responsibilities under section 21(b) of that Act.

(6) The types of materials licenses to which procedures and measures similar to those for nuclear power reactors and fuel reprocessing plant licenses would be applied would be indicated.

The Commission expects that the provisions of proposed revised Appendix D, to the extent not inconsistent with the Commission's regulations, will be useful as interim guidance until such time as the Commission takes further action on the appendix.

Pursuant to the National Environmental Policy Act of 1969 and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Appendix D is revised to read as follows:

APPENDIX D—STATEMENT OF GENERAL POLICY AND PROCEDURE: IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (PUBLIC LAW 91-190)

On January 1, 1970, the National Environmental Policy Act of 1969 (Public Law 91-190) became effective. The stated purposes of that Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Section 101(b) of that Act provides that, in order to carry out the policy set forth in the Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources toward certain stated ends.

In section 102 of the National Environmental Policy Act of 1969, the Congress authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in the Act. All agencies of the Federal Government are required, among other things, to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on certain specified environmental considerations. Prior to making the detailed statement, the responsible Federal official is required to consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

Section 103 of that Act provides that all agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of the Act and shall propose to the President such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in the Act.

Since the enactment of the National Environmental Policy Act of 1969, the President has issued Executive Order 11514, dated March 5, 1970, in furtherance of the purpose and policy of that Act, and the Council on Environmental Quality established by title II of that Act has issued interim guidelines to Federal departments, agencies and establishments for the preparation of the detailed statements on environmental considerations (35 F.R. 7390, May 12, 1970). On April 3, 1970, the Water Quality Improvement Act of 1970 (Public Law 91-224) became effective. That act redesignated section 11 of the Federal Water Pollution Control Act as section 21 and amended redesignated section 21 to require, in subsection 21(b)(1), any applicant for a Federal license or permit to conduct any activity, including the construction or operation of a facility, which may result in any discharge into the navigable waters of the United States, to provide the Federal licensing agency a certification from the State in which the discharge originates, or from an interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates, or the Secretary of the Interior, in cases where water quality standards have been promulgated by the Secretary under section 10(c) of the Federal Water Pollution Control Act or where the State or interstate agency has no authority to give such certification, that there is reasonable assurance, as determined by such certifying authority, that the activity will be conducted in a manner which will not violate applicable water quality standards.

Pending (1) the issuance of further guidance by the Council on Environmental Quality, and (2) the enactment of such legislation as may be proposed by the Commission in compliance with section 103 of the National Environmental Policy Act of 1969, and consistent with the public interest in avoiding unreasonable delay in meeting the growing national need for electric power, the Commission will exercise its responsibilities under that Act as follows:

1. Each applicant for a permit to construct a nuclear power reactor or a fuel reprocessing plant shall submit with his application one hundred (100) copies of a separate document, to be entitled "Applicant's Environmental Report—Construction Permit Stage," which discusses the following environmental considerations:

(a) The environmental impact of the proposed action,

(b) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(c) Alternatives to the proposed action,

(d) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(e) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2. Each applicant for a license to operate a nuclear power reactor or a fuel reprocessing plant shall submit with his application one hundred (100) copies of a separate document, to be entitled "Applicant's Environmental Report—Operating License Stage," which discusses the same environmental considerations described in paragraph 1, but only to the extent that they differ significantly from those discussed in the applicant's environmental report previously submitted with the application for a construction permit. The "Applicant's Environmental Report—Operating License Stage" may incorporate by reference any information contained in the applicant's environmental report previously submitted with the application for a construction permit. With respect to the operation of nuclear power reactors, the applicant, unless otherwise required by the Commission, shall submit the "Applicant's Environmental Report—Operating License Stage" only in connection with the first licensing action that would authorize full-power operation of the facility.

3. Upon receipt of any applicant's environmental report, the Commission will transmit a copy of the report to such Federal agencies designated by the Council on Environmental Quality as having "jurisdiction by law or special expertise with respect to any environmental impact involved" or as "authorized to develop and enforce environmental standards" as the Commission determines are appropriate, with a request for comment on the report within thirty (30) days. The Commission may extend the period for comment if it determines that such an extension is practicable. If any such Federal agency fails to provide the Commission with comments within thirty (30) days after the agency's receipt of the Report or such later date as may have been specified by the Commission, it will be presumed that the agency has no comment to make.

4. Upon receipt of any applicant's environmental report, the Commission will cause to be published in the FEDERAL REGISTER a summary notice of the availability of the report. (In accordance with § 2.101(b) of Part 2, the Commission will also send a copy of the application to the Governor or other appropriate official of the State in which the facility is to be located and will publish in the FEDERAL REGISTER a notice of receipt of the application, stating the purpose of the application and specifying the location at which the proposed activity will be conducted.) The summary notice to be published pursuant to this paragraph will request, within sixty (60) days or such longer period as the Commission may determine to be practicable, comment on the proposed action and on the report, from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards. The summary notice will also contain a statement to the effect that a copy of the report and comments of Federal agencies thereon will be supplied to such State and local agencies on request. If any such State or local agency fails to provide the Commission with comments within sixty (60) days of the publication of the summary notice or such later date as may have been specified by the Commission, it will be presumed that the agency has no comment to make.

5. After receipt of the comments requested pursuant to paragraphs 3 and 4, the Director of Regulation or his designee will prepare a detailed statement on the evironmental considerations specified in paragraph 1, including, where appropriate, a discussion of problems and objections raised by Federal, State, and local agencies and the disposition thereof. In preparing the detailed statement, the Director of Regulation or his designee may rely, in whole or in part, on, and may incorporate by reference, the appropriate applicant's environmental report, and the comments thereon submitted by Federal, State, and local agencies pursuant to paragraphs 3 and 4, as well as the regulatory staff's radiological safety evaluation. The detailed statement will relate primarily to the environmental effects of the facility that is subject to the licensing action involved.

Detailed statements prepared in connection with an application for an operating license will cover only those environmental considerations which differ significantly from those discussed in the detailed statement previously prepared in connection with the application for a construction permit and may incorporate by reference any information contained in the detailed statement previously prepared in connection with the application for a construction permit. With respect to the operation of nuclear power reactors, it is expected that in most cases the detailed statement will be prepared only in connection with the first licensing action that authorizes full-power operation of the facility.

6. With respect to water quality aspects of the proposed action covered by section 21(b) of the Federal Water Pollution Control Act, the requirements of section 21(b) supersede pro tanto the more general environmental requirements of sections 102 and 103 of the National Environmental Policy Act of 1969. With respect to such aspects, therefore, the environmental reports submitted by applicants pursuant to paragraphs 1 and 2 and the detailed statements prepared pursuant to paragraph 5 need include only a reference to the certification issued pursuant to section 21(b) or to the basis on which such certification is not required.

7. The Commission will transmit to the Council on Environmental Quality copies of (a) each applicant's environmental report, (b) comments thereon received from Federal, State, and local agencies, and (c) each detailed statement prepared pursuant to paragraph 5. Copies of such reports, comments, and statements will be made available to the public as provided by section 552 of title 5 of the United States Code, and will accompany the application through the Commission's review processes. After each detailed statement becomes available, a notice of its availability will be published in the FEDERAL REGISTER.

8. With respect to those proceedings which take place in the immediate and near future, it is recognized that the detailed statements may not be as complete as they will be after there has been an opportunity to coordinate the procedures described herein with the other agencies involved, and, further, that some period of time may be required before full compliance with the procedures themselves can be achieved.

9. The filing of the applicant's environmental reports, and of the detailed statements described in paragraph 5., shall not be construed as extending the licensing or regulatory jurisdiction of the Commission to making independent determinations on matters other than those specified in Part 50 for construction permit or operating license applications.

10. The Commission will incorporate in constfuction permits and operating licenses for power reactors and fuel reprocessing plants a condition to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved. This condition will not apply to (a) radiological effects since radiological effects are dealt with in other provisions of the construction permit and operating license, or (b) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act.

11. Determinations made by cognizant Federal or State bodies that there is not reasonable assurance of compliance with the standards and requirements encompassed by the condition described in paragraph 10 will be deemed proper for consideration in Commission licensing proceedings. The condition, however, shall not be construed as extending the jurisdiction of this agency to

making an independent review of (a) standards or requirements validly imposed pursuant to authority established under Federal and State law or (b) equipment or measures proposed by the applicant to meet standards or requirements validly imposed pursuant to authority established under Federal and State law.

Nothing in this appendix shall be construed as affecting (a) the manner in which the Commission obtains advice from other agencies, Federal and State, with respect to the control of radiation effects, or (b) the other, and separate, provisions of the construction permit and operating license which deal with radiological effects.

Procedures and measures similar to those described in the preceding paragraphs of this appendix will be followed in proceedings other than those involving nuclear power reactors and fuel reprocessing plants when the Commission determines that the proposed action is one significantly affecting the quality of the human environment. The Commission has determined that such proceedings will ordinarily include proceedings for the issuance of the following types of materials licenses: (a) Licenses for possession and use of special nuclear material for fuel element fabrication, scrap recovery and conversion of uranium hexafluoride; (b) licenses for possession and use of source material for uranium milling and production of uranium hexafluoride; and (c) licenses authorizing commercial radioactive waste disposal by land burial. The procedures and measures to be followed with respect to materials licenses will, of course, reflect the fact that, unlike the licensing of production and utilization facilities, the licensing of materials does not require separate authorizations for construction and operation. Ordinarily, therefore, there will be only one detailed statement prepared in connection with an application for a materials license. If a proposed subsequent licensing action involves environmental considerations which differ significantly from those discussed in the detailed statement previously prepared in connection with the original licensing action, a supplementary detailed statement will be prepared.

(Sec. 102, 83 Stat. 853)

Dated at Germantown, Md., this 1st day of June 1970.

For the Atomic Energy Commission,

W. B. McCool,
Secretary.

[F.R. Doc. 70-6948; Filed, June 2, 1970; 10:18 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

PUEBLO OF ZUNI

Notice of Program Agreement

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by 25 U.S.C. 48 (R.S. sec. 2072) a program agreement was executed between the Pueblo of Zuni and the Bureau of Indian Affairs, Department of the Interior on May 23, 1970. Under the terms of the agreement, Bureau of Indian Affairs programs and personnel serving the Zuni Reservation, with stated exceptions, are placed under the direction and supervision of the Zuni Pueblo government. The program agreement, which will become effective on July 1, 1970, reads as follows:

PROGRAM AGREEMENT BETWEEN THE PUEBLO OF ZUNI AND THE BUREAU OF INDIAN AFFAIRS

PREAMBLE

The purpose of this agreement is to maximize the involvement of the Zuni people in the management of their affairs on the reservation. It is designed to place Bureau of Indian Affairs programs and personnel on the reservation under the administration and direction of the Zuni Pueblo government, with the exception of nondelegable trust responsibilities placed in the Bureau of Indian Affairs by the Congress of the United States.

The objectives and interest of both parties to the agreement will be achieved in that: (1) The Zuni Pueblo will acquire an administrative and technical staff commensurate with its need to implement reservation plans and programs; (2) the Bureau will have fully shared with the Zuni Pueblo the planning and execution of Bureau programs for Zuni people; and (3) together the Zuni Pueblo and Bureau will have designed and proven a prototype reservation planning development model for numerous Indian reservations throughout the United States.

The scope of programs included in this agreement is, in general, all Bureau programs available to Indian people. Initially, the scope encompasses those programs currently in operation on the Zuni Reservation. All Bureau funded programs shall be set forth in procedural and program supplements referred to in Article III. The program supplement shall be jointly reviewed annually as to content and funding level to insure maximum possible support of the Zuni Pueblo program goals.

ARTICLE I—AUTHORITY

By Resolution M70-70-268, dated March 19, 1970, the Zuni Pueblo Tribal Council expressed a desire to assume the administration of programs and the direction of Bureau of Indian Affairs employees on the Zuni Reservation for the purpose of achieving the Zuni Pueblo development goals. The provisions of R.S. section 2072, 25 U.S.C. 48, as interpreted in Solicitor's Opinion M-36803 (Apr. 3, 1970), with the concurrence of the General Counsel of the U.S. Civil Service Commission, authorize tribal direction of employees of the Bureau of Indian Affairs, subject to certain restrictions.

ARTICLE II—BASIC PROVISIONS

A. There are mutual responsibilities shared by the Zuni Pueblo and the Bureau of Indian Affairs to insure the integrity of this agreement. These responsibilities are: Protecting the rights and privileges of the Federal employees at Zuni; care and custody of Federal Government property; planning and budgeting annually all moneys programed for Zuni; and compliance with Federal laws and regulations, such as the United States Code, the Code of Federal Regulations, Department of the Interior, and Bureau of Indian Affairs manuals, and any Federal appropriation act language applicable to moneys spent at Zuni.

1. All rights and privileges of the Federal employee shall be preserved. The most significant of these are: position classifications must conform to Civil Service Commission standards; performance must be evaluated by a Federal supervisor; promotion must conform to the policies established by the Civil Service Commission and the Bureau of Indian Affairs; the Secretary retains authority to reassign any employee to another station of duty; and the Federal employees shall continue to have the right to file a grievance with the Department of the Interior and the Civil Service Commission.

2. The accountability, utilization, and disposal of Federal Government-owned property shall be in accordance with the provisions of current Bureau and departmental regulations, which are now or may become applicable to installations under the jurisdiction of the Bureau of Indian Affairs. Included, but not limited to, are periodic inventories, assignment of responsibility for care and custody to individuals, efficient utilization, and disposal only in accordance with established procedures.

3. The Zuni Pueblo shall make timely preparation of documents necessary to meet the requirements of the Planning, Programing, and Budgeting System. These documents include, but are not limited to, the annual updating of the Reservation Development Data Base, the Program Memorandum, Financial Program, and the Zuni Pueblo Tribal budget. Documents prepared to meet requirements of the Bureau shall be prepared according to instructions which will be provided to insure compliance with the budget system of the Federal Government unless otherwise authorized.

4. Fiscal integrity shall be maintained, both in separation of and in accounting for Bureau and non-Bureau funds. Control of Bureau funds shall be in accordance with appropriation structure and langauge.

5. All management authorities that cannot, in accordance with Solicitor's Opinion M-36803, be delegated to officers of the Pueblo shall be retained by the Area Director and may be delegated to a Federal employee.

B. The Governor of the Zuni Pueblo, through the authority of the Council, shall administer the daily operations of all Bureau of Indian Affairs programs and direct personnel within the general range of their employment on the Zuni Reservation. Included in the administration of Bureau programs is the responsibility for reports and responses to Albuquerque Area Office requests—either routine or special—for statistical and other information.

C. The Bureau of Indian Affairs shall, as requested by the Governor, provide technical services and administrative assistance as possible from the Albuquerque Area Office.

ARTICLE III—SUPPLEMENTS

Attached to and by reference made a part of this agreement are both program and procedural supplements for the fiscal year 1971.

A. *Program Supplement.* There shall be an annual program supplement encompassing all Bureau program activities on the Zuni Reservation. This supplement shall specify fund and position allocation for each of these activities. Each fiscal year the program supplement shall be rewritten.

B. *Procedural Supplement.* There shall be a procedural supplement for each Bureau program or function, as needed, to provide guidelines and instructions for day-to-day operations.

ARTICLE IV—MODIFICATION

A. This basic agreement may be modified at any time by mutual consent of the parties when it is deemed to be in the interest of more effective operation.

B. The procedural supplements may be modified at any time by (1) mutual consent of the parties, or (2) the Area Director, after consultation with the Governor, when considered necessary to protect the integrity of funds and the trust responsibility of the United States.

C. The program supplement may be modified by the Area Director after consultation with the Governor.

ARTICLE V—EVALUATIONS

It is recognized that this mutual endeavor is dependent upon continual smooth functioning of all levels of activity. The possibility exists that adjustments in the overall administration, the basic agreement, or the supplements may be necessary to insure maximum effectiveness. Accordingly, procedures are provided for periodic and special evaluation.

A. Once each 3 months during fiscal year 1971, once each 6 months during fiscal year 1972, and once each year thereafter, a team appointed jointly by the Governor and the Area Director shall review the operation in depth and in accordance with criteria and schedule established jointly by both parties to this agreement.

B. At any time either party may request a special joint review of any part or a specific function of the operation.

C. Results of reviews made under A and B above shall be jointly analyzed and appropriate corrective action effected.

ARTICLE VI—CANCELLATION

This agreement may be canceled by either party on 180 days written notice to the other.

Executed this 23d day of May 1970 at Zuni, N. Mex., by Robert E. Lewis, Governor of the Pueblo of Zuni pursuant to authority of Pueblo of Zuni Resolution M70-70-285 and by Harrison Loesch, Assistant Secretary for Land Management, Department of the Interior, Washington, D.C., pursuant to the authority vested in him by the Secretary of the Interior.

The provisions of this Program Agreement will become effective July 1, 1970.

HARRISON LOESCH,
Assistant Secretary,
Department of the Interior.

ROBERT E. LEWIS,
Governor,
Pueblo of Zuni.

[F.R. Doc. 70-6836; Filed, June 2, 1970; 8:49 a.m.]

Bureau of Land Management

[Montana 15352]

MONTANA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

MAY 26, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating the lands described in paragraph 3 from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). Publication of this notice also has the effect of segregating the lands described in paragraph 4 from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); and from lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869). Except as provided above, the lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. The public lands proposed for classification are shown on maps on file in the Billings District Office, Billings, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

3. As provided in paragraph 2 above, the following public lands are segregated from appropriation only under the agricultural land laws and from sales under section 2455 of the Revised Statutes.

PRINCIPAL MERIDIAN, MONTANA

YELLOWSTONE COUNTY

T. 1 S., R. 26 E.,
Sec. 14, E½SW¼ and S½SE¼;
Sec. 21, E½NE¼, SW¼NE¼, and SE¼NW¼;
Sec. 22, SW¼NE¼, NW¼, N½SW¼, and N½SE¼;
Sec. 23, N½NE¼, NE¼NW¼, and NW¼SW¼;
Sec. 24, W½W½;
Sec. 25, NW¼NW¼;
Sec. 26, E½NE¼;
Sec. 30, lot 10 and SW¼SE¼;
Sec. 31, NW¼NE¼.

The public lands described above aggregate approximately 1,240 acres.

4. As provided in paragraph 2 above, the following public lands are segregated from appropriation only under the agricultural land laws, from sales under section 2455 of the Revised Statutes and from lease or sale under the Recreation and Public Purposes Act of June 14, 1926.

PRINCIPAL MERIDIAN, MONTANA

PARK COUNTY

T. 1 S., R. 10 E.,
Sec. 24, lots 3 and 4 and N½SW¼.
T. 1 S., R. 11 E.,
Sec. 28, lot 6.
T. 1 S., R. 12 E.,
Sec. 15, lot 7;
Sec. 28, lots 1, 2, and 3.
T. 2 S., R. 12 E.,
Sec. 6, lot 1.
T. 5 S., R. 8 E.,
Sec. 27, NE¼NW¼.
T. 7 S., R. 7 E.,
Sec. 20, lot 4.

SWEET GRASS COUNTY

T. 1 N., R. 14 E.,
Sec. 12, lot 13.
T. 1 N., R. 15 E.,
Sec. 17, lots 1 and 3;
Sec. 21, lot 4;
Sec. 22, lot 5.
T. 1 S., R. 13 E.,
Sec. 8, lot 5;
Sec. 18, lot 1.
T. 1 S., R. 16 E.,
Sec. 6, lot 1.
T. 1 S., R. 17 E.,
Sec. 26, lot 3;
Sec. 27, lot 7.

STILLWATER COUNTY

T. 1 S., R. 18 E.,
Sec. 34, lot 1.
T. 2 S., R. 19 E.,
Sec. 4, lot 2;
Sec. 6, lot 12;
Sec. 14, lot 1.
T. 2 S., R. 20 E.,
Sec. 19, lot 7;
Sec. 20, lot 5.
T. 3 S., R. 21 E.,
Sec. 6, lot 1;
Sec. 8, lot 1;
Sec. 9, lots 5, 6, 7, and 9.

YELLOWSTONE COUNTY

T. 1 N., R. 27 E.,
Sec. 8, lots 3, 4, and 6.
T. 3 N., R. 28 E.,
Sec. 24, lot 5;
Sec. 26, lot 5.
T. 3 N., R. 29 E.,
Sec. 20, lot 5;
Sec. 22, lots 5 to 8, inclusive;
Sec. 24, lots 5 and 6.
T. 3 N., R. 30 E.,
Sec. 22, lots 5 to 8, inclusive.
T. 4 N., R. 32 E.,
Sec. 32, lots 6, 7, 8, 15, 16, and 17.
T. 5 N., R. 33 E.,
Sec. 34, lot 5.
T. 5 N., R. 34 E.,
Sec. 28, lot 1.
T. 1 S., R. 25 E.,
Sec. 25, lot 3;
Sec. 34, lots 4 and 5.
T. 1 S., R. 26 E.,
Sec. 14, lot 3 and SE¼NW¼.
T. 2 S., R. 24 E.,
Sec. 13, lots 10 and 11;
Sec. 14, lot 7;
Sec. 23, lot 13.

TREASURE COUNTY

T. 5 N., R. 34 E.,
Sec. 2, lot 8;
Sec. 12, lots 1 and 2;
Sec. 22, lot 4.
T. 6 N., R. 35 E.,
Sec. 22, lots 4 and 5;
Sec. 28, lot 1;
Sec. 30, lots 6 and 7.
T. 6 N., R. 36 E.,
Sec. 6, lot 1.
T. 6 N., R. 37 E.,
Sec. 2, lots 1 and 2.
T. 6 N., R. 38 E.,
Sec. 6, lots 3 and 4.
T. 7 N., R. 36 E.,
Sec. 26, lots 5 and 6;
Sec. 34, lots 4 and 5.
T. 7 N., R. 37 E.,
Sec. 31, lot 6.

The public lands described above aggregate approximately 1,382.32 acres.

Total public lands in paragraphs 3 and 4 aggregate approximately 2,622.32 acres.

5. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Billings, Mont.

6. If circumstances warrant, a public hearing will be held at a convenient time and place which will be announced.

ERNEST L. KEMMIS,
Acting State Director.

[F.R. Doc. 70-6825; Filed, June 2, 1970; 8:49 a.m.]

[Serial No. N-3475]

NEVADA

Notice of Offering of Land for Sale

MAY 25, 1970.

Notice is hereby given that under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–1427), 43 Subpart 2243, and pursuant to an application from Lyon County, Nev., the Secretary of the Interior will offer for sale the following tract of land:

MOUNT DIABLO MERIDIAN, NEVADA

T. 18 N., R. 24 E.
Sec. 26, N½NE¼NW¼.

The area described contains 20 acres.

It is the intention of the Secretary to enter into an agreement with Lyon County to permit the county to purchase the land at its appraised market value, $6,000. The county will also be required to pay for the publication of notice of this offering.

The land will be sold subject to all valid existing rights. Reservatfons will be made to the United States for rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

Any adverse claimants to the above-described land should file their claims or

objections with the undersigned within 30 days of the filing of this notice.

A. JOHN HILLSAMER,
Acting Land Office Manager.

[F.R. Doc. 70-6826; Filed, June 2, 1970; 8:49 a.m.]

[New Mexico 11692]

NEW MEXICO

Notice of Proposed Classification

MAY 25, 1970.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal to classify the lands described below for disposal through exchange, under section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended.

The District Advisory Board, local governmental officials and other interested parties have been notified of this application. Information derived from discussions and other sources indicates that these lands meet the criterion of 43 CFR 2410.1-3(c)(4), which authorizes classification of lands "for exchanges under appropriate authority, where they are found to be chiefly valuable for public purposes because they have special values, arising from the interest of exchange proponents, for exchange for other lands which we need for the support of a Federal program." Information concerning the lands, including the record of public discussions, is available for inspection and study in the Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501 and Albuquerque District Office, Bureau of Land Management, 1304 Fourth Street NW., Albuquerque, N. Mex. 87107.

For a period of 60 days from the date of this publication, interested parties may submit comments to the District Manager of the Albuquerque District Office.

The lands affected by this proposal are located in McKinley County, N. Mex., and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 15 N., R. 19 W.,
Sec. 7, lots 1, 2, E½, and E½NW¼;
Sec. 17, W½NW¼.
T. 13 N., R. 20 W.,
Sec. 1;
Sec. 3, lot 1, S½NE¼, SE¼NW¼, and SE¼;
Secs. 5, 7, 9, and 11;
Sec. 13, N½ and SE¼;
Sec. 15, NW¼ and S½;
Sec. 17;
Sec. 19, lots 1, 2, 3, 4, NE¼, and E½W½;
Secs. 21 and 23;
Sec. 25, N½NW¼, S½SW¼, and SE¼;
Sec. 27, E½, N½NW¼, SE¼NW¼, and SW¼SW¼;
Sec. 29;
Sec. 31, lots 1, 2, 3, 4, and E½W½.
T. 13 N., R. 21 W.,
Sec. 1;
Sec. 3, lots 1, 2, 3, and 4;
Sec. 13, SE¼NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 15, lots 2, 3, and 4;
Secs. 23 and 25;
Sec. 27, lots 1, 2, 3, and 4;
Sec. 35.
T. 14 N., R. 21 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and SW¼;
Sec. 3, lots 1, 2, 3, and 4;
Secs. 11 and 13;
Sec. 15, lots 1, 2, 3, and 4;
Sec. 23;
Sec. 25, S½N½ and S½;
Sec. 27, lots 1, 2, 3, and 4;
Sec. 35, NE¼NE¼, S½NE¼, SW¼NW¼, and S½.
T. 15 N., R. 21 W.,
Sec. 1;
Sec. 3, lots 1, 2, 3, and 4;
Secs. 11 and 13;
Sec. 15, lots 1, 2, 3, and 4;
Secs. 23 and 25;
Sec. 27, lots 1, 2, 3, and 4;
Sec. 35, W½.

The areas described aggregate 20,231.94 acres.

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-6827; Filed, June 2, 1970; 8:49 a.m.]

[New Mexico 11643]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands; Correction

MAY 26, 1970.

In F.R. Doc. 70-5922 appearing on page 7518 of the FEDERAL REGISTER issue of Thursday, May 14, 1970 (35 F.R. 7518), the following correction should be made:

Puerco Mesa Poleo Road Roadside Zone, T. 20 N., R. 2 E., change "Sec. 3, lots 1, 2," to "Sec. 3, lots 3, 4."

FRED E. PADILLA,
Acting Land Office Manager.

[F.R. Doc. 70-6839; Filed, June 2, 1970; 8:50 a.m.]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 3, 1970, Part II (pp. 2476-2496), there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER on March 3 (35 F.R. 4013-4014), April 7 (35 F.R. 5635-5636), and May 5 (35 F.R. 7086-7087). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since May 5:

ALABAMA

De Kalb County

Fort Payne, *Fort Payne Opera House*, 510 Gault Avenue, North.

ALASKA

Southcentral District

Dutch Harbor, Unalaska Island, *Church of the Holy Ascension*, Unalaska.
Kenai, *Russian Orthodox Mission Church*, east shore of Cook Inlet.

CALIFORNIA

Los Angeles County

Long Beach, *Los Cerritos Ranch House*, 4600 Virginia Road.

Monterey County

Monterey, *Monterey Old Town Historic District*. Two districts. The southern one bounded by Dutra Street on the west, Madison Street on the east, Polk Street on the south, and Jefferson Street on the north; northern district bounded by Pacific Street on the west, Scott Street on the south, by Alvarado Street on the east, and Decatur Street on the north.

San Benito County

San Juan Bautista, *Anza House*, Third and Franklin Streets.
San Juan Bautista, *Castro (Jose) House*, south side of the Plaza.
San Juan Bautista, *San Juan Bautista Plaza Historic District*, beginning at the intersection of Washington Street and Second Street, northwest along Second to Mariposa Street, northeast along Mariposa to First Street, southeast on First to Washington Street, southwest on Washington to Second Street.

San Diego County

Oceanside vicinity, *San Luis Rey Mission Church*, 4 miles east of Oceanside on California 76.
San Diego, *Estudillo House*, 4000 Mason Street.
San Diego vicinity, *San Diego Mission Church*, 5 miles east of Old Town San Diego on Friars Road.
Vista vicinity, *Guajome Ranch House*, 2.5 miles northeast of Vista.

Santa Barbara County

Lompoc vicinity, *La Purisima Mission*, 4 miles east of Lompoc.
Los Alamos vicinity, *Los Alamos Ranch House*, 3 miles west of Los Alamos on old U.S. 101.
Santa Barbara, *Vhay House*, 835 Laguna Street.

Sonoma County

Fort Ross vicinity, *Fort Ross Chapel*, north of Fort Ross on California 1, Fort Ross State Historical Monument.
Fort Ross vicinity, *Fort Ross Commander's House*, north of Fort Ross on California 1, Fort Ross State Historical Monument.
Petaluma vicinity, *Petaluma Adobe*, 4 miles east of Petaluma on Casa Grande Road.

COLORADO

Clear Creek County

Georgetown, *Hotel de Paris*, Alpine Street.

Denver County

Denver, *Brown Palace Hotel*, 17th Street and Tremont Place.

DELAWARE

Kent County

Kenton vicinity, *Aspendale*, c. 1 mile west of Kenton on Delaware 300.

FLORIDA

St. Johns County

St. Augustine, *Cathedral of St. Augustine*, Cathedral Street between Charlotte and St. Georges Streets.

St. Augustine, *Llambias House*, 31 St. Francis Street.
St. Augustine, *Oldest House*, 14 St. Francis Street.
St. Augustine, *St. Augustine Town Plan Historic District*, bounded on the south by King Street, on the west by St. George Street, on the north by Cathedral Street, and on the east by Charlotte Street.

GEORGIA

Baldwin County

Milledgeville, *Atkinson Hall, Georgia College*, Georgia College campus.
Milledgeville, *Old Governor's Mansion*, South Clark Street.
Milledgeville, *Old State Capitol*, West Hancock and Jefferson Streets.

Barrow County

Winder vicinity, *Fort Yargo*, Fort Yargo State Park, Georgia 81.

Bryan County

Richmond Hill vicinity, *Fort McAllister*, 10 miles east of U.S. 17.

Carroll County

Carrollton, *Bonner-Sharp-Gunn House*, West Georgia College campus.

Clarke County

Athens, *Academic Building, University of Georgia*, University of Georgia campus.
Athens, *Bishop House*, Jackson Street, University of Georgia campus.
Athens, *Chapel, University of Georgia*, University of Georgia campus.
Athens, *Demosthenian Hall, University of Georgia*, University of Georgia campus.
Athens, *Lustrat House*, University of Georgia campus.
Athens, *Moore Hall, University of Georgia*, University of Georgia campus.
Athens, *Old College, University of Georgia*, University of Georgia campus.
Athens, *Old Lucy Cobb Institute Dormitory, University of Georgia*, University of Georgia campus.
Athens, *Phi Kappa Hall, University of Georgia*, University of Georgia campus.
Athens, *President's House*, 570 Prince Street.
Athens, *Waddel Hall, University of Georgia*, University of Georgia campus.
Athens, *Wilson-Lumpkin-Hall House*, University of Georgia campus.

Fulton County

Atlanta, *State Capitol*, Capitol Square.

Gordon County

Calhoun vicinity, *New Echota*, north of Calhoun on Georgia 225.

Jackson County

Jefferson, *Crawford W. Long Medical Museum*, U.S. 129.

Liberty County

Midway vicinity, *Fort Morris*, c. 10 miles east of Midway off Georgia 38 near the old town of Sunbury.
South Newport vicinity, *St. Catherine's Island*, 10 miles off the Georgia coast between St. Catherine's Sound and Sapelo Sound.

Lumpkin County

Dahlonega, *Dahlonega Courthouse*, U.S. 19.

McIntosh County

Darien vicinity, *Fort King George*, east of U.S. 17.

Murray County

Chatsworth vicinity, *Fort Mountain*, Fort Mountain State Park, U.S. 76.

Muscogee County

Columbus, Gunboats *Muscogee* and *Chattahoochee*, Fourth Street, west of U.S. 27.

Oconee County

Watkinsville, *Eagle Tavern*, intersection of U.S. 129 and 441.

Taliaferro County

Crawfordville, *Liberty Hall*, Alexander Stephens Memorial Park, U.S. 278.

Wilkes County

Washington, *Washington-Wilkes Historical Museum*, intersection of U.S. 78 and 378.

ILLINOIS

Randolph County

Ellis Grove vicinity, *Menard (Pierre) House*, Fort Kaskaskia State Park.

St. Clair County

Cahokia, *Church of the Holy Family*, East First Street.

LOUISIANA

Orleans Parish

New Orleans, *Girod (Nicholas) House*, 500 Chartres Street.
New Orleans, *Lafitte's Blacksmith Shop*, 941 Bourbon Street.
New Orleans, *Madame John's Legacy*, 632 Dumaine Street.
New Orleans, *The Presbytère*, 713 Chartres Street.

Pointe Coupee Parish

Mix vicinity, *Parlange Plantation House*, at junction of Louisiana 1 and 78.

St. Charles Parish

Hahnville vicinity, *Keller (Homeplace) Plantation House*, 0.5 mile south of Hahnville Post Office on Louisiana 18.

MAINE

Knox County (also in Waldo County)

Vicinity of Warren, Union, Appleton, and Searsmont, *Georges River Canal*, Upper Falls, Georges River in Warren to Union town line, extending to Quantabacook Pond in Searsmont.

Waldo County

Georges River Canal (see Knox County).

MARYLAND

Anne Arundel County

Annapolis, *Brice House*, 42 East Street.
Annapolis, *Chase-Lloyd House*, 22 Maryland Avenue.
Galesville vicinity, *Tulip Hill*, c. 2.5 miles west of Galesville on Owensville Road.
Woodland Beach vicinity, *London Town Publik House*, south bank of the South River, c. 0.5 mile northeast of Woodland Beach.

Baltimore (independent city)

Mount Clare, Carroll Park.

Kent County

Chestertown, *Chestertown Historic District*, bounded roughly by the Chester River on the southeast, Cannon Street on the southwest, Cross Street on the northwest, and Maple Avenue on the northeast.

Prince Georges County

Laurel vicinity, *Montpelier*, Maryland 197.
Rosaryville vicinity, *His Lordship's Kindness*, 3.5 miles west of Rosaryville.

St. Mary's County

Drayden vicinity, *West St. Mary's Manor*, c. 1 mile east of Drayden on the St. Mary's River.

Hollywood vicinity, *Resurrection Manor*, c. ¼ miles east of Hollywood.

Talbot County

Easton vicinity, *Wye House*, 6.9 miles northwest of Easton on Miles Neck River.

MINNESOTA

Brown County

New Ulm, *Federal Post Office Building*, Center Street and Broadway.

MISSISSIPPI

Adams County

Natchez vicinity, *Longwood*, 1.5 miles southeast of Natchez.

MONTANA

Gallatin County

Logan vicinity, *Madison Buffalo Jump State Monument*, sec. 34, T. 1 N., R. 2 E.

Lewis and Clark County

Helena, *Former Executive Mansion*, Sixth Avenue and Ewing Street.
Helena, *Kluge House*, 540 West Main Street.

NEW JERSEY

Mercer County

Trenton, *Trent (William) House*, 539 South Warren Street.

NEW MEXICO

Santa Fe County

Truchas vicinity, *El Santuario de Chimayo*, south of Truchas in Chimayo.

Taos County

Las Trampas, *San Jose de Gracia Church*.
Ranchos de Taos, *San Francisco de Assisi Mission Church*, on the Plaza.

Valencia County

Acoma, *San Estevan de Rey Mission Church*, on New Mexico 23.

OKLAHOMA

Blaine County

Canton vicinity, *Cantonment*, NW¼ sec. 29, T. 19 N., R. 13 W.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Carpenters' Hall*, 320 Chestnut Street.
Philadelphia, *Christ Church*, Second Street between Market and Filbert Streets.

RHODE ISLAND

Bristol County

Bristol, *Bristol County Courthouse*, High Street.

Kent County

East Greenwich, *Armory of the Kentish Guards*, Armory and Peirce Streets.
East Greenwich, *Kent County Courthouse*, 127 Main Street.

Newport County

Middletown, *Whitehall*, Berkeley Avenue.

Providence County

Providence, *Sixth District Courthouse*, 150 Benefit Street.
Providence, *State Arsenal*, 176 Benefit Street.
Providence, *Statehouse*, 90 Smith Street.

Washington County

Charlestown, *Fort Ninegret*, Fort Neck Road.
Charlestown, *Indian Burial Ground*, Narrow Lane.

SOUTH CAROLINA

Berkeley County

Goose Creek, *St. James' Church.*
Huger vicinity, *Middleburg Plantation*, c. 2 miles southwest of Huger, on the East Branch of the Cooper River.
Huger vicinity, *Pompion Hill Chapel*, c. 2 miles southwest of Huger, on the East Branch of the Cooper River.
St. Stephens, *St. Stephen's Episcopal Church*, on South Carolina 45.

Charleston County

Charleston, *Gibbes (William) House*, 64 South Battery.
Charleston, *Heyward-Washington House*, 87 Church Street.
Edisto Island, *Brick House Ruin.*
Georgetown vicinity, *St. James' Church*, 17 miles south of Georgetown, near the Santee River.
McClellanville vicinity, *Hampton Plantation*, 8 miles north of McClellanville.

TEXAS

Bexar County

San Antonio, *Mission Concepcion*, 807 Mission Road.
San Antonio, *Spanish Governor's Palace*, 105 Military Plaza.

Tarrant County

Fort Worth, *Knights of Pythias Building*, 315 Main Street.

VIRGINIA

Alexandria (independent city)

Christ Church, southeast corner of Cameron and Columbus Streets.

Loudoun County

Sterling vicinity, *Broad Run Bridge and Toll-house*, at intersection of Routes 7 and 28 with Broad Run.

Norfolk (independent city)

Customshouse, 101 East Main Street.

Northampton County

Cheapside vicinity, *Custis Tombs*, 1.3 miles northwest of intersection of Routes 644 and 645.

Portsmouth (independent city)

Portsmouth Courthouse, northeast corner of Court and High Streets.

Richmond (independent city)

Branch Building, 1015 East Main Street.
Hancock-Wirt-Caskie House, 2 North Fifth Street.

Williamsburg (independent city)

Bruton Parish Church, Duke of Gloucester Street.
Randolph (Peyton) House, intersection of Nicholson and North England Streets.
Semple (James) House, south side of Francis Street between Blair and Waller Streets.
Wythe House, west side of the Palace Green.

WASHINGTON

Pierce County

Tacoma, *Fort Nisqually Granary*, Point Defiance Park.

WISCONSIN

Brown County

Green Bay, *Cotton House*, 2632 South Webster Avenue.
Green Bay, *Hazlewood*, 1008 South Monroe Avenue.
Green Bay, *Tank Cottage*, 10th Avenue and Fifth Street.

Lafayette County

Belmont vicinity, *First Capitol*, 3 miles north and 1 mile west of Belmont.

WYOMING

Carbon County

Elk Mountain vicinity, *Fort Halleck*, NW¼ NW¼NE¼ sec. 32, T. 19 N., R. 111 W.
Rawlins vicinity, *Bridger's Pass*, SE¼NW¼ sec. 8, T. 18 N., R. 89 W.

Johnson County

Sussex vicinity, *Fort Reno*, SE¼SE¼NW¼ sec. 33, T. 45 N., R. 78 W.

Laramie County

Cheyenne vicinity, *Francis E. Warren Air Force Base*, bounds against the west side of Cheyenne, the two are roughly separated by Interstate 25.

Sublette County

Pinedale vicinity, *Fort Bonneville*, NE¼NE¼ sec. 30, T. 34 N., R. 111 W.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology and Historic Preservation.

[F.R. Doc. 70-6805; Filed, June 2, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

DELEGATION OF AUTHORITY TO COMPROMISE, ADJUST OR CANCEL CERTAIN INDEBTEDNESS OF FARMERS

Pursuant to the authority vested in me by the Secretary of Agriculture and set forth in § 3.5 of the Debt Settlement Regulations of this Department (7 CFR Part 3), I hereby delegate to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, both in that capacity and in his capacity as Deputy Vice President, Commodity Credit Corporation, the following authority, which may be redelegated within the limitations of § 3.5:

Pursuant to the provisions in 7 CFR Part 3, to compromise, adjust, or cancel certain indebtedness arising from loans and payments made or credit extended to farmers under the provisions of the Acts of Congress or programs enumerated in 7 CFR 3.10 which are within his jurisdiction: *Provided*, That with respect to commodity loan and other programs of Commodity Credit Corporation this authority shall be limited to cancellation of indebtedness. All other settlement action relating to such commodity loan and other programs of Commodity Credit Corporation shall be accomplished under and pursuant to the CCC docket setting forth the policies for handling claims by or against the Commodity Credit Corporation.

Terminated. Ca-230 (32 F.R. 624), published January 19, 1967.

Effective date. This delegation of authority is effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 29, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-6863; Filed, June 2, 1970; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BROWN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00442-33-46040. Applicant: Brown University, Division of Biological and Medical Sciences, Box G, Providence, R.I. 02912. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan.

Intended use of article: The article will be used primarily for producing high resolution electron micrographs for research by several investigators. Also selected students will be taught methods of high resolution electron microscopy. The main area of research concerns accurate determination of the size, shape and possible substructure of particles and molecules of lipoprotein. Particle-surfaces of chylomicrons and other lipoproteins will be studied. Other studies will be made of ribosomes of cell membranes, and the mechanism of muscle-contraction.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a special resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo

Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 13, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of not other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6780; Filed, June 2, 1970; 8:45 a.m.]

CALIFORNIA INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00337–15–29900. Applicant: California Institute of Technology, 1201 East California Boulevard, Pasadena, Calif. 91109. Article: Birefringent Filters, Type H-Alpha. Manufacturer: Bernhard Halle Nachfl., West Germany.

Intended use of article: The article will be used in conjunction with the videcon camera on the Apollo Telescope Mount (ATM) Photoheliograph.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 0.5 angstrom bandpass. The availability of a 0.5 angstrom bandpass or less in a H-Alpha birefringent filter is pertinent to the purposes for which the article is intended to be used. We are advised by the National Bureau of Standards (NBS) in its memorandum dated April 23, 1970, that it knows of no instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6781; Filed, June 2, 1970; 8:46 a.m.]

COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00331–33–46040. Applicant: Columbia University, Department of Biological Sciences, New York, N.Y. 10027. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens Aktiengeselischaft, West Germany.

Intended use of article: The article will be used for scientific research pertaining to structure of protein molecules. One of the main uses to which the microscope will be put is the study of molecular structure, specifically the three-dimensional conformation of proteins such as hemoglobin and cytochrome C. Also to be studied is the development and structural features of the nervous system and the problems of cell-cell associations.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6782; Filed, June 2, 1970; 8:46 a.m.]

CORNELL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00339–61–46040. Applicant: Cornell University, New York State Agriculture Exp. Station, Geneva, N.Y. 14456. Article: Electron microscope, Model JEM 100B. Manufacturer: Japan Electron Optics Laboratory, Co., Japan.

Intended use of article: The article will be used mainly by the Department of Plant Pathology for research. The research programs include routine field diagnosis, symptom diagnosis, insect diagnosis, virus fine structure, diseased plant ultrastructure, genetic investigations, insect pathogen diagnosis and insect pathogen multiplication. Other departments on the campus will have access to the electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated May 1, 1970, that the additional resolving capability of the foreign article is pertinent to the

purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6783; Filed, June 2, 1970; 8:46 a.m.]

JOHNS HOPKINS UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00431–33–46040. Applicant: Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Md. 21205. Article: Electron microscope, Model JEM–100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for biological and medical applications, ranging from low magnification, survey pathology study to high resolution membrane and protein subunit analysis. A relatively large number of researchers and students, some inexperienced, will use the electron microscope. Specific projects include studies of synapse mapping in nervous tissue; corneal and retinal pathology; corneal stromal and collagen subunit structure; and Golgi (silver)-impregnated cell structure and three dimensional reconstruction from serial sections.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated, May 1, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6784; Filed, June 2, 1970; 8:46 a.m.]

KANSAS STATE TEACHERS COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00398–33–46040. Applicant: Kansas State Teachers College, Emporia, Kans. 66801. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for both research and teaching purposes. Faculty and advanced students are investigating ultrastructural changes associated with development of adispose tissues in the hamster; studying the fine structure of conidia, the ultrastructure of cells of several species of each of the orders of the division Chlorophyta; and the morphology of certain bacteriophage and the structural alterations observed at different times in the phage-host relationship. Students and their projects are listed by the applicant, and the courses using the electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which can be used by the novice with safety and confidence for training undergraduates in the techniques of electron microscopy. The foreign article is a relatively simple instrument which provides characteristics that make it suitable for teaching. Among these are a device for preventing the mishandling of specimens and simplified column alignment. The most closely comparable domestic electron microscope is the Model EMU–4B, which was formerly manufactured by the Radio Corp. of America (RCA) and is currently being produced by the Forgflo Corp. (Forgflo). The Model EMU–4B is a highly sophisticated and relatively complex electron microscope intended for the use of an expert.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 17, 1970 that the relatively simple design and ease of operation of this instrument make it superior as a teaching instrument to the more complex type of electron microscope represented by the domestic Model EMU–4B.

For the foregoing reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for the purposes for which this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6785; Filed, June 2, 1970; 8:46 a.m.]

MASSACHUSETTS GENERAL HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00261–33–43780. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Six total hip joint replacements.

Manufacturer: Protek, Ltd., Switzerland.

Intended use of article: The article will be used for a study of a scientific assessment of hip reconstructions, using total hip replacement in contrast with previously existing modes of reconstructive hip surgery.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is a combination of the Charnley apparatus which combines a metal femoral head prosthesis with a head diameter of 32 mm. and a high density polyethylene acetabulum which accepts only this sized head, and the Mueller apparatus which has a larger femoral head size and an acetabular component made of metal but with three polyethylene bearing points fixed in the cup.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 28, 1970, that the combination of characteristics described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no equivalent prosthesis which is being manufactured in the United States which provides this combination of characteristics.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6786; Filed, June 2, 1970; 8:46 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00378-65-46070. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Scanning electron microscope, Model JSM-U3 and television scan accessory. Manufacturer: Japan Electron Optics Laboratory Co., Japan.

Intended use of article: The article will be used for research and instruction in the Mechanical Engineering Department. Projects using the scanning electron microscope include the following studies:

1. Micromorphology of natural, synthetic undrawn and drawn polymeric materials.
2. Topology of processing and deformation of fibrous composite materials.
3. Structure and mechanics of fibrous materials.
4. Cold drawing of solid polymers.
5. The role of internal friction during bending of fiber assemblies.
6. Mechanics of ductile fracture.
7. Mechanisms of fatigue damage and fatigue crack growth.
8. Rolling contact fatigue.
9. Fatigue and fracture in composite materials.
10. Surface roughness in mechanical polishing.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides both a rapid television scan device and a tensile stage. We are advised by the National Bureau of Standards (NBS) in its memorandum dated April 23, 1970, that both the television rapid scan and tensile specimen capabilities are pertinent to the purposes for which the foreign article is intended to be used. The most closely comparable domestic instruments are the Model 700 scanning electron microscope manufactured by the Materials Analysis Co. (MAC) and the Model SM-2 scanning electron microscope manufactured by the Ultrascan Corp. (Ultrascan), formerly doing business as the K Square Corp. (K Square). Neither of these domestic instruments provide both a television rapid scan and tensile stage. Accordingly, NBS advises (NBS memorandum supra) that none of the domestically produced scanning electron microscopes are capable of fulfilling the purposes for which the foreign article is intended to be used. For the foregoing reasons, we find that neither the MAC Model 700 nor the Ultrascan Model SM-2 is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6787; Filed, June 2, 1970; 8:46 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00432-33-90000. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: X-ray diffraction equipment, Model GX6. Manufacturer: Elliott Electronic Tubes, Ltd., United Kingdom.

Intended use of article: The article will be used to study the diffraction from heavily hydrated crystals. The studies are directed towards the solution of the structure of transfer RNA, an important molecule in the synthesis of proteins in living systems. It crystallizes in a heavy hydrated crystal which needs a very high intensity X-ray beam. Work on this problem includes both postdoctoral workers as well as students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides finely focused X-rays of high intensity. Such X-rays yield maximum spot resolution and permit the collection of maximum data before deterioration of the specimen. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 30, 1970, that the finely focused and highly intense X-rays described above are pertinent characteristics of the foreign article. HEW further advises that it knows of no scientifically equivalent X-ray diffraction apparatus being manufactured in the United States which provides X-rays having both the fineness of focus and the intensity of the X-rays produced by the foreign article.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6788; Filed, June 2, 1970; 8:46 a.m.]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00426-01-68495. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Pump, Dosing. Manufacturer: Societe Pompes, DKM, France.

Intended use of article: The article will be used in constructing a recirculating gradientless reactor for studying kinetics of gas phase catalytic reactions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a pump designed for recirculating a variety of gaseous materials, which is inert to the material being pumped and which provides vacuum tight, noncontaminating operation, a high-flow rate, and a moderate pressure differential. We are advised by the National Bureau of Standards (NBS) in its memorandum dated April 10, 1970, that the foregoing characteristicts of the foreign article are pertinent to the applicant's research studies. NBS further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6789; Filed, June 2, 1970; 8:46 a.m.]

SAN FERNANDO VALLEY STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00212-01-77030. Applicant: San Fernando Valley State College, 18111 Nordhoff Street, Northridge, Calif. 91325. Article: Nuclear magnetic resonance spectrometer, Model R-20 and accessories. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used to instruct students in the principles of nuclear magnetic resonance and the use and operation of NMR spectrometers. The experiments which will be performed include:

(a) Demonstration of nmr phenomena for a number of nuclei involving rapid scanning spectra and quick interchange of RF units;

(b) Employing frequency sweep and narrow sweep widths to determine J-values and line positions to a high degree of accuracy;

(c) Visual presentation of nmr phenomena by scanning and integration;

(d) Visual presentation of magnetic field curvature and homogeneity;

(e) Visual presentation of spin decoupling, spin tickling and saturation phenomena.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Captioned application is a resubmission of Docket No. 67-00145-01-77030 which was received on June 27, 1967, and which was denied without prejudice to resubmission due to informational deficiencies in the original application. At the time the original application was received, the most closely comparable domestic instrument was the Model HA-60-IL nuclear magnetic resonance spectrometer (NMR) which is manufactured by Varian Associates. The foreign article provides a variable temperature accessory with a temperature stability of 0.5° C. We are advised by the National Bureau of Standards (NBS) in its memorandum of May 8, 1970, that the temperature control within plus or minus 0.5° C. is pertinent to the kinetic and thermodynamic experiments for which the foreign article is intended to be used. The Department of Health, Education, and Welfare (HEW) also advises us (memorandum of Feb. 6, 1970) that the temperature control capability of the foreign article is pertinent to the purposes for which the article is intended to be used. The Varian Model HA-60-IL which was available at the time the applicant submitted the original application, provided a temperature control with a stability of plus or minus 1° C. We, therefore, find that the Varian Model HA-60-IL available at that time was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the applicant submitted the original application.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6790; Filed, June 2, 1970; 8:46 a.m.]

TULANE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00268-33-46040. Applicant: Tulane University, 6823 St. Charles Avenue, New Orleans, La. 70118. Article: Electron microscope, Model 300. Manufacturer: Philips Electron Instruments, The Netherlands. Intended use of article: The article will be used in research concerning the isolated intraerythrocytic viral particles, the reported transmission of small protozoan, and an ultrastructural study of nematode gametes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

Reasons: The only known comparable domestic instrument is the Model EMU-4 electron microscope which was formerly manufactured by the Radio Corp. of America (RCA) and which is currently available from Forgflo Corp. (Forgflo). Effective September 1968, the Model EMU had been redesigned to increase certain performance capabilities, with a quoted delivery time of 60 days. However, since the applicant placed the order for the foreign article on April 1, 1968, the determination of scientific equivalency has been made with reference to the characteristics and specifications of the Model EMU-4 relevant at that time. The foreign article provides accelerating voltages of 20, 40, 60, 80, and 100 kilovolts. The Model EMU-4 provided accelerating voltages of 50 and 100 kilovolts. The foreign article is intended to be used in experiments on ultrathin biological specimens. It has been experimentally determined that the lower accelerating voltages of the foreign

article afford optimum contrast for unstained ultrathin specimens. Therefore, the 20-kilovolt accelerating voltage of the foreign article is pertinent to the research purposes for which the foreign article is intended to be used.

For this reason, we find that the Model EMU–4 was not of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6791; Filed, June 2, 1970; 8:46 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00283–33–46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A. G., West Germany.

Intended use of article: The article will be used in ultrastructural studies of the purity of biochemical ultracentrifuge samples; animal studies of human autopsy and biopsy specimens, particularly of muscle, nerve, and brain from patients with a variety of neurological diseases.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 27, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6792; Filed, June 2, 1970; 8:47 a.m.]

UNIVERSITY OF CINCINNATI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00287–33–46040. Applicant: University of Cincinnati, College of Medicine, Department of Anatomy, Eden and Bethesda Avenues, Cincinnati, Ohio 45219. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for ultrastructural research on biological material. Two projects concern ultrastructural studies on embryonic chick connective tissues and ultrastructural and biochemical analysis of isolated liver mitochondria in diabetic rats.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 25, 1968).

Reasons: (1) The foreign article has a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU–4 electron microscope which was then being manufactured by the Radio Corp. of America (RCA) and which is currently being supplied by Forgflo Corp. (Forgflo). The Model EMU–4 electron microscope had a guaranteed resolving power of 8 angstroms. (The lower the numerical rating in terms of angstroms, the better the resolving power.) The highest available resolution is required for the ultrastructural studies which the applicant intends to perform. The better resolving power of the foreign article is, therefore, a pertinent characteristic. (2) The foreign article provides accelerating voltages of 25, 50, 75, and 100 kilovolts (kv.). The Model EMU–4 electron microscope provides only 50 and 10 kv. It has been experimentally established that the lower accelerating voltage affords optimum contrast for ultrathin unstained specimens and that the voltages intermediate between 50 and 100 kv. afford optimum contrast for negatively stained specimens. Since the applicant's studies require both types of specimens, the 25 and 75 kv. accelerating voltages provided by the foreign article are pertinent.

For the foregoing reasons, we find that the Model EMU–4 electron microscope was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–6793; Filed, June 2, 1970; 8:47 a.m.]

UNIVERSITY OF CONNECTICUT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00410–33–46040. Applicant: University of Connecticut, School of Medicine, Hartford Plaza, Hartford, Conn. 06105. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands.

Intended use of article: The article will be used primarily for research in cellular and neurobiology. It will also be used for the training of graduate postdoctoral and medical students in ultrastructural techniques as they apply to biological and medical research. A study of the morphology of scar formation in the nervous system and the reaction of neuroglial cells to experimental injury during development is being investigated. Another study concerns glyocogen in neurons.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated, April 17, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6794; Filed, June 2, 1970; 8:47 a.m.]

UNIVERSITY OF MARYLAND

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00415-33-46040. Applicant: University of Maryland School of Medicine, Department of Cell Biology and Pharmacology, 660 West Redwood Street, Baltimore, Md. 21201. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens & Halske Aktiengesellschaft, West Germany.

Intended use of article: The article will be used in the investigation of virus and host cell ultrastructure, particularly to determine (morphologically) how viruses and other macromolecules interact with the substructure of cell walls and subcellular particles. Graduate students in the department will be trained to use the electron microscope in their own investigations.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 17, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6795; Filed, June 2, 1970; 8:47 a.m.]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00213-01-77030. Applicant: University of Rochester, River Campus Station, Rochester, N.Y. 14627. Article: Nuclear magnetic resonance spectrometer, Model JNM-C-60HL. Manufacturer: Japan Electron Optics Laboratory Co., Japan.

Intended use of article: The article will be used for instructional and research purposes. It will be operated by technicians and by students, many of the latter relatively inexperienced. Some specific uses are expected to include the following:

1. Instruction and training of undergraduate students in the performance of simple nmr experiments, the elements of nmr experimental techniques and in spectrum interpretation.

2. Routine monitoring of crude reaction mixtures by examining proton or other resonances several times per hour to follow the progress of laboratory experiments such as routine syntheses or transformations of cyclopropylketenes, etc.

3. Precision nmr spectroscopy of selected organic or organometallic compounds, e.g. oxepines and furans, to determine chemical shifts and coupling constants with great accuracy and suitable for theoretical analysis of spectra.

4. Kinetic studies requiring precision temperature control over the widest possible temperature range, as for example rate studies of electrolytic reactions, isotope exchange phenomena, substitution reactions, etc.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, was being manufactured in the United States at the time the purchase order was dated (Aug. 18, 1969).

Reasons: The foreign article provides a combined internal-external lock capability in one instrument. Both the new Varian Model XL-100-15 which became available September 1969 and the new Varian Model XL-60-15 which became available October 16, 1969 provide a combined internal-external locking in a single instrument. However, at the time the foreign article was ordered the most closely comparable domestic instrument was the Varian Model HA-60 which provided either an internal or external locking capability but not both locking facilities in the same instrument.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 4, 1970, and the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 6, 1970, that the availability of both the internal and external locking capability in the same instrument is pertinent to the purposes for which the foreign article is intended to be used.

For this reason, we find that the Varian Model HA-60 with either internal or external locking capability is not of equivalent scientific value to the foreign article for those purposes for which the foreign article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6796; Filed, June 2, 1970; 8:47 a.m.]

WILLIAM BEAUMONT HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00379-33-46040. Applicant: William Beaumont Hospital, 3601 West 13 Mile Road, Royal Oak, Mich. 48072. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands.

Intended use of article: The article will be used for research in renal pathology and in the pathogenesis of congenital malformations of the kidney. Other projects include studies of mitochondrial structure and function in ascites tumor cells; a study of ultrastructural changes in kidney tubules after exposure to certain nephrotoxic agents; studies of childhood renal diseases; and a study of the relationship between ultrastructure and respiratory activity under controlled artificial conditions in ascites tumor cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 16, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6797; Filed, June 2, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-179; NADA No. 35-129V]

DIAMOND LABORATORIES

Talodex Injection; Notice of Opportunity for Hearing

Notice is given to Diamond Laboratories, Post Office Box 863, Des Moines, Iowa 50304, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of new animal drug application 35-129V for Talodex Injectable (*O,O*-dimethyl *O*-[4-(methylthio)-*m*-tolyl] phosphorothioate), a subcutaneous drug used in dogs against fleas, ticks, demodectic mange, ascarids, hookworms, and heartworm microfilaria.

On the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, the Commissioner concludes that the drug is not shown to be safe and effective for use under the conditions of use upon the basis of which the application was approved. Drug experience reports indicate significant numbers of adverse reactions have occurred related to its use in dogs. Also on the basis of such reports, the Commissioner concludes there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner gives the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 35-129V should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 662, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data. If a hearing is requested and is justified by the response to the notice of hearing, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 20, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6802; Filed, June 2, 1970; 8:47 a.m.]

[Docket No. D-172; NDA No. 8-345]

SALEM PHARMACAL

Keranil Ointment (10% Chloranil); Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

Notice is given to the applicant, Salem Pharmacal, 23 Summit Road, Naugatuck, Conn. 06770, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs purposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 8-345 and all amendments and supplements thereto held by Salem Pharmacal for the drug Keranil Ointment (10 percent chloranil) on the grounds that new information before the Commissioner with respect to such drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug will have the effect it purports or is represented in its labeling to have for the treatment of psoriasis.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of new-drug application No 8-345 should not be withdrawn and approval of all pending supplements to the new-drug application should not be refused.

Promulgation of the order will cause any drug for human use containing chloranil, and recommended for the same conditions of use, to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application and all amendments and supplements thereto and refusing to approve all pending supplements. Failure of such persons to file such a written appearance of election within such 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. The request must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If the hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be appointed, and he shall issue a written notice of the time and place at which the hearing will commence. (35 F.R. 7250; May 8, 1970.)

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 20, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6803; Filed, June 2, 1970; 8:47 a.m.]

[Docket No. FDC-D-178; NDA No. 10-986V]

SCHERING CORP.

Trilafon; Notice of Opportunity for Hearing

Notice is given to Schering Corp., Bloomfield, N.J. 07003, that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of new animal drug application No. 10-986V and all amendments and supplements thereto held by said firm for Trilafon (perphenazine) Injection and Tablets, a phenothiazine derivative tranquilizer for veterinary use in swine, cattle, and dogs.

Information before the Commissioner with respect to the drug, evaluated with the evidence available to him when the application was approved, shows that the drug is not safe under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 10-986V should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual anlysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data. If a hearing is requested and is justified by the response to the notice of hearing, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 20, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6804; Filed, June 2, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20291; Order 70-5-127]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority May 27, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conferences 1-2 of the International Air Transport Association (IATA), and adopted by mail vote.

The agreement, which has been assigned the above-designated CAB agreement number, would reduce most North Atlantic fares to/from Budapest generally to the level of the fares applicable to/from Rome.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the following resolutions, which are incorporated in the above-described agreement, are adverse to the public interest or in violation of the Act.

IATA Resolutions

JT12(Mail 737)054a.
JT12(Mail 737)064a.
JT12(Mail 737)070d.
JT12(Mail 737)071d.
JT12(Mail 737)076e.
JT12(Mail 737)083a.
JT12(Mail 737)084a.

Accordingly, It is ordered, That:

Action on Agreement CAB 21737 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-6840; Filed, June 2, 1970; 8:50 a.m.]

[Docket No. 20291; Order 70-5-129]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Inaugural Flights

Issued under delegated authority May 27, 1970.

Agreement adopted by Joint Conference 3-1 of the International Air Transport Association relating to inaugural flights.

By Order 70-2-91, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 3-1 of the International Air Transport Association (IATA). The agreement permits China Airlines to postpone to a date not later than December 31, 1970, the performance of its second inaugural flights on its Taipei-San Francisco and San Francisco-Taipei routes.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-2-91 will herein be made final.

Accordingly, it is ordered:

That portion of Agreement CAB 21602 involving transportation between Taipei and San Francisco be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-6841; Filed, June 2, 1970; 8:50 a.m.]

[Docket No. 21770; Order 70-5-133]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority May 27, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA), an adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement would amend an existing resolution governing affinity-group travel so as to permit, in instances where the unavailability of space makes it impossible for passengers to travel as one group on sectors within North America, the utilization of the first three flights of the same carrier on which space is available for the carriage of groups of 80 or more passengers traveling at the applicable fare.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution JT12(Mail 742)076e, incorporated in the above-indicated agreement, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 21739 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-6842; Filed, June 2, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18865; FCC 70-535]

GEHRKE SIGN PAINTING

Order Designating Application for Hearing on Stated Issues

In regard application of George E. Gehrke, doing business as Gehrke Sign Painting, Blackhawk, Colo. 80422, for Class D Citizens radio station license.

The Commission has under consideration the above-entitled application for a Class D Citizens radio station license filed by George E. Gehrke, doing business as Gehrke Sign Painting.

There is a substantial question concerning the qualifications of applicant to hold a Class D Citizens radio station license arising from his unlicensed operation of radio apparatus during April 1969, and on August 10 and 22, and September 6, 7, and 12, 1969; from transmitting radiocommunications during April 1969, and on August 22, and September 12, 1969, which, had applicant been licensed, would have been in violation of the Commission's rules governing the Citizens Radio Service; and from statements contained in his letter of November 2, 1969, which were false and/or evinced a lack of candor.

The Commission is unable to find that a grant of the captioned application would serve the public interest, convenience, and necessity and must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold a Class D Citizens radio station license.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

1. To determine whether applicant engaged in unlicensed operation of radio transmitting apparatus during April 1969, and on August 10 and 22, and September 6, 7, and 12, 1969, in violation of section 301 of the Communications Act of 1934, as amended.

2. To determine (a) the nature, scope and extent of the purported authority, if any, granted applicant by the City of Central, Police Department, to operate as a unit of its Citizens radio station, KGC-1548; and (b) the facts concerning the communications transmitted by applicant pursuant to any such purported authority.

3. To determine whether applicant, while operating a radio transmitter on Citizens Radio Service frequencies, transmitted radiocommunications during April 1969, and on August 22, and September 12, 1969, which, had applicant been a Class D Citizens radio station licensee, would have been in violation of one or more of the following sections of the Commission's rules: §§ 95.83(a)(1), 95.91(b), 95.41(d), 95.41(d)(2), 95.83(b), 95.95(c), and 95.43.

4. To determine the facts concerning the applicant's failure to make his radio station available for inspection on August 22, 1969, upon the request of an authorized representative of the Commission.

5. To determine whether applicant misrepresented facts to the Commission and/or was lacking in candor in his letter dated November 2, 1969, responding to the Commission's letter of October 23, 1969, concerning his operations on Citizens Radio Service frequencies, his possession and use of a linear amplifier, and the scope of his authority to operate as a unit of Citizens radio station KGC-1548, then licensed to the City of Central, Police Department.

6. To determine whether, in view of the evidence adduced in the above-specified issues, George E. Gehrke possesses the requisite qualifications to be a licensee of the Commission.

7. To determine whether, in light of the evidence adduced in respect to the foregoing issues, the grant of the subject application for a Class D Citizens radio station license would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence in the issues specified in this order.

It is further ordered, That the Chief, Safety and Special Radio Services Bureau, shall, within 10 days after the release of this order, furnish a Bill of Particulars to the applicant herein setting forth the basis for the above issues.

Adopted: May 20, 1970.

Released: May 27, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-6831; Filed, June 2, 1970; 8:50 a.m.]

[FCC 70-508]

QUALITY OF TELEPHONE SERVICE SURVEY

MAY 14, 1970.

The Federal Communications Commission has received many requests for a report on the results of its recently inaugurated survey of the quality of telephone service being provided in the United States. No official report on the survey is yet available.

The survey will be a continuing one designed to assist the FCC and State agencies in carrying out their regulatory responsibilities with respect to telephone service.

The survey encompasses substantial amounts of data submitted by telephone companies and reflects service conditions in selected areas of the United States. Specific areas of performance measured by the data include, among others, the delay a customer encounters until an order for service is installed, the number of customer complaints received by the company, the time a customer waits for an operator to answer. It also includes the delay in receiving dial tone when a customer is placing a call and circuit or switching equipment busy conditions encountered when a long distance call is made.

The data are being processed in a computer program designed to recognize seasonal and geographic differences and other variables necessary to obtain valid service quality trends. The computer program is being tested at this time and it is anticipated that results will be available in the near future. The initial data covered a 2-year past period. Data for current operations are being submitted on a monthly basis.

The immediate program is restricted to analysis of Bell System operations. Similar data, however, have been requested of seven selected independent companies and will be analyzed in the near future.

The program will keep the Commission continuously informed on the general trend of the quality of service offered the public, and will indicate the need for, and effects of remedial action to alleviate service problems. Periodic reports of the results of the Commission's analyses will be distributed to State commissions and made available to the public.

Action by the Commission May 13, 1970. Commissioners Burch (Chairman), Bartley, Robert E. Lee, Cox, Johnson, H. Rex Lee and Wells.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-6828; Filed, June 2, 1970; 8:52 a.m.]

[Docket No. 18868; FCC 70-547]

WHJB, INC., GREENSBURG, PA.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of WHJB, Inc., Greensburg, Pa., has: 620 kc., 500 w., 1 kw.-LS, DA-2, U, requests: 620 kc., 500 w., 5 kw.-LS, DA-2, U, for construction permit, File No. BP-17962.

1. The Commission has before it for consideration (a) the above-captioned application; (b) a petition to deny the application, filed by WTRA Broadcasting Co., licensee of station WTRA, Latrobe, Pa.; and (c) pleadings in opposition and reply thereto.

2. Since the petition to deny was filed on February 28, 1969, 1 day after the "cut-off" date, it does not meet the requirements of § 1.580(i) of the Commission's rules with respect to timeliness and is thus procedurally defective. WTRA claims that it misconstrued the "cut-off" date and believed the final day for such a petition would be February 28, 1969. The Commission does not consider an error in computing time to be good cause for a waiver of the rules, but we will consider the petition as an informal objection under § 1.587 of the rules. WBJA-TV, Inc., 13 RR 2d 1138, 14 FCC 2d 262 (1968).

3. Citing Carroll Broadcasting Co. v. Federal Communications Commission, 103 U.S. App. D.C., 346, 258 F. 2d 440, 17 RR 2066 (1958), for the proposition that "* * * economic injury to an existing station, while not in and of itself a matter of moment, becomes important when on the facts it spells diminution or destruction of service. At that point, the element of injury ceases to be a matter of purely private concern", WTRA claims that a grant of the instant application would place WTRA in such a noncompetitive position that it would inevitably lead to diminution of WTRA's local services and may eventually signal total destruction of the station. WTRA states that granting such an increase in power to a competitor would deprive a station plagued with financial difficulty since 1956 of nearly all regional and national advertising (presently 8 percent of its advertising revenue).

4. In Missouri-Illinois Broadcasting Co., FCC 64-748, 3 RR 2d 232, adopted July 29, 1964, the Commission set out the type of specific economic data necessary to support a request for a Carroll issue. Subsequently, the Court of Appeals held that the Commission could not demand of Carroll petitioners "exact calculation" or "pre-knowledge of the exact economics of the situation" which would occur after grant of the proposed station. Folkways Broadcasting Co., Inc. v. FCC, 375 F 2d 299, 8 RR 2d 2089 (1967). In the present case, however, petitioner has fallen far short of the specific criteria set forth in the Missouri-Illinois opinion. Thus, for example, WTRA has not set forth the number of businesses in Latrobe, the total amount of retail sales for the preceding 3 years, nor has petitioner stated its total revenues, expenses, net profit or loss, or average number of employees for the same period. WTRA has given no specific details on changes in its present program format. As to advertisers who would shift or split their advertising to the proposed operation, WTRA merely states that "even more" advertisers would switch their regional and national advertising to the applicant.

5. Assuming, arguendo, that WTRA would be hurt financially by the increase in power of a nearby AM station, WTRA has nonetheless failed to explain how a grant of the instant application would be detrimental to the public interest. As stated by the Court in the Carroll case, private economic injury is in itself far from conclusive of public detriment: "Competitors may severely injure each other to the great benefit of the public." Carroll Broadcasting v. FCC, supra. WTRA states that 37 minutes a day are devoted to public service and 2 hours and 45 minutes a week is allotted for religious programs. However, it does not indicate how many of these programs would be cut, curtailed, or shifted, or, in fact, how its total program format or

public service performance would be changed or affected as a result of the proposed operation. It should also be noted that Latrobe is now receiving primary service from the present operation of WHJB. As WTRA admits, Latrobe is not only served by station WHJB, it is also served by station WQTW located in Latrobe itself. It makes no showing that the needs of the Latrobe area would not be served by stations WHJB and WQTW even if there were a diminution of the service being rendered by WTRA. No claim has been made by WTRA that there will be a degradation in the overall service that will be available to the Latrobe area. In view of these facts, the Commission cannot make a finding that WTRA has raised substantial and material questions of fact relevant to the public interest. Accordingly, the Carroll issue objections will be denied.

6. Greensburg is located 18 miles southeast of Pittsburgh, Pa. The two cities have 1960 U.S. Census populations of 17,383 and 604,332, respectively. As noted by petitioner, since the proposed 5 mv/m contour penetrates (virtually encompassing) the city limits of Pittsburgh, a presumption that the applicant is realistically proposing to serve the larger community is raised under the Commission's Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190, 6 RR 2d 1901 (1965). In attempting to rebut this 307 (b) presumption, WHJB stresses its service to the Greensburg area and states that no effort will be made to attract advertising from the Pittsburgh market. WHJB further asserts that it is the purpose of the power increase to overcome alleged "man-made noise", thereby improving the signal for the Greensburg area, and that there was no other direction in which to radiate the surplus power but towards Pittsburgh. However, the allegation of "man-made noise" preventing adequate service to the Greensburg area has not been adequately supported by any engineering studies. Therefore, since the proposed power appears to be greatly in excess of that needed to provide adequate coverage of the specified community and its immediate environs, we find that the applicant has failed to rebut the aforementioned presumption and, accordingly, a 307(b) Suburban issue will be included.

7. In Suburban Broadcasters, 30 FCC 951 (1961), our public notice of August 22, 1968, FCC 68-847, 13 RR 2d 1903, and City of Camden (WCAM), 18 FCC 2d 412 (1969), 16 RR 2d 555, and more recently in its Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. In this case, the applicant does not appear to have contacted a representative cross-section of the gain area and has not adequately provided a listing of specific programs responsive to the needs as evaluated. As a result, we are unable at this time to determine whether the applicant is aware of and responsive to the needs of the area. Accordingly, a Suburban issue is required.

8. According to its application, the applicant would require $26,000 to construct the proposed facility. The applicant, however, has failed to keep its financial showing current. For this reason, a financial issue will be specified.

9. Except as indicated by the issues specified below, the applicant is qualified. However, in view of the foregoing, the Commission is unable to find that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that it must be designated for hearing on the issues set forth below.

10. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether WHJB, Inc., is financially qualified to construct and operate its proposed station.

(2) To determine whether the instant proposal will realistically provide a local transmission facility for its specific station location or for another larger community, in the light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programing needs;

(b) The extent to which the needs of the specified station location are being met by existing aural broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific unsatisfied programing needs of its specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(3) To determine the efforts made by WHJB, Inc., to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine, in the light of evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

11. *It is further ordered*, That the aforementioned petition is dismissed as a petition to deny, but as an informal objection is granted to the extent indicated above and is denied in all other respects.

12. *It is further ordered*, That WTRA Broadcasting Co., licensee of station WTRA, Latrobe, Pa., is made a party to the proceeding.

13. *It is further ordered*, That in the event of a grant of the application, the construction permit shall contain the following condition:

Before program tests are authorized, permittee shall submit new common point impedance measurements and sufficient field intensity measurement data to clearly show that the adjustment of the daytime directional array has not adversely affected the operation of the present nighttime directional antenna system.

14. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

15. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: May 20, 1970.

Released: May 27, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-6832; Filed, June 2, 1970; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 297]

BEHRING-PACIFIC SHIPPING CO., INC.

Order of Revocation

By letter dated May 13, 1970, Behring-Pacific Shipping Co., Inc., Post Office Box 2568, South San Francisco, Calif. 94080, advised that it had ceased operations as an independent ocean freight forwarder and voluntarily returned its License No. 297 for cancellation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, section 6.03,

It is ordered, That the Independent Ocean Freight Forwarder License No. 297 of Behring-Pacific Shipping Co., Inc., be and is hereby revoked effective May 13, 1970, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Behring-Pacific Shipping Co., Inc.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 70-6845; Filed, June 2, 1970; 8:51 a.m.]

[1] Commissioners Robert E. Lee and Johnson absent.

FARRELL LINES INC. AND DET DANSK-FRANSKE DAMPSKIPSSELSKAB

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Hans Unterwiener, Manager, Freight Documentation and Inward Freight, Farrell Lines Inc., 1 Whitehall Street, New York, N.Y. 10004.

Agreement No. 9866, between Farrell Lines Inc. and Det Dansk-Franske Dampskipsselskab (Dafra Lines) establishes a through billing arrangement for the movement of cargo between the Liberian Ports of Harbel, Buchanan, Sinoe, and Cape Palmas, and U.S. gulf ports with transshipment at Monrovia, Liberia, in accordance with the terms and conditions set forth in the agreement.

Dated: May 27, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-6843; Filed, June 2, 1970; 8:51 a.m.]

PRUDENTIAL-GRACE LINES, INC., AND MOORE-McCORMACK LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

N. D. Pasco, Vice President, Moore-McCormack Lines, Inc., 1000 16th Street NW., Washington, D.C. 20036.

Agreement No. 9753-2, between Prudential-Grace Lines, Inc., and Moore-McCormack Lines, Inc. (as Agent), will amend the freight agency agreement of the parties covering Philadelphia, Pa., by modifying Item 8 of Article 2 of the agreement to specify that the agency understanding does not include any activities in connection with passengers embarking or disembarking. The language of Article 3 of the agreement has been modified to delete the reference to the establishment by mutual agreement of an agency fee on combination passenger/freighter vessels. The regular agency fee of $400 will apply on both freighters and passenger/freighter vessels.

Dated: May 27, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-6844; Filed, June 2, 1970; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP70-280]

CUMBERLAND AND ALLEGHENY GAS CO. AND UNITED FUEL GAS CO.

Notice of Joint Application

MAY 25, 1970.

Take notice that on May 18, 1970, Cumberland and Allegheny Gas Co. (C and A), 800 Union Trust Building, Pittsburgh, Pa. 15219, and United Fuel Gas Co. (United), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP70-280 a joint application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities and a certificate of public convenience and necessity authorizing the construction and operation of certain other natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

C and A proposes to deliver and sell on a day-to-day basis, as it becomes available, local purchase gas to United at a proposed point of connection at the southern terminus of C and A's line 18396 in Randolph County, W. Va. Such sales would commence November 1, 1970, and would be in accordance with an agreement applicants wish to incorporate as a rate schedule in Original Volume No. 2 of their FPC Gas Tariff. Applicants propose the following:

(1) C and A proposes to abandon the Belington Compressor Station in Barbour County, W. Va.;

(2) C and A proposes to construct and operate a 350-horsepower compressor station on Line 18396 in Randolph County, utilizing a unit salvaged from the Belington Station;

(3) United proposes to construct and operate approximately 2.7 miles of 8-inch and 4.7 miles of 6-inch transmission pipeline in Randolph County, and a 1,100-horsepower compressor station and appurtenant facilities at the point of interconnection of said pipelines, all between the proposed point of purchase from C and A and a point on the system of Atlantic Seaboard Corp.; and

(4) United proposes to establish an additional point of delivery to Atlantic Seaboard Corp. in Randolph County.

The total estimated costs of the proposed facilities are $140,000 to C and A, to be financed with funds on hand, and $788,700 to United, to be financed through open account advances and the issuance of promissory notes and common stock to its parent company, The Columbia Gas System, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6819; Filed, June 2, 1970; 8:49 a.m.]

[Docket No. CP70-277]

EASTERN SHORE NATURAL GAS CO.

Notice of Application

MAY 25, 1970.

Take notice that on May 15, 1970, Eastern Shore Natural Gas Co. (Applicant), Post Office Box 615, Dover, Del. 19901, filed in Docket No. CP70-277 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of natural gas to certain of its existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and sell 500 Mcf peaking natural gas service per day to certain of its existing customers. Such service is dependent upon a currently pending application in Docket No. CP70-193 filed by Applicant's supplier, Transcontinental Gas Pipe Line Corp., wherein the latter proposes to sell 500 Mcf of natural gas per day to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 16, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6820; Filed, June 2, 1970; 8:49 a.m.]

[Dockets Nos. CI69-900, RI70-1139]

PHILLIPS PETROLEUM CO.

Order Denying Rehearing and Amending Suspension Order

MAY 22, 1970.

On April 24, 1970, Phillips Petroleum Co. filed an application for rehearing and reconsideration of the Commission's order issued March 27, 1970, in which Phillips was granted a permanent certificate in Docket No. CI69-900 authorizing a sale of natural gas to Natural Gas Pipeline Co. of America from the Washita Creek Field, Hemphill County, Tex., RR District No. 10, pursuant to a gas purchase contract dated February 20, 1969. The gas will be produced from two reservoirs: the Morrow formation and the Hunton formation. The order conditioned the certificate to provide that the initial rate should not exceed 17 cents per Mcf at 14.65 p.s.i.a. plus adjustment for B.t.u. content of the gas as provided for in the contract, subject to Phillips' refunding to Natural with interest at 7 percent per annum any amounts collected from the date of initial delivery in excess of the higher of (1) the just and reasonable rate finally determined for sales from the subject area or (2) a rate of 15 cents per Mcf proportionally adjusted to reflect B.t.u. content of the gas below 1,000 B.t.u.'s per cubic foot measured on a wet basis.

Phillips in its application for rehearing and reconsideration requests that the said order be amended to permit the collection of the contract rate of 20.3342 cents per Mcf, inclusive of B.t.u. adjustment, subject to refund with interest at 7 percent per annum of all amounts collected in excess of the applicable area rate finally determined in Docket No. AR64-1 et al.

Phillips concurrently filed a notice of change in rate designated as Supplement No. 1 to its FPC Gas Rate Schedule No. 475, providing for a rate increase to the contract rate of 20.3342 cents per Mcf, inclusive of B.t.u. adjustment, from the authorized initial rate of 17 cents per Mcf plus B.t.u. adjustment. The notice of change in rate applies to sales from both the Morrow and Hunton formations. Phillips estimates that based on an annual volume of 51,100,000 Mcf (140,000 Mcf per day), the difference in revenues would be $1,657,786. Phillips further requests that in the event the Commission does not amend the certificate order as requested that the Commission accept for filing Phillips' notice of change with the 30-day notice requirement waived and that any suspension period be limited to 1 day.

By order issued June 10, 1969, in Docket No. CI69-900, Phillips received a temporary authorization to sell gas from the Morrow formation pursuant to an interim letter agreement with Natural dated February 17, 1969, providing for sales on any interim basis pending completion by Natural of the facilities necessary to take such gas under the basic contract. The interim agreement also provides that it does not in any way implement any provisions of the basic contract. Phillips commenced deliveries from the Morrow formation on August 6, 1969.

By order issued in Docket No. CI69-900 on November 6, 1969, Phillips was issued a permanent certificate only insofar as it related to the interim sale. On January 8, 1970, Phillips filed a proposed rate increase for gas from the Morrow formation from the authorized 17 cents per Mcf plus B.t.u. adjustment to the full contract rate of 20.3342 cents per Mcf, inclusive of B.t.u. adjustment. Such rate increase was designated as Supplement No. 3 to Phillips' Rate Schedule No. 469 and was suspended in Docket No. RI70-1139 until July 8, 1970, by order issued February 4, 1970.

Phillips contends that the March 27, 1970, order would impose an unwarranted, unjustified, and substantial penalty upon it until the effective date of the Commission's order in Docket AR64-1, et al., which could never be recovered even though the Commission should determine that the area rate is equal to or greater than the rate provided by contract. Phillips claims that the 17-cent rate for this area under the Commission's statement of general policy No. 61-1, issued September 28, 1960, 10 years ago has no applicability or relevancy today. Phillips also claims that the Examiner's decision issued September 16, 1968, in Docket No. AR64-1 et al., which recommended a base rate of 18.5 cents per Mcf applicable to the gas here, was based upon a stale and inadequate record. Phillips further cites the settlement proposal now pending in Docket No. AR64-1 et al., which provides for a base rate of 20 cents per Mcf for the gas involved here.

There is no basis for authorizing a higher initial rate than that permitted under the Commission's statement of general policy No. 61-1, as amended. Consequently, we shall deny Phillips' application for rehearing. However, in the special circumstances presented here we believe it appropriate to accept Phillips' notice of change in rate (Supplement No. 1 to its FPC Gas Rate Schedule No. 475) as an amendment to the notice of change in rate (Supplement No. 3 to Phillips' FPC Gas Rate Schedule No. 469) currently suspended in Docket No.

RI70-1139, subject to the same suspension period now provided therein, i.e. July 8, 1970.

The Commission finds: The assignments of error and ground for rehearing set forth in the application filed on April 24, 1970, by Phillips in Docket No. CI69-900 present no facts or legal principles which should warrant any change in or modification of the order issued in said docket on March 27, 1970.

The Commission orders:

(A) The application for rehearing filed by Phillips Petroleum Co. on April 24, 1970, in Docket No. CI69-900 is denied.

(B) Supplement No. 1 to Phillips' FPC Gas Rate Schedule No. 475 is accepted for filing as an amendment to the notice of change in rate suspended in Docket No. RI70-1139, subject to the same suspension period now provided therein for Supplement No. 3 to Phillips' FPC Gas Rate Schedule No. 469.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-6821; Filed, June 2, 1970; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Barnett Banks of Florida, Inc., which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Barnett Bank of Orlando, Orlando, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, May 26, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-6833; Filed, June 2, 1970; 8:49 a.m.]

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Commerce Bancshares, Inc., Kansas City, Mo., for approval of acquisition of more than 80 percent of the voting shares of Mechanics Bank and Trust Co., Moberly, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Commerce Bancshares, Inc., Kansas City, Mo. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 percent of the voting shares of Mechanics Bank and Trust Co., Moberly, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri, and requested his views and recommendation. The Commissioner commented that he viewed the proposal as a progressive step for banking in the area involved.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 3, 1970 (35 F.R. 5570), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the largest bank holding company and the third largest banking organization in Missouri, has 13 subsidiary banks with $727 million in deposits, which represent 7.1 percent of the total deposits of all banks in the State. (All banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Bank, with deposits of $17.4 million, is slightly the smaller of two banks located in Moberly and the second largest among five banks in Randolph County. Applicant has no subsidiary in Randolph County. Its closest subsidiary is located in Boone County, about 35 miles southeast of Moberly, and neither it nor any other of applicant's present subsidiaries competes with Bank to any meaningful extent. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of applicant's proposal, or that there would be undue adverse effects on any other bank in the area involved.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area. Applicant proposes to provide additional capital needed by bank, and the acquisition would also result in stronger management direction of bank; these considerations lend some weight toward approval of the application. Major banking needs of the area served by bank are being adequately met at present. However, consummation of the proposal would result in improvements in bank's lending services, and would permit the introduction of specialized services not now available in the area. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved. *It is hereby ordered*, On the basis of the findings summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] May 21, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-6834; Filed, June 2, 1970; 8:49 a.m.]

ISABELLA COUNTY STATE BANK

Order Approving Consolidation of Banks

In the matter of the application of Isabella County State Bank for approval of consolidation with Weidman State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill. Concurring Statement of Governor Brimmer, filed as part of the original document, is available upon request.

by Isabella County State Bank, Mount Pleasant, Mich., a State member bank of the Federal Reserve System, for the Board's prior approval of the consolidation of that bank and Weidman State Bank, Weidman, Mich., under the charter and title of Isabella County State Bank. As an incident to the consolidation, the sole office of Weidman State Bank would become a branch of the resulting bank. Notice of the proposed consolidation, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports received pursuant to the Act on the competitive factors involved in the proposed consolidation,

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided*, That said consolidation shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] May 26, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6835; Filed, June 2, 1970; 8:49 a.m.]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)) as amended by section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1970, shall be at the rate of 7 cents.

Dated: May 26, 1970.

By authority of the Board.

LAWRENCE GARLAND,
Secretary of the Board.

[F.R. Doc. 70-6838; Filed, June 2, 1970; 8:50 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

TARIFF COMMISSION

[337-L-39]

SPHYGMOMANOMETERS

Extension of Time for Filing Written Views

On April 7, 1970, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by W. A. Baum Co., Inc., of Copiague, N.Y., alleging unfair methods of competition and unfair acts in the importation and sale of sphygmomanometers (35 F.R. 5641). Interested parties were given until June 1, 1970, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business June 8, 1970.

Issued: May 28, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-6812; Filed, June 2, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 8]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 28, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 109780 (Deviation No. 31), CONTINENTAL TRAILWAYS, INC., 315 Continental Avenue, Dallas, Tex. 75207, filed April 16, 1970, amended May 18, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between junction Interstate Highway 35 and Interstate Highway 35-W, in the city of Denton, Tex., and Fort Worth, Tex., over Interstate Highway 35-W for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Fort Worth, Tex., over U.S. Highway 377 to Denton, Tex., thence over U.S. Highway 77 via Gainesville, Tex., to Ardmore, Okla., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-6847; Filed, June 2, 1970; 8:51 a.m.]

[Notice 18]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 28, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 35628 (Deviation No. 29), INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue SW., Grand Rapids, Mich. 49502, filed May 19, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 20 and New York Highway 78, over New York Highway 78 to junction New York Highway 33, thence over New York Highway 33 to junction New York Highway 98, thence over New York Highway 98 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 96, thence over New York Highway 96 to junction U.S. Highway 20, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently

authorized to transport the same commodities, over a pertinent service route as follows: from the Ohio-Pennsylvania State line, over U.S. Highway 20 to Boston, Mass., and return over the same route.

No. MC 52110 (Deviation No. 4), BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312, filed May 19, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions over deviation routes as follows: (1) From Peru, Ill., over U.S. Highway 51 to Bloomington, Ill., thence over Interstate Highway 74 to Indianapolis, Ind., and (2) from Indianapolis, Ind., over Interstate Highway 74 to Cincinnati, Ohio, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Des Moines, Iowa, over U.S. Highway 6 to Joliet, Ill., (2) from Kentland, Ind., over U.S. Highway 24 to Forrest, Ill., thence over Illinois Highway 47 to Morris, Ill., and (3) from St. Paul, Minn., over Interstate Highway 94 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Cincinnati, Ohio, and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6848; Filed, June 2, 1970; 8:51 a.m.]

[Notice 50]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 28, 1970.

The following publications are governed by the new Special Rule .247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

NOTICE OF FILING OF PETITION

Nos. MC 45626 (Sub-No. 33) and MC 45626 (Sub-No. 47), (Notice of Filing of Petition for Modification of Certificates), filed May 6, 1970. Petitioner: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt. 05401. Petitioner's representatives: L. C. Major, Jr., and Bruce E. Mitchell, Suite 301, Tavern Square, 421 King Street, Alexandria, Va. 22314. I. Petitioner states that the instant petition is a matter directly related to an application of Vermont Transit Co., Inc., filed in Docket No. MC 45626 (Sub-No. 63). Petitioner further states that Commission there granted authority pursuant to order served April 15, 1970, to permit the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Rutland, Vt., and the junction of Interstate Highway 87 and unnumbered highway near Glens Falls, N.Y., over a described regular route. II. Petitioner states that the authority issued to Vermont Transit Co., Inc., in Docket No. MC 45626 (Sub-No. 33), authorizes service over the following alternate routes for operating convenience only: (1) Between Vergennes, Vt., and the junction of New York Highways 22 and 7, at or near Hoosick, N.Y., serving no intermediate points. (2) Between Middlesbury, Vt., and the junction of New York Highways 22 and 7, at or near Hoosick, N.Y., serving no intermediate points. Petitioner requests modification of Certificate No. MC 45626 (Sub-No. 33) principally (a) at the junction of U.S. Highway 4 and Vermont Highway 30, and (b) at the junction of U.S. Highway 4 and Vermont Highway 22A.

The pertinent Sub-No. 33 certificate should be modified in the manner segmented by the Commission in Docket No. MC 45626 (Sub-No. 63), as follows: Passengers and their baggage, and express and newspapers in the same vehicle with passengers; (1) between Vergennes, Vt., and Bridport, Vt., over Vermont Highway 22A, (2) between Bridport, Vt., and the junction of Vermont Highway 22A and U.S. Highway 4, at Fair Haven, Vt., over Vermont Highway 22A, (3) between the junction of Vermont Highway 22A and U.S. Highway 4 at Fair Haven and the junction of New York Highways 22 and 7, near Hoosick, N.Y., from the junction of Vermont Highway 22A and U.S. Highway 4 over Vermont Highway 22A to the Vermont-New York State line, thence over New York Highway 22A to junction New York Highway 22 near Granville, N.Y., and thence over New York Highway 22 to junction New York Highway 7, (4) between Middlebury, Vt., and the junction of Vermont Highway 30 and U.S. Highway 4, over Vermont Highway 30, and (5) between the junction of Vermont Highway 30 and U.S. Highway 4 and the junction of U.S. Highway 4 and Vermont Highway 22A, over U.S. Highway 4, as alternate routes for operating convenience only, serving no intermediate points, and serving (1) Bridport, Vt., (2) the junction of Vermont Highway 22A and U.S. Highway 4, and (3) the junction of Vermont Highway 30 and U.S. Highway 4 for the purposes of joinder only. III. Petitioner further states that the certificate issued to Vermont Transit Co., Inc., in Docket No. MC 45626 (Sub-No. 47), authorizes service over two distinct alternate routes for operating convenience only, as follows:

(1) Between Rutland, Vt., and Albany, N.Y., in conjunction with carrier's regular route operations between Albany, N.Y., and Burlington, Vt., serving no intermediate points and serving Fair Haven, Vt., for purposes of joinder only. (2) Between Middlebury, Vt., and Bridport, Vt., in connection with carrier's regular route operations between Albany, N.Y., and Burlington, Vt., serving no intermediate points and serving Bridport for purpose of joinder only. Modification of the Sub-No. 47 certificate issued to Vermont Transit Co. Inc., is requested so as to authorize operations for the purpose of joinder (a) at junction of U.S. Highway 4 and New York Highway 149 and (b) at Interchange 18 of Interstate Highway 87. Modification is requested of the said Sub-No. 47 in terms reached by the Board in oDcket No. MC 45626 (Sub-No. 63), as follows: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, (1) between Rutland, Vt., and Castleton Corners, Vt., over U.S. Highway 4, (2) between Castleton Corners and Fair Haven, Vt., over U.S. Highway 4, (3) between Fair Haven, Vt., and Fort Ann, N.Y., over U.S. Highway 4, (4) between Fort Ann, N.Y., and the junction of Interstate Highway 87 and unnumbered highway near Glens Falls, N.Y., from Fort Ann over New York Highway 149 to junction U.S. Highway 9, thence over U.S. Highway 9 to junction access roads to Interstate Highway 87, thence over access roads to junction Interstate Highway 87, and thence over Interstate Highway 87 to junction unnumbered highway near Glens Falls, (5) between the junction of Interstate Highway 87 and unnumbered highway near Glens Falls, N.Y., and Albany, N.Y., over Interstate Highway 87, and (6) between Middlebury, Vt., and Bridport, Vt., over Vermont Highway 125, as alternate routes for operating convenience only, serving no intermediate points, and serving (1) Castleton Corners, (2) Fair Haven, (3) Fort Ann, (4) the junction of Interstate Highway 87 and unnumbered highway near Glens Falls, N.Y., and (5) Bridport, Vt., for the purposes of joinder only. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 85130 (Sub-No. 6), filed April 29, 1970. Applicant: BRADLEY'S EXPRESS, INCORPORATED, 441 Ninth Avenue, New York, N.Y. 10001. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk,

and those requiring special equipment), between points in Massachusetts. NOTE: Applicant states it intends to tack with its presently held authority at Boston, Mass., and points in its commercial zone. This application is a matter directly related to MC-F 10820, published in the FEDERAL REGISTER, issue of May 6, 1970. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Boston, Mass.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10817 (Correction) (SCHNEIDER TRANSPORT & STORAGE, INC. (WIS. CORP.)—Merger—SCHNEIDER TRANSPORT & STORAGE, INC. (IND. CORP.), published in the May 6, 1970, issue of the FEDERAL REGISTER, on page 7161. This notice to show the correct reading of this route-description in lieu of the prior notice: *Glass containers, and glass container caps*, from Muncie, Ind., to Kansas City, Kans., Omaha, Nebr., points in Wisconsin (with exceptions), those in Missouri on and north of U.S. Highway 50, and those in Iowa, from Hillsboro, Ill., to Kansas City, Kans., Omaha, Nebr., points in Illinois and Iowa, those in that part of Wisconsin as above, and those in Missouri on and north of U.S. Highway 50, from Hillsboro, Ill., to points in Lake County, Ind., moving through Cook or Will Counties, Ill.

No. MC-F-10839. Authority sought for purchase by RAU CARTAGE, INC., 1107 East Noble Avenue, Monroe, Mich. 48161, of a portion of the operating rights of ALFRED BERGMAN and LOIS BERGMAN, doing business as A & A BERGMAN, 7375 Nitz Street, Pigeon, Mich. 48755, and for acquisition by HARRY W. RAU, OLLIEBELLE RAU, JAMES E. RAU, and ROBERT E. BISHOP, all also of Monroe, Mich., of control of such rights through the purchase. Applicants' attorney: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Operating rights sought to be transferred: *Fertilizer*, as a *contract carrier*, over irregular routes, from Lockland and Columbus, Ohio, to points in that part of Michigan on and south of Michigan Highway 55. Vendee is authorized to operate as a *contract carrier* in Michigan, and Ohio. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10840. Authority sought for purchase by WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, Ill. 60609, of the operating rights and property of NORMAN McCRIMMON, doing business as BOWRON MOTOR SERVICE, 446 East Wilson Street, Batavia, Ill., and for acquisition by CONTINENTAL CONNECTOR CORPORATION, 34-63 56th Street, Woodside, N.Y. 11377, of control of such rights and property through the purchase. Applicants' attorneys and representive: Axelrod, Goodman, Steiner, & Bazelon, 39 South La Salle Street, Chicago, Ill. 60603, and Francis E. Youssi, Batavia Professional Building, Batavia, Ill. 60510. Operating rights sought to be transferred: *General commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes between Batavia, Ill., and Chicago, Ill., serving all intermediate points, with restriction. Vendee is authorized to operate as a *common carrier* in Illinois and Iowa. Application has been filed for temporary authority under section 210a (b). NOTE: No. MC-52752 Sub-20 is a matter directly related.

No. MC-F-10841. Authority sought for purchase by SOUTHWESTERN MOTOR TRANSPORT, INC., Post Office Box 9186, San Antonio, Tex. 78204, of the operating rights of ALMA A. BASSE HERBORT, doing business as BASSE EXPRESS, 315 East Main, Fredericksburg, Tex., and for acquisition by ROY J. GILBERT, also of San Antonio, Tex., of control of such rights through the purchase. Applicants' attorneys: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701, and Mert Starnes, 904 Lavaca Building, Austin, Tex. 78701. Operating rights sought to be transferred: *General commodities*, excepting, among others, high explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes, between San Antonio, Tex., and Fredericksburg, Tex., serving all intermediate points; *general commodities*, except classes A and B explosives, between Fredericksburg, Tex., and Harper, Tex., serving no intermediate points; and under a certificate of registration, in No. MC-76171 Sub-3, covering the transportation of commodities generally, as a common carrier, in interstate commerce, within the State of Texas. Vendee is authorized to operate as a *common carrier* in Texas, and under a certificate of registration, within the State of Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10842. Authority sought for purchase by ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901, of the operating rights of KREMA TRUCKING COMPANY, 1735 North Larrabee, Chicago, Ill. 60614, and for acquisition by ARKANSAS BEST CORPORATION, also of Fort Smith, Ark., of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman, Steiner, & Bazelon, 39 South La Salle Street, Chicago, Ill. 60603, Eugene L. Cohn, 1 North La Salle Street, Chicago, Ill. 60602, and Thomas Harper, Post Office Box 43, Fort Smith, Ark. 72901. Operating rights sought to be transferred: *General commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Zion, Ill., and Gary, Ind., serving the intermediate points of Waukegan and Chicago, Ill.; and *general commodities*, as specified above, over irregular routes, between points in that part of Lake County, Ind., north of U.S. Highway 30, and certain specified points in Illinois. Vendee is authorized to operate as a *common carrier* in Iowa, Arkansas, Indiana, Illinois, Ohio, Louisiana, Missouri, Mississippi, Tennessee, Oklahoma, Kansas, Wisconsin, and Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10843. Authority sought for control and merger by FLEET CARRIER CORPORATION, 586 South Boulevard East, Pontiac, Mich. 48053, of the operating rights and property of TRUCKAWAY CORPORATION, 355 South Sanford Street, Post Office Box 568, Pontiac, Mich. 48056, and for acquisition by NOVO CORPORATION, 733 Third Avenue, New York, N.Y. 10017, of control of such rights and property through the transaction. Applicants' attorneys: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226, and David A. Sutherland, Suite 1100, 1140 Connecticut Avenue NW., Washington, D.C. 20036. Operating rights sought to be controlled and merged: *Commercial automotive vehicles, new trucks, new buses, new trailers, and new chassis*, in initial movements, in driveaway service; *new bodies and new cabs;* and *parts* of the above-specified commodities, as a *common carrier*, over irregular routes, from places of manufacture and assembly in Pontiac, Mich., to points in the United States (except those in Maine, Alaska, Hawaii, Oregon, and Washington); *passengers*, who are at the time representatives of manufacturers or purchasers of new buses, and who have been designated by their principals to accompany such buses during the transportation thereof, in initial movements, in driveaway service, and the *baggage* of such representatives, in special operations, from Pontiac, Mich., to points in the United States (except those in Maine, Oregon, Washington, Alaska, and Hawaii); *new chassis*, in initial movements, in driveaway service; *new bodies;* and *parts* of the above-specified commodities, from Flint, Mich., to points in the United States (except those in Maine, Oregon, Washington, Alaska, and Hawaii); *commercial automotive vehicles, trucks, buses, trailers, and chassis*, new, used, and unfinished, in secondary movements, in driveaway service; *bodies and cabs*, new, used, and unfinished, between points in the United States (except those in Maine, Oregon, Washington, Alaska, and Hawaii);

Trucks, truck tractors, buses, chassis, and vehicles designed to be used alternatively for the transportation of passengers or property; (a) in initial movements, in driveaway service, from the sites of plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich., to points in Maine, Oregon, and Washington; (b) in secondary movements, in driveaway service, from points in Maine, Oregon, and Washington, to the sites of plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich.; (c)

in initial movements, in truckaway service, from the sites of plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich., to points in the United States (except Alaska and Hawaii); (d) in secondary movements, in truckaway service, from points in the United States (except Alaska and Hawaii), to plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich.; *cabs, and bodies*, between the sites of plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); *passengers*, who are at the time representatives of manufacturers or purchasers of new buses, and who have been designated by their principals to accompany such buses during the transportation thereof, in initial movements, in driveaway service, and the *baggage* of such representatives, in special operations, from the sites of plants of the General Motors Corp. (GMC Truck and Coach Division) in Pontiac, Mich., to points in Maine, Oregon, and Washington; and *trailers*, other than those designated to be drawn by passenger automobiles, in initial movements, in truckaway service, from Rose City, Mich., to points in the United States (except Alaska and Hawaii). FLEET CARRIER CORPORATION is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10844. Authority sought for purchase by ROCKY-FORD MOVING VANS INC., 510 South Big Springs, Midland, Tex. 79701, of the operating rights and property of CONTINENTAL CARRIERS, INC., 357 Foundry Street NW., Atlanta, Ga. 30313, and for acquisition by ANNIE D. FORD, HOWARD D. FORD, and LUCILLE FORD KERTH, all of Post Office Box 11, Midland, Tex., of control of such rights and property through the purchase. Applicants' attorney and representative: Robert J. Gallagher, Suite 3020, Empire State Building, New York, N.Y. 10001, and H. S. Harris, Jr., Post Office Box 74, Midland, Tex. 79701. Operating rights sought to be transferred: *Household goods*, as a *common carrier*, over irregular routes, between points in Georgia, Florida, North Carolina, South Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Michigan, Ohio, Indiana, Illinois, Kentucky, Tennessee, Alabama, Mississippi, Wisconsin, Minnesota, Missouri, Kansas, Arkansas, Lousiana, Texas, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Texas, California, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Arizona, Arkansas, and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10845. Authority sought for purchase by FELTS TRANSPORT CORPORATION, Post Office Box 138, Montvale, Va. 24122, of a portion of the operating rights of CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335, and for acquisition by A. L. FELTS, Galax, Va. 24333, of control of such rights through the purchase. Applicant's attorneys: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005 and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: *Petroleum and petroleum products*, in bulk, in tank vehicles, as a *common carrier* over irregular routes from Friendship, N.C., to certain points in Virginia; and *petroleum and petroleum products*, as described in appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Thrift and Salisbury, N.C., to certain specified points in Virginia. Vendee is authorized to operate as a *common carrier* in North Carolina, West Virginia, and Virginia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6849; Filed, June 2, 1970; 8:51 a.m.]

[Notice 87]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 27, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 6616 (Sub-No. 13 TA), filed May 21, 1970. Applicant: TOEDEBUSCH TRANSFER, INC., Room 296, Arcade Building, Box 1354, ZIP 63188, St. Louis, Mo. 63101. Authority sought to operate at a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (usual exceptions), serving Centralia, Mo., as an off-route point in connection with its regular route operations between St. Louis and Kansas City, Mo.; (1) from Centralia, Mo., over Missouri Highway 22 to its junction with U.S. Highway 63; thence over U.S. Highway 63 to its junction with Interstate 70; thence over Interstate 70 to Kansas City, Mo., and return over the same route; (2) from Centralia, Mo., over Missouri Highway 22 to its junction with U.S. Highway 54; thence over U.S. Highway 54 to its junction with Interstate 70; thence over Interstate 70 to St. Louis, Mo., and return over the same route, for 150 days. NOTE: Applicant intends to tack with MC 6616 and subs 1, 2, 4, 5, 6, and 9. Supporting shipper: A. B. Chance Co., Utility Systems Division, 210 North Allen Street, Centralia, Mo. 65240. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 107295 (Sub-No. 386 TA), filed May 21, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main, Farmer City, Ill., 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Silsbee, Tex., to Addison, Double Springs, Winfield, and Tuscumbia, Ala.; West Memphis, Manilla, Earle, Jacksonville, and Hazen, Ark.; Shreveport, Transylvania, and Clinton, La.; Noel; Mo.; and Memphis, Tenn., for 180 days. Supporting shipper: Evans Products Co., Post Office Box 997, Spurger Highway, Silsbee, Tex. 77656. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 114004 (Sub-No. 87 TA), filed May 22, 1970. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass cattle feeders*, hauled uncrated, from the plantsite of Wonder State Trailer Co., at Jacksonville, Ark., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: Wonder State Trailer Co., 2300 Redmond Road, Post Office 275, Jacksonville, Ark. 72076. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 116004 (Sub-No. 23 TA), filed May 21, 1970. Applicant: TEXAS-OKLAHOMA EXPRESS, INC., 2222 East Grauwyler Road, Irving, Tex. 75060. Applicant's representative: Vernon Crenshaw (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston, Tex., and points in its commercial zone on the one hand, and, on the other,

Dallas, Tex., and points in its commercial zone as follows: From Houston over U.S. Highway 75 (Interstate Highway 40) to Dallas and return over the same route serving Dallas as a point of joinder only and serving no intermediate points between Houston and Dallas, for 180 days. NOTE: Applicant proposes to tack or join the authority here sought with its existing authority to provide a through single line service between Houston and points in the Houston commercial zone on the one hand, and, on the other, points in Oklahoma, Kansas, and Missouri which applicant is presently authorized to serve. Supporting shippers: There are approximately (89) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 118130 (Sub-No. 63 TA), filed May 22, 1970. Applicant: BEN HAMRICK, INC., 2000 Chelsea Drive West, Fort Worth, Tex. 76134. Applicant's representative: Hugh T. Mathews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from points in Lubbock County, Tex., to points in North Carolina, South Carolina, Florida, Georgia, and Alabama, for 150 days. Supporting shipper: Texas Meat Packers, Inc., Post Office Box 6724, Lubbock, Tex. 79413. Send protests to: Billy R. Reid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 123061 (Sub-No. 54 TA), filed May 22, 1970. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumbermill products*, from points in Cache County, Utah, to points in Idaho, Wyoming, and Colorado, for 180 days. Supporting shipper: Bear River Lumber Co., Inc., Logan, Utah 84321; (Robert Hitchcock, Vice President). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 124813 (Sub-No. 77 TA), filed May 22, 1970. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone feed ingredients*, from Fort Dodge, Iowa, to points in Illinois, Minnesota, and South Dakota, for 180 days. Supporting shipper: Calcium Carbonate Co., Front and Eighth Streets, Quincy, Ill. 62301. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 129665 (Sub-No. 2 TA), filed May 22, 1970. Applicant: CITY BEVERAGES, INC., 725 Saar Street, Kent, Wash. 98031. Applicant's representative: F. M. Basel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food product condiments and supplies*, from points in California to Seattle, Wash., for 180 days. Supporting shipper: Cudahy Co., 2203 Airport Way South, Post Office Box 3545, Seattle, Wash. 98124. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 133064 (Sub-No. 1 TA), filed May 22, 1970. Applicant: BATEY MOVING & STORAGE COMPANY, INC., 421 Allied Drive, Nashville, Tenn. 37211. Applicant's representative: W. N. Batey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant equipment and supplies*, from Nashville, Tenn., to points in the Continental United States, except Alaska and Hawaii, with *rejected or returned shipments* only on return, for 180 days. Supporting shipper: Eddy Arnold's Tennessee Fried Chicken, Inc., 536 Expressway Park Drive, Nashville, Tenn. 37210. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 133966 (Sub-No. 5 TA), filed May 22, 1970. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 1303, Wilkes-Barre, Pa. 18703. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladders and scaffolding, wooden and metal*, from Newark Valley, N.Y., to Philadelphia, Pittsburgh, and Uniontown, Pa.; Baltimore, Md., and Newark and Paterson, N.J., for 150 days. Supporting shipper: Chesebro-Whitman Manufacturing Co., Newark Valley, N.Y. 13811. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134378 (Sub-No. 1 TA), filed May 22, 1970. Applicant: E. R. WHITE, doing business as WHITE TRUCK LINE, 2815 Highway 12, Vidor, Tex. 77662. Applicant's representative: E. R. White (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Silsbee, Tex., to points in Louisiana, Alabama, and Mississippi, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: Evans Products Co., Particleboard Division, Post Office Box 997, Spurger Highway, Silsbee, Tex. 77656 (Charles R. McKinley, Sales Coordinator). Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 134381 TA (Clarification), filed March 6, 1970, published FEDERAL REGISTER, issue of March 18, 1970, and republished as clarified this issue. Applicant: W. W. HAIR, doing business as JIMMY'S AUTO STORAGE, 603 South Utah, Roswell, N. Mex. 88201. Applicant's representative: John F. Quinn, Post Office Drawer A, Santa Fe, N. Mex. 87501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disabled vehicles*, between points in an area in New Mexico and Texas as follows: In Texas on and north of U.S. Highway 80 to the intersection of U.S. Highway 80 and U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 87, and Interstate Highway 66, thence along Interstate Highway 66 to the Texas-New Mexico State line, and those points in New Mexico on and south of Interstate Highway 66, for 180 days. NOTE: Applicant intends to interline with carrier in MC 3785. The purpose of this republication is to clarify the territory proposed to be served. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, 10515 Federal Building, U.S. Courthouse, Albuquerque, N. Mex. 87101.

No. MC 134422 (Sub-No. 1 TA) (Correction), filed April 22, 1970, published FEDERAL REGISTER, issue of May 1, 1970, under No. MC 134525 TA, and republished as corrected this issue. Applicant: WINGARD & COKER, INC., Post Office Box 121, Turbeville, S.C. 29162. Applicant's representative: J. D. Wingard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bags, bulk, and dump trailers, from Acme-Riegelwood, N.C., to points in Florence, Clarendon, and Sumter Counties, S.C., for 150 days. NOTE: The purpose of this republication is to show the correct docket number assigned thereto in lieu of No. MC 134525 TA, which was in error. Supporting shipper: Kaiser Agricultural Chemicals, Post Office Box 246, Savannah, Ga. 31402. Send protests to: Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29201.

No. MC 134592 (Sub-No. 1 TA), filed May 22, 1970. Applicant: HERB MOORE AND HAZEL MOORE, a partnership, doing business as H & H TRUCKING CO., 10360 North Vancouver Way, Portland, Oreg. 97217. Applicant's representative: Seymour L. Coblens, 510 Corbett Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Los

Angeles, Long Beach, and San Diego, Calif., and Seattle, Wash., to ports of entry on the United States-Canadian international boundary at or near Blaine and Oroville, Wash., and Sweetgrass, Mont., for 180 days. Supporting shipper: Slade & Stewart Ltd., 454 Prior Street, Vancouver 4, British Columbia, Canada. Send protests to: District Supervisor, W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 134627 TA, filed May 22, 1970. Applicant: WOODWARD TRUCKING CO., 717 Market Street, San Francisco, Calif. 94103. Applicant's representative: Marvin J. Colangelo, 660 Market Street, San Francisco, Calif. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers, from Pier 80, San Francisco, Calif., to Stockton, Calif., and from Stockton, Calif., to Pier 80, San Francisco, Calif., for 180 days. Supporting shipper: American President Lines, International Building, 601 California Street, San Francisco, Calif. 94108. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6850; Filed, June 2, 1970; 8:51 a.m.]

[Notice 543]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 28, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petioners must be specified in their petitions with particularity.

No. MC-FC-71993. By order of May 22, 1970, the Motor Carrier Board, on reconsideration, approved the transfer to Borisko Brothers, Inc., Philadelphia, Pa., of the operating rights in certificate No. MC-113394 issued May 16, 1952, to Daniel M. Louderback, doing business as Dan Louderback Moving & Storage Co., Philadelphia, Pa., authorizing the transportation of household goods, as defined by the Commission, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, and Maryland. Raymond A. Thistle, Jr., Suite 1301, 1500 Walnut Street, Philadelphia, Pa. 19102, and Harry J. J. Bellwoar III, 2901-04 PSFS Building, 12 South 12th Street, Philadelphia, Pa. 19107, attorneys for applicants.

No. MC-FC-72150. By order of May 26, 1970, the Motor Carrier Board approved the transfer to Richard J. Pinkelman, Wynot, Nebr. 68792, of the operating rights in certificate No. MC-60994 issued November 19, 1963, to Edmund J. Pinkelman, Wynot, Nebr. 68792, authorizing the transportation of general commodities, with the usual exceptions, between Newcastle, Nebr., and Sioux City, Iowa, serving the intermediate and off-route points within 15 miles of Newcastle, Nebr., and tractors and agricultural implements, between Omaha, Nebr., and Newcastle, Nebr., serving no intermediate points.

No. MC-FC-72161. By order of May 26, 1970, the Motor Carrier Board approved the transfer to Interstate Heavy Hauling, Inc., Portland, Oreg., of the operating rights in certificates Nos. MC-89084 and MC-89084 (Sub-No. 2) issued February 23, 1950, and April 26, 1949, respectively, to R. A. Heintz, Jr., and Adam Ace Heintz, a partnership, doing business as Interstate Heavy Hauling Co., Portland, Oreg., authorizing the transportation of lumber, from points in Clark and Cowlitz Counties, Wash., to points in Multnomah County, Oreg., and from points in Yamhill County, Oreg., to points in Clark County, Wash.; contractors' equipment and heavy machinery, between points in Multnomah County, Oreg., on the one hand, and, on the other, points in Washington, and commodities, the transportation of which requires the use of special equipment, and related machinery parts and related contractors' materials and supplies, from points in Oregon to points in Washington on and west of U.S. Highway 97, and from points in Washington on and west of U.S. Highway 97, except points in King and Pierce Counties, to all points in Oregon. Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210, and Robert G. Simpson, Standard Plaza Building, 1100 Southwest Sixth Avenue, Portland, Oreg. 97204, attorneys for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6851; Filed, June 2, 1970; 8:51 a.m.]

[Notice 543A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 28, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71649. By order of May 25, 1970, Division 3, acting as an Appellate Division, approved the transfer to Zimmerman Moving & Storage Co., a corporation, Chambersburg, Pa., of a portion of the operating rights in certificate No. MC-112582 and all of the operating rights in certificate No. MC-112582 (Sub-No. 2) issued February 26, 1951, and September 14, 1951, respectively, to T. M. Zimmerman Co., a corporation, Chambersburg, Pa., authorizing the transportation of household goods as defined by the Commission, between points in Franklin County, Pa., on the one hand, and, on the other, points in New York, New Jersey, Maryland, Ohio, West Virginia, Virginia, Delaware, and the District of Columbia, and such commodities as are dealt in by mail order houses which operate retail stores, from Chambersburg, Pa., to points in Maryland and West Virginia within 40 miles of Chambersburg, Pa. John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6852; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 84, Amdt. 3]

BALTIMORE AND OHIO RAILROAD CO. AND BURLINGTON NORTHERN, INC.

Car Distribution

Upon further consideration of Car Distribution Direction No. 84, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 84 be, and it is hereby, amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 70-6856; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 85, Amdt. 1]

KANSAS CITY SOUTHERN RAILWAY CO. AND BURLINGTON NORTHERN, INC.

Car Distribution

Upon further consideration of Car Distribution Direction No. 85, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 85 be, and it is hereby, amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-6857; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 67, Amdt. 11]

PENN CENTRAL CO. AND BURLINGTON NORTHERN, INC.

Car Distribution

Upon further consideration of Car Distribution Direction No. 67, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 67 be, and it is hereby, amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-6853; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 88]

SEABOARD COAST LINE RAILROAD CO. ET AL.

Car Distribution

Pursuant to section 1 (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 1002:

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Seaboard Coast Line Railroad Co. shall deliver to the Louisville and Nashville Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exceptions: Canadian ownerships.

(b) The Louisville and Nashville Railroad shall deliver to the Missouri-Kansas-Texas Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exceptions: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty cars cards, movement slips, and interchange records as moving under the provisions of this direction.

(c) The carriers delivering the empty boxcars as described above must advise Agent R. D. Pfahler on or before each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(d) The Carriers receiving the cars described above must advise Agent R. D. Pfahler on or before each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 12:01 a.m., June 1, 1970.

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

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

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-6858; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 79, Amdt. 7]

SOUTHERN PACIFIC CO. AND BURLINGTON NORTHERN, INC.

Car Distribution

Upon further consideration of Car Distribution Direction No. 79, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 79 be, and it is hereby, amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-6854; Filed, June 2, 1970; 8:51 a.m.]

[S.O. 1002; Car Distribution Direction 82, Amdt. 4]

SOUTHERN RAILWAY CO. AND BURLINGTON NORTHERN, INC.

Car Distribution

Upon further consideration of Car Distribution Direction No. 82, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 82 be, and it is hereby, amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) Expiration date: This direction shall expire at 11:59 p.m., June 21, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the

terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 26, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-6855; Filed, June 2, 1970; 8:51 a.m.]

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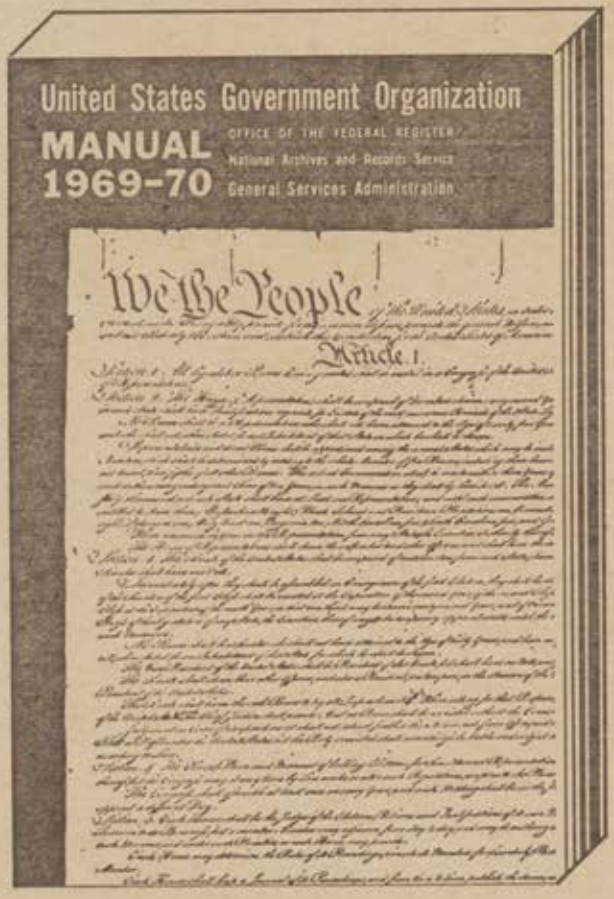
United States Government Organization MANUAL 1969-70



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